



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

1050 WRIT PETITION NO. 10130 OF 2023

**PANDHARINATH VINAYAK PALVE AND ANOTHER
VERSUS
THE UNION OF INDIA THROUGH THE SECRETARY AND
OTHERS**

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Advocate for Petitioner : Mr. Jadhavar S. S. h/f Mr. Shirsat S. R.

AGP for Respondent/s-State : Mr. V. M. Kagne.

Advocate for respective Respondents : Mr. Salunke V. D.

Advocate for Respondent No.10 : Mr. Jagiasi S. H. & Jigiasi D.s.

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**CORAM : S. G. MEHARE, AND
SHAILESH P. BRAHME, JJ.**

DATE : 12.12.2024

PER COURT :-

1. Heard the respective learned counsels.
2. It is a dispute between the uncles and nephews for the share in the compensation received for the acquisition of the land. The petitioners have a case that they have a share in the piece of land acquired. They have already filed a suit for partition.
3. Learned counsel for the contesting respondent submits that the entire property was partitioned long back. The

respective shares of the contesting respondents were also acquired and they had received the compensation. After the first acquisition, again eight (8) gunthas of land which came to the share of contesting respondents was acquired by private negotiations and the sale deed was executed. They have received the part payment. Only the assessment of the building and trees etc. were remained to be done. For that purpose, the proposal for determining price was sent to respondent No.4. He has recently determined the compensation. However, before the amount was disbursed, the petitioners have raised the objection. The petitioners *prima facie* have no share in the land acquired. Hence, they have no right to stop the authority from disbursing the compensation to contesting respondent.

4. The petitioners have the grievance that their objection claiming interest in the property should have been referred to the Civil Court in view of Section 20H(4) of the Railways Act. The petitioners are correct in suggesting the law. However, the decision of the civil suit may take its time and the compensation amount may be unnecessarily kept pending without disbursement. Therefore, instead of referring the matter to respondent No.4 for adjudication, the Court

suggested that the contesting respondents should furnish bank guarantee to the extent of 1/3rd share and undertaking for remaining 1/3rd share. The contesting respondent would deposit the amount with Bank rate interest which they are going to receive if the petitioners succeed in their partition suit bearing RCS No.203 of 2022 pending before the Civil Judge Junior Division, Patoda for which the parties are agreeable.

5. In view of the above, we dispose of this writ petition by directing respondent No.3 to disburse the compensation amount to the contesting respondent No.5 on furnishing the bank guarantee for 1/3rd amount and undertaking for the remaining 1/3rd amount with bank rate interest that he would pay the share to the petitioners if the partition suit is decreed to the extent of their shares declared by the Court.

(SHAILESH P. BRAHME, J.)

(S. G. MEHARE, J.)

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vmk/-