

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4406 OF 2023

Mrs. Vanita W/o Shankar Gohane and others
Vs.

Maharashtra State Road Development Corporation and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Mohammed Qubbawala, Advocate for petitioners
Shri A.D. Mohgaonkar, Advocate for respondent No.1
Shri B.M. Lonare, Advocate for respondent No.2
Shri A.V. Bhide, Advocate for respondent No.3

CORAM : AVINASH G. GHAROTE AND
SMT M.S. JAWALKAR, JJ.

DATE : 04.10.2024.

There is no dispute that land Survey No. 49/1 admeasuring 1.84 hectares from and out of 2.30 hectares, Mouza Khapri (Gandhi), Tahsil Hingna, District Nagpur, has been acquired by the respondent No. 1 under the sale deed dated 27/09/2017, which has been executed and registered by the petitioners as well as the respondent No. 3 in favour of the respondent No. 1, for the consideration of Rs.1,15,85,593/- and the entire amount of this consideration stood paid to the petitioners and the respondent No.3. Since the multiplying factor for grant of compensation was increased to 2 on 24/11/2017, additional compensation to the same extent became payable to the petitioners and the respondent No. 3, which was agreed by the respondent No. 1 by virtue of

the resolution dated 24/04/2018 and the benefit of the enhanced compensation was agreed to be given to all the land owners from whom the land was acquired under the sale deeds. The petitioners and the respondent No. 3, thus also became entitled to the additional compensation equivalent to what they had received under the sale deed dated 27/09/2017. It is at this stage that the respondent No. 3 filed a Civil Suit No. 18/2019, for declaration and permanent injunction against the petitioners and the respondent No. 1, claiming a declaration that she had one half share in the entire property. The said suit came to be dismissed in default by order dated 11/07/2022, however, an application for restoration being MJC No. 100/2024 is pending in the Court of Civil Judge Junior Division, Hingna.

2. The learned Counsel for the petitioners submits that since the claim of the respondent No. 3 is only to the extent of half share in the land of Survey No. 49/1, there obviously is no dispute regarding the entitlement of the petitioners to half of the additional compensation, which has now been granted. That is a position, which is spelt out from the claim of the respondent No. 3 in the Suit (page 25), which claims a decree for half share in interest in the land of Gat No. 49/1.

3. Mr. Bhide, learned Counsel for respondent No. 3, does not dispute this position that all what is claimed in the plaint is a half share in the land of Gat No. 49/1 and there is

no dispute that the petitioners jointly owned half share in the same. The respondent No. 1 is agreeable for payment of this half share in the additional compensation to the petitioners upon execution and registration of an appropriate document by the petitioners in that regard, in view of which, we direct that the half share in the additional compensation be paid to the petitioners by the respondent No. 1, upon execution of an appropriate document to the satisfaction of the respondent No. 1, in that regard. The rest of the additional compensation shall be deposited by the respondent No. 1 in MJC No. 100/2024, the disbursal of which, shall be subject to the result of RCS No. 18/2019, in case the same is restored. If the MJC is not allowed then the Court concerned shall pass appropriate orders regarding its disbursal. The amount deposited in MJC No. 100/2024, shall be deposited in an interest carrying account by the learned Civil Judge Junior Division. The petition is accordingly disposed off in the above terms. No costs.

(SMT M.S. JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)