



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

919 WRIT PETITION NO. 6435 OF 2021

SAKHAHARI DADA JADHAV AND OTHERS

VERSUS

THE UNION OF INDIA THROUGH SECRETARY AND OTHERS

Mr. V.Y. Bhide, Advocate for the petitioners.

Mr. A.G. Talhar, Advocate for respondent Nos. 1 and 4.

Mr. G.O. Wattamwar, AGP for the respondent-State.

Mr. D.P. Madkar h/f. Mr. D.S. Manorkar, Advocate for respondent Nos.4A.

Mr. R.L. Kute, Advocate for respondent No.7.

CORAM : KISHORE C. SANT, J.

DATE : 18.12.2025

PC :-

01. At the outset, learned Advocate for the petitioners informs that petitioner No.1 expired during pendency of the petition. He is survived by petitioner Nos. 2,3 and 4, who are his sons. The death certificate is taken on record. He, therefore, seeks leave to delete name of petitioner No.1. He also prays for leave to correct prayer clause (C) by replacing "Exh.D" by "Exh.F".

02. Leave granted.

03. Heard learned Advocates for the parties. By consent of the parties, this petition is taken up for final disposal at the stage of admission.

04. The dispute in the petition is in very narrow compass. The facts giving rise to the petition are that the petitioners are in possession of some portion of land from land Gat No. 617/2 from village Hivargaon Pavasa, Tal. Sangamner, Dist. Ahmednagar. The respondents are also in possession of other portion of this land. The work of road widening was undertaken by the National Highways Authority and for that purpose some portion admeasuring 2700 sq. mtr. of the land came to be acquired for the purpose of road widening. The compensation was determined to Rs. 38,42,026/-. The parties filed consent terms on record and determined share in compensation. As per the said consent term, petitioner No.1 received an amount of Rs. 13,29,856/- to the extent of 1350 sq.mtr. out of land Gat No. 617/2 and received Rs. 11,82,314/- towards the compensation of standing trees, construction etc. Presently the dispute is in respect of 13,29,856/-. The respondents, however, thereafter filed objection with the competent authority stating that the possession of the petitioner on land Gat No. 617/2 is unauthorized and it is respondent No.7, who is owner of the said property and claimed compensation amount of Rs.13,29,856/-. It is alleged that said amount is wrongly disbursed to the petitioner.

05. The learned Competent Authority heard the parties and directed the petitioner to refund the amount to respondent No.7 by its order dated 06.05.2021. It is this order, which is under challenge. Learned Advocate Mr. Bhide vehemently argued that the impugned order is contrary to the law. The competent authority has no authority to review the order. He further submits that while passing the order, the learned Competent Authority has observed that the possession of the petitioner over the land is unauthorized and he is not owner. He relies upon judgment and order passed by this Court in the matter of **Bhupendrasingh s/o. Sardarsingh Parmar Vs. Competent Authority for National Highways and Ors, 2020 (2) Bom.C.R.296**. He thus prays for setting aside the impugned order. Learned Advocate Mr. Bhide also submits that by consent the petitioner is given the amount. All the parties are parties to the said consent term. After having filed consent term, it was not open for respondent No.7 to approach the Competent Authority to raise objection as regards compensation paid to the petitioners.

06. Learned Advocate Mr. Kute vehemently opposes this petition. However, he fairly concedes to the position that the Competent Authority has no jurisdiction to decide the nature of possession and the rights of

the parties. He, however, submits that the amount, which is disbursed to the petitioner be made subject to outcome of the Civil Suit i.e. pending between the parties bearing RCS No. 85 of 2021, before learned Civil Judge, Junior Division, Sangamner.

07. Learned Advocate for respondent Nos. 1 and 4 submits that appropriate order be passed. He fairly concedes that the Competent Authority could not have decided the rights of the parties and nature of possession.

08. After having heard the parties, this Court finds that the parties were granted compensation by the Competent Authority, in view of consent terms executed between the parties. Thereafter, the objection was raised before the Competent Authority. In the case of **Bhupendrasingh (Supra)**, this Court was dealing with the powers of Competent Authority under National Highways Act. Para No. 28 of the said judgment reads as under:-

“28. The net result of the discussion, as made above, is that the provisions of section 33 of the Act of 2013, are not available to the Competent Authority constituted u/s. 3(a) of the NH Act, 1956, in the process of acquisition of land under the NH Act, 1956 and thus, it is impermissible for the

Competent Authority to make any correction or for that matter to pass any order in the nature of correction of an award or for that matter an amended award. Once the award has been passed by the Competent Authority, the Competent Authority loses any authority to tinker with it in any manner whatsoever.”

. The Court further held that the Competent Authority has no authority to review his award or correct any clerical or arithmetical mistake under the provisions of the National Highways Act. Powers under section 33 of the Land Acquisition Act of the fair compensation, are not to the Competent Authority. The Competent Authority is not a Court. Para No.30 of the said judgment reads as under :-

30. The net result of the above is that it is held as under:

(a) The ‘Competent Authority’ as appointed under Sec. 3(a) of the NH Act, 1956, has no power to review its award or correct any clerical or arithmetical mistake therein under the provisions of the NH Act, 1956.

(b) The powers u/s. 33 of the Act of 2013, are not available to the ‘Competent Authority’ appointed under the NH Act, 1956 for making any corrections of clerical or arithmetical nature in the award as passed by it.

(c) The ‘Competent Authority’ is not a ‘Court’, but is a quasi-judicial authority for the purpose of Sec. 3-C of the NH Act, 1956, in the matter of hearing and deciding the objections as received u/s. 3-C(1).

09. This Court thus finds that the Competent Authority has certainly exceeded its jurisdiction by passing the impugned order. This

Court finds that the parties are litigating before the Civil Court. It is always open to the parties to take action or to pursue remedy as provided under the law, subject to outcome of the Civil Suit. It is also made clear that the observations made in this order are purely for the purpose of deciding present petition. The Civil Court not to be influenced by the observations made by this Court.

10. Thus, this Writ Petition is allowed in terms of prayer clauses (B) and (C) and is disposed off accordingly.

[KISHORE C. SANT,J.]