

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3749 OF 2021**

Maroof Sadique Kungle	]	Petitioner
Vs.		
Competent Authority and Sub	]	
Divisional Officer Kalyan and another.	]	Respondents

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Mr. Pradeep J. Thorat, for Petitioner.

Mr. S.B. Kalel, A.G.P, for Respondents-State.

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**CORAM : K.K. TATED &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 5th AUGUST, 2021.

P.C.

1. Heard learned Counsel for the parties.
2. By this petition under Article 226 of the Constitution of India, the petitioner is challenging notice dated 24th June, 2021 and the proceedings initiated by respondent No.1-Competent Authority under Section 3H of the National Highways Act, 1956.
3. Mr. Thorat, learned Counsel for the petitioner submits that he had already forwarded papers and proceedings of the present matter to respondent No.1 by R.P.A.D on 22nd July, 2021 but till today, they have not received acknowledgment from the postal authority. Statement is accepted.

4. Mr. Thorat, learned Counsel for the petitioner submits that in the present proceedings, respondent No.1 passed the final award on 31st March, 2018 determining an amount of Rs.3,28,08,970/- (Rs. Two Crores, Twenty Eight Lakhs, Eight Thousand Nine Hundred and Seventy only) as compensation to be paid to the petitioner. Learned Counsel for the petitioner submits that pursuant to the said Award, the petitioner handed over possession of land i.e 0.1210 square meter from Survey No.3/4 (Part) situate at Mauje Balyani, Taluka Kalyan, District Thane.

5. In support of his contention, Mr. Thorat, learned Counsel for the petitioner relies on possession receipt dated 12th March, 2019 (Exhibit C, Page No.81 of the present petition). Mr. Thorat, learned Counsel for the petitioner submits that the Authority already made payment of entire compensation to the petitioner.

6. Mr. Thorat, learned Counsel for the petitioner submits that thereafter respondent No.2 filed a complaint with the Sub Divisional Officer on 2nd June, 2021 claiming the said amount of compensation in respect of the said acquired land. On the basis of the said complaint, Sub Divisional Officer issued notice to the petitioner. Hence, the petitioner has filed the present petition.

7. Mr. Thorat, learned Counsel for the petitioner submits that once the award is passed under National Highways Act, 1956 and payment is made, there is no question of taking any action under section 3H of the National Highways Act. Hence, he preferred the present petition.

8. Mr. Kalel, learned A.G.P, appearing of behalf of respondent No.1 submits that he requires some time to file affidavit explaining whether Sub Divisional Officer has right to issue notice to the petitioner under section 3H of the National Highways Act, 1956, after making an full and final payment as per the award. Hence, the following order is passed;

: ORDER :

- (a) The petitioner is directed to re-serve respondent No.2 by private notice either by R.P.A.D or hand delivery along with entire proceedings on or before 21st August, 2021 and file affidavit of service to that effect;
- (b) Respondent No.1-State to file reply on or before 28th August, 2021 with copy to the other side;
- (c) Rejoinder, if any, to be filed on or before 30th August, 2021 with copy to the other side;
- (d) Till next date, further proceedings started by the Sub Divisional Officer, Kalyan under section 3H of the National Highways Act, 1956 being Case No.209 of 2021 (Exhibit F, Page No.87) is stayed.

9. Stand over to 31st August, 2021.

[PRITHVIRAJ K. CHAVAN, J.]

[K. K. TATED, J.]