

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

WRIT PETITION NO. 13041 OF 2022

Yakumiya @ Nizammiya Jahedmiya
Deshmukh .. Petitioner

Versus

Mainoddin Amiroddin Khatik Since
Deceased through L.Rs.
Rabiyabee Mainoddin Qureshi
Khatik and others .. Respondents

Shri Vinod Patil, Advocate h/f Shri Anand V. Indrale Patil,
Advocate for the Petitioner.
Shri S. S. Dande, A.G.P. for the Respondent Nos. 2 and 3.

**CORAM : SHARMILA U. DESHMUKH, J.
DATE : 05TH JANUARY, 2023.**

FINAL ORDER :

. Heard learned counsel for the petitioner.

2. The petitioner is aggrieved by the order of 06th October, 2022 passed in R. D. (LAR) No. 09 of 2014 whereby the application of the petitioner for grant of 1/3rd share in the compensation awarded in respect of the acquisition of property has been rejected.

3. Learned counsel for petitioner submits that the petitioner is claiming 1/3rd share on the basis of Hibba (Gift Deed) allegedly executed by one Gulab Maheboob @ Hannamiya Yakubmiya Deshmukh and suit has already been filed seeking 1/3rd share in the property on the basis of hibba, which has been executed in her favour by Gulab Maheboob @ Hannamiya

Yakubmiya Deshmukh.

4. Perused the papers with the assistance of the learned counsel for the petitioner. Admittedly, the respondent No. 1 Mainuddin Amiruddin Khatik is shown as owner of the subject property by reason of the registered sale deed which is executed between said Gulab Maheboob @ Hannamiya Yakubmiya Deshmukh and Mainuddin Amiruddin Khatik. As of today by virtue of the registered sale deed, the said deceased Mainuddin Amiruddin Khatik is owner of the property and the compensation in respect of land acquisition is sought to be disbursed to the legal heirs of Mainuddin Amiruddin Khatik.

5. The petitioner is claiming right through the vendor of Mainuddin Amiruddin Khatik, and the rights of the Petitioner is yet to be crystallised. Mainuddin Amiruddn Khatik, is the purchaser of the subject property by virtue of registered sale deed and there are no orders in favour of the Petitioner in respect of the subject property in the suit initiated by the Petitioner. Learned counsel for the petitioner submits that the rest of the compensation by keeping aside his 1/3rd share can be disbursed to the legal heirs of Mainuddin Amiruddin Khatik. I am not inclined to do so for the reason that as on today the petitioner has not been able to demonstrate any right in the suit property, save and except on the basis of alleged hibba which is yet to be adjudicated in the civil suit, which has also been stayed by this Court in Writ Petition No. 2574 of 2020.

6. In view of the above, I am not inclined to interfere in the impugned order. Writ petition is accordingly dismissed.

7. Needless to state that the Trial Court shall decide the suit bearing R. C. S. No. 127 of 2009 on its own merits and in accordance with law uninfluenced by the observations made in the present order.

[SHARMILA U. DESHMUKH, J.]

bsb/Jan. 23