

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9579 OF 2021

Chhagan Ramchandra Pondkule

...Petitioner

Vs.

Dhanaji Dinkar Jadhav & Ors.

...Respondents

Mr. Kavyal P. Shah for the Petitioner.

Mr. A. I. Patel, Addl. G.P. with Ms. Rupali Shinde with Ms. M. P. Thakur, AGP for Respondent-State.

Mr. Akshay Kapadia i/b. Gurubala Birajdar for Respondent Nos.3, 4, 5 & 7.

Mr. Amol Laxman Dhumal for Respondent No.9.

Ms. Shraddha Pawar i/b. Dilip Bodake for Respondent No.22.

CORAM: G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.
DATE: 24 JULY 2025.

P.C.

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

“a. Rule be issued;

b. this Hon’ble Court be pleased to issue an appropriate writ, order or direction thereby calling for the records and proceedings from the office of the Learned Competent Authority Land Acquisition and Deputy Collector (Land Acquisition) No.16, Satara, at Satara (respondent no. 25, herein) with respect to acquisition and compensation of subject property being “Plot of Land bearing Survey No. 261 situated at Village: Vidni, Taluka” Phaltan, District: Satara, State: Maharashtra admeasuring about 3624 square meters”;

c. this Hon’ble Court, upon perusal of the aforesaid records, be pleased to issue an appropriate writ, order or direction thereby quashing and setting aside the impugned order dated 10th August, 2020 bearing No. LA/16/SR-72/2020 passed under the provisions of section 3H of the National Highways Act, 1956 by the Learned Competent Authority Land Acquisition and Deputy Collector (Land Acquisition) No. 16, Satara, at Satara (respondent no. 25) whereby, it has been ordered that the compensation amount with respect to part of the subject property be given to Pramila Popatrao Nale, Dadaso Govind Bhujbal and Sopan Dashrath Ghanvat (respondent nos. 26 to 28 herein).

d. this Hon’ble Court, upon perusal of the aforesaid records, be

further pleased to issue an appropriate writ, order or direction thereby quashing and setting aside the impugned Order dated 06th December, 2021 bearing No. LA/16/Vidni-912,940/SR-16 passed under the provisions of section 3H of the National Highways Act, 1956 by the Learned Competent Authority Land Acquisition and Deputy Collector (Land Acquisition) No. 16, Satara, at Satara (respondent no. 25, herein) whereby it has been ordered/directed that out of the subject property, the compensation amount with respect to 1846 square meters be given to respondent nos. 2 to 4, the compensation amount with respect to 565 square meters be given to original applicant no. 9 (respondent no. 22 Sadashiv Shripati Nale), the compensation amount with respect to 161 square meters be given to respondent nos. 9 (Rajendra Kisan Abdgire) and lastly, the compensation amount with respect to 854 square meters be distributed amongst respondent nos. 10 to 21.”

2. The petitioner’s case is that there is a dispute over apportionment of compensation for land acquisition contending that the partition was effected in the year 1977 in regard to which there is no dispute. It is also contended that various third party rights had been created over the land belonging to the other two branches of the ancestral family. The petitioner also contended that there is no suit pending between the petitioner and the landowners whose lands were acquired for the National Highway project in question. The civil suits as referred by the petitioner are about for hindrances to irrigation of well water and to peaceful measurement of land which have nothing to do with title of the land acquired for the highway project. The basis of the grievance of the petitioner is that the competent authority ought to simply make a reference to the jurisdictional civil court when any grievance or claim is made about apportionment and that the Competent Authority has no scope whatsoever to examine even an *ex facie* absence of a dispute. The separation of land among three branches of the family was effected in 1977 and mutation of land records had also been effected, without any dispute till date. We held that a bald assertion of the land being ancestral land is not enough and some jurisdictional fact would be necessary to invoke the jurisdiction of Section 3H(4) of the National Highways Act, 1956 (“**NH Act**”) for a reference to be made to the jurisdictional civil court.

3. The two judgments pressed into service are:-

- a. **Arun s/o. Trimbakrao Lokare v. State of Maharashtra and others**¹ (“**Arun Lokare**”); and
- b. **Rajaram Waman Rane v. Ramkrishna Mahadev Rane**² (“**Rajaram Rane**”).

4. The Division Bench in **Rajaram Rane** has followed the ruling by another Division Bench in **Arun Lokare**. In a nutshell in these two judgments the Division Bench has analysed the provisions of various sub-sections of Section 3H of the NH Act, and has ruled that under Section 3H(3), the Competent authority has the power to determine who is entitled to compensation and that apportionment is the next step – where there is a dispute about apportionment of the amount to any person to whom the amount is payable, the jurisdictional civil court has jurisdiction.

5. In the case of **Arun Lokare**, a Division Bench of this Court had held that Section 3H of the NH Act should be read in a manner that does not render either sub-section (3) or sub-section (4) *otiose*. Learned counsel for the petitioner relies on paragraph 16, to submit that the Competent Authority is obliged to refer the matter to the jurisdictional civil court when any dispute is raised.

6. On behalf of the respondents, the petition is opposed praying that no interference is called for.

7. Having examined the same, we are of the opinion that the Review Petition deserves to be allowed. It is apparent that even in a provocative factual matrix like the matter at hand, based on the two judgments cited, indeed the approach to be followed, would be to make a reference to the jurisdictional civil court. It would always be open to the other parties to take up such preliminary objections as advised before such civil court, including raising the ground of limitation under Order VII, Rule 11 of the Code of Civil Procedure, 1908.

1 2017(6) MhLJ 612

2 2018 SCC OnLine Bom 6437

8. More recently, the Supreme Court ruled on the subject in the case of **Vinod Kumar & Ors. Vs. District Magistrate Mau & Ors., Civil Appeal No. 5107 of 2022**, in the following words:-

“34. Our final conclusion is as under: If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, then, the competent authority shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. The competent authority possesses certain powers of the Civil Court, but in the event of a dispute of the above nature, the summary power, vesting in the competent authority of rendering an opinion in terms of sub-section (3) of Section 3H, will not serve the purpose. The dispute being of the nature triable by the Civil Court that the law steps in to provide for that to be referred to the decision of the Principal Civil Court of original jurisdiction. The dispute regarding apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, would then have to be decided by that Court.”

(Emphasis supplied)

9. In the light of the aforesaid discussion, we are inclined to allow the writ petition in the following terms:-

- i. The impugned orders dated 10 August 2020 and 06 December 2021 are quashed and set aside.
 - ii. The Competent Authority Land Acquisition and Deputy Collector (Land Acquisition No.16), Satara, is directed to make a reference of the disputes in terms of sub-section (3) of Section 3H of the NH Act to the Civil Court within a period of four weeks from the date of this order is placed before the said authority.
10. All contentions of the parties on the reference are expressly kept open.
11. The petition stands disposed of in the aforesaid terms. No costs.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)