

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15878 OF 2023

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Malojirao V. Nimbalkar

.. Petitioner

Versus

Union of India & Ors.

.. Respondents

Mr. Viraj Patil *for the Petitioner.*

Mr. Ameya Mahadik *for Respondent No.1.*

Mr. R. S. Pawar, *AGP for Respondent Nos. 2 and 3.*

Mr. Shankar P. Thorat *i/b. Rajeshirke for Respondent No.5.*

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.

DATE : DECEMBER 20, 2023

P. C.

1. The above Writ Petition is filed seeking quashing of the order dated 23rd November, 2023 passed by Respondent No.3. By the impugned order, the objections of the Petitioner were rejected by the Competent Authority under Section 3H(3) of the National Highways Act, 1956. The other prayer sought is to direct Respondent No.3 to deposit the entire compensation amount with the Court of Civil Judge, Senior Division, Barshi till such time the

right, title and interest of the legal heirs of Mr. Vinayakrao Nimbalkar [since deceased] are decided in the Partition Suit bearing No. 38 of 2019 pending on the file of the Civil Judge, Senior Division, Barshi.

2. When the above matter is called out, the learned AGP, on instructions, stated that the entire compensation of Rs. 4.85 crores has been already disbursed to Respondent Nos. 5 to 11 in the following manner:-

Krishnarao Vinayakrao Nimbalkar [Respondent No.5]	13 th December, 2023	Rs. 1,30,47,732/-
Prataparao Shivajirao Nimbalkar [Respondent No.6]	13 th December, 2023	Rs. 93,51,442/-
Reshma Rajesh Nimbalkar [Respondent No.7]	13 th December, 2023	Rs. 64,97,781/-
Yuvraj Fattesinha Nimbalkar [Respondent No.8]	13 th December, 2023	Rs.65,54,167/-
Shital Bhagavantarav Nimbalkar [Respondent No.9]	13 th December, 2023	Rs.65,54,167/-
Swapanali Sanjay Nimbalkar [Respondent Nos. 10 and 11]	13 th December, 2023	Rs.65,54,167/-

Faced with the situation, the learned Counsel appearing for the Petitioner submitted that nothing would really survive in the above Writ Petition and he would agitate his claim with reference to the aforesaid monies in the Partition Suit which is already pending before the Civil Judge, Senior Division, Barshi.

3. In these circumstances, we dispose of the above Writ Petition by granting liberty to the Petitioner to agitate his claim for the compensation against Respondent Nos. 5 to 11 in his Partition Suit No. 38 of 2019.

4. If for any reason, the Petitioner is required to carry out any amendments seeking the necessary reliefs against any of the parties to the said Suit, or if he needs to join any other party or parties, he is free to make an amendment application before the Civil Judge, Senior Division, Barshi.

5. We direct that the Civil Judge, Senior Division, Barshi shall decide Partition Suit No. 38 of 2019 without being influenced by the impugned order passed by the Competent Authority dated 23rd November, 2023. We are informed that the Partition Suit is at the stage of evidence. If this be the case, we request the Civil Judge, Senior Division, Barshi, to proceed and conclude the said Suit as expeditiously as possible, time permitting.

6. The above Writ Petition is disposed of accordingly. However, there shall be 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.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]