

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5954 OF 2024

Samji Navle Kurada And Ors .. Petitioners

V/s.

Smt. Mangaliben Radka Kuradaand .. Respondents
Ors

Mr. Mandar Soman i/by Hardik Joshi, for the Petitioners.

Mr. Manoj Sabale with Kamar Ali Shaikh with Vishal Rathod, for the
Respondent Nos. 1 to 3.

Mr. Harsh Dedhia, for Respondent No. 4.

**CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.**

DATE : 14TH JANUARY 2026.

PC:

1. Heard learned counsel for the parties.
2. The Petitioners are raising serious objection to a direction issued by the Respondent No. 4 i.e. Deputy Collector and the Competent Authority for Land Acquisition, whereby the amount of compensation determined for the subject land has been directed to be transferred in its entirety before the Principal Civil Court, Silvassa, Dadra and Nagar Haveli.
3. Learned counsel for the Petitioners submits that in the present case the conditions required to be satisfied under Section 3H (4) of the

National Highways Act, 1956, were not satisfied at all for such a direction to be issued by the Respondent-Competent Authority.

4. It was further submitted that the objections raised on behalf of the Respondent Nos. 1 to 3, as a matter of fact, were rejected by the Respondent-Competent Authority in the impugned order dated 8th April 2024, but in the penultimate paragraph and the operative portion, the Competent Authority committed a grave error in referring the matter to the Principal Civil Court, Silvassa, Dadra and Nagar Haveli. Thereafter, on the same date it passed a further order that the entire amount of compensation be transferred to the said Court, despite taking note of the fact that the compensation with regard to trees and structure on the land was not in dispute.

5. It is submitted that the order was self-contradictory and hence, this Court may consider interfering with the same. It was further brought to the notice of this Court that Respondent Nos. 1 to 3 have filed a suit for partition before the Court of Civil Judge Senior Division, Dadra and Nagar Haveli at Silvassa wherein the Petitioners are parties.

6. The aforesaid suit was filed in the year 2021, although the Award itself was rendered in the year 2019. It was further submitted that in the suit also the Respondent Nos. 1 to 3 have raised their claim only in respect of the land, with no reference to the trees and structure thereon, thereby indicating that at least to the extent of the structure and trees the amount ought to have been disbursed to the Petitioners, while the remaining amount of compensation pertaining to the land could perhaps have been directed to be deposited before the concerned Court.

7. On these grounds, it was submitted that the Writ Petition ought to be allowed to the limited extent indicated hereinabove.

8. On the other hand, the learned counsel appearing for the Respondent Nos. 1 to 3 submitted that in light of the pendency of the aforesaid suit and the fact that the said Respondents, being daughters of the original owner, have been deprived of their rightful claim, the impugned direction issued by the Competent Authority may not be interfered with.

9. Learned AGP appearing for the Respondent No. 4 – Competent Authority defended the impugned order.

10. Upon hearing the learned counsel, we find that in the present case the Petitioners claim that the conditions necessary for exercising power under Section 3H(4) of the aforesaid Act were not available and that therefore, the impugned order is erroneous. The short answer to the said contention is that in the light of the aforesaid partition suit pending before the competent Court filed by Respondent Nos. 1 to 3, a serious claim is indeed raised by the said Respondents with regard to their share in the property.

11. The dispute manifested by the pending suit is enough to satisfy this writ Court about the fact that there was a dispute regarding apportionment, which was correctly referred to the Principal Civil Court in the impugned order passed by the competent authority.

12. The Petitioners are at pains to make out a distinction between compensation pertaining to land and the compensation pertaining to trees and the structure standing thereon.

13. We find that the Award passed by the competent authority refers to the total amount of compensation payable and in that context determines various heads under which the compensation has been calculated. This includes land, trees and the structure standing thereon. It cannot be said that the Competent Authority has issued separate Awards for the land, the trees and the structure. The Award is comprehensive and therefore, the artificial distinction sought to be made on behalf of the Petitioners cannot be countenanced.

14. In the face of the pending proceeding in the partition suit, the Petitioners themselves have stated before this Court that while the portion of compensation pertaining to the land could be deposited before the said Competent Court, the component of compensation pertaining to the trees and the structures ought to have been disbursed in favour of the Petitioners.

15. In support of the said contention, it is emphatically claimed that the structure was built by the Petitioners with no contribution from the Respondent Nos. 1 to 3 and the compensation pertaining to the trees also rightfully belongs only to the Petitioners.

16. We are of the opinion that, at this stage, and in writ jurisdiction, this Court cannot go into the question of the assertion made on behalf of the Petitioners of exclusive right towards the trees and structure standing on the land. It would not be appropriate for this Court to go into question and make any comments thereon, particularly when the aforesaid suit is pending before the Competent Court and both the parties are contesting the same.

17. In light of the fact that the Respondent Nos. 1 to 3 have clearly raised their claim as regards their respective shares in the property in question, it is in the interest of justice that the entirety of the compensation payable under the Award is transferred to the concerned Court for disbursal upon resolution of the dispute between the parties.

18. As a matter of fact, it is brought to our notice that the entire amount has already been transferred to the said Court in terms of the impugned order and therefore, it would not be appropriate for this Court to interfere with the impugned order.

19. In view of the above, the Writ Petition is dismissed. Pending applications, if any, also stand disposed of.

20. Needless to say, the reference made to the Principal Civil Court, Silvassa, Dadra and Nagar Haveli in the impugned order shall be tagged and considered along with the pending partition suit filed by the Respondent Nos. 1 to 3. The proceedings before the Court shall stand expedited.

21. The pending proceedings shall not be influenced by the observations made in the instant order.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)