

WRIT PETITION NO. 4153 OF 2022

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Adv. Ashutosh Mishra for the Respondent – UOI

Mr. P.B. Gujar i/b Hinge and Deshmukh Asso. For Respondent No.5 in WP/4153/2022.

Mr. Sarang Aradhye a/w Gauri Velankar and Shruti Kothavade and Saarth Chordia for Respondent No.21 in WP/4153/2022 and for Respondent No.23 in WP/96/2023.

**CORAM : NITIN JAMDAR AND
M.M. SATHAYE, JJ.
DATE : 12 APRIL 2024**

ORAL JUDGMENT (PER : NITIN JAMDAR, J.)

. By these petitions, the Petitioners who are objectors have challenged the Orders dated 17 November 2021 and 1 November 2021 passed by the same authority - Sub-Divisional Officer, Pandharpur / Competent Authority under Section 3-H(4) of the National Highways Act, 1956 ("the Act of 1956" for short), who is Respondent No. 1 in Writ Petition No. 4153 of 2022 and Respondent No. 5 in Writ Petition No. 96 of 2022. The impugned Orders are in respect of the same subject matter property.

2. By the impugned orders, the Respondent/Competent Authority has refused to refer the dispute raised by the Petitioners to the Competent Court and has directed disbursement of the amount in favour of the private Respondents.

3. In the petitions, the Petitioners have referred to the part of land bearing Gat No. 226 situated at village Degaon, Taluka

Pandharpur, District-Solapur. It is stated that this land was acquired for extension of National Highway No. 965 (Mohol-Pandharpur-Alandi). The notifications were issued on 9 January 2018, 20 August 2018, 16 September 2018 and 5 December 2020. After the acquisition was complete, the compensation was arrived at. The Petitioners lodged objections with the Competent Authority, raising a dispute that the Petitioners are also entitled to compensation as the subject land is an ancestral undivided property and suits/appeal are pending in the Civil Court at Pandharpur. It is stated that the suits are either at trial or at appellate stage and therefore, the amount in respect of compensation for subject land, should not be disbursed. As stated above, by the impugned orders, the Respondent Competent Authority has rejected these objections and has proceeded to pass the order of disbursement.

4. Section 3-H of the Act of 1956 which deals with deposit and payment of the amount of compensation reads thus:

“3-H. Deposit and payment of amount – (1) the amount determined under Section 3-G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.
(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.
(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent

authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) 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, the competent authority shall refer the dispute to the decision of the principal civil Court of original jurisdiction within the limits of whose jurisdiction of land is situated.

(5) Where the amount determined under section 3-G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest of nine per cent per annum on such excess amount from the date of taking possession under section 3-D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.”

Therefore, if there is any dispute arises, the scheme of Section 3-H is that the matter has to be referred to the Competent Court.

5. The issue of deciding at what threshold the objection becomes a ‘dispute’ can sometimes be a vexed question. Blacks Law Dictionary¹, defines a dispute as a conflict or controversy; a conflict of claims or rights; an assertion of a right, claim, or demand on one side, met by contrary claims or allegations on the other. In this

1 (9th Edition)

context it is important to note the legal framework. In cases where a dispute is raised by a party lodging an objection, the Competent Authority need to consider whether the dispute is wholly artificial or is non-existent. If it is clear from a cursory examination of the objection that there is no 'dispute' whatsoever, the Competent Authority may be within its rights to treat it as such. However, if a question needs to be determined by detailed reasoning, a dispute exists and the Competent Authority cannot adjudicate the matter. The resolution of the dispute is the responsibility of the Competent Court under Section 3-H of the Act. It is important to note that the Competent Authority is an executive officer, while the Competent Court is a judicial authority. For this reason, the resolution of 'disputes' is entrusted to the judicial authority.

6. Keeping that in mind, we have examined the impugned orders. The impugned orders are styled as judgments. Respondent Competent Authority has conducted the hearing on 4 dates. The order of 11 pages narrates the objections raised by the Petitioners and the reply of the private Respondents. With an analysis running into 6 pages, the Competent Authority has come to the conclusion that it is not necessary to refer the matter to the Competent Court. Bare perusal of the impugned orders would show that the threshold contemplated under Section 3-H(4) was clearly crossed. In these circumstances, it was incumbent on the Respondent Competent

Authority to refer the dispute to the Competent Court.

7. We do not intend to comment on the merits of the rival contentions of both sides as it might prejudice them in the course of action that would follow. The learned counsel for the Petitioners pointed out that after the impugned order was passed, some part of the compensation was disbursed. The learned AGP points out that the amount of Rs.2,01,90,498/- has been transferred to the District and Sessions Judge, Solapur. Thereafter, under order dated 23 March 2022 passed in Writ Petition No. 4153 of 2022, 'status quo' was granted, and a further amount was not disbursed.

9. In light of the aforesaid fact situation, we quash and set aside the impugned orders dated 17 November 2021 and 1 November 2021 passed by Respondent Competent Authority—Sub-Divisional Officer, Pandharpur, District-Solapur. The said Competent Authority will take steps as per Section 3-H(4) to refer the dispute in both petitions to the Competent Court. The amount already disbursed to private Respondents will be subject to the outcome of the proceedings so referred.

10. The Petitioners can make necessary application/s in the competent Court to which the dispute would be referred about amounts already disbursed under the impugned orders, which application/s will be considered on its own merits.

11. We make it clear that our observations were on the jurisdiction of the Respondent Competent Authority and not on the merits of the dispute *inter se* private parties.
12. Writ Petitions are accordingly disposed of. No order as to costs.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)