

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

5 WRIT PETITION NO.9678 OF 2022

PRAKASH PANDURANG PALODKAR
VERSUS
THE COLLECTOR COLLECTOR OFFICE PARBHANI AND OTHERS

Mr.M.V.Ghatge, Advocate for the Petitioner.
Mr.S.B.Yawalkar, AGP for Respondent Nos. 1 to 5.
Mr.A.A.Fulfagar h/f Mr.P.R.Katneshwarkar, Advocate for Respondent
Nos. 6 to 9.

(CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.)

DATE : JUNE 19, 2023

PER COURT :

1. On 11.10.2022, we had passed the following order :-

"1. *The petitioner has put forth prayer clause A,B and C as
under :-*

(A) *The communication made by the respondent
No.5 Competent Authority, Sub-Divisional
Officer/Land Acquisition Officer, Gangakhed, Tq.
Gangakhed, District Parbhani to The Deputy
Superintendent of Land Records Dated
08.08.2022 may kindly be quashed and set
aside.*

(B) *The respondent No.5 Competent Authority, Sub-*

Divisional Officer/ Land Acquisition Officer, Gangakhed, Tq. Gangakhed, District Parbhani may kindly be directed to refer the dispute between petitioner and respondent Nos.6 to 9 to the extent of 4.70 Guntha land under acquisition, for the purpose of determining entitlement of compensation, in Survey No.141/4 and 141/2 situated at Purna, Tq. Purna, District Parbhani to the Civil Court.

(C) The respondent No.5 Competent Authority, Sub-Divisional Officer/Land Acquisition Officer, Gangakhed may kindly be directed to pay compensation amount of acquired land in S. No. 141/1 admeasuring 68 R and in S. No. 141/3 69 R situated at Purna which is under acquisition for the Samruddhi Highway situated at Purna.

2. Leave to correct description of respondent No.5. Correction to be carried out forthwith.

3. Issue notice to the respondents, returnable on 28th November, 2022. The learned A.G.P. waives service of notice on behalf of respondent Nos. 1 to 5.

4. The petitioner is already in litigation with respondent No. 6 to 9. Regular Civil Appeal No. 95 and 96 of 2019 are pending before the Appellate Civil Court. As such, we deem it appropriate to

observe that the learned Appellate Court would decide R.C.A.No. 95 and 96 of 2019, as expeditiously as possible and preferably on or before 28th February, 2023.

5. *Vide order dated 10.06.2020, the learned Appellate Court has rejected Exh.5 below R.C.A. No. 95 and 96 of 2019. Prima facie, the petitioner's rights are not affected.*

6. *It is made clear that if the authorities desire to disburse the amount towards compensation, they would seek the permission of this Court before disbursing the amount.*

7. *Copies for issuance of notice shall be supplied to the registry on or before 20th October, 2022, failing which the ad-interim order shall stand vacated without reference to this Court on 21st October, 2022."*

2. We are informed that Regular Civil Appeal Nos.95/2019 and 96/2019 have been partly allowed and the Regular Civil Suit No.142/2011 and 50/2012 have been remanded to the Civil Court. The Petitioner has preferred an Appeal from Order before this Court. In the meanwhile, the S.D.O., who is the Land Acquisition Officer, Gangakhed has passed an order on 22.05.2023 indicating therein that the parties should apprise the authorities about the decision in the

present petition and in the pending suits, or else he would proceed to act in accordance with the Maharashtra Highways Act, 1955.

3. The learned Advocate for the Petitioner submits that akin to the provisions u/s 3 of the National Highways Act, Section 19 of the Maharashtra Highways Act, provide for section 19C which would be relevant to this case. According to him, if there is any dispute as regards apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the Land Acquisition Officer shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.

4. The learned AGP submits that as the litigating parties are already in litigation since 2011, this Court may pass an appropriate order.

5. The learned Advocates representing the contesting individuals submit that there is no difficulty in following Section 19C(4) and the litigant are agreeable to have the matter decided by the

Principal Civil Court of original jurisdiction as provided under 19C(4).

6. The learned Advocates for the respective parties submit in the alternative that this Court may direct the L.A.O. to refer the dispute to the competent Court of original jurisdiction as provided under 19C(4) and direct the learned Principal District Judge to issue orders of clubbing all the matters before the same Civil Court. Reliance is placed on a short judgment dated 12.03.2018 delivered in **WP No.1454/2018 filed by Rishikesh Kashirao Deshmukh Vs. The State of Maharashtra and others.**

7. The dispute between the parties is admittedly under the provisions of the Maharashtra Highways Act. We find that the stage in the acquisition proceedings is yet to reach Section 19C(4). An Award is yet to be delivered. Compensation is yet to be quantified. After the award is delivered, without compliance of 19C, there cannot be disbursement. The litigating parties are in litigation since 2011.

8. In view of the above, **this petition is disposed off.** The impugned order dated 08.08.2022, would not be operable. After the

claims of the parties are crystallized in the civil litigation and if, thereafter, there is a dispute regarding apportionment of the amount as awarded vide the award, the parties would be at liberty to avail of the remedies as provided under Section 19C(4). It goes without saying that the LAO would be at liberty to deliver the award and the compensation, only with regard to the writ land, would be invested in a Nationalized Bank so as to accumulate interest and will not be disbursed until the rights of the Petitioner and Respondent Nos. 6 to 9 are crystallized in civil litigation.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)