



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

WRIT PETITION NO. 6124 OF 2024

Nilesh s/o Subhash Mankar and Ors. **Vs.** Smt. Babita Shailesh Mankar and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. M.V. Bute, Advocate for petitioners.

CORAM : N.R. BORKAR, J.

DATE : 14.10.2024.

This petition takes exception to the judgment and order dated 01.08.2024 passed by the learned Civil Judge Senior Division, Amravati in LAC No.38/2017.

2. By the order impugned, the learned reference Court has decided the reference made to it under Section 30 of the Land Acquisition Act and held that in the amount of compensation of Rs.5,24,658/- the respondents are entitled to 3/15th share each and petitioners are entitled to 4/15th share each.

3. According to the petitioners, the respondents are not entitled to get any share in the amount of compensation in view of Will allegedly executed by their mother in their favour. In respect

of the said Will, the reference Court has recorded the following finding :

“On taking stock of his cross examination, it is manifest that, the property No.58 was involved in RCS No.373/2012 and same has been decreed in favour of petitioner. This admission completely negativates the defense that property No.58 was not involved and there was no dispute for its compensation. Even though, he claimed exclusive right in the property No.58 on the strength of Will of their mother Mamta, however they have failed to establish the Will as per the mandate of Section 68 of Indian Evidence Act R/w 63 of Indian Succession Act, 1925. Further more, said Will has also not been established in previous litigation. Therefore, the claim of exclusive right in suit property is completely bereft of merit. Hence, the evidence of DW No.1 Nilesh clarifies the claim of petitioners and there is nothing elicited to shatter the documentary foundation as established by petitioners.”

4. The above findings recorded by the reference Court is not shown to be perverse. In that view of the matter, I am not inclined to interfere in the impugned judgment and order. The writ petition is dismissed.

(N.R. BORKAR, J.)