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

***WRIT PETITION NO. 9466 OF 2019
with
INTERIM APPLICATION NO. 2913 OF 2019***

Chandrakant Gundaji Shinde

... Petitioner

V/s.

Union of India through Secretary,
Ministry of Road Transport and Highways & Ors. ... Respondents

Mr. Jayendra Khairnar (through V.C.) with Mufeez Ansari for the
Petitioner

Ms. Vrunda Surve i/b. Neeta Masurkar for Respondent No. 1 -UOI

Mr. Shailendra S. Kanetkar for the Respondent Nos. 5 to 9

Ms. Rupali Shinde, AGP for Respondent Nos. 2 and 3

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 15 APRIL 2024

P.C. :-

Heard the learned Counsel for the parties. Taken for
disposal.

2. By this Petition the Petitioner has challenged the order
passed by the Respondent – Competent Authority - Deputy

Collector dated 15 June 2019 disposing of the objection raised by the Petitioner as regard the disbursal of the compensation amount to the private Respondent Nos. 4 to 8 and refusing to disburse the amount to the Petitioner.

3. The Petition pertains to Gat No. 122/1/B at Village Dongaon, Taluka - North Solapur, District – Solapur. The property was acquired for the purpose of Solapapur-Vijapur National Highway No.13. The acquisition proceedings were taken further and the compensation was determined. The Petitioner lodged objection as per Section 3H(4) of the National Highways Act, 1956. It is this application which was not considered by the impugned order and the Competent Authority directed disbursal of the amount to the private Respondent Nos. 4 to 8. This Writ Petition came up on board on 4 September 2019 and while issuing notice the Court observed that if the amount of compensation is not already disbursed, the same shall not be disbursed before the next date. According to the private Respondent Nos. 4 to 8, before this order is passed, the amount was disbursed.

4. Under Section 3H(4) of the Act of 1956, the Competent Authority is not vested with the power to decide any dispute or render any findings but once a dispute is raised, the Competent Authority has to refer the same to the Competent Court under Section 3H for adjudication. There may be a debate as to what the

term dispute signifies. There could be cases where the bare perusal of the objection lodged it can be said that there is not dispute at all or what is raised is finally considered by the Competent Court and the objection is vexatious. However, something which requires several pages to resolve a point raised is certainly a dispute that the Competent Authority is not empowered to decide.

5. The impugned order reads as if it is the judgment. It refers to the facts narrated. Hereafter it refers to the dates of hearing, written submissions being submitted and oral hearing being given. Upon narration of the rival contentions which run into several pages, the Competent Authority has examined the revenue record and also has rendered a finding that the private Respondents are the owners and are in the possession of the land in question. It is on this reasoning that the impugned order is passed. The entire exercise is thus beyond the jurisdiction of the Competent Authority. The dispute has arisen that the Competent Authority had passed an elaborate order and this dispute under the Scheme of the Act has to be decided by the Competent Court and not by the Competent Authority.

6. In these circumstances, the impugned order cannot be sustained. The impugned order dated 15 June 2019 is quashed and set aside. The Competent Authority is directed to take steps as per Section 3H(4) of the Act of 1956 for existence of a dispute. As

regard the amount which has already disbursed, the Petitioner can make necessary application in the Competent Court which will be decided on its own merits. We make is clear that our observations are only to emphasise upon the existence of a dispute in the context of Section 3H(4) of the Act of 1956 and it is not a reflection on the merits of the rival contentions. All proceedings between the parties will be decided on their own merits.

7. The Writ Petition is accordingly disposed of in above terms.

M.M. SATHAYE, J.

NITIN JAMDAR, J.