

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10098 OF 2022

Sambhaji Ramchandra Dubal ... Petitioner

Versus

The State of Maharashtra & Ors. ... Respondents

**Mr P G Chavan a/w Mr Someshwar Pawale Patil, for
Petitioner.**

Mr A I Patel, Addl GP a/w Ms M S Bane, AGP for the State.

**Mr Sarang Aradhye a/w Mr Shantanu Gaurav, for
Respondent No.7.**

**Ms Ankita Pai i/by Mr Ritesh Thobde, for the Respondent
Nos.8 to 10.**

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

DATED : 24 April 2025

ORAL JUDGMENT (Per M.S.Sonak, J.):

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable immediately at the request of and with the consent of learned counsel for the parties.
3. The Petitioner has challenged the notice dated 17 June 2022 issued by the Competent Authority under the provisions of the National Highways Act, 1956.
4. The Petitioners and Respondents No.7 to 13 claim interest in the property surveyed under Gat No.402 situated

at Degaon, Tal. Pandharpur, Dist. Solapur (subject property) which is the subject matter of acquisition under the National Highways Act, 1956 (NHA).

5. The Competent Authority, vide notice dated 3 June 2022 called upon the interested parties to appear before him with all documents so that he would be able to decide on the issues of entitlement and apportionment of compensation. In this notice, the officer, holding the post of Competent Authority, stated that if any disputes arise that cannot be sorted out, he would deposit the compensation amount with the District Court, so that the District Court can decide on the issue of apportionment. This notice is at Exhibit-Q Page Nos.124 and 125 of the paper book.

6. On 17 June 2022, another officer, now appointed as the Competent Authority, issued notice, again calling the interested parties to appear before him. In this notice, however, the Competent Authority stated that if any party failed to produce proper documentation, the compensation amount would be disbursed to the other party. Aggrieved by this notice, the Petitioner instituted this Petition.

7. The learned counsel for the petition has submitted that under the scheme of Section 3 H (3) and 3H (4) of the NHA, disputes of apportionment cannot be settled by the Competent Authority. Still, they must be referred to the Original Court of Civil Jurisdiction, i.e. the District Court. He submitted that by the earlier notice of 3 June 2022, this is

what was proposed. He submitted that the impugned notice of 17 June 2022 is *ultra vires* because the Competent Authority has no jurisdiction to decide on apportionment disputes. He relied upon *Vinod Kumar and Ors Vs District Magistrate*¹ to support his contention.

8. The learned counsel for the Respondent Nos.7 to 10 submitted that the impugned notice only requires the party to submit their documentation and to agree for joint measurements. Therefore, they submit that there is nothing wrong in the impugned notices. They submit that the party should now be directed to appear before the Competent Authority and establish their respective claims. They submit that the Petitioners have no right to compensation.

9. Section 3H of the National Highway Act deals with the deposit of payment of the compensation amount. Section 3H (3) provides that where there are several persons claims 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. However, Section 3H (4) provides that if any dispute arises as to the apportionment of the amount or any part thereof or to 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..

¹ 2023 SCC Online Bom 307

10. The above provisions have been harmoniously construed in several decisions of this Court. Recently, the Hon'ble Supreme Court, in the case of *Vinod Kumar (Supra)* has held that the apportionment disputes must be referred to the Court and not to be resolved by the Competent Authority. Therefore, while no fault can be attributed to the Competent Authority in trying to resolve the issues of entitlement and apportionment, if such apportionment disputes persist, then, it is not for the Competent Authority to resolve such conflicts and insist upon disbursing amounts based on his or her resolution but such apportionment disputes must be referred to the Court.

11. Earlier notice of 3 June 2022 quite correctly appreciated the position and informed the parties that if the apportionment disputes are not resolved, he will have no option but to deposit the amount before the Court and refer the disputes to the Court. Later notice suggests that the Competent Authority intends to disburse the amount. To that extent, the later notice warrants interference.

12. Accordingly, we direct the Petitioners and Respondent Nos. 7 to 13 to appear before the Competent Authority with all their documents on 8 May 2025 at 11.00 am. The Respondent Nos. 11 to 13 are represented in this Court by an advocate who is not present. Therefore, if necessary, the Competent Authority can give fresh notice to Respondent Nos. 11 to 13. Learned counsel for the Petitioner also agrees to provide an authenticated copy of this order to the learned

counsel appearing for Respondent Nos. 11 to 13 so that the Respondent Nos. 11 to 13 can also appear before the Competent Authority on 8 May 2025.

13. The Competent Authority must try to see whether the disputes can be resolved. If joint measurements are necessary, the Competent Authority should hold such measurements. However, if the apportionment disputes are not resolved between the parties then, the Competent Authority, consistent with the provisions of Section 3H (4) of the NHA must deposit the compensation amount with the Principal Civil Court of Original Civil Jurisdiction i.e. District Judge of Solapur and refer such dispute for the determination of the said Court. Under no circumstances must the Competent Authority take upon itself to decide the apportionment dispute and disburse the compensation to the parties unless they agree to the apportionment. The impugned notice, to the extent it suggests that the Competent Authority would himself disburse the amount is set aside.

14. All parties' contentions regarding entitlement and apportionment are left open first to be resolved by the Competent Authority and, if not resolved, by the Court to which a reference shall be made.

15. The Competent Authority must complete the above exercise within 4 months from the date of the parties' first appearance, i.e. 8 May 2025. The parties must co-operate

with the Competent Authority and not seek undue adjournments.

16. The Rule is made absolute in the above terms without any cost order. All concerned are to act upon the authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)