



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

WRIT PETITION NO.3606 OF 2019

PETITIONER:

(Ori. Non-Applicant)

Shri Ashok S/o Raghoji Hingmire
Aged about 62 years,
Occ. Agriculturist, R/o Shivaji Ward,
Umarkhed, Tah. Umarkhed,
District Yavatmal.

V E R S U S

RESPONDENTS :

(Org. Applicant)

1. Sub Divisional Officer /
Land Acquisition Officer,
Umarkhed, Tah. Umarkhed,
Distt. Yavatmal.
2. Ganpat S/o Madhavrao Bhokare,
Aged about 49 years,
Occ. Agriculturist, R/o Mahatma
Gandhi Ward, Umarkhed,
Tah. Umarkhed, District Yavatmal.

Shri V. N. Patre, Advocate for petitioner.

Shri H. R. Dhumale, Assistant Government Pleader for respondent No.1.
Shri Mandar Deshpande, Advocate h/f Shri R. L. Khapre, Senior Counsel
for respondent No.2.

CORAM: SIDDHESHWAR S. THOMBRE, J.
DATE : 06/11/2025.

ORAL JUDGMENT :

1. Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally
with the consent of learned counsel for the parties at the stage of
admission.

3. The petitioner is the owner of agricultural land bearing Survey No.98/1/A admeasuring 0.72 Hectare situated at Mouza Umarkhed, Tah. Umarkhed, District Yavatmal, out of which the land admeasuring 0.2800 HR came to be acquired by the Land Acquisition Officer for the purpose of widening of the National Highway.

4. The respondent No.1 declared the award under the National Highways Act, 1956 and granted compensation for the acquired land.

5. The respondent No.2 herein filed an application / representation before the Land Acquisition Officer seeking compensation on the ground that the construction was carried out by him on the said property. Upon receipt of the objections, the respondent No.1 – Sub-Divisional Officer, Umerkhed issued notice to the petitioner and the respondent No.2 – Ganpat s/o Madhavrao Bhokare. After hearing the parties, the respondent No.1 passed the order dated 06/05/2019 and directed that the respondent No.2 is entitled to receive compensation for the construction. Being aggrieved by the same, petitioner has filed the present writ petition.

6. The learned counsel for the petitioner submits that there is no dispute regarding the ownership of the land which was acquired. He contends that as soon as the objection is raised regarding the apportionment of the amount, the authority as per Section 3-H (4) of the National Highways Act, 1956 is supposed to refer the matter to the Principal Civil Court of Original Jurisdiction and therefore, the Sub-Divisional Officer is not competent authority to decide the disputed question of fact about who had constructed the structure. He relied upon the Judgment of Apex Court in the case of Vinod Kumar and others Vrs. District Magistrate, Mau and others, reported in (2023) 19 SCC 126 and the Judgment of this Court in the case of Arun s/o Trimbakrao Lokare Vrs. State of Maharashtra and others, reported in 2017 (6) Mh.L.J. and more particularly, Para No.16 which reads as under :-

“16. It is a settled principle of interpretation of statute that the provisions of any statute are to be so interpreted as to give effect to each of them to the extent possible without giving rise to any conflict or overlapping. This principle of harmonious construction needs to be applied in the matter before hand vis-a-vis sub-section (3) of section 3-H, while interpreting sub-section (3). Such application would lead us to interpret these provisions in harmonious manner putting neither of them otiose. A careful reading of these provisions would reveal that when several persons are entitled to claim compensation, the competent authority has power and jurisdiction to record an opinion and determine the persons who are entitled to receive share/s and

only enables him to apportion the amount of compensation amongst them according to the share they are entitled to. As against this, sub-section (4) contemplates a situation where the dispute is raised as to the entitlement of the compensation by several persons and the jurisdiction to decide such dispute is conferred upon the Principal Civil Court of original jurisdiction. In other words, whenever there is dispute raised by any person as to the right to receive either the whole or portion of the compensation, the competent authority is obliged to refer the matter to the Principal Civil Court of original jurisdiction.”

On the basis of above-mentioned submissions, he prayed to allow the present petition.

7. Per contra, learned Assistant Government Pleader for respondent No.1 submits that respondent No.2 has constructed and runs a Dhaba over the said land, which was acquired and he specifically submitted that respondent No.2 is not disputing the ownership of land. Therefore, respondent No.1 has rightly passed an order thereby holding that the respondent No.2 is also entitled to receive the compensation. He submits that after the order was passed by the respondent No.1, the respondent No.2 has already withdrawn the entire amount and he further submits that the order passed by respondent No.1 is within Section 3-G(5) of the National Highways Act, 1956 and he supports the order passed by the respondent No.1.

8. Having gone through the averments made by both the parties, the issue in the present petition is regarding whether the respondent No.1 is empowered to decide the title and the issue of apportionment, when an objection is raised. The issue is no longer *res integra*. The Hon'ble Apex Court in the matter of **Vinod Kumar and others** (cited supra), had specifically held that if any issue regarding the apportionment of compensation is raised, the Competent Authority is required to refer the matter to Principal Civil Court of Original Jurisdiction under Section 3-H(4) of the National Highways Act.

This Court in the case of **Maroti Bhoju Jadhav Vrs. Competent Authority and Sub Divisional Officer and another** in **Writ Petition No.6983/2019 decided on 30/07/2025** in Para Nos.8 to 13, has observed as under :-

“8. Before advertng to the facts of the case, it would be appropriate and beneficial to refer to section 3-A, 3-C and 3-H of the National High Ways Act, 1956, which reads thus:-

"3A. Power to acquire land, etc.-(1) Where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land.

(2) Every notification under sub-section (1) shall give a brief description of the land.

(3) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

3C. Hearing of objections.-(1) Any person interested in the land may, within twenty-one days from the date of publication of the notification under sub-section (1) of section 3-A, object to the use of the land for the purpose or purposes mentioned in that sub-section.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry it any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation. For the purposes of this sub-section, "legal practitioner" has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961).

(3) Any order made by the competent authority under sub-section (2) shall be final.

3H. Deposit and payment of amount.-

(1) The amount determined under section 3-G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where 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.

(4) 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.

(5) Where the amount determined under section 3-G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent, per annum on such excess amount from the date of taking possession under section 3-D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub- sections (2) to (4) shall apply to such deposit".

9. The above referred provision makes it clear that Section 3-A relates to Power to acquire land and where the Central Government is satisfied that for the public purpose any land is required, it may by notification in Official Gazette declared its intention to acquire such land.

10. Under Section 3-C hearing of objections provided, which provides period of 21 days from the date of publication of notification under Section 3-A(1) to the use of land for the purpose or purposes mentioned in that sub-Section.

11. Thus, from the language of Section 3 and 3-C, it is evident that the objection referred in Section 3-C is not related with the objection about the apportionment of the amount or any part thereof or to any person. Whereas, such objection is covered by Section 3-1. In the circumstances, we have no hesitation to hold that rejection of the application of the petitioner on the ground that it was not submitted within 21 days in contrary to law,

12. Furthermore Section 3-H(4) says 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".

13. This provision does not suggest any inquiry to be made by the competent authority before referring the matter to the Principal Civil Court. It suggest that, if any, such dispute arises and received by the competent authority, the competent authority shall refer it to the Civil Court."

9. In the present case, there is no dispute regarding ownership, but there is dispute regarding construction thereon.

Such disputed questions of fact can only be considered by the Principal Civil Court of Original Jurisdiction and not by the Sub-Divisional Officer. Therefore, the contention that the respondent No.1 is empowered under Section 3-G(5) to decide such issue, cannot be accepted.

ORDER

i] In view thereof, the petition is partly allowed. The order passed by respondent No.1 dated 06/05/2019 is hereby quashed and set aside.

ii] The respondent No.1 to refer the dispute to the Principal Civil Court of Original Jurisdiction within a period of four weeks from today.

10. Rule is made absolute in the above terms.

11. The applications pending, if any, are disposed of accordingly.

[SIDDHESHWAR S. THOMBRE, J.]