



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2061 OF 2022

Rajesh S/o. Mohanlal Baswar,
Aged about 50 years, Occ. Doctor,
R/o. Swapnalok Building, Wardhaman
Nagar, Nagpur.

.... **PETITIONER.**

// VERSUS //

1. Smt. Nirmalabai Wd/o. Mohanlal Baswar,
Aged about 66 years, Occ.- Household,
2. Vijay S/o. Mohanlal Baswar,
Aged about 43 years, Occ- Business,
3. Manoj S/o. Mohanlal Baswar,
Aged about 40 years, Occ- Business,

All R/o. House No.185, Ward No.3,
In front of Bus Stand Saoner, Tahsil-
Saoner, District : Nagpur.

4. The Deputy Collector Land Acquisition
(General), Nagpur & Competent Authority
for acquisition of land for National
Highway, Nagpur.

.... **RESPONDENTS.**

Shri Rohit Joshi, Advocate for Petitioner.
Shri N.S.Rao, A.G.P. for Respondent No.4.
Ms Vidya Umale, Advocate for Respondent Nos.1 to 3.

CORAM : ANIL S. KILOR, J.
DATED : FEBRUARY 14, 2024

ORAL JUDGMENT :

1. Heard.

2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. The order rejecting application filed by the petitioner for direction to the Deputy Collector, Land Acquisition (General) to deposit the award amount arising out of the suit property before the appellate Court in Regular Civil Appeal No. 319 of 2019, is under challenge in this writ petition.

4. A suit filed for partition by the petitioner was decreed and it was the subject matter of challenge in Regular Civil Appeal No.319 of 2019 before the Additional District and Sessions Judge at Nagpur. During pendency of the said appeal, on acquisition of certain non-agricultural plots owned by the appellant and the respondent in the said appeal, by award dated 07/02/2019 the compensation was determined to the tune of Rs.48,73,177/- in Land Acquisition Case No.88/A-65/2017-18.

5. In light of the said award the petitioner moved an application Exh.8 for direction to the Deputy Collector, Land Acquisition (General) to deposit the award amount arising out of the suit property in the Court. The same came to be rejected vide the impugned order. Hence, this writ petition.

6. After going through the record it is evident that there is no dispute about the award passed by the Deputy Collector. It is pertinent to note that, before the appellate Court the Deputy Collector vide his submission filed on 30/01/2020, agreed to deposit the said amount in the Court. Para 3 of the submissions of the Deputy Collector filed before the Appellate Court is relevant, which reads thus:

“3) It is submitted that in this case the office of undersigned is not party respondent and under such circumstances if this Hon’ble Court passes order directing the office of undersigned, in that circumstance, the office of undersigned is ready to deposit the said amount of compensation Rs.48,73,177/- in the Hon’ble Court in this matter for depositing the same.”

7. Thus, considering the above referred observations, I am of the opinion that once the Deputy Director has agreed to deposit the amount, the learned first Appellate Court ought not to have rejected the

application Exh.8.

8. In the circumstances, I pass the following order:

- i) The Writ Petition is allowed.
- ii) The impugned order, dated 04/08/2021 passed below Exh.8 by the District Judge-1, Nagpur in Regular Civil Appeal No. 319 of 2019 is hereby quashed and set aside and consequently the application Exh.8 is allowed and it is directed the Deputy Collector to deposit the amount in the first appellate Court within ten weeks from today.

Rule is made absolute in the above terms. No order as to costs.

(ANIL S. KILOR, J)

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