

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

WRIT PETITION NO. 961 OF 2023

Shri Bhaskar Walku Meher .. Petitioner

Versus

State of Maharashtra and Ors. .. Respondents

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**Mr.Prathmesh Bhargude a/w Sumit Sonare a/w Sharad
Dhore, *Advocates for the Petitioner.***

**Mr.Devidas Botkondle a/w Jayendra Khairnar, *Advocates for
Respondent.***

**CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.**

DATE : JULY 13, 2023

P. C.

1. Rule. With the consent of parties, rule made returnable forthwith and heard finally.

2. The above writ petition is challenging the order passed by the Competent Authority i.e. the Sub-Divisional Officer, Sub-Division Ulhasnagar in proceeding bearing No. 587/2022 dated 21.12.2022. By this order, the Sub-Divisional Officer has directed to

disbursement of compensation of Rs.5,35,47,730/- to the Petitioner and Respondent nos. 5 to 17 equally, as per the latest 7x12 extract.

3. The learned counsel appearing on behalf of the Petitioner submitted that there is a serious dispute in relation to the boundaries of the properties which form the subject matter of the petition. He submitted that originally there was Survey No. 123/1. This property was sub-divided into three parts namely 123/1A, 123/1B and 123/1C. In the present case, there was an acquisition by the State for a National Highway of a part of Survey No. 123/1. The dispute really was, as to which portion of 123/1 was acquired by the State, namely, whether it was 123/1A; or 123/1B; or part of 123/1A and part of 123/1B. The State, even today is unable to determine from which portion of Survey No. 123/1, the land in question was acquired. This problem has arisen because admittedly there is no partition by metes and bounds.

4. Once this is the factual situation, we find that the Competent Authority could not have passed the impugned order directing that the Petitioner and Respondent Nos. 5 to 17 shall all have equal shares in the compensation. What would be the entitlement to the

compensation would first depend upon from which area the land was acquired and who are the co-owners of that land.

5. In these circumstances, we set aside the Order passed by the Sub-Divisional Officer dated 21.12.2022 and direct the Sub-Divisional Officer to refer the above matter to the Civil Court in terms of the provisions of Section 3-H(4) of the National Highways Act, 1956.

6. The amount of compensation already deposited in this Court shall be transferred together with the accrued interest thereon, if any, to the Civil Court to which the dispute shall be referred under Section 3-H(4) of the National Highways Act, 1956.

7. It is needless to clarify that once the amount is transmitted to the Civil Court, the Civil Court shall give necessary directions to invest the aforesaid amount with any nationalised Bank.

8. Rule is made absolute in the aforesaid terms and the Writ Petition is accordingly disposed of. No order as to costs.

9. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on production
by fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]