

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

WRIT PETITION NO. 13697 OF 2018

Umul Khair W/o Bartar Kazi
and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Ms. Rekha Chaudhari, Advocate h/f Shri S. S. Chaudhari,
Advocate for the Petitioners.

Shri A. R. Kale, A.G.P. for the Respondent Nos. 1 to 4.

Shri Suhas P. Urgunde, Advocate for Respondent Nos. 5, 8, 9 and
10.

**CORAM : NITIN W. SAMBRE AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 10TH APRIL, 2023.

FINAL ORDER :

. One of the co-owner i. e. respondents herein had initiated suit bearing R.C.S. No. 194 of 2018, which is pending on the file of Civil Judge Senior Division, Osmanabad, in which relief of partition, separate possession, declaration that sale deed dated October 29, 1998 is null and void and for injunction against the defendants to the said suit from withdrawing the amount of compensation is admittedly pending consideration.

2. Since the property was subject to acquisition and it is admitted position that under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act, 2013 (hereinafter referred as to the “Act of 2013” for the sake of brevity) award already is passed. The petitioners who claim to be co-owners and having share in the suit property have sought reference for the purpose of apportionment pursuant to the provisions of Section 64 read with Section 76 of the Act of 2013.

3. It is informed that said proceedings though taken out by the petitioners, way back in the year 2018 are not decided till this date either by granting apportionment as was prayed or by making reference to the competent authority.

4. Learned counsel for respondent Nos. 5, 8, 9 and 10 submits that because of pendency of the aforesaid civil suit and rejection of prayer for injunction, the order of apportionment is not required and rather respondents should be permitted to withdraw the amount of compensation subject to outcome of the civil suit.

5. We have appreciated the aforesaid submissions.

6. The relationship between the parties is not in dispute.

7. In such an eventuality what was expected of the authority before whom proceedings U/Sec. 64 read with Section 76 of the Act of 2013 are taken out by the petitioners to decide the same in accordance with law either by permitting apportionment or by

making reference to the competent authority within reasonable period. Admittedly said proceedings are not decided by the authorities till this date.

8. In view of above, we hereby direct that proceedings which are taken out by the petitioners for prayer of apportionment or making reference to the competent authority to decide expeditiously and in any case within a period of three (03) months from the date of production of copy of this order. Said proceedings be decided without being influenced by the disposal of the present petition.

[S. G. CHAPALGAONKAR, J.]

[NITIN W. SAMBRE , J.]

bsb/April 23