

Order Passed below Exh.30 in LAR No.97/2021

The present application is filed by respondent No.1 under Order 7 Rule 11 (a) of Code of Civil Procedure. Learned APP on behalf of competent authority filed reply below Exh.35 and requested to reject the application.

2 Heard both sides. The respondent No.1 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 1300 Sq.M. out gat No.684 of village Andhalgaon Taluka Mangalwedha was acquired as per award. The acquiring authority propose to pay compensation of Rs.39,43,250/- to the interested persons. The notices to that effect were issued to the concern Khatedars. The first award was for Rs.25,99,885/- and supplementary award was for Rs.13,43,365/-. The interested person are the Khatedars with respect to said Gat No.684. They have only right to take part in the acquisition proceeding. The names of respondent No.4 to 6 do not appear in the ward for compensation. By way of applications made by Smt. Parinita Chandrashekhar Patil and others dated 28.11.2018 and 26.11.2019 to the competent authority, raised objection. Because of said objection it was determined by the competent authority that there is dispute of ownership and apportionment of compensation with respect to the land. As per record of right, the land is owned by present applicant, Thakubai Shejal, and Latabai Shejal. Respondent No.4 to 6 i.e. Parinita Patil, Bhavanipratap Patil and Tulsi Patil are not the owners of the said land. They are not necessary party to the said reference.

4 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.

5 Learned APP filed his say below Exh.35. 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. It is submitted that if any dispute arises between the parties the competent authority has no jurisdiction to decide the same. The dispute was raised by respondent No.4 and others since to be a dispute of apportionment of amount. The duty is cast upon the competent authority, to refer the matter to the competent Court if several persons interested in the amount. The cause of action arose to the competent authority and therefore, the matter is referred and there is nothing illegal in it.

6 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 31.12.2018 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 39,43,250/-. There was dispute in between the land owner Chandrashekhar Mahadev Patil and Pranita Chandrashekhar Patil and other two as per application dated 28.11.2018 and 26.11.2019. 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.

7 Now, it is the contention of applicant that he is owner of specific portion of gat No.684 along with two Khatedars. It is his contention that respondent No.4 to 6 are not necessary parties. 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. 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.

8 This applicant in his similar case LAR No.85/2021, 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.

9 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 compensation 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.

10 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 dispute 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 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.

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

ORDER

Application Exh.30 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