

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10787 OF 2024

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1. Sarubai Siddharam Kumbhar
& 4 Ors.

... Petitioners

Versus

1. Union of India
through Ministry of Transport
through Law and Justice Department
& 3 Ors.

... Respondents

Mr. C.K. Tripathi, Advocate for Petitioners.

Mr. Rakesh L. Singh i/b M.V. Kini & Co., Advocate for Respondent No.2-
National Highway Authority.

Ms. M.S. Bane, AGP for State.

Mr. Samir Kumbhakoni, Advocate for Respondent No.4.

CORAM: G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

Date : August 01, 2024

P C :

1. This petition under Article 226 of the Constitution of India is filed
praying for the following reliefs :

(a) This Hon'ble Court by its appropriate writ, order and direction writ, order and direction of this Hon'ble Court to call for records and proceedings of Case No. 2023/Dy/A/11/KU 5/RR/47, 48/24 from the office of the respondent No.3 and after examining propriety, legality and validity of the impugned Order dated 24.7.2024 be pleased to quash and set aside the same;

(b) That this Hon'ble Court by its appropriate writ, order and direction be pleased to direct respondent No.3 to deposit the amount of compensation in the Ld. Principal Court of Civil Jurisdiction within whose jurisdiction, the suit property is situated for the purposes of deciding the claim of the Petitioners;

(c) That this Hon'ble Court by its permanent as well as temporary order of injunction be pleased to stay the effect, operation, implementation and execution of the impugned Order dated 24.7.2024 and further be pleased to restrain the respondent No.3 from making payment of the compensation to the Respondent No.4 alone.

2. We have heard Learned Counsel for the parties.
3. There appears to be a dispute between the Petitioners and Respondent No. 4-Mr. Siddharam Sambhu Kumbhar, who is the husband of Petitioner No.1 and father of Petitioner Nos.2 to 5, who is represented by Learned Counsel Mr. Kumbhakoni. The land bearing Gat No. 156/3/A admeasuring 4H, 35R situated at Village Hotagi, Talukar-South Solapur, District Solapur, being the subject matter of the proceedings was acquired by Respondent No. 2-National Highway Authority and under the land acquisition award, compensation has become due and payable to Respondent No.4. The Petitioners, however, on the basis of a Partition Suit filed by them before the Civil Court, and the legal rights they intend to pursue, are making a claim on such compensation.

4. We find that the dispute is between Respondent No.4 who has been declared to be entitled to the award compensation and the Petitioners, on the apportionment of the compensation, and more so in the light of the Partition Suit filed inter-se between Petitioners and the private Respondents. The compensation amount has been deposited by Respondent No.2 with the Respondent No.3-Competent Authority and Deputy Collector (Acquisition-11), Solapur.

5. In these circumstances, Respondent No. 3 would be required to refer the dispute to the jurisdictional Civil Court as per the provisions of Section 3H(4) of the National Highways Act, 1956. Let such reference be made within a period of three weeks from today. All contentions of the parties before the Civil Court and any pending proceedings are expressly kept open. The award compensation as payable to Respondent No.4 would be required to be deposited with the Civil Court, let the Land Acquisition Officer take appropriate steps in that regard.

6. Disposed of in the above terms. No costs.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)