



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

WRIT PETITION NO.2264/2023

Shri Pramod S/o Namdeoraoji Khonde

...Versus...

Smt. Chandrakala Shriram Dhoke Since deceased through her legal
representatives – Shri Suresh Shriram Dhoke and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. Rahul Tajne, Advocate for petitioner
Mr. Prakash Randive, Advocate for respondent Nos.1 (a to c)

CORAM : ROHIT W. JOSHI, J.

DATE : 07/10/2025

1. Award under Section 11 of the Land Acquisition Act, 1894 (for short hereinafter referred to "LA Act") for acquisition of the suit property was passed in favour of the present petitioner who is in occupation of the same. The respondent made an application for making reference under Section 30 of the LA Act. Accordingly, reference was made to the learned Civil Court which has decided the same vide order dated 06/08/2022 holding that the respondent is entitled to receive the entire amount of compensation awarded.

2. The petition takes exception to this order. The contention of Mr. Tajne, learned Advocate for the petitioner is that the concept of interested person under the LA Act is different from the concept of ownership or title under the general law. He contends that even if there is absence of ownership or such other right over the acquired property, a person in possession of the same can claim to be interested a

person and therefore, a share in the amount of compensation is awarded in lieu of acquisition of land. Learned Advocate has placed reliance on the judgment of this Court in the matter of *Kachrulal Hiralal Dhoot Vs. The Gurudwara Board Nanded and others*, reported in *AIR 1979 Bombay 31*.

3. It is the case of the petitioner that the respondent had entered into an agreement of sale dated 03/04/1983 in favour of his father and accordingly, he was in possession of the suit property. The learned reference Court has observed that agreement of sale by itself does not create any interest in the property under Section 54 of the Transfer of Property Act, 1882 and therefore, based on the agreement, the petitioner cannot claim right to compensation or any part thereof. Apart from this, the learned reference Court has also held that the agreement in question on the basis of which the petitioner claims possession over the property is executed in favour of father of the petitioner who is alive and therefore, the petitioner will not have right to seek any possession during the life time of his father.

4. It is apparent that the petitioner is in possession of the acquired property. However, it is also not in dispute that it is the own case of the petitioner that his occupation relates to agreement with respect to the suit property entered into between the respondent and his father. It is further not in dispute that the father of the petitioner is alive. Going by the judgment of this Court in the matter of *Kachrulal* (supra), in the considered opinion of this Court, the father of the petitioner may claim to be an interested person on the basis of the agreement and possession over the suit property. It is

obvious that the petitioner is occupying the suit property, however, the possession over the suit property in the sense of right to occupy is relatable to his father who is still alive.

5. In that view of the matter, no fault can be found with the impugned order. The writ petition is therefore dismissed. No order as to costs.

(ROHIT W. JOSHI, J.)

Wadkar