

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

937 WRIT PETITION NO.5953 OF 2021
WITH CA/13644/2021 IN WP/5953/2021

SHOBHABAI ANNARAO LANDGE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Sambhaji S. Tope and Mr. Ashis B. Shinde, Advocate for Petitioner
Mr. K. N. Lokhande, AGP for Respondents State
Mr. R.R. Bangar, Advocate for respondent No.2.
Mr. M. D. Narwadkar, Advocate for Respondent No.3

**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**
DATE : 06.01.2023

ORDER:

1. Heard both sides finally.
2. Irrespective of existence of several factual disputes, the crux of the matter lies in the power and jurisdiction of the competent authority to decide the rival claims in the light of the scheme of the National Highways Act, 1956, particularly under section 3-H(4) which has been elaborately discussed and considered by this Court in the matter of **Arun Trimbakrao Lokare Vs. State of Maharashtra, [2017(6) Mh.L.J. 612]**
3. Suffice for the purpose to observe that the respondent competent authority has proceeded to decide the petitioner's claim and the

entitlement of the respondent No.3 by resorting to some perfunctory enquiry which, in our considered view, is without jurisdiction.

4. In the matter of **Arun Trimbakrao Lokare**, we have specifically laid down that no sooner rival claims are put up with the competent authority in respect of the amount of compensation under section 3-H(4), the only course available to it is to make a reference to the court of ordinary original civil jurisdiction. Instead, by the impugned order, the respondent- competent authority has proceeded to decide the rival claims on merits. The order is without jurisdiction and is nullity.

5. We allow the writ petition. Quash and set aside the impugned order by directing the respondent- competent authority to take recourse to the provisions of section 3-H(4) and pass order of reference in the light of the decision in the matter of **Arun Trimbakrao Lokare (supra)**, as early as possible and in any event, within four weeks from today.

6. Hearing of the suit and the reference is expedited.

7. Civil application also stands disposed of.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

JPChavan