

Nikita

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

**REVIEW PETITION NO.13 OF 2024
WITH
WRIT PETITION NO.11529 OF 2023**

Prakash Rajaram Gurav and Anr. ... Petitioners

V/s.

The Competent Authority and
Sub-Division Officer Kankavli Mumbai
Goa National Highway and Ors. ... Respondents

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Mr. Surel S. Shah i/b Mr. Sanskar Marathe, for the
Petitioner.

Mr. P. G. Sawant, AGP for the State-Respondent Nos. 1
and 2.

Mr. Srikant Narkar, for Respondent No. 3 to 5.

CORAM : AMIT BORKAR, J.

DATED : APRIL 10, 2024

P.C.:

1. The review petition is for recalling of order of dismissal dated 30th November 2023, on the ground that petitioners were party to the award and the reference proceedings were under Section 3(H) of the National Highways Act, 1956 (“the Act”) which are in the nature of apportionment of the compensation amount.

2. This Court while dismissing the petition proceeded on the basis that the reference pending before the Reference Court was only for the purpose of deciding the quantum of compensation.

However, during the course of argument, parties were *ad idem* that the dispute of apportionment of the amount is involved before the Reference Court.

3. If this be so, the petitioners being party to the award are entitled to be heard in the proceedings under Section 3(H) of the Act as their rights were prejudicially affected.

4. Hence, in my opinion, the order dated 30th November 2023 suffered from error apparent on the face of record. Hence, petitioners have made out a case for review.

5. Since, the petitioners state that the original proceedings is in the nature of apportionment of the compensation amount, the petitioners are necessary party to the proceedings. Hence, Writ Petition No.11529 of 2023 needs to be allowed.

6. Rule is made absolute in terms of prayer clause (a).

7. Parties shall appear before the Reference Court on 22nd April 2024.

8. The review petition stands allowed. No costs.

(AMIT BORKAR, J.)