



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

52 CRA NO. 177 OF 2025

SAYYAD YUSUF SHAFIYODDIN

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for the Petitioner : Mr. Prashant B. Jadhav

AGP for Respondent No. 1 : Mrs. M.N. Ghanekar

Advocate for Respondent No. 2 : Mr. Jayant R. Patil

...

CORAM : SHAILESH P. BRAHME, J.

DATE : 03.11.2025

PER COURT :

Heard both sides at the admission stage with their consent.

2. Revision of the petitioner is directed against order dated 15.07.2017 passed by the Reference Court under Section 3H(4) of the National Highways Act, 1956, (hereinafter 'the Act') overruling the objection of the petitioner and disbursing amount of Rs. 8,91,495/- to the respondent.

3. The learned counsel for the petitioner submits that original owner Shankar Bhima Chavan had no saleable title because he had exhausted entire assets due to sell effected on 13.06.2000 and acquisition of remaining land for the percolation tank. Respondent no. 2 and his vendor could not get any title. It is submitted that the learned Judge committed illegality in holding that respondent no. 2 is entitled to receive the compensation. It is further submitted that no proper procedure was followed and the witnesses were not cross-examined. Learned counsel further submits that neither respondent no. 2 nor his vendor had raised any objection when compensation was paid to original owner Shankar Chavan for acquisition of his land for percolation tank. It is further submitted that the petitioner

purchased 4-H 27-Are land but in the 7x12 extract only 4-H and 17-Are land is recorded. It is contended that preparation of the revenue record of the respondent no. 2 is after thought and cannot be relied upon.

4. Per contra, learned counsel Mr. Patil relied on the affidavit in reply. He supports impugned order. He would submit that his vendor Rahim had purchased land prior to acquisition of the land for the percolation tank. It is further contended that appropriate remedy for the petitioner is to approach the Civil Court for establishing his title and entitlement. He would further submit that the objection in respect of the procedure undertaken by the Reference Court is after thought. It is further submitted that original owner Shankar and vendor Rahim are not parties to the present proceeding and the grievance of the petitioner could not have been adjudicated. It is further submitted that out of 11-Are land, 03 Are land was acquired and balance 08 Are land is still shown in his account in the revenue record.

5. I have considered rival submissions of the parties. It is relevant to notice that Shankar Chavan was owner of 4-H 15-Are of Survey No. 151. On or about 13.06.2000 Shankar had sold 2-H 83 Are to Sajjakhan. From the balance land Shankar further sold 11-Are to Rahim on 20.08.2001. On 17.05.2004 petitioner purchased 2-H 43-Are from Sajjadkhan. On 24.07.2005 respondent no. 2 purchased 11 Are land from Rahim. Notification under Section 3A was issued on 05.07.2016. Award under Section 3G of the Act was passed on 20.01.2018.

6. It reveals from record that 1-H 32 Are land of Survey No. 151 is acquired from original owner Shankar by award dated 20.01.2018 for the percolation tank. The sell of 11-Are land by Shankar to Rahim and thereafter Rahim to respondent no. 2 are prior in time. The grievance of the petitioner that no land was available for Shankar for alienation to Rahim is misconceived.

7. The impugned order is passed under Section 3H(4) of the Act. Parties

have filed documents on record as well as submitted affidavits in lieu of examination in chief. No specific readiness was shown to the Reference Court for offering the witnesses for cross-examination. The documentary evidence in the form of sale-deeds and revenue record was before the Reference Court. In that view of the matter I find that the grievance of the petitioner that proper procedure has not been followed is devoid of merit. I do not find there is any violation of principle of natural justice.

8. Respondent no. 2 was the owner of 11-Are of land which he purchased from Rahim on 27.04.2005. Out of that 3 Are land was acquired. The balance land of 8 Are is still shown in his name. The case put up by the respondent appears to be probable. I do not find any illegality or perversity in the impugned order.

9. It is rightly contended by learned counsel Mr. Patil for the respondent no. 2 that if the petitioner has any serious doubt/dispute regarding title or entitlement then he should have resorted to a substantive proceeding before the Civil Court. It is impermissible for the Reference Court under Section 3H(4) of the Act when necessary parties were not before it to delve upon the title and entitlement.

10. Civil Revision Application has no merits. It is rejected.

(SHAILESH P. BRAHME, J.)

mkd/-