



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1444 OF 2024

- 1) Leelabai Kundlik Korde,
Aged about 61 years, Occ.-Household,
R/o. Falegaon Thet,
Tah. and Dist. Washim.
- 2) Shilabai Damodar Ghantode,
Aged about 59 years, Occ.-Household,
R/o. Savitri Niwas, Santosh Nagar,
Near Akshay Park, Thergaon, Pune,
Tah. and Dist. Pune.
- 3) Ramesh Nivrutti Gawande,
Aged about 58 years, Occ.-Agriculturist,
R/o. Saykheda, Post – Tondgaon,
Tah. and Dist. Washim.
- 4) Shashikala Ramesh Thakare,
Aged about 55 years, Occ.-Household,
R/o. Mangal Nagar, Wakad Road,
Near Dange Square, Thergaon Pune,
Tah. and Dist. Pune.

.... **PETITIONERS**

// VERSUS //

- 1) The Sub-Divisional Officer and
Competent Authority,
(Acquisition NH.161), Washim.
- 2) Smt. Durgabai Nivrutti Gawande (Dead)
through her Legal Representative
Pratik Ramesh Gawande,
Aged about 21 years, Occ.-Education,
R/o. Saykheda, Post Tondgaon,
Tah. and Dist. Washim.
- 3) Meenakshi Suresh Gawande,
Aged about 55 years, Occ.-Agriculturist,

- 4) Amit Suresh Gawande,
Aged about 38 years, Occ.-Agriculturist,
- 5) Ashish Suresh Gawande,
Aged about 36 years, Occ.-Agriculturist,
- 6) Ashwini Deepak Thakare,
Aged about 32 years, Occ.-Agriculturist,

The respondent Nos.3 to 6 are
R/o. Paralkar Square, Washim,
Tah. and Dist. Washim.

.... **RESPONDENTS**

Mr. N. B. Kalwaghe, Advocate for the Petitioners.

Mr. S. C. Joshi, Assistant Government Pleader for respondent
No.1.

Mr. S. S. Deshpande, Advocate for the Respondent Nos. 3 to 6.

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 12th MARCH, 2025.

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel appearing for the parties.

2. By this petition the petitioners are challenging the order dated 02.01.2023, passed by the learned 2nd Joint Civil Judge, Senior Division, Washim below Exhibit-45 in L.A.C. No.103/2020.

3. It appears that there was a Regular Civil Suit No.22/2018 for partition and separate possession filed by respondent Nos.3 to 6 on 27.02.2018. One of the suit property is acquired by the National

Highway Authorities by Award dated 26.12.2018. The respondent No.3 raised a dispute about apportionment of compensation. The Competent Authority – respondent No.1 referred the matter under Section 3(H) of the National Highways Act, 1956 to the 2nd Joint Civil Judge, Senior Division, Washim, which was registered bearing L.A.C. No.103/2020 on 05.10.2020. The respondent Nos.3 to 6 filed an Application under Section 24 of the Civil Procedure Code before the Principal District Judge, Washim for transfer of the L.A.C. No.103/2020 from the Court of Civil Judge, Senior Division Washim to the Court of 2nd Joint Civil Judge, Senior Division, Washim where the suit for partition is pending. The learned Principle District Judge allowed the said application vide order dated 07.12.2021. The learned Principle District Judge on appreciating this fact that applicants and non-applicant Nos.1 to 5 are the parties in Reg.C.S. No.22/2018, they also filed an application to appear in L.A.C. No.103/2020. In L.A.C. No.103/2020, share of parties is to be decided regarding compensation amount for acquisition of land. In Reg.C.S. No.22/2018 also, share of the parities in respect of suit properties is to be decided. As such, the learned Principal District Judge deem it just and proper that both the proceedings should be decided by the same Court. No harm or prejudice would be caused to the non-applicants if the matter is transferred to any Court. Accordingly, passed the order and directed to transfer of L.A.C. No.103/2020 pending before the learned Civil Judge, Senior Division,

Washim to the Court of 2nd Joint Civil Judge, Senior Division, Washim where the Reg.C.S. No.22/2018 is pending.

4. Both the learned Counsels herein agreed that if common evidence is recorded in both the matters, there would not be any prejudice caused to the parties in fact, the plaintiffs have filed an application for recording common evidence in both the matters. As such, in my considered opinion, the order passed by the learned 2nd Joint Civil Judge, Senior Division, Washim staying the proceedings in L.A.C. No.103/2020 under Section 10 read with Section 151 of the Civil Procedure Code, dated 02.01.2023 needs to be set aside.

5. The learned 2nd Joint Civil Judge, Senior Division, Washim is hereby directed to record the common evidence in Reg.C.S. No.22/2018 and L.A.C. No.103/2020. A very purpose of transferring the matter from Civil Judge, Senior Division, Washim to 2nd Joint Civil Judge, Senior Division, Washim is that parties are the same and the matter can be decided together. Therefore, the impugned order liable to be set aside. Accordingly, the impugned order dated 02.01.2023, passed by the learned 2nd Joint Civil Judge, Senior Division, Washim below Exhibit-45 in L.A.C. No.103/2020 is hereby set aside.

6. The learned 2nd Joint Civil Judge, Senior Division, Washim is hereby directed to record the common evidence and decide both the matters together.

7. The Writ Petition stands disposed of in the above terms. No costs.

(SMT. M.S. JAWALKAR, J.)

Kirtak