

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4974 OF 2021

Namdev Kashinath Mhatre & Ors.

.. Petitioners

Versus

Special Land Acquisition Officer,
Metro Centre No. 1, Uran & Anr.

.. Respondents

.....

- Mr. Aditya S. Desai for Petitioners
- Mr. P.P. Pujari, AGP for Respondent No. 1
- Mr. Saurabh Butala a/w Mr. Saiprasad S. Wadkar i/by Mr. Harshad Ashok Sathe for Respondent No. 2

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 03, 2023

P.C.:

1. Heard Mr. Desai, learned Advocate for Petitioners; Mr. Pujari, learned AGP for Respondent No. 1 and Mr. Butala, learned Advocate for Respondent No. 2.

2. Perused the impugned order dated 26.02.2019 which is a handwritten order annexed at page 20 of the Writ Petition. By virtue of the said order, the learned Trial Court has given a direction to implead Respondent No. 2 as a proper and necessary party in LAR No. 15 of 2017.

3. Admittedly, Respondent No. 2 is the married sister of the Petitioner and she has executed a Release Deed in respect of her right in the acquired lands. However, the property which is the subject

matter of acquisition is an ancestral property belonging to the predecessor in title of the Petitioner as well as Respondent No. 2.

4. Mr. Butala, learned Advocate for Respondent No. 2 informed the Court that Respondent No. 2 has also filed a separate suit proceedings being Special Civil Suit No. 147 of 2017 for setting aside the release deed executed by Respondent No. 2 in respect of the acquired lands. Admittedly, subject to the decision in the said suit, right and entitlement of Respondent No. 2, if any, in the compensation which has been deposited and the enhanced amount, if any granted in Reference proceedings in respect of acquired lands would be decided. In that view of the matter, the impugned order dated 26.02.2019 is not sustainable at this stage and is therefore quashed and set aside. If Respondent No. 2 succeeds in the above suit, it shall be open to her to claim her share in the compensation / enhanced compensation.

5. All contentions of the parties are kept open in the pending proceedings as well as in the suit filed by Respondent No. 2.

6. With the above direction, Writ Petition stands disposed.

[MILIND N. JADHAV, J.]

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