



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

927 WRIT PETITION NO. 6026 OF 2023

Annasaheb Dattu Ghule And Another

VERSUS

The State Of Maharashtra Through Its Secretary And Others

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Advocate for the Petitioner : Mr. Nagargoje Ankush Nivrutti

AGP for Respondents-State : Mr. S. B. Pulkundwar

Advocate for Respondents No.3, 4, 15A to 15F, 20 : Mr. S. K. Chavan

Advocate for Respondent No.10A : Mr. R. K. Shinganapure

Advocate for Respondent No.6 to 9, 14, 17 to 19 : Mr. D. M. Mane

Advocate for Respondent No.21 : Mr. D. K. Patil

None present for other respondent No.13.

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CORAM : R. M. JOSHI, J.

Dated : July 02, 2024

PER COURT :-

1. This petition takes exception to order passed below Exhibit 196 in Land Acquisition Reference No.617/2016 whereby the application for withdrawal of the amount except for the amount in dispute between respondent No.13 – Kiran Yashwant Ghule and 22 – Tanhaji Vishwanath Vishvekar came to be rejected.

2. Record indicates that the properties belonging to the petitioners and other respondents were acquired under National Highway Act, 1956. It is their contention that a dispute was raised by respondent No.22 – Tanhaji in respect of the land admeasuring 1200 square meter from Gut No.678 against respondent No.13 - Kiran. A Reference was made by the

competent authority before Civil Court. On 10/10/2016 the said proceedings are registered as Land Acquisition Reference No.617/2016. Though the dispute was between respondent No.13-Kiran and 22-Tanhaji, Reference was made by including names of all other owners of Gut No.678 and 680 in respect of whom no any dispute was even raised regarding payments of compensation to be made to these persons. Learned Reference Court recorded evidence of respondent No.22. In the cross-examination, he admitted that he has dispute with respondent No.13 – Kiran only and has no concern with the land belonging to the others in said gut. He has further accepted that only because their names appear in Gut No.678 and 680, they are joined as party to the said proceedings. In the light of this evidence, an application Exhibit 196 was moved for withdrawal of amount of compensation. The said application was not opposed by any one, however, the learned Reference Court has rejected the application by holding that the Reference is yet to be decided.

3. Learned Counsel for the petitioners submits that the Trial Court has ignored the evidence of respondent No.22 – Tanhaji and has mechanically proceeded to pass order rejecting the application. It is his submission that in absence of any dispute of whatsoever nature

between raised by any person/ authority with regard to the compensation payable to them, it was not justified for the Trial Court to reject the application.

4. At the outset, this Court finds it strange as to why all the parties from Gut No.678 and 680 are referred to the Civil Court when no dispute was made with regard to the compensation payable to them except to respondent No.13-Kiran as respondent No.22 – Tanhaji had raised objection to that effect to the extent of land admeasuring 1200 square meter from Gut No.678 for the amount of compensation determined at Rs.18,40,800/-. Be as it may, when there was candid evidence before the learned Reference Court indicating that the person who has raised objection has specifically stated about he having no objections of whatsoever to pay the compensation to the other parties to the said Reference, the learned Reference Court ought to have allowed withdrawal of compensation by others. Perusal of the impugned order shows that the reason for not passing the order is that the proceeding have reached at fag end. The said order is passed on 23/02/2023 but Reference is not decided till date.

5. In such circumstances, it would be unjust that the land owners

who are entitled to receive compensation are denied the same without any reason or justification. Having regard to aforesaid facts, the impugned order cannot sustain and is set aside. Application Exhibit 196 is allowed. Since there is no dispute with regard to the amounts of compensation to be paid to the petitioners as well as respondent except respondents No.13 and 22, the said application is allowed unconditionally. Hence, except for respondents No.13 and 22 all persons party to the said Reference No.617/2016 are permitted to withdraw compensation amount unconditionally.

6. Petition is allowed in above terms.

(R. M. JOSHI, J.)

vj gawade/-.