

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10678 OF 2023

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Lt. Dhondu Kavlya Kanavkar & Ors.

.. Petitioners

Versus

The Union of India & Ors.

.. Respondents

Mr. Mahesh Vishwakarma a/w Naina Sharma i/b. Chandrakant Nanekar *for the Petitioners.*

Mrs. Apurva Gupte a/w Ashutosh Misra *for Respondent No.1.*

Mrs. M. S. Bane, *AGP for Respondent Nos. 2 and 3.*

Mr. Rakesh Patil *for Respondent Nos. 2 to 14.*

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

DATE : OCTOBER 11, 2023

P. C.

1. The above Writ Petition is filed inter-alia challenging the order dated 15th June, 2023 passed by the Competent authority and Sub-Divisional Officer, Panvel. By the impugned order, the objections filed by the Petitioners under Section 3H(3) of the National Highways Act, 1956 were rejected by the Competent Authority.

2. The learned Advocate appearing for the Petitioners submitted that in relation to the property which forms the subject matter of the present Writ Petition, the Petitioners, even before initiation of acquisition proceedings, had filed a Partition Suit before the Civil Judge, Senior Division, Panvel bearing RCS No. 405 of 2013. Since this Suit was already pending, the correct course of action for the Competent Authority to take was to transfer the amount of compensation [for acquisition] to the credit of the said Suit and not dismiss the objections of the Petitioners, was the submission.

3. On the other hand, the learned Advocate appearing for Respondent Nos. 4 to 14 brought to our attention that in the said Suit, namely, RCS No. 405 of 2013, the Petitioners herein moved an application for status-quo below Exhibit-93. In that application, an order is passed whereby it is directed that the Competent Authority shall not disburse 50% of the amount of compensation.

4. The learned Counsel appearing for the Petitioners fairly submitted that what they claim in the aforesaid Suit is only 50% of the compensation granted for acquisition of the property which is the subject matter of the above Petition. Both parties before us have agreed that instead of the alleged 50% share of the Petitioners lying with the

Competent Authority, the same can be transferred to the credit of RCS No. 405 of 2013, and which would then abide by further orders of that Court.

5. Considering these peculiar circumstances, we direct that the Competent Authority shall transfer 50% of the compensation to the credit of RCS No. 405 of 2013 pending before the Civil Judge, Senior Division, Panvel. This transfer shall be done by the Competent Authority within a period of two weeks from today. Once this money is transferred, the same shall be abide by any further orders passed by the concerned court entertaining and hearing RCS No. 405 of 2013. As far as the balance 50% of the compensation is concerned, the Competent Authority shall disburse the same to the parties entitled to it under the Award.

6. The above Writ Petition is disposed of in the aforesaid terms. No order as to costs.

7. 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.]