



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

WRIT PETITION NO. 11769 OF 2022

Vijaya Narayan Sawale

VERSUS

The Competent Authority And Sub Divisional Officer Land Acquisition And
Another

Mr. M. P. Tripathi, Advocate for Petitioner

Mr. R. R. Bangar, Advocate for Respondent No. 1

Mr. C. P. Patil, Advocate for Respondent No. 2

Mrs. M. N. Ghanekar, AGP for Respondents/State

CORAM : R. M. JOSHI, J.

DATE : 01st April, 2025

PER COURT :-

1. The present petition is one of such other petitions this Court has come across in which, parties don't claim any right in respect of the land for years together but only after acquisition thereof raise claim towards the compensation granted for such acquisition.

2. Here, in this case, the petitioner is challenging order dated 21.09.2022 passed by Competent Authority under the National Highways Act (for short "**the Act**") of referring the dispute with regard to the apportionment of the compensation to the competent Civil Court. It is a case of the petitioner that the petitioner is purchaser of the subject land. On 15.09.2020, Land Acquisition Award be declined by the Competent Authority regarding

compensation for the acquired portion of the land from Gat No. 277/1. Petitioner being owner of the said land, claimed to be entitled to receive the said compensation. Respondent No. 2 in August, 2022 moved an application before the Authorities for correction of the record. This claim of Respondent No. 2 was rejected by District Superintendent of Land Record by order dated 12.02.2020. In spite of this, Respondent No. 2 has raised objection for the disbursement of the amount of compensation to the petitioner by invoking provision of Section 3H(4) of the Act. The Competent Authority in compliance of the said provision passed impugned order dated 21.09.2022 referring the said dispute of apportionment for decision to the competent Civil Court.

3. Learned counsel for Petitioner submits that the Respondent No. 2 without having any right in respect of the suit property has raised objection to the disbursement of the compensation to the petitioner just to blackmail and delay payment thereof. It is his submission that the petitioner has purchased the subject property in the year 2014 and is in possession thereof. Since then it is his submission that till the acquisition and passing of the award by the Competent Authority granting compensation, no action was initiated by the Respondent No. 2 against the petitioner nor any claim was raised with regard to the title or possession of the subject property. It is his submission that ulterior motive of deny claim compensation of the petitioner and to create

hurdle in getting compensation, objection came to be raised. It is his submission that in view of these facts, order impugned deserves to be set aside.

4. Learned counsel for Respondent No. 2 supported the impugned order. It is his submission that the Respondent No. 2 is the owner of the said subject land and also is in possession thereof. Specific query was raised to the counsel of Respondent No. 2 as to whether after 2014, any proceeding was initiated against the petitioner claiming that she is not the owner of the property or in possession thereof. The answer to the said query is in candid negative.

5. As mentioned in the beginning, this Court often comes across unscrupulous persons raising objection to the grant of compensation to the owner of the property and more than often the provisions of Section 3H(4) are abused for black-mailing. In the present case, admittedly, the predecessor of Respondent No. 2 had sold the subject land to the vendor of the petitioner. The petitioner has purchased the said land under the registered sale deed in the year 2014. Admittedly, till the award came to be passed, Respondent No. 2 has not raised any dispute with regard to the said sale deed nor claimed to be in possession of the portion purchased by the petitioner.

6. This Court, therefore, finds prima facie substance in the

contention of the learned counsel for the petitioner that this could be a case of black-mailing as well. This Court, however refrains itself from making any observations in this regard. Suffice it to say that in view of Section 3H(4), it was not open for the Competent Authority to decide the issue of apportionment once the objection is raised and only option left is to refer the said issue for determination before the competent Civil Court. Hence, this Court finds no perversity in the order impugned. Hence, Petition stands dismissed.

7. It is however clarified that in case Reference Court on merit comes to the conclusion that the claim made by Respondent No. 2 is frivolous and is aimed at creating obstruction to the petitioner to get compensation, the said to impose cost against no objector not less than the amount of compensation as payable to the person in whose favour award has been passed. These observations not to be construed as any finding being recorded by this Court on merit of the case. It is open for the Reference Court to decide the reference in accordance with law, without influenced by observations made above.

(R. M. JOSHI, J.)

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