



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**916 CIVIL APPLICATION NO. 8590 OF 2025
IN WP/1661/2020**

**AKBAR KHAN AJIJ KHAN AND ANOTHER
VERSUS
ASIYABEGUM RAUFKHAN AND OTHERS**

**...
WITH
WRIT PETITION NO. 453 OF 2021
WITH
WRIT PETITION NO. 1661 OF 2020**

.....
Advocate for the Applicant in C.A : Mr. Kazi S. S.
Advocate for Petitioner in W.P No.453 of 2021 : Mr. S.S. Kazi
Advocate for Petitioner in W.P No.1661 of 2020: Mr. P.S. Paranjape
AGP for Respondent/State : Mr. S.R. Yadav-Lonikar
Advocate for Respondent No.1 : Mr. R. N. Bhapkar
Advocate for Respondent No.5 in WP : Mr. A.P Bhandari
Advocate for Respondent Nos.2,6 &7 : Mr. A.D. Khot

**...
CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**

DATE : 05.12.2025

PER COURT :

. Heard.

2. The house property bearing C.T.S No.11804 was acquired for development plan (D.P) road. The Respondent/Corporation is to pay the compensation to the owner/s of the said house property. One Aziz Khan was the owner thereof. He passed away leaving behind six heirs viz. Sher Khan, Akbar Khan, Mehboob Khan, Roshan Bee, Rahima Bee and Salima Bee. In the proceedings before the competent authority

under Section 76 of The Land Acquisition Act, 2013, Roshan was not cited as one of the heirs of deceased- Aziz Khan.

3. The dispute before the competent authority was amongst the heirs of Sher Khan who is one of the sons of Aziz Khan.

4. The Writ Petition No. 1661 of 2020 has been filed by one of the heirs of Sher Khan. The pleadings therein indicate the petitioners claim share in the amount of compensation through Sher Khan and not Akbar Khan and Mehboob Khan, who are the petitioners in Writ Petition No.453 of 2021.

5. As per the Muslim Personal Law, son gets twice the share the daughter gets. The amount of compensation is Rs.1,08,86,558/-

6. According to learned Advocate Mr. Paranjape appearing for the petitioners, the matter should be decided by a Civil Court since, it is a question of right, title and interest in immovable property. He would further submit that the Civil Suit has already been filed by Respondent No.1, in Writ Petition No.1661 of 2021. It is also informed that the suit was dismissed in default and has even now been restored.

7. Be that as it may, from the facts emerged during the hearing, it is crystal clear that Akbar Khan and Mehboob Khan to have share in the amount of compensation in their own right i.e successors of Aziz Khan. The dispute is amongst the heirs of Sher Khan. Both of Akbar and Mehboob Khan are over 70 years old. They are ready to furnish security for release of amount of compensation in their favour. Both Akbar and Mehboob Khan has filed the Writ Petition for direction to the authority

to release in their favour amount of compensation of their share.

8. The learned Advocate Mr. Kazi has placed on record chart of the amount of compensation in terms of shares of the respective sharers. In terms thereof, both Akbar Khan and Mehboob Khan are *prima facie* entitled to get Rs. 24,19,235/- each.

9. In the aforesaid factual backdrop, we see no reason to delay the payment of amount of compensation payable to both of Akbar Khan and Mehboob Khan and so far as regards dispute *inter se* the heirs of Sher Khan is concerned, we set-aside the order passed by the competent authority and direct it to refer the matter to Principal Civil Court of Original Jurisdiction for deciding the rival claims. Needless to mention all the heirs of Aziz Khan be made parties thereto. It is made clear that the amount directed to be paid to Mehboob Khan and Akbar Khan is to be released in their favour as against solvent security.

10. The amount to be paid alongwith accrued interest thereon. Once the reference is made, we expect the Principal Civil Court of Original Jurisdiction to decide the same within a time-frame of six months.

11. The Civil Application and both the Writ Petitions thus stand disposed of in above terms.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)

vsj..