

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2103 OF 2024

Mahadev Satappa Javir (Mochi)	... Petitioner
V/s.	
Natraj Basaweshwar Narole & Anr.	... Respondents

Mr. Ajit V. Alange for the petitioner.

Mr. Y.D. Patil, AGP for State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 21, 2024

PC.:

1. The petitioner is challenging order passed by the Competent Authority in exercise of power under Section 3(h)(iv). Section 3(h)(iv) requires that if any dispute as to the apportionment of the amount arises, the Competent Authority shall refer the dispute to the Principal Civil Court of original jurisdiction.

2. The claim filed by the petitioner was to the effect that he was owner of the property. Before acquisition, he sold the property to the third party. Immediately thereafter he filed proceedings under the provisions of the Money Lenders Act, 2014. The Authorities under the Money Lenders Act held that the transaction of sale is not mortgage but sale deed. Based on the nature of documents executed by the petitioner in favour of third party, the Competent Authority has rejected petitioner's request to refer the dispute to

the Principal Civil Court of original jurisdiction.

3. It is undisputed that the petitioner's civil suit claiming rights over the acquired property is pending. It will be open for the petitioner to raise appropriate issues in the said suit. The parties shall be bound by the adjudication by the Civil Court in suit. Once prima facie right in favour of the petitioner has been extinguished by a sale deed, unless the effect of such sale deed is taken away in an appropriately instituted proceedings, the Competent Authority is not obliged to send the proceedings to the Principal Civil Court of original jurisdiction.

4. Hence, exercise of power by the Competent Authority under National Highway Act, 1956 does not suffer from any legal infirmity.

5. The writ petition is dismissed. No costs.

(AMIT BORKAR, J.)