

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

35 WRIT PETITION NO.7985 OF 2018

SATLING VISHWANATH BONGARGE
VERSUS
NATIONAL HIGHWAY AUTHORITY OF INDIA
REGIONAL OFFICE SOLAPUR THROUGH DIRECTOR AND OTHERS

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Advocate for Petitioner : Mr. R.N. Dhorde, Sr. Advocate h/f. Mr. V.R. Dhorde
AGP for the respondent – State : Mr. A.S. Shinde
Advocate for the respondent no. 1 : Mr. D.S. Manorkar
Advocate for respondent no. 2 : Mr. R.B. Bhosle
Advocate for respondent no. 3 : Mr. Swapnil A. Deshmukh h/f. Mr. M.S. Patil

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

DATE : 27 FEBRUARY 2023

PC :

Heard learned advocate for both the sides.

2. The petitioner is aggrieved by the decision taken by the respondent no. 2 – competent authority under the National Highways Act (**Act**) referring the dispute raised by the respondent no. 3 under section 3H(4) to a court of ordinary original civil jurisdiction.

3. Learned advocate for the petitioner submits that the petitioner was the owner of two lands bearing gat no. 91/1 and 112/2/1. He had sold only a portion from land gat no. 91/1 to the respondent no. 3 in the year 2009. Subsequently, a portion of land gat no. 112/2/1 was acquired by the respondent no.1 – National Highway Authority of

India. The compensation has been determined. In the meanwhile, the respondent no. 3 filed regular civil suit no. 95 of 2017 seeking rectification of the instrument of sale deed on the ground that it was meant to be gat no. 112/2/1 and not gat no. 91/1 which was intended to be sold to him.

4. There cannot be any debate as regards the competence of the respondent no. 2 - competent authority in a fact situation like this. Since a dispute was raised regarding entitlement to have the compensation, it was imperative for him to refer the dispute to the civil court under section 3H(4) of the Act.

5. We cannot go into the disputed questions as to what property was actually intended to be sold by the petitioner to the respondent no. 3. Admittedly, the matter is sub-judice before the competent civil court, in such peculiar facts and circumstances, the respondent no. 2 did not commit any illegality in merely resorting to issuing the direction under section 3H(4) of the Act, so that all the disputes inter se between petitioner and the respondent no. 3 including the right to receive the compensation could be adjudicated in a pending litigation.

6. We dispose of the writ petition by granting liberty to the petitioner to apply to the civil court for any interim relief including

withdrawal of the amount of compensation which shall be considered on its own merits.

[S. G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

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