



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

WRIT PETITION NO. 11808 OF 2024

**NISHANT SHIVAJIRAO DHAVALSHANKH AND ANOTHER
VERSUS
SANTOSH VASANT PAKALE AND OTHERS**

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Advocate for the Petitioners : Mr. Mr. Tungar Nikhilesh K.

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CORAM : ROHIT W. JOSHI, J.

DATE : 26th AUGUST 2025

PER COURT :

1. The notice was issued in the present petition on 22.10.2024, stating that the petition will be disposed of finally at the admission stage, if time permits. The Respondent Nos. 1 to 3 are served. Respondent Nos. 1 and 3 have not entered appearance in the matter. The land of the present Petitioners was acquired under the provisions of the National Highways Act, 1956. The Respondent No.1 had raised an objection as regards apportionment of compensation. Pursuant to the said objection, a reference as contemplated under Section 3-H(4) of the National Highways Act was made to the learned Civil Court vide Land Acquisition Case No. 298/2016. Vide judgment and order dated 01.10.2022, the learned 3rd Joint Civil Judge, Senior Division, Osmanabad has rejected the objection raised by the Respondent No.1 (Original Applicant). The learned Reference Court has directed that compensation for portion of land acquired out of Gat No.337 of Village Shingoli, Tahasil and

District Osmanabad be paid to the present Petitioners. After the reference was decided vide judgment dated 01.10.2022, the Petitioners moved an application vide Exhibit-91, seeking permission to withdraw the amount of compensation deposited with the learned Reference Court. The learned Reference Court has permitted the Petitioners to withdraw the said amount vide order dated 13.10.2022. However 50% amount is allowed to be withdrawn unconditionally and for the balance 50% amount condition of furnishing bank guarantee/solvent surety is imposed by the learned Reference Court. Petitioners are aggrieved by the said clause in the operative order dated 13.10.2022, whereby the condition of furnishing bank guarantee/solvent surety is imposed for withdrawal of 50% amount of the compensation.

2. The learned Advocate for the Petitioners draws attention to the judgment dated 28.06.2024 passed in Writ Petition No.8139/2023, whereby the condition of bank guarantee/solvent surety is relaxed. The said judgment pertains to land bearing Gat No.330. The objection preferred by the Respondent No.1 pertains to three lands being land bearing Gat No.330, 336 and 337. The Petitioner in the said Writ Petition (Keshav Dattu Dhavalshankh) is Non-Applicant No.2 in the Reference Case No.298/2016

3. The learned Advocate for the Petitioners states that the NHAI has not raised any challenge to the amount of compensation determined by the Arbitrator.

4. In that view of the matter, Writ Petition is allowed by permitting the Petitioners to withdraw the entire amount due and payable to them towards compensation for land bearing Gat No. 337 of Village Shingoli, Tahasil and District Osmanabad, relaxing condition of furnishing bank guarantee/solvent surety.

ROHIT W. JOSHI
JUDGE

NATEEB..