

Order Passed below Exh.26 in LAR No.85/2021

The present application is filed under Order 7 Rule 11 (a) of Code of Civil Procedure. Learned APP on behalf of competent authority filed reply and requested to reject the application.

2 Heard both sides. The respondent No.7 in person submitted as below -

3 The competent authority is sub-divisional officer of Mangalwedha. The notification was published in the gazette dated 23.11.2016 for acquiring the land specified in the schedule annexed with the said notification. The notification under Sec.3(D) of the Act was published. The area 1100 Sq.M. out gat No.690 of village Andhalgaon Taluka Mangalwedha was acquired as per award dated 10.02.2020. The acquiring authority propose to pay compensation of Rs.36,70,920/- to the interested persons. The notices to that effect were issued to the concern Khatedars. Out of total 42 R land the respondent No.1 to 6 have jointly owned 28 R land and respondent No.7 independently owned 14 R land. Later on, 2000 Sq.M. land was acquired out of total 42 R land. As per the letter issued by National Highway Authority, the amount of Rs.66,25,401/- has been sanctioned and credited to the competent authority of Mangalwedha. The right holders as appeared on 7 x 12 extract are Housabai Dhondiram Yadav, respondent No.8 and Suresh Ramchandra Lendve respondent No.9. The respondent No.8 to 17 are niether necessary nor proper parties. The respondent No.15 to 17 have not participated in the acquisition proceeding. The reference itself is bad for misjoinder of parties. The competent authority has neither conducted any inquiry nor made any formal order, as contemplated under Sec.3H(3) of the Act. Initially objection was raised by respondent No.7 because he independently / separately owned 14 R land out of 42 R land in Gat No.690. This particular land is self acquired property. The notice was

issued by the competent authority for proposed amount of Rs.36,70,920/- and at that time, respondent No.15 to 17 have raised objection before competent authority. Merely because of said objection, it was opinion of competent authority, that actual dispute arose in the case leading to reference. It was not just and fair. Merely because such dispute matter cannot be referred to the Court under Sec.3-H(4) of the Act. The competent authority is duty bound to make formal order. Then only cause of action arises for referring the matter. In the result it is requested that the reference may be rejected under Order 7 Rule 11(a) of CPC and appropriate direction may be issued to return the total amount of compensation.

4 Learned APP filed his say overleaf of this application. According to him, the competent authority has properly referred the matter under the concern provisions of National Highways Act, 1956. The said order is legal one. The scope of present matter is limited and therefore, application may be rejected.

5 The present reference is made under Sec.3H(4) of the National Highways Act, 1956. The record shows that the notification under Sec.3(A) of the Act was published in the Central Government gazette dated 23.11.2016. The notification under Sec.3(D) of the Act was published in Central Government gazette on 17.11.2017. Later on, notice for accepting compensation was issued to the concern Khatedars on 31.12.2020 after releasing the amount of compensation by Project Director, National Highways Authority. The total amount of compensation under Sec.3(G) of the Act is 36,70,920/-. There was dispute in between the land owner Chandrashekhhar Mahadev Patil and Pranita Chandrashekhhar Patil and other two as per application dated 09.08.2018, 17.04.2018 and 27.07.2021. It is complained that there is dispute between Mahadev Sidram Lendve regarding ownership of particular land and civil suit is filed before Mangalwedha Court. The competent Authority observed that as there is dispute for the ownership and share of compensation, It is decided to deposit the said amount to the District and Sessions Court Solapur and as there is no possibility of early settlement, matter is referred for decision of Court.

6 Now, it is the contention of applicant that he is independent owner of specific portion of gat No.690. It is his contention that respondent No.8 to 17 are not necessary party and respondent No.15 to 17 have not participated in the acquisition proceeding. It is further contended that the competent authority without passing formal order, having no cause of action, referred the matter to this Court. I am of the view that the competent authority has properly referred the matter under Sec.3H(4) of the Act because he found dispute between the land owners and pending case regarding ownership in Mangalwedha Civil Court. The competent authority has wide powers and discretion to refer the matter to the competent Court if he found that there is dispute regarding the ownership and share of compensation between the parties. The cause of action definitely arose to the said authority and therefore, he referred the matter. I am not agree with the submissions of applicant that without any cause of action the matter is referred.

7 This applicant relied on the observations of Hon'ble High Court in the case of **Sujyoti Developers Pvt. Ltd. And Anr. Vs. The Competent Authority and Sub-Divisional Officer, Kalyan and Ors, Writ Petition No.3551/2021, dated 14.10.2022**. It is observed that, "if any dispute arises as to the apportionment, then the competent authority to refer the dispute to the competent Court." In the above cited case, order dated 21.10.2022 was passed along with other Writ Petitions. Accordingly, Advocate General states that, necessary resolution / instruction would be issued to the competent authorities at the earliest. The matter was adjourned by the Hon'ble High Court on 14.11.2022 for directions.

8 The applicant further relied on the Government Resolution of State dated 18.11.2022 regarding guidelines for competent authority under Sec.3H(3)(4) of the Act. The guidelines are as below :

- 1 The Competent Authority is required to determine not only the entitlement but also apportionment amongst several claimants claiming interest in the amount of compensatioin that is determined by the Competent Authority.

- 2 Once such determination takes place, each of the claimants ought to be informed/intimated of such determination and ought to be given time of at least four weeks after receipt of the intimation, either to accept the same or dispute the same.
- 3 In the meanwhile, the Competent Authority cannot act upon such determination and distribute the amount in accordance with the same. If within the period of four weeks of the receipt of intimation, referred to hereinabove, either all the claimants accept such determination or do not communicate in writing, after obtaining in writing the acknowledgment in that regard, of their dispute and/or disagreement of such determination, the Competent Authority ought to make payment in accordance with the same.
- 4 Whereas, if an objection and/or dispute is raised in respect of such determination by any of the claimants, within four weeks of the date of receipt of such intimation, the Competent Authority will have to refer it to the competent Civil Court in terms of sub-section (4) of Section 3H of the Act.
- 5 the Competent Authority will have to give adequate time of at least four weeks to the claimants, either for agreeing with such determination or for disputing with the same. Resultantly, the Competent Authority ought not to act upon its determination and distribution of amount of compensation amongst the claimants unless the claimants get a reasonable time or opportunity to take appropriate steps in that regard, including raising of a dispute.

9 If we minutely gone through the citations as above and guidelines in the GR, one thing is clear that sufficient time may be given to the claimants either to accept the amount of dispute the same. If the competent authority feels that within a stipulated period, there is no response from the party they will have to be referred the matter to the competent Court. The adequate time as per the guidelines is four weeks given to the claimants either for agreeing with such determination or for

disputing with the same. According to Sec.3H(4) of the Act, it mandates the competent authority to refer any such dispute to the Principal Civil Court of original jurisdiction within whose jurisdiction the land lies. This section provides mechanism for resolving disagreements that may arise during the process of land acquisition for National Highways, specifically when there are disputes about who should receive the compensation or how it should be divided. Taking into consideration the facts of the case and reference order, I do not find any perversity in referring the same by competent authority. There was a dispute between the parties for ownership and share of compensation and therefore, there was cause of action for the competent authority to refer the case before this Court.

10 I do not find any substance in the present application and therefore, proceed to pass following order.

ORDER

Application Exh.26 is rejected.

Date – 09.05.2025

(D. N. Surwase)
District Judge – 1, Pandharpur

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order are same word to word as per the original Judgment/Order.

- a) Name of the Stenographer : S. A. B. Shiakh, Steno. Grade - I
- b) Court : Additional Sessions Judge, Pandharpur
- c) Date of Order : 05.05.2025
- d) Order signed by the Presiding Officer on : 05.05.2025
- e) Order uploaded on : 09.05.2025