

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11546 OF 2024

Amiroddin Husainsab Shaikh Petitioner

V/s.

The State of Maharashtra & Ors. Respondents

Mr.Anvil S. Kalekar, for the Petitioner.

Ms.V.R. Raje, AGP, for Respondent Nos.1 to 3-State.

CORAM : R.M. JOSHI, J.

DATE : 27th AUGUST 2024

P.C:-

. This petition takes exception to the order dated 10th July 2024 passed by the Competent Authority under the provisions of the Railways Act, 1989, and amended Act 2010 under Section 20H(4).

2. It is the contention of the Petitioner that, land bearing Gut No.92/4 (Old Survey No.92/2/A) admeasuring 3H 84R situated at Village Bale, North Solapur, District-Solapur is purchased by the Petitioner and Respondent No.4 by registered Sale Deed and accordingly both are equal owners of the said land

to the extent of $\frac{1}{2}$ share each. On 21st June 2023, Respondent No.3 i.e. Competent Authority by notification published an intention of the acquisition of the part of the land to the extent of 22600 sq.mt. from Gut No.92/4. On 24th January 2024 notice came to be issued by Respondent No.3 to the owners of the said land i.e. Petitioner and Respondent No.4 calling upon their objection for the acquisition, entitlement and disbursement of the compensation amount. The Petitioner raised objection before the Competent Authority on 6th March 2024 that he along with Respondent No.4 are the owners of the said land and are equally entitled for the compensation. Respondent No.4 raised objection with regard to the apportionment. By passing impugned order the Competent Authority referred the said dispute to the Principle Civil Court of original civil jurisdiction under Section 20H(4) of the Act.

3. The learned counsel for the Petitioner submits that, admittedly, the Petitioner and Respondent No.4 have purchased a Gut No.92/4 jointly and as such they are equally entitled for the compensation. It is his submission that, there is no suit for

partition is filed by Respondent No.4 and that now after the acquisition is complete, the question of filing such suit also does not arise. It is his submission that, there is no dispute with regard to the apportionment and as such the impugned order is not justified.

4. Perusal of record indicates that, though the Petitioner and Respondent No.4 have purchased Gut No.92/4 jointly. However, the entire land in the said gut has not been acquired by the Authority. Even from the order impugned it does not appear that there was any partition of the said property in favour of Petitioner and Respondent No.4 to determine exact portion of the land in entire gut, held by them. In such circumstances, when Respondent No.4 has raised issue/dispute with regard to apportionment of the compensation, question arises as to who shall decide said issue.

5. It would be relevant to reproduce Section 20H(4) which reads thus:-

“Section-20H(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 the land is situated.”

6. It is thus clear that, in case any dispute arises as to the apportionment of the amount or any part thereof, the Competent Authority is duty bound to refer the said dispute to the decision of the Principle Civil Court of original jurisdiction. In this regard reference can be made to the judgment of the Hon'ble Supreme Court in case of *Vinodkumar & Ors V/s. District Magistrate MAU¹*

6. Considering the contention of Petitioner, himself, this Court is of the view that, there exists a genuine dispute with regard to the apportionment of the compensation, having regard to the fact that the entire Gut No.92/4 have not been acquired. In such circumstances, it was not open for the Competent Authority to decide the said dispute and the same has been rightly referred to the Civil Court. Hence, there is no substance in the Petition, Petition stands dismissed.

7. All pending Civil/Interim Applications are disposed of.

(R.M. JOSHI, J.)

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