



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.373/2022

PETITIONER : Narayan Piraji Ingole,
(Org. Applicant-1) aged about 72 years, Occ. Agriculture,
R/o Civil Lines, Near Advocate Undal,
Washim, Distt. Washim.

...VERSUS...

RESPONDENTS : 1. State of Maharashtra,
through the Chief Secretary,
Department of Revenue and Forest,
Mantralaya, Mumbai – 32.

2. The Collector Washim,
Civil Lines, Washim.

3. The Sub-Divisional Officer &
Land Acquisition Officer, Washim,
Distt. Washim.

(Org. Non-applicant) 4. Balasaheb Madhavrao Naik,
aged about 45 years, Occ. Agriculture,
R/o Deogalli, Mangalwara, Hingoli,
Taluka and Distt. Hingoli,

Mr. V.K. Paliwal, Advocate for petitioner
Ms Prachi Joshi, AGP for respondent Nos.1 to 3
Mr. P.M. Pande, Advocate for respondent No.4

CORAM : SACHIN S. DESHMUKH, J.
DATE : 29/07/2025

ORAL JUDGMENT :

1. Heard. Rule. Rule made returnable forthwith. By consent
of the parties, the petition is heard finally at the stage of admission.

2. The petitioner raises an exception to the order rendered by the competent authority in relation to an objection which was presented by the petitioner herein claiming entitlement to the amount of apportionment in relation to the subject matter viz. agricultural land bearing Gat No.18/2. Late Piraji Bhiwaji Ingole i.e. father of petitioner herein was declared as a tenant in respect of the subject land. There is a chequered history of litigation between the litigating sides vis-a-vis amongst the legal heirs of tenant Piraji which is evident from the filing of Regular Civil Suit No.53/1998 was filed for declaration and injunction by the tenant Piraji against Ratnabai Naik to whom the respondent No.4 has succeeded. The said suit has been decreed with further declaration that the predecessor of respondent No.4 is not entitled to execute sale-deed of suit properties in favour of any person other than the tenant. As such, was restrained from executing sale-deed or transferring the subject property in any manner in favour of any person other than the tenant Piraji.

3. Apart from the decree in the aforestated suit, Regular Civil Suit No.44/2001 presented by Piraji and other tenants for declaration and injunction is decreed in the year 2003. Wherein, the sale transactions executed by the predecessor of respondent No.4, Ratnabai were also questioned. Coupled with filing of aforesaid two suits even Regular Civil Suit No.53/2015 was filed by one of the legal

representatives of original tenant Piraji, namely, ***Narayan Piraji Ingole Vs. Vitthal Piraji Ingole*** for declaration and mandatory injunction for partition and separate possession along with mesne profits, however, the said suit was withdrawn with liberty to file fresh suit. Equally, Regular Civil Suit No.105/2015 which is presented by Narayan s/o Piraji one of the legal representatives of tenant Piraji is pending and also during pendency of the said suit, Regular Civil Suit No.42/2019 for injunction was presented, however, same is dismissed in default. Thus, the land in question is subject matter of proceeding those are pending between the persons interested therein.

4. In the aforesaid backdrop, the subject land is acquired for National Highway No.161 to the extent 0.6284 Hectares out of total 5.73 hectares. As such, the petitioner, the legal representatives of original tenant Piraji Ingole, presented objection before the competent authority in relation to disbursement of the compensation amount and eventually requested for not to disburse the same.

5. While presenting the objection, petitioner contended that the subject land was in possession of father Piraji Ingole and placed on record the succession certificate and the order declaring father Piraji Ingole as lawful tenant of the year 1989. Apart from placing the aforesaid documents in the shape of tenancy rights the order of permanent injunction passed by the competent Civil Court was also

placed on record. A specific reference was made to the order of injunction in Regular Civil Suit No.58/1998. It was further submitted before the competent authority that in the wake of declaration of tenancy in favour of Piraji to whom the petitioner along with other legal representatives have succeeded and are in possession of the land, however, the mutation entries in the 7/12 extract were not effected. As such, requested not to disburse the compensation of the land.

6. Objection of the petitioner was opposed by the respondent No.4. The statutory provisions obligate the respondent No.3 herein to refer the dispute, mandated by virtue of provisions of Section 3 H (4) of the National Highways Act, 1956 to refer it to the Principal Civil Court of original jurisdiction. Aggrieved by the same, the petitioner has presented this petition and put forth the following prayers :-

“a) quash and set aside order dated 21.01.2020 passed by learned Respondent No.3 in Case N.H. No.161/34/47/2016-17 on the objections filed by the Petitioner in the interest of justice, and further be pleased to;

b) by ad interim stay or appropriate writ, orders or directions, may restrain the learned Respondent No.3 not to execute the impugned order dated 21.01.2020 passed by learned Respondent No.3 in Case N.H. No.161/34/47/2016-17 on the objections filed by the Petitioner and legal heirs of Late Piraji Bhiwaji Ingole those are in physically possession of said agricultural land through their father i.e. late Piraji Bhiwaji since 1958-59, till the decision of present writ petition in the interest of justice, and further be pleased to :

c) *saddle the costs of litigation on the Respondents.*”

7. The petitioner submits that once an objection is presented, it was obligatory for the respondent No.3 to refer the dispute to the Principal Civil Court of original jurisdiction, as is mandated by Section 3 H (4) of the National Highways Act. In support of the same, the learned Counsel for the petitioner has placed reliance on the judgment of this Court in case of *Arun S/o Triumbakrao Lokare Vs. The State of Maharashtra and others (2017) 6 Mh.L.J. 612* ; *Rajaram Waman Rane and others Vs. Ramkrishna Mahadev Rane and others, 2018 SCC OnLine Bom 6437*; *Pandurang Balu Pujare Vs. The Competent Authority and Sub-Divisional Officer (Writ Petition No.10577/2024 decided on 10/01/2025)*; *Shriram R. Deshpabhu Vs. State of Goa and connected matters, 2023 (2) All MR 72* and *Ashok More Vs. Union of India, 2017 (2) All MR 792*.

8. Per contra, Mr. Pande, learned Counsel for the respondent No.4 and Ms Joshi, learned Assistant Government Pleader for the respondent No.1 to 3 have supported the impugned order.

9. After hearing the learned Counsel for the respective sides undoubtedly, upon receipt of the objection, it was incumbent upon the respondent No.3 to refer the dispute to the Principal Civil Court of original jurisdiction as is mandated by Section 3 H (4) of the National

Highways Act. Nevertheless the statement of law as has been laid down by the Coordinate Bench of this Court in the aforesaid cases, in no manner, gives any discretion to the competent authority to decide the objection in any manner, essentially objection has to be referred to the Principal Civil Court of original jurisdiction.

10. The pendency of Regular Civil Suit No.105/2015 is also undisputed. So also, the fact remains that the tenant Piraji is armed with a decree in whose favour a decree of injunction was granted, thereby restraining the predecessors of respondent No.4 from alienating the suit property in favour of any person, except the tenant Piraji. It is a matter of record that the subsequent suit filed by Piraji bearing Regular Civil Suit No.44/2001 is also decreed and sale transactions effected by predecessors of respondent No.4 are declared as illegal and void, holding Piraji Ingole the predecessor of petitioner the original tenant to be in possession of the suit property. As such petitioner is a person interested in subject land. The obligation of the competent authority to refer the dispute in relation to apportionment to the Principal Civil Court of original jurisdiction is no more *res integra* in light of judgments referred supra.

11. Apart from the aforesaid aspect, the verdict of the Apex Court in the case of *Vinod Kumar and others Vs. District Magistrate, Mau and others (2023) 19 SCC 126*, wherein the Apex Court has

concluded 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 then the competent authority shall refer the dispute for the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. Therefore, it was not open for the respondent No.3 to pass the order under challenge, since it has been held that dispute regarding apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable would then have to be decided by the Principal Civil Court of original jurisdiction.

12. It was obligatory for the respondent No.3 to refer the issue without deciding the objection as has been done in the present case. Thus, the respondent No.3 has committed overreach while deciding the objection presented by the petitioner *de hors* the statutory provision and the statement of law declared by Apex Court vis-a-vis this Court. Although the competent authority has referred the pendency of the proceedings between litigating sides, however, ignoring the same the decision under challenge is rendered rejecting the objection and further allowed the respondent No.4 to withdraw the amount of compensation.

13. As such, the impugned order is unsustainable, therefore same is liable to be quashed and set aside and accordingly same is hereby quashed by referring the dispute raised by the petitioner to the

Principal Civil Court of original jurisdiction within whose jurisdiction the land is situated.

14. It is informed by the learned Counsel for the petitioner that on the basis of the order under challenge the respondent No.4 has withdrawn the said amount. Although there are several decisions of this Court interpreting the provisions of Sub Section 3 vis-a-vis Sub Section 4 of Section 3 H of the National Highways Act, the competent authority has no jurisdiction, right or authority to decide on the dispute and proceed to disburse the compensation amount in favour of any disputing parties. Such dispute essentially has to be referred to the decision of Principal Civil Court of original jurisdiction within the limit of whose jurisdiction the acquired land is situated.

15. The respondent No.3 has committed overreach while taking up the issue of objection put forth by the petitioner and deciding the same and in the process has allowed the amount to be withdrawn by the respondent No.4. This Court is guided by the decisions of this Court in the case of *Shri Vajrajit S. Dubhaxi Vs. Special Land Acquisition Officer (North) (Writ Petition No.261/1986, decided on 12/08/1987)* and *Comunidade of Bambolim Vs. Maximo Mergulhao. Special Land Acquisition Officer (Writ Petition No.2/1988, decided on 07/06/1988)* wherein it has been held that when the Land Acquisition Officer wrongfully pays the compensation amount to some parties, the writ

court must recall such amount from such parties. These decisions are followed in the case of *Sojar Vs. Krishnath and others, 2025 (3) ALL MR 704* as well as *Gramastha Mandal Kundevahal Vs. The State of Maharashtra and others (Writ Petition No.12503/2024, decided on 08/04/2025)*.

16. Following the judgments in its letter and spirit, the respondent No.4 is directed to deposit the compensation amount in this Court within period of three months, as has been undertaken by the respondent No.4 by filing pursis on 29/07/2025. As such, the amount so withdrawn by the respondent No.4 shall carry interest @ 6% per annum from the date of its withdrawal till date of deposit/its realisation presented. Learned Counsel for the respondent No.4, Mr. Pande has requested that amount withdrawn may not carry interest. However, considering the fact the respondent No.4 has reaped the benefits by withdrawing, the amount pursuant to order under challenge, as such, ends of justice would serve by directing that amount shall carry the interest.

17. The amount, as is undertaken pursuant to the pursis, is not deposited by the respondent No.4 on or before 29/10/2025, in that event the Collector, Washim is directed to take all necessary measures to ensure the recovery of amount by the said date. The recovery measures would also include attaching the property and the bank account of the

respondent No.4 and auctioning the same for the purpose of recovering the amount which is withdrawn.

18. The writ petition is allowed. Rule is made absolute in the above terms. No order as to costs.

(SACHIN S. DESHMUKH, J.)

Wadkar