

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6813 OF 2024  
IN  
WRIT PETITION NO. 14562 OF 2022

Ganesh Dnyaneshwar Sable and Ors. ... Applicants

In the matter between:

Roopchand Kaluram Ambekar And Anr ...Petitioners

**Versus**

Gulab Mohammed Mulani And Ors. ...Respondents

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Mr. Vivek Salunkhe for the Applicant/Ori. Respondents.

Mr. Nachiket Khadalkar for the Petitioners.

Ms. Nisha Mehra, AGP for the Respondent/State.

Mr. Jotiriam Jadhav for Respondent Nos. 12 and 13.

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

**DATE : 26 APRIL 2024**

**P.C. :**

. This application is taken out for vacating the ad-interim order which is granted on 28 November 2022. The Petitioners have filed this petition making a grievance that having raised an objection before the Competent Authority under Section 3-H of the National Highways Act, 1956 and raising a dispute that the matter ought to have been referred to the Competent Court under the said provision

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instead, the Competent Authority has rejected the objection. Prayer is also made in the Writ Petition that the disbursal of the amount be stayed pursuant to the impugned order since the matter will have to be referred to the Competent Court.

2. This interim application is taken out making a grievance that the Petitioners have not disclosed and the Petitioners have withdrawn substantial amount and it is only now the share of the Applicants that has remained to be disbursed in view of the interim order. According to the Applicants, the fact that the Petitioners have withdrawn the amount, was material fact, which was suppressed when the interim order was passed and had this fact been placed before the Court, different view would have been taken.

3. According to us, if the Petitioners are praying that the matter be referred to the Civil Court and that without disclosing the fact that they have withdrawn the amount, then the Petitioners must redeposit the amount that they have withdrawn so that the Competent Court can consider the entire matter regarding apportionment.

4. The learned counsel for the Applicants/Respondents on instructions states that if the Petitioners redeposits the amount, then the matter can be referred to the Civil Court and the entire matter then reconsidered by the Civil Court. We find this stand taken by the Applicant to be reasonable. Therefore, in spite of the fact that

the interim order could have been vacated for suppression of material facts, we grant time to the Petitioners to redeposit the amount with the concerned Authority by 22 June 2024. If the amount is not so deposited and receipt thereof is not placed on record by way of affidavit with copy to the Applicants, the ad-interim order granted in this petition will stand vacated.

5. If the amount is so deposited, the Court may proceed to pass appropriate order referring the dispute to the Civil Court.

6. Place the matter on board on **21 June 2024** under caption 'for Directions'.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)