

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10939 OF 2024

Sukhdeo Dattatraya Thorve

...Petitioner

Versus

The State of Maharashtra, through its Secretary, ...Respondents
Urban Development Dept. & Ors.

Mr. Ajay Joshi, for Petitioner.

Mr. Rajan Pawar, AGP for State.

CORAM: _____
G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

DATE 08 AUGUST 2024

P.C.

1. We have heard Mr. Joshi, learned counsel for the petitioner and Mr. Pawar, learned AGP for the State.
2. The only substantive relief as prayed for in the petition is in terms of prayer clause (a) & (b) which reads thus:

“A] That this Hon’ble Court may by issuing appropriate Writ or order or direction may be pleased to direct the respondent No.2 to refer the dispute involved in Land Acquisition / Objection /SR / 11/ 2022 in terms of the order dated 01.12.2023 Exhibit – M to the Principal Civil Court along with amount of compensation.

B] During the pendency of this Petition this Hon’ble Court may be please to restrain the Respondent No.2 from disbursing the

amount of compensation which is the subject matter of the dispute.”

3. The petitioner is asserting rights in respect of land bearing Gat No. 281 and 569 situated at Charholi, Khurd, Tq. Khed, District Pune. Part of such land was subject matter of acquisition under the Maharashtra Highways Act, 1955. The petitioner contends that the private respondents (respondent Nos. 3 to 19) have claimed compensation and such compensation was sought to be awarded to these respondents under an agreement as entered with respondent No.2. The petitioner contends that the petitioner is entitled for proportionate compensation on the ground that the petitioner is a co-owner of the land subject matter of acquisition. It is Mr. Joshi's contention that in this regard the petitioner had approached respondent No.2, making such a claim and that the entire amount of compensation be not disbursed to the private respondents and the proportionate amount be disbursed in favour of the petitioner. In this regard, he has drawn our attention to the objection / representation dated 20 March 2024 (Exhibit – N) (page 178). It is Mr. Joshi's contentions that once an object for the payment and / or apportionment of the compensation is raised under sub-section (4) of Section 19C of the Act, it would be required to be applied by the Competent Authority and as a dispute has arisen on the apportionment of the compensation, the dispute would be required to be referred for the decision of the Principal Civil Court of Original Jurisdiction

within the limits of whose jurisdiction where the property is situated. It is his submission that the authority has not referred the dispute for the decision of the Civil Court in terms of sub-section (4) of Section 19.

4. In our opinion, it would be appropriate that the petition is disposed of by directing the Competent Authority / respondent No.2 to refer the dispute to the Principal Civil Court of Original Jurisdiction in terms of sub-section (4) of Section 19C. For convenience the provision may be noted which reads thus:

“19C. (1) The amount determined under section 19B shall be deposited by the State Government, in the prescribed manner, with the Land Acquisition officer before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the Land Acquisition Officer shall on behalf of the State 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 Land Acquisition Officer shall determine the persons who in his 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 Land Acquisition Officer 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.

(5) Where the amount determined under sub-section (8) of section 19B by the arbitrator is in excess of the amount determined by the Land Acquisition Officer, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 19 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 Land Acquisition Officer, the excess amount together with an interest, if any, awarded under sub-section (5), shall be deposited by the State Government, in the prescribed manner, with the Land Acquisition Officer and the provisions of sub-sections (2) to (4) shall apply to such deposit.”

5. The petition is accordingly disposed of by the following order:

ORDER

- i. Respondent No.2 is directed to refer the dispute dated 20 March 2024 in respect of the petitioner's claim in regard to the compensation in the acquisition of land bearing Gat No; 281 and 569, within a period of four weeks from today.
- ii. Till appropriate orders on apportionment are passed by the Principal Civil Court of Original Jurisdiction, the amount of compensation be disbursed to all the parties who would be held to be entitled as per the appropriate orders which may be passed by the Principal Civil Court of Original Jurisdiction.
6. All contentions of the parties in the proceedings before the Civil Court are expressly kept open.
7. The petition is disposed of in the aforesaid terms. No costs.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)