

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11740 OF 2023**

Nita Ashok Chavan & Ors.

.. Petitioners

Versus

Jayant Barve & Ors.

.. Respondents

Mr.Sujay Palshikar, Advocate for the Petitioners.

Mr.A.I. Patel, Addl G.P. for State-Respondent Nos. 15 and 16.

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

DATE : SEPTEMBER 26, 2023

P. C.

1. In the present Writ Petition, the Petitioner challenges the order dated 21st August, 2023 passed by the Competent Authority/the Sub-Divisional Officer, Maval-Mulshi, Pune. This order was passed under Section 19(B)(2) and (3) of the Maharashtra Highways Act, 1955.

2. According to the Petitioners, they are the heirs of one Khandu Padalghare who was their grandfather and was the owner of the land which is acquired. The said Khandu Padalghare had a daughter named Kamalabai Namdev Amle who predeceased Khandu Padalghare.

Since the Petitioners are the children of Kamalabai and who predeceased Khandu Padalghare, they claimed to be the heirs of Khandu Padalghare. Despite this, in mutation entry No.162 their names were not shown because it was allegedly represented that Khandu Padalghare had no daughter and therefore the brother of Khandu Padalghare, namely Kondiba Gangaram Padalghare, was shown as the only legal heir of Khandu Padalghare. According to the Petitioners this entry was incorrect and was made on a wrong representation by Kondiba Padalghare and therefore the Petitioner have interest in the land. If this be the case, then, according to the learned counsel for the Petitioners, the matter ought to have been refer to the Civil Court under Section 19C(4) of the Maharashtra Highways Act, 1955.

3. After the Petition was argued for some time and we were not inclined to entertain the same, the learned counsel appearing on behalf of the Petitioner, on instructions, sought leave to withdraw the above Writ Petition with liberty to file a Suit against the person/s who would be receiving the compensation from the Competent Authority and establish their rights on the property/sale proceeds in which they claim an interest.

4. In these circumstances, the above Writ Petition is dismissed as withdrawn with liberty as prayed. However, there shall be no order as to costs.

5. 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.]