



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

WRIT PETITION NO. 12069 of 2024

Neelabai Ganeshlal Lachuriye
VERSUS
Keshav Yankatrao Netke and others

Mr. A. S. Jadhav, Advocate for Petitioner

Mr. B. R. Kedar, Advocate for Respondent Nos. 2A to 2C and 3

CORAM : R. M. JOSHI, J.
RESERVED ON : 25th April, 2025
PRONOUNCED ON : 30th April, 2025

PER COURT :-

1. Petitioner is aggrieved by rejection of application filed under Order I Rule 10 of the Code of Civil Procedure to add petitioner as a party to L.A.R No. 267/2019 by impugned order dated 03.08.2024.

2. L.A.R No. 267/2019 came to be instituted on the basis of reference made by the competent Authority under National Highways Act as a dispute arose before it about the apportionment of the amount of compensation payable in respect of land acquired. Reference Court by passing impugned order rejected the application.

3. Learned counsel for petitioner submits that in the peculiar facts of

the case, the Reference Court ought to have allowed Application Exhibit 35 and made petitioner as a party respondent to the said proceeding. In this regard, she drew attention of the Court to the order of reference which specifically deals with pendency of Special Civil Suit No. 86/2009. It is her contention that petitioner is one of the defendants in the said suit and as such no fresh case is sought to be made out by the petitioner. It is further argued that petitioner after her marriage has settled at different place and which has led to non raising of objection, however pendency of suit in respect of same land, indicates her interest therein.

4. Learned counsel for respondents vehemently opposed the petition by drawing attention of the Court to the settled position of law that it is not open for the Reference Court to add any party and the provisions of Order I Rule 10 of the Code of Civil Procedure have no application to reference. He placed reliance on the judgment of the Co-ordinate Bench of this Court in case of **Vinayak Padmanabh Sinkre (deceased) through LRs and others vs. Vishnudas Dattatray Sadhale in Writ Petition No. 59/2022** to submit that the person who was not before the Collector and who claims to have interest in the land is raising a new dispute and, therefore, such person cannot be impleaded. According to him, the only remedy to avail such person who is not party to the

reasons is to file a civil suit.

5. There cannot be any dispute with regard to the settled position of law that the Reference Court would have no jurisdiction to add any party by invoking Order I Rule 10 of the C.P.C., since this Court cannot go beyond terms of reference. Thus, the order of rejection of the Application Exhibit 35 filed by the petitioner cannot be faulted with.

6. At this stage, learned counsel for petitioner submits that petitioner may be permitted to move appropriate Authority for modification of the order of reference in view of the peculiar fact that the parties to the Special Civil Suit No. 86/2009 have raised objection for the apportionment of the amount of compensation and as such, no new case can be said to have been made out by the petitioner.

7 Learned counsel for respondents resisted the said contention by submitting that after determination of amount of compensation within a stipulated period of time, objection, if any, to the apportionment needs to be raised before the Competent Authority. It is his submission that once a reference is made, question of modification of the same does not arise.

8. Without going into the merits of the submissions of both sides,

this Court has taken note of the peculiar fact of the present case wherein the defendants in Special Civil Suit No. 86/2009 have raised dispute with regard to the apportionment of compensation payable to Respondent No. 1 and petitioner is one of the parties to said suit. Thus, prima facie this Court finds substance in the contention of the learned counsel for the petitioner that no new case is sought to be made out. Considering peculiarity of facts, this Court finds it appropriate to continue interim relief for a period of three months to enable the petitioner to take appropriate steps for modification of order of reference, if permissible in law.

9. In view of the above, petition stands disposed of. Impugned order is upheld. However, interim relief granted by this Court stands extended for a period of three months to enable the petitioner to take appropriate steps if she so desires in accordance with law.

10. It is clarified that the order of continuation of the interim relief shall not be extended on any ground whatsoever beyond period of three months. Similarly, continuation of interim relief shall not be construed that this Court has expressed any opinion with regard to the submissions of the counsel as recorded herein above in respect of modification of the order of reference. Application, if any, in this regard filed by petitioner be decided by concerned

Authority in accordance with law.

11. Petition stands disposed of in above terms.

(R. M. JOSHI, J.)

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