

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4517/2023

Shripad @ Shrikant Eknath Chinnawar and others

...Versus...

The State of Maharashtra, Through – The Collector, Yavatmal,
Dist. Yavatmal and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. V.N. Patre, Advocate for petitioners
Mrs. M.A. Barabde, AGP for respondent nos.1 to 3/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 20/07/2023

1. The petition questions the order dated 11/04/2023 which rejects the application for deleting the names of the claimant nos.1, 2-C and 4 from the application under Section 18 of the Land Acquisition Act, 1894 (for short, "LA Act", hereinafter).

2. Mr. Patre, learned counsel for the petitioners submits that on account of settlement arrived at between the parties the land in question i.e. 0.45 HR out of Gat No.225/2 total admeasuring 6.16 HR had come to the share of the present petitioner nos.1 and 2 and therefore there was no requirement of the claimant nos.1, 2-C and 4 in the reference, on account of which, the rejection of the deletion was improper. He also submits that the observation that under Section 18 of the LA Act it is not required to determine as to

who is entitled to the compensation, is incorrect.

3. On a perusal of Section 18 of the LA Act it would be apparent that it enjoins upon the Reference Court amongst other things to decide the amount of compensation and so also the persons to whom it is payable or the apportionment of the compensation amongst the persons interested. The contrary observations therefore are incorrect.

4. Mrs. Barabde, learned Assistant Government Pleader for the respondent nos.1 to 3 does not dispute this proposition, in view of which, it would be apparent that the Reference Court would also be liable to decide the question of apportionment.

5. It is, however, material to note that while deciding the question of apportionment, the rival pleas raised by all the claimants, even in respect of the settlement, shall have to be considered by the Court dealing with the reference. The deletion of the claimant nos.1, 2-C and 4 is also not permissible on the touchstone of Order I Rule 10 of the Code of Civil Procedure as they are proper and necessary parties in an application under Section 18 of LA Act, as the question of their dis-entitlement on account of the settlement claimed will also have to be decided, in view of which, I do not see any reason to interfere in the impugned order. The writ petition is dismissed. No order as to costs.