

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10955 OF 2023

Jayaram Hiraji Tandel

... Petitioner

V/s.

Janardan Fakir Alias Devram Mhatre &
Ors.

... Respondent

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Mr. Rohit D. Joshi for the petitioner.

Mr. Shriram S. Kulkarni i/by Mr. Saurabh D. Butala for
the respondents.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 25, 2023

PC.:

1. Challenge in this petition is to the order passed by the reference Court which decides reference under section 18 of the Land Acquisition Act, 1984.

2. It is well settled that the scope of proceedings under section 18 of the Land Acquisition Act, 1984, is restricted challenge to the measurement of the property or the quantum of compensation. Once the reference Court decides the reference, after entertaining application by the claimants, it has no power to adjudicate inter se rights between the claimants and the person who claims to be person interested.

3. In view of judgment of the Apex Court in the case of **Sharda**

Devi vs. State of Bihar and Others reported in 2003 (3) SCC 128, the remedy of such person is to file a substantive suit seeking ventilation of his rights or to approach this Court under Article 226 of the Constitution of India. In the facts of the case that the petitioner has already filed a suit seeking relief for partition and possession in relation to the properties which were subject matter of land acquisition award. Therefore, proper remedy to the petitioner was to file an application before the Court where substantive proceeding for partition is pending.

4. Since the reference Court under section 18 of the Land Acquisition Act has no power to decide rights of a person claiming to be interested, the impugned order does not suffer from legal infirmity.

5. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)