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# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
## CIVIL APPELLATE JURISDICTION

## WRIT PETITION NO.11529 OF 2023

Prakash Rajaram Gurav & Ors … Petitioners

**V/s.**

The Competent Authority and Sub-Division Officer Kankavali,
Mumbai Goa National Highway & Ors … Respondents

SHABNOOR AYUB PATHAN
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Date: 2023.11.30 17:51:50 +0530

Mr. Sanskar Marathe, for Petitioners.

Mr. P. G. Sawant, AGP, for State/Respondent Nos.1 & 2.

Mr. Shrikant Narkar, for Respondent Nos.3 to 5.

**CORAM : AMIT BORKAR, J.**

**DATED : NOVEMBER 30, 2023**

**P.C.:**

**1.** The writ petition arises out of an order passed by the Reference Court under sub-Section (5) of Section 3 (G) of the National Highways Act, 1956 deleting petitioners name as claimants.

**2.** Land bearing No.677A was acquired for public purpose by the competent authority in exercise power under National Highways Act.

**3.** In furtherance of publication of notice under sub-Section 3 of Section 3 (G) of the said Act, the petitioners appeared and the

competent authority passed an award in petitioners favour. The petitioners have not raised a dispute regarding quantum of amount decided by the competent authority as contemplated sub-Section (5) of Section 3(G). However, respondent Nos.3 to 5 raised a dispute under sub-Section (5) of Section 3(G) regarding quantum of compensation fixed by the competent authority.

**4.** In the said reference application, respondent Nos.3 to 5 filed an application that the petitioners have not made dispute in relation to the quantum of compensation decided by the competent authority under sub-Sections (3) and (4) and, therefore, they are not necessary parties in the reference application.

**5.** The Reference Court allowed the objection of respondent Nos.3 to 5 and directed deletion of petitioners.

**6.** According to the petitioners, respondent Nos.3 to 5 are raising dispute as regards entitlement of petitioners to claim compensation. Therefore, according to the petitioners, they are necessary parties in the reference application.

**7.** On perusal of the scheme of Section 3 (G) of the National Highways Act, it is clear that the Arbitrator under sub-Section (5) of Section 3 (G) is empowered to decide only quantum of amount of compensation adjudicated by the competent authority under sub-Section (1) of Section 3 (G) of the said Act. The entitlement of petitioners cannot be the subject matter of powers of Arbitrator under sub-Section (5) of Section 3 (G) of the said Act. Therefore, grievance raised by the petitioners is misconceived. However, it is

made clear that in case the Arbitrator passes an award which prejudically affects legal rights of petitioner, it shall always be open to the petitioner to challenge such decision.

**8.** With this clarification, the writ petition is dismissed. No costs.

**(AMIT BORKAR, J.)**