

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13497 OF 2024

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1. Ganesh Mohan Sonavane
2. Sonal Viju Dodake (after marriage name)
(Sonal Mohan Sonavane) .. Petitioners

Versus

1. The Sub-Divisional Officer,
Panvel, Acting as Land Acquisition Officer
2. Smt. Savita Kumari Chopra
3. Jyoti Kashinath Vairagar
4. State of Maharashtra
5. Bipin Trilokchand Kothari
6. Smt. Sunanda Subhash Kothari
7. Mukund Namdeorao Hatote
8. Avinash Tukaram Sanas ..Respondents

WITH
INTERIM APPLICATION NO. 13528 OF 2024
IN
WRIT PETITION NO. 13497 OF 2024

1. Mr. Ramakant Rajaram Godse,
2. Mrs. Santosh Subhash Singh
3. Mr. Ankush Sitaram Jadhaw
4. Mr. Hitesh Vitthal Bhopi ...Applicants

In the matter between :

1. Shri Ganesh Sonavane
 2. Sonal Viju Dodake (after marriage name) (Sonal
Mohan Sonavane) ...Petitioners
- Versus**
1. The Sub-Divisional Officer,
Panvel, Acting as Land Acquisition Officer & Ors. ...Respondents

WITH
INTERIM APPLICATION NO. 13530 OF 2024
IN
WRIT PETITION NO. 13497 OF 2024

1. Jivraj Harilal Devda .. Applicants/
Intervenors

2. Mr. Rohit Ramchandra Patil
In the matter between :

1. Shri Ganesh Sonavane

2. Sonal Viju Dodake (after marriage name)
(Sonal Mohan Sonavane) ...Petitioners

Versus

1. The Sub-Divisional Officer,
Panvel, Acting as Land Acquisition Officer & Ors. ...Respondents

Mr. Vijay Killedar, for Petitioners.

Mr. Shardul Singh a/w. Ms. Sayali Sawant, for Applicants.

Ms. M.S. Bane, AGP for Respondent No.1-State.

Mr. Ashutosh Kulkarni i/b Akshay Kulkarni, for Respondent No.2.

Mr. Y.S. Jahagirdar, Senior Advocate a/w. Mr. Suresh Sabrad, Mr. Jeethendra Sachhdev, Mr. Amey Sawant, Ms. Gracy Saldanha, Mr. Abubakar Patel and Pratik Sabrad i/b JS Legal, for respondent Nos. 5 and 6.

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

Date : October 4, 2024

Oral Judgement (*Per, Somasekhar Sundaresan J.*):

1. Rule. Rule made returnable forthwith. Learned Counsel for the Respondents waive service. By consent of the parties, heard finally.

2. This Writ Petition essentially seeks a direction to quash and set aside a decision dated February 2, 2024 by the Land Acquisition Officer not to refer the disputes raised by the Petitioners in connection with apportionment of compensation for land acquired for purposes of a State Highway, to the Reference Court / Authority under Section 19C(4) of the Maharashtra Highways Act, 1955 (“*the Act*”). Interim Application No. 13528 of 2024 and Interim Application No. 13530 of 2024, are applications for intervention by other landowners who had acquired rights in the land from the parties against whom the Petitioners claim, some portion of the land now acquired by the Land Acquisition Officer, seeking to be heard before this Petition is adjudicated.

3. The Petitioners claim that various parcels of land listed in Paragraph No.4 of the Petition represent properties in which they have an interest by reason of inheritance. The said properties were originally owned by one Mr. Ganesh Oze, on whose demise on January 20, 1945, two daughters and a widow became entitled to the properties. The Petitioners claim through one such daughter. According to the Petitioners, the maternal grandmother, namely, Mrs. Shardabai Ganesh Oze had executed a will dated December 31, 2010 in

the erroneous belief that she was the exclusive owner of all the properties in question, to bequeath the properties in favour of Respondent No.2, the other daughter.

4. According to the Petitioners, their mother passed away on March, 22, 2013, while their grandmother who wrote the will passed away on September 22, 2014. It is on the basis of the said will that the names of the Respondents came to be mutated in the record of rights *vide* various mutation entries relating to the subject properties. Ten separate appeals under the Maharashtra Land Revenue Code, 1966 (“**MLRC**”) were preferred challenging the mutation entries resulting in the mutation entries being set aside by judgment and order dated July 24, 2017 passed by a Sub-Divisional Officer, Panvel in RTS Appeal No. 136 to 146 of 2016. Second appeals under the MLRC led to the quashing of the mutation entries being upheld *vide* orders dated January 20, 2020. Revision applications before the Divisional Commissioner, Konkan Division too came to be dismissed on January 10, 2022. A second revision under the MLRC before the Revenue Minister came to be allowed on June 8, 2022, thereby reinstating the mutation entries. A review application of the Revenue Minister’s decision, with an application for condonation of delay of five days is pending.

5. The Petitioners also submit that proceedings between the Petitioners and the second daughter of Mr. Ganesh Oze, namely, Savita Kumari Chopra, Respondent No.2 are pending before the Civil Court, Panvel. Proceedings for grant of probate had been taken out leading to a probate certificate being granted on August 19, 2017. Proceedings for revocation of the probate certificate have been filed by the Petitioners and are pending till date. Likewise, Regular Civil Suit No. 82 of 2018 has been filed by Respondent No.2 seeking declaration of ownership of the subject properties, on the basis of the probate, pursuant to the will dated December 31, 2010, and is pending. The Petitioners have filed a counter-claim, also seeking declaration in connection with the properties.

6. These properties include the land parcels that were acquired under the Maharashtra Highways Act, 1955 for purposes of the Virar-Alibaug Multimodal Corridor Highway, a State Highway.

7. The Petitioners have contended before the Land Acquisition authorities that they are entitled to 50% of the compensation payable in respect of the land so acquired. The Land Acquisition Officer, Respondent No.1, rejected the objections raised by the Petitioners *vide* their representations dated September 15, 2023 and September 25, 2023 holding that without sufficient documentary

evidence, the Petitioners had not made out a case for grant of any relief. The orders rejecting the objections came to be passed on February 2, 2024, which are the orders impugned in the present Petition.

8. This Division Bench disposed of Writ Petition filed by a Company called *U.S. Infra Housing Pvt. Ltd. through an "authorised person"*¹, wherein without examining the merits of rival contentions, the Petitioner was granted liberty to move an application before the Sub-Divisional Officer, Panvel along with all relevant material to make out a claim, if any, in respect of land acquisition. So also, the Petitioners had also moved Writ Petition No. 6285 of 2024 which also came to be disposed of as withdrawn allowing the Petitioners to file a fresh and proper petition, granting ad-interim protection against not disturbing the compensation amount for a period of 15 days. Pursuant to such liberty, the present Petition has been filed. Such protection has continued till date.

9. We have heard Learned Counsel for the parties and have examined the record with their assistance. Section 19C(3) of the Act indeed provides that where several persons claim to be interested in the amount deposited in respect of the land acquired, the Land Acquisition Officer shall determine the persons, who in his opinion, are entitled to receive the amount payable to each of them.

¹ *Writ Petition No. 12658 of 2024 dated September 19, 2024 (U.S. Infra Housing Pvt. Ltd. Vs. Sub-Divisional Officer, Panvel & 3 Ors.)*

Section 19C(4) of the Act provides that if any dispute arises, as to apportionment of such amount or any part of such amount, the Land Acquisition Officer shall refer the dispute to the principal Civil Court of original jurisdiction in the place where the land is situated. In the case at hand, in our opinion, once again, without expressing any opinion on the merits of the case, it is evident and writ large on the face of the record, that there is a dispute among the parties over ownership and title to the land acquired for the purposes of the State Highway. Various strands of the dispute are at various stages before various fora. Suffice it to say that disputes indeed exist and are pending, among the parties.

10. Evidently, there is a dispute over entitlement to the properties in question. The entitlements claimed may be with or without merit, but that position would be determined in the outcome of the proceedings involved in the dispute. The dispute over entitlements, necessarily translates into a consequential dispute over apportionment of the compensation amount. Therefore, we are of the view that the appropriate course of action that the Land Acquisition Officer, Respondent No.1 ought to have taken, was to make a reference of such dispute to the jurisdictional Civil Court. Since such reference has not been made, we are of the view, without expression of any opinion on the merits of the matter, that it would only be proper to direct Respondent No.1 to

make a reference of the dispute over apportionment of compensation to the Civil Court having territorial jurisdiction over the lands in question, under intimation to the Petitioners and all the other Respondents, including the intervenors. The intervenors in this Writ Petition are at liberty to adopt such proceedings as advised before the Civil Court.

11. The Respondents claiming through the other daughter and under the will of the grandmother have submitted that the Petitioners are only claiming 50% of the compensation amount and therefore, they ought to be permitted to withdraw the undisputed portion of their compensation. The intervenors have submitted that their purchase is bona fide and for value and there should be no dispute over their portion of the compensation due pursuant to the land acquisition. These parties are at liberty to make an appropriate application to that effect for withdrawal of an undisputed compensation, if any, and make all such submissions before the jurisdictional Civil Court to which the reference is being made. The Civil Court may pass appropriate orders as the facts, circumstances and equities, warrant. In exercise of our writ jurisdiction, we do not believe it is appropriate to pronounce upon such facets of the matter, when the law has conferred jurisdiction on the Civil Court to which reference is to be made. All contentions of all parties are kept open for adjudication by the Civil Court. We have restricted ourselves to answering the question of whether the

Land Acquisition Officer, Respondent No. 1 was right in refusing to refer the matter to the Civil Court, which it was incumbent on him to do.

12. Since ad-interim relief came to be granted on this Petition, liberty is given to the Petitioners to take out an interim application before the Civil Court in question, within a period of two weeks from the reference to the Civil Court, being intimated to them. The interim relief currently in place shall continue until disposal of such application for interim relief, if any, that may be filed before the Civil Court. If the Petitioners do not obtain any interim relief from the Civil Court before the expiry of four weeks from the date of filing such interim application, the protection being by this Court would stand vacated.

13. Rule is made absolute in the aforesaid terms. The Writ Petition is disposed of. No costs.

14. As a result, any other interim/civil application relating to this Petition too is hereby finally disposed of.

[SOMASEKHAR SUNDARESAN, J.]

[G.S. KULKARNI, J.]