

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

WRIT PETITION NO.2091 OF 2025

Tejas Sharad Londhe

... Petitioner

Versus

The State of Maharashtra

... Respondent

Mr Vinayak Gadekar, for the Petitioner.

Mr Sachin Gite, for the Respondent No.5.

Ms M S Bane, AGP for the State.

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

DATED : 25 April 2025

PC (Per M S 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 learned counsel for the parties.
3. The Petitioners claim to be tenants of Respondent no.5 (APMC) in respect of certain shops constructed and let out to them by the APMC.
4. The National Highway Authority and the State, resorting to the provisions of the National Highways Act, 1956, acquired the land beneath the shops and the shops themselves for national highway purposes.

5. A dispute arose between the Petitioners (tenants) and the APMC (landlord) regarding compensation apportionment. The Competent Authority vide order dated 5 November 2020 directed that compensation of Rs. 2,72,91,752/- should be paid to APMC and compensation of Rs. 15,26,714/- should be deposited in the Court since there was a dispute *inter se* among tenants regarding this compensation amount.

6. Ms.Bane learned AGP submitted that the Competent Authority, has made a reference to the Court for determining the apportionment dispute between the tenants regarding the amount of Rs.15,26,714/-

7. Section 3H of the National Highway Act, 1956, deals with the deposit of payment of the compensation amount. Section 3h (3) provides that where there are several persons claiming 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.

8. Several decisions of this Court hold that the above provisions must be construed harmoniously. Recently, the

Hon'ble Supreme Court, in the case of *Vinod Kumar and Ors vs. District Magistrate*¹, held that if there is any apportionment dispute between the parties, then the Competent Authority is not the proper authority to adjudicate and determine such dispute. The matter must be referred to the Principal Civil Court of the original jurisdiction where the land is situated.

9. In this case, there was a clear the apportionment dispute between the Petitioners (tenant) and APMC (landlord). The Petitioners accept that the APMC is the landlord, but they claim that their tenancy rights survive as a registered lease deed created for them, and the same could not have been terminated based on a simple notice. Accordingly, it was the claim of the Petitioners (tenant) that they were entitled to much larger compensation than the one which had been apportioned in their favour. The Competent Authority should not have decided this apportionment dispute itself but deposited the entire compensation amount with the Court so that the Court could have determined this dispute. To that extent, the impugned order awarding and disbursing the amount of approximately Rs.2.72 Crores to the APMC appears to be vulnerable.

10. Mr Gite, however, stated that APMC was admittedly the owner of the land and the shops. He submitted that under such circumstances, the tenants could never have claimed all of the compensation, assuming without admitting

¹ 2023 SCC Online Bom 307

that their tenancy rights subsisted. He submitted that the prima facie determination by the competent authority was also excessive. Therefore, he submitted that there was no case to grant any relief to the petitioners.

11. Without prejudice to the above, Mr Gite, on written instructions states that the APMC will bring back the amount of Rs. 75 lakhs and deposit the same before the Principal District Court at Nashik within eight weeks from today. He places on record written instructions dated 25 April 2025 received from APMC Sinnar. The statement made by Mr Gite on instructions is accepted. The APMC Sinnar, must, consistent with this statement, deposit the amount of Rs. 75 lakhs before the Principal District Court at Nashik within eight weeks from today. The letter dated 25 April 2025, at the request of Mr Gite is taken on record.

12. The authority must formally reference the Principal District Judge at Nashik within eight weeks from today, referring to the entire apportionment dispute between the tenants and APMC as contemplated by Section 3H (4) of the NHA. The Court must then decide on this reference in accordance with the law and on its own merits. The Court is also directed to invest the compensation amount in any nationalised bank so that the party to be ultimately compensated, will get the compensation amount with interest.

13. All parties' contentions regarding apportionment, entitlement, etc, are explicitly kept open. The impugned order is interfered with to the above extent.

14. The rule is made partly absolute in the above terms. All concerned are to act upon the authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)