

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5788 OF 2022

1. **Mrs Suvarna Vasant Bhise,**
Abc DEF,asdl f,,
jasdlfj, lajdfl
2. **Mr Sunil Vasant Bhise,**
Age: 35 yrs., Occ: Agriculture
and Labour,
3. **Mr Abhijeet Vasant Bhise,**
Age: 35 yrs., Occ: Agriculture
and Labour,
4. **Mrs Sangita Prafulla Kshirsagar,**
Age: 39 yrs., Occ: Agriculture
and Labour,
R./o, Kalamba, Datta Galli,
Tal. And Dist. Kolhapur.

...Petitioners

VERSUS

1. **National Highways Authority of India**
G, 5 & 6, Sector-10, Dwarka
New Delhi – 110 075.
2. **The State of Maharashtra,**
Through its Revenue and
Forest Department.
Mantralaya, Mumbai.
E-mail: psec.revenue@maharashtra.gov.in
3. **The Collector, Satara,**
Collector's Office, Dist. Satara.
E-mail: collectorsatara@gmail.com
4. **The Competent Authority/Deputy
Collector (Land Acquisition) No. 16,**

AMOL
PREMNATH
JADHAV

Digitally signed by
AMOL PREMNATH
JADHAV
Date: 2025.04.21
19:25:20 +0530

Land Acquisition Bhavan,
52A, Sadarbazar, Satara.
E-mail: slao16satara@gamil.com
[Notice to the Respondent-State
Authorities to be served through the
Office of the Additional Government
Pleader (Appellate Side), Mumbai.
E-mail: writcellas@gmail.com

5. **Mrs. Minakshi Krushnat Waghmode,**
Age: 36 yrs, Occ: Household,
6. **Mrs. Pushpa Krushnat Waghmode,**
Age: 36 yrs, Occ: Household,
Both r/o. Hanuman Mandir Najik
Barad, Tal. Phaltan, Dist. Satara.
7. **Mr Satish Vasant Dhumal**
Age 56 yrs., Occ: Service,
C/o, Special land Acquisition Officer
No. 16, Satara. ...Respondents

WITH

INTERIM APPLICATION (ST) NO. 13111 OF 2025

Mr Satish Vasant Dhumal ...Applicant

IN the matter between

Mrs Suvarna Vasant Bhise & Ors ...Petitioners

Versus

National Highways Authority of India & Ors ...Respondents

APPEARANCES-

Mr VS Talkute, *with Mr Graham Francis, for the Petitioner.*

Mr Prashant Chavan, Senior Advocate, *with Mr Anil Kumar Patil, Mr Sagar Sagar, Mr Amol Wagh, Mr Rishabh*

Tiwari, Ms Chaitali Bhogle, Mr Zeel Jain & Mr Digvijay Patil, i/b, Sagar Kasar, for the Applicant in IAST /13111 of 2025.

Mr Prashant Chavan, Senior Advocate, with Mr Anil Kumar Patil, Mr Sagar Sagar, Mr Amol Wagh, Mr Rishabh Tiwari, Ms Chaitali Bhogle, Mr Zeel Jain & Mr Digvijay Patil, i/b, Sagar Kasar, for the Respondent No. 7 in WP/5788/2022.

Ms Heena Shaikh, i/b, MV Kini & Co, for the Respondent No. 1.

Mr RS Pawar, AGP, for the Respondent-State.

Mr RV. Bansode, for the Respondent Nos. 5 and 6.

**CORAM : M.S.Sonak &
Jitendra Jain, JJ.**

DATED : 16 April 2025

ORAL JUDGMENT (Per MS Sonak J):-

1. Heard learned Counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.
3. In any event, by our order dated 21 March 2025, we had posted this matter on 16 April 2025 at 2.30 pm for final disposal. Even directions were issued to complete the pleadings by 9 April 2025.

4. The State Government and Mr Satish Dhumal, the Competent Authority, have filed their affidavits in this matter. Respondents 5 and 6 have not filed any affidavits despite the opportunity.

5. In addition to the affidavit, a compilation of documents was also tendered across the bar on behalf of Mr Satish Dhumal, and the same was taken on record.

6. The Petitioners challenge the competent authority's order dated 25 April 2022 apportioning and disbursing the compensation amount for the subject property in favour of Respondents 5 and 6.

7. This Petition was instituted on 4 May 2022, and an interim order was obtained on 6 May 2022. However, Mr Satish Dhumal, the then competent authority, who was impleaded in this Petition in person, has filed an affidavit to say that the compensation amount of Rs. 1,00,21,122/- was disbursed to Respondents 5 and 6 on 4 May 2022 itself. The affidavit states that the intimation from the Petitioners' Advocate about the institution of this Petition was received by email only at 9.33 pm on 4 May 2022. The affidavit proceeds to state that on 6 May 2022, Mr Satish Dhumal wrote to the bank for freezing the bank accounts of Respondents 5 and 6. However, the bank stated that the Respondents 5 and 6 withdrew the amount on 5 May 2022.

8. The subject property in this case is Gat No. 1178, admeasuring 1286 Sq. Mtrs. At village Barad, Taluka Phaltan, District Satara. The Petitioners claim to have constructed a house bearing Gram Panchayat Property No. 1440

admeasuring 154.78 Sq. Mtrs on the subject property. The Petitioners claim that their father purchased this property on 30 October 1986 and their names were also recorded in the revenue records. There was some dispute with Respondents 5 and 6 and therefore, the Petitioners filed proceedings before the revenue authorities and ultimately filed Regular Civil Suit No. 59 of 2022 before the learned Civil Judge Junior Division at Phaltan for a declaration of ownership and permanent injunction. Some proceedings were also filed for succession (heirship). There is a reference to obtaining some interim reliefs and the vacation of such interim reliefs.

9. The subject property became the subject matter of acquisition under the National Highways Act, 1956 (NHA). Accordingly, the Petitioners and Respondents 5 and 6 raised their claim before the competent authority regarding the compensation payable. By impugned order dated 25 April 2022, Mr Satish Dhumal, the then competent authority, took it upon himself to decide not only the issue of entitlement but also the issue of apportionment and held that compensation of over Rs 1 Crore must be paid to Respondents 5 and 6.

10. Mr Satish Dhumal, on 4 May 2022 disbursed this amount of over Rs 1 Crores to Respondents 5 and 6. In the affidavit, it is claimed by Mr Satish Dhumal that he came to know about the institution of Writ Petition by the Petitioners only on 5 May 2022, by which time the amount had already been disbursed. After interim relief was granted by this Court, Mr Satish Dhumal, claims to have written to the bank to freeze the amount. Mr Satish Dhumal has stated that before the amount was disbursed, an undertaking was obtained from

Respondents 5 and 6 to bring back this amount should any claims arise in respect of this amount.

11. In the affidavit filed by Mr Satish Dhumal an apology is tendered. Mr Chavan, the learned Senior Advocate for Mr Dhumal, quite reasonably admitted that Mr Satish Dhumal may have erred in law in deciding the apportionment dispute or disbursing the amount to Respondents 5 and 6. Still, Mr Chavan maintained that Mr Dhumal's actions were bona fide and not tainted with extraneous considerations. He submitted that Mr Satish Dhumal was genuinely unaware of the pending Petition and no sooner he was made aware of the interim order, he did order the freezing of the bank accounts of Respondents 5 and 6 and took all necessary steps to see that the disbursed amount is not taken away by Respondents 5 and 6. Mr Chavan submitted that all this speaks about the bona fides of Mr Satish Dhumal.

12. Mr Bansode, learned Counsel for Respondents 5 and 6, states that the Petitioners' Advocates gave notice of the institution of the Petition and its mention only on 6 May 2022, by which time the compensation amount had already been withdrawn. He handed in a notice addressed by him on behalf of Respondents 5 and 6 informing the Advocate for the Petitioners that the amount of compensation has already been withdrawn.

13. The provisions of the NHA are pretty clear. Section 3H deals with depositing and paying the compensation amount where land is acquired for highway purposes under the NHA. Section 3H (3) provides that several persons claim to be interested in the amount deposited under sub-Section (1), the

competent authority shall determine the persons who, in its opinion, are entitled to receive the amount payable to each of them. Section 3H (4) provides that if any dispute arises as to the apportionment of the amount or any part thereof or any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.

14. There were several decisions of this Court interpreting the above provisions. These decisions hold that the provisions of sub-sections 3 and 4 of Section 3h of the NHA must be harmoniously construed. Thus, if there is any dispute regarding apportionment of compensation, the competent authority has no right, authority or jurisdiction to decide on such apportionment dispute and proceed to disburse the compensation amount in favour of any one of the disputing parties. Such a dispute must be essentially referred to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the acquired land may be situated.

15. Some of the decisions holding the field when Mr Satish Dhumal, the competent authority usurped the jurisdiction not vested in him and decided the apportionment dispute include the following: -

Arun s/o Trimbakrao Lokare Vs State of Maharashtra and others¹, Rajaram Waman Rane and Others Vs Ramkrishna Mahadev Rane and Others², Pandurang Balu Pujare and Anr

¹ 2017(6) Mh.L.J. 612

² 2018 SCC OnLine Bom 6437

Vs The Competent Authority and Sub-Divisional Officer and Ors³, Shriram R. Deshpabhu Vs State of Goa and Ors and connected matters⁴ and Ashok More Vs Union of India & Ors⁵.

16. Mr Chavan, learned Senior Advocate appearing for Mr Dhumal has placed on record a Government Resolution (GR) dated 18 November 2022 issued by Joint Secretary, Government of Maharashtra on the subject of disbursement of compensation under Section 3H (3) and 3H(4) of the NHA. We are not too sure whether this GR aligns with the legal position explained by several decisions of this Court and now, by the Hon'ble Supreme Court in the case of **Vinod Kumar and Others Vs District Magistrate, Mau and Others⁶**.

17. Still, even this GR, in no uncertain terms states that the competent authority must never rush to disburse the compensation amount even after the competent authority determines the same. An intimation must be given to the parties, and there should be no disbursement for four weeks. This allows the aggrieved parties to take steps regarding the proposed disbursement. Mr Chavan submitted that this GR was issued on 18 November 2022. Therefore, Mr Satish Dhumal, the then competent authority, did not deem it necessary to intimate his decisions to the parties or to wait for the disbursement of this amount of compensation.

18. This defense is not quite acceptable because the provisions of the NHA are quite clear that no apportionment dispute can be decided by the competent authority and such

³ WP/10577/2024 decided on 10 January 2025

⁴ 2023(2) ALL MR 72

⁵ 2017(2) ALL MR 792

⁶ 2023 SCC OnLine 787

dispute has to be essentially referred to the Principal Court of original civil jurisdiction. The compensation amount must then be deposited with the reference Court so that the same can abide by the decision of the reference Court on the issue of apportionment. That apart, Mr Satish Dhumal, appointed as the competent authority, cannot claim ignorance of several precedents of this Court on the subject and take a shield behind the circumstance that the GR was issued on 18 November 2022.

19. In the case of *Vinod Kumar* (Supra), the Hon'ble Supreme Court in this precise context of the provisions of the Sections 3H (3) and 3H(4) of the NHA has ruled that there is a fine distinction between determining the amount to be paid towards compensation and the apportionment of the amount. The legislature has thought fit to confer powers upon the Principal Civil Court of original jurisdiction to determine the dispute arising as to the apportionment of the amount. There is a reason why the legislature has thought fit to confer such power to the Principal Civil Court of original jurisdiction. This reason is explained in great detail in paragraphs 27 to 30 of the decision. In short, the Hon'ble Supreme Court has held that it is not for the competent authority or the Magistrate to determine disputes relating to the apportionment of compensation, and such disputes must essentially be referred to the Principal Court of original civil jurisdiction.

20. In the case of **Sojar Vs Krishnath & Ors**⁷, we have analysed several precedents on the subject and by following the dictum in *Vinod Kumar* (supra), held that it is not for the

⁷ 2025 SCC OnLine (Bombay) 307

competent authority to decide complicated apportionment disputes and then rush to pay the compensation amount to some of the disputing parties to the exclusion of others. In the said decision, we took cognizance of the increase instances where competent authorities were too eager to usurp the jurisdiction vested by the legislature in the Courts and decide apportionment disputes. After deciding such disputes, the competent authorities, by ignoring even the GR Dated 18 November 2022, virtually rush to disburse the compensation in favour of only some of the disputing parties. Therefore, we had directed the Revenue Secretary, Government of Maharashtra to apprise the competent authorities of the legal position and the precedents on the subject. We had directed the Revenue Secretary to issue necessary GR or circulars bringing to the notice of the competent authorities that usurping the jurisdiction reserved by the legislature only to the Courts would not be proper. In some cases, we were constrained to direct the authorities to consider whether disciplinary proceedings should be initiated against the competent authorities who, in breach of the legal position, not only determine the apportionment disputes but also rush to disburse the compensation amounts to some of the disputing parties.

21. In this case, the action of the competent authority is ultra vires. None of the Respondents has even defended such action. This was not a case of some frivolous dispute raised by the Petitioners. Disputes were already pending between the Petitioners and Respondents 5 and 6 before the Civil Court and the Succession Court. In such circumstances, there was no ground whatsoever for the competent authority, i.e., Mr Satish

Dhumal to have decided the apportionment dispute himself and then rush to disburse the compensation amount of over Rs 1 Crores to Respondents 5 and 6. His action is in direct breach of the provisions of the NHA and the several precedents on the subject emanating from the Hon'ble Supreme Court and this Court.

22. For the above reason, the impugned order made by the competent authority to the extent it purports to decide the apportionment dispute warrants interference and is hereby set aside.

23. The competent authority's action of hurriedly disbursing the compensation amount is also declared as patently illegal and ultra vires. The competent authority is now directed to refer the apportionment dispute between the Petitioners and Respondents 5 and 6 to the Principal Court of original jurisdiction at Satara within a month from today, together with all necessary case papers and documentation.

24. In the case of **Shri Vajrajit S Dubhaxi and Ors. Vs. Special Land Acquisition Officer (North) & Ors⁸** and **Comunidade of Bambolim Vs. Maximo Mergulhao and Ors⁹**, the Coordinate Benches of this Court have held that where the Land Acquisition Officer wrongfully pays the compensation amount to some parties, the writ Court must recall such amount from such parties. These decisions were followed in the case of *Sojar Vs Krishnath* (supra) and **Gramastha Mandal Kundevahal & Vs The State of Maharashtra & Ors¹⁰**. Adopting

⁸ WP No. 261/1986 decided on 12.08.1987

⁹ WP No. 2/1988 decided on 07.06.1988

¹⁰ Writ Petition No. 12503 of 2024 decided on 8 April 2025

the reasoning in the said decisions, Respondents 5 and 6 are directed to deposit the compensation amount of Rs. 1,00,21,122/- in this Court by 5 May 2025. If the amount is not deposited by 5 May 2025, then the same would carry interest at the rate of 8% per annum from 5 May 2025 till date. This shall be in addition to any action for disobedience of this Court's direction.

25. Suppose the above amount is not deposited by Respondents 5 and 6 on or before 5 May 2025. In that case, the State of Maharashtra, through its Revenue Secretary and the Collector of Satara, is directed to take all steps to ensure the recovery of this amount by 30 May 2025. This would include not only attaching the property and bank accounts of Respondents 5 and 6, but also auctioning or disposing of such property to recover this amount.

26. The Respondents 5 and 6 are beneficiaries of a patently illegal and ultra vires order. The circumstances in which they too hurriedly withdrew the amounts cannot be overlooked. The circumstance that we have exempted the Respondents 5 and 6 from paying interest for the period from 5 May 2022 does not mean that they would not be liable to pay such interest should the reference Court ultimately hold that they were not entitled to this amount. However, if the Respondents 5 and 6 deposit the amount, they need not pay any interest for the present.

27. Mr Talkute, the learned Counsel for the Petitioners, submitted that the Petitioners have filed complaints to various authorities, including the Collector, the Anti-Corruption Bureau, the Police authorities, etc., regarding the complicity of

Mr Satish Dhumal in deciding the apportionment dispute and hurriedly disbursing this amount to Respondents 5 and 6. He referred to the preliminary reports from the Police authorities about how they felt it necessary to register criminal cases against Mr Satish Dhumal.

28. Even the Collector has conducted a preliminary enquiry into the matter. At this stage, we refrain from making any observations on Mr Satish Dhumal's conduct. But we direct that the entire records relating to this matter, including the pleadings in this Petition, the reports of the Police officials and the report of the Collector and any other material, be placed before the Revenue Secretary or the relevant disciplinary authority having jurisdiction over Mr Satish Dhumal, latest by 30 May 2025.

29. By 30 June 2025, the Revenue Secretary or the disciplinary authority of Mr Satish Dhumal, after investigation, must take a decision regarding disciplinary proceedings against Mr Satish Dhumal. A compliance report must be filed in this Court in this regard.

30. We were informed that despite the Police reports or the Collector's report, Mr Satish Dhumal has been transferred and posted as a Deputy Collector (Land Acquisition) at Beed. This *prima facie* means that none of the authorities have taken the matter with the seriousness it *prima facie* deserves. As noted earlier, in *Sojar Vs Krishnath* (supra), we have referred to the increase instances where the competent authorities themselves decide apportionment dispute and rush to disburse the compensation amount to some of the disputing parties. This is one such case.

31. Incidentally, we must point out that in the earlier affidavit filed by Mr Dhumal in this very Petition, there was no whisper about any letters to freeze the bank accounts or other such matters as have been placed on record by him after he was impleaded in person in these proceedings. However, since we are directing the Revenue Secretary of the disciplinary authority to investigate this matter, we refrain from drawing conclusions or making any observations. Besides, we clarify that there is nothing in this order which will preclude the Police authorities from investigating the matter under the law. Therefore, this order should not be misinterpreted to suggest that we have either directed or restrained the Police authorities from investigating the complaints made by the Petitioners into the conduct of Mr Satish Dhumal. Even those matters should proceed following law.

32. The Collector of Satara and Respondents 5 and 6 must file a compliance report in this Court by 30 June 2025 by giving the learned Counsel for the Petitioners an advance copy.

33. We also clarify that we have not adjudicated the rival contentions between the Petitioners and Respondents 5 and 6 on the issue of the apportionment of the compensation amount. Once the reference is made, these matters will have to be adjudicated by the Principal Court of original civil jurisdiction. Once the amount is deposited in this Court, the Registry should transfer this amount to the reference Court so that the same shall abide by the outcome of the reference. The reference Court must invest this amount in the nationalised bank so that whichever party is ultimately entitled to the

compensation amount receives the same, together with interest.

34. The Rule is made absolute in the above terms. In this case, we direct Mr Satish Dhumal to pay cost of Rs 25,000/- to the Petitioners within four weeks from today.

35. The Interim Application (ST) No. 13111 of 2025 does not survive, and it is disposed of.

36. All concerned are to act on an authenticated copy of this order.

(Jitendra Jain, J)

(M. S. Sonak, J)