

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 3430 OF 2023

Manoj Dongarchand Oswal. ... Petitioner.
V/s.
Union of India and others. ... Respondents.

Parisha Shah with Rasesh Shah i/b. Arshil Shah
for the Petitioner.
Ms.Heena Shaikh i/b. M.V.Kini & Co. for Respondent No.2.
Ms.Ashwini A. Puray, AGP for Respondent No.3.

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

DATE : 17 April 2024

P.C.:

Heard the learned counsel for the parties.

2. Though the learned counsel for the parties have raised various questions in respect of *inter se* disputes between the parties, we have to be mindful of the scope of the provision under which we have been called upon to intervene.

3. Acquisition proceeding took place under the National Highways Act, 1956 in respect of the properties stated in the petition. A dispute had arisen between the Petitioner and the private Respondents as regards demarcation of the property. A survey was sought to be carried out. While these proceedings

between the Petitioner and the private Respondents would go on, as of today the question is regarding disbursement of the compensation in respect of the land acquired.

4. Under section 3H of the National Highways Act, an elaborate methodology is laid down as regards the disbursement of the compensation amount. Once an issue of disbursal of compensation arises and if the party seeks to raise an objection regarding disbursement of the claim share of the compensation, then section 3H of the National Highways Act comes into play. If there is no dispute or the dispute is only an artificial one and can be easily seen as no dispute, it is open to the Competent Authority to disburse the amount. If there is dispute, as per section 3H(4), the Competent Authority has to refer the dispute to the Civil Court.

5. When this petition came up on board on 30 March 2023, a detailed order came to be passed. The Division Bench in the said order observed that a dispute had arisen and was of the *prima facie* view that under section 3H(4) the Competent Authority was under obligation to refer the dispute to the Civil Court. Once this *prima facie* finding is recorded and we have also perused the record before us which shows that various contentious issues arise on the fact, the Competent Authority has to refer the dispute to the Civil Court.

6. It is the grievance of the Petitioner that without passing

the order of reference certain amounts are sought to be disbursed and have been disbursed in favour of Respondent Nos.4 to 8. As regards the other Respondents are concerned, we are informed that there is no disbursement.

7. Therefore, the position as of today is that the compensation amount except to Respondent Nos.4 to 8 is neither received by the remaining Respondents nor by the Petitioner nor the dispute is referred to the Civil Court. Though the counsel for the Petitioner sought to address us on the merits of rival contentions in the civil suits pending between the parties, as stated earlier, the scope of the provision under which this Court is called upon to intervene is narrow. We are, therefore, of the opinion that the following order in the circumstances would meet the ends of justice.

(a) In view of the disputes raised by the Petitioner more elaborated in Exhibits- 'M', 'R' and 'T' and other objections raised by the Petitioner from time to time, Respondent No.3- Competent Authority is directed to refer the dispute to the Civil Court. The reference shall be made within a period of four weeks.

(b) As regards the disbursement of the compensation amount which is not yet disbursed is concerned, we direct that the compensation amount will not be disbursed for a period of sixteen weeks. Thereafter the necessary orders will be passed by the Civil Court on reference.

(c) As regards the amount which is stated to be already disbursed to some of the private Respondents, the same shall be subject to the outcome of the dispute under reference to the Civil Court. We grant liberty to the Petitioner to file necessary application to the Civil Court for direction to these Respondents to deposit the amount they received in the Civil Court. Once this application is filed, the matter will be decided on its own merits.

8. Keeping all the contentions of the rival parties open, with the above observations, we dispose of the writ petition.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)