



PAUL

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15399 OF 2024

- | | |
|-----------------------------------|-----------------|
| 1. Pravin Girish Chamaria, |] |
| Aged 40 years, Indian inhabitant, |] |
| 2. Nishit Bechar Patel |] |
| Aged 36 years, Indian inhabitant |] |
| Both having their office |] |
| address at |] |
| 10, Ground Floor, Mithila |] |
| Shopping Centre, VM Road, |] |
| Juhu Scheme, Vile Parle |] |
| West, Mumbai – 400 049 |]...Petitioners |

1. **The State of Maharashtra,**
Through the Government
Pleader, Ground Floor,
PWD Building, Fort,
Mumbai-400 001.
2. **The Sub-Divisional Officer,**
Maval-Mulshi Sub-Division, Pune
Having its office at
Revenue Training and
Awareness Centre,
Awar, Bavdhan B,
Taluka- Mulshi, Pune- 411 021
3. **M/s Shree Tirupati Construction**
A registered partnership
firm bearing registration
No. BA-99268, through
its partners, Mr. Pravin Chamaria

- and Mr. Dilip P. Kudalkar,]
 having its office address at 10,]
 Ground Floor, Mithila]
 Shopping Centre, VM]
 Road, Juhu Scheme, Vile Parle West,]
 Mumbai-400 049]
4. **Mr. Dilip Prabhakar Kudalkar,**]
 aged 64 years, Indian Inhabitant,]
 having his address at Room No.3,]
 Chintamani Society, Sudarshan]
 Nagar, Main Road, Opp. Astitva,]
 MIDC, Dombivali- East,]
 Kalyan, Maharashtra- 421 203]
5. **Mr. Jagdish Shashikumar Raje,**]
 aged 60 years, Indian inhabitant,]
 having his address at Flat no. 1003,]
 Sarvodaya Heights Apartment,]
 Patharli Road, Goghrass Wadi,]
 Near Shiv Mandir, Dombivali- East,]
 Kalyan, Maharashtra- 421203]...Respondents

APPEARANCES-

Mr Aman Kacheria, a/w Mr Rishabh Dhanuka, Mr Murtuza Bohra, Mr Zaki Ansari i/b A & D Legal, for the Petitioners.

Mr Rafiq Dada, Senior Advocate, a/w Mr Vaibhav Joglekar, Senior Advocate i/b Mr Mahesh B Joshi, Mr Prashant Muley, for Respondents 4 & 5.

Ms V R Raje, AGP, for the State.

**CORAM : M.S.Sonak &
Jitendra Jain, JJ.**

RESERVED ON : 13 February 2025

PRONOUNCED ON : 18 February 2025

JUDGMENT (Per MS Sonak J):-

1. Heard learned counsel for the parties.
2. This petition was directed to be listed for final disposal on 13 February 2025 at 2:30 p.m. by order dated 11 February 2025. Accordingly, Rule. The Rule is made returnable immediately at the request and with the consent of learned counsel for the parties.
3. By instituting this petition, the Petitioners seek the following substantive reliefs: -

“(a) This Hon’ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari and/or any other appropriate writ, order and/or direction, inter alia, calling for the records and proceedings before the Respondent No.2 in respect of the Impugned Order dated 11th March 2024 (Exhibit “D” hereto) and after considering the legality, validity and/or propriety thereof, this Hon’ble Court be pleased to quash and set aside the Impugned Order dated 11th March 2024 passed by the Respondent No.2 as illegal and in excess of the jurisdiction vested under section 19 of the Maharashtra Highways Act, 1955;

(b) This Hon’ble Court be pleased to direct Respondent No.2 to deposit the entire amount payable towards acquisition of the larger property, being an amount of Rs.27,74,18,154/- (Rupees Twenty Seven Crore Seventy Four Lakh Eighteen Thousand One Hundred Fifty Four only) in the partnership account of Respondent No.3, the details of which are provided at Exhibit “Q”;

(c) This Hon’ble Court be pleased to direct the Respondent No.2 to refer the disputes regarding the apportionment and/or the payment of the amount pursuant to the award to the principal civil court exercising original jurisdiction in accordance with section 19C (4) of the Maharashtra Highways Act, 1955;”

4. On 30 October 2024, the Vacation Bench granted interim relief in this petition, restraining the fourth and fifth

Respondents from withdrawing the amounts deposited in this Court. This interim order was continued until further orders.

5. A brief conspectus of the facts and circumstances in which the Petitioners have sought the above reliefs is set out hereafter.

6. M/s Shree Tirupati Construction [R3] is a registered partnership firm comprising Petitioners 1 and 2 and Respondents 4 and 5 as its partners. The deed of partnership dated 01 December 2007 (E/ 187-196), by which it was constituted, specifies that each of the four partners holds a 25 percent share in the firm.

7. By three registered conveyance deeds [all dated 02 February 2008] at (A-1 / 45-91, A-2/ 92-132 and A-3/133-174) certain portions from out of the land bearing Gat Nos. 90 and 91/1, village Ambedvet, Taluka Mulshi, District Pune, were purchased by the firm. Still, Respondents 4 and 5 contend that this purchase was by the partners of the firm and not the firm itself. In support, Respondents 4 and 5 submit that the purchased lands were not shown as held by the firm in its balance sheets from the date of purchase to date.

8. By notice dated 14 October 2022, the Sub-Divisional Officer, Maval-Mulshi Sub-Division, Pune, Respondent No.2 herein (Land Acquisition Officer) ("LAO") informed the firm that the property surveyed under numbers 91/1/A, 91/1B and 91/1P measuring 2.3458 Ha. (Acquired Property) was being acquired for highway purposes under the Maharashtra Highways Act, 1955 [MH Act]. This property was a part of the

properties forming the subject matter of the three conveyance deeds dated 02 February 2008.

9. On 01 November 2022, the fourth and fifth Respondents objected to the notice dated 14 October 2022, submitting that the compensation for the Acquired Property must be divided between the four partners equally, i.e. 25 percent or one-fourth each. The demand was also made to apply the fair market value and not go by Ready Reckoner rates when determining compensation for the Acquired Property.

10. On 06 August 2023, the first Petitioner addressed a letter on behalf of the firm stating that any application on behalf of the firm should be considered only when all four partners give their consent for acquisition or receive compensation for such acquisition. Further, this letter requested the LAO that the compensation amount for such an acquisition be transferred only into the firm's bank account and not the individual/personal bank accounts of the partners.

11. Now that there was a dispute *inter se* regarding the apportionment of compensation in respect of the acquired land, the LAO, via communication dated 20 December 2023, called upon the disputing parties to attend his office on 02 January 2024 to produce relevant documents and to make oral submissions on their conflicting versions regarding apportionment of the compensation amount.

12. The hearing was held before the LAO on 02 January 2024, after which written submissions were filed, and the matter was reserved for orders. By letter dated 15 January

2024 (Exhibit M at Page No.367), the fourth and fifth Respondents informed the LAO that they are partners of the firm having a share of 25 percent each. They clarified that they had not engaged any advocate to represent the firm, and therefore, any application made by any advocate on behalf of the firm should be declared invalid. The letter referred to the earlier communication made by the fourth and fifth Respondents regarding the payment of compensation for the acquired land. The letter finally requested the LAO to deposit their share of the compensation, i.e. 25 percent each, in their personal bank accounts. Along with this letter, they also enclosed their bank account details, cancelled cheques and PAN cards.

13. By the impugned order dated 11 March 2024, the LAO (Respondent No.2) determined that the compensation for the acquired land was payable to the partners of the firm as indicated in 7/12 extracts (Revenue Record) to the extent of 25 percent each. The impugned order states that indemnity bonds should be obtained from the partners before the disbursement of 25 percent of the compensation amount to each of them. Thus, by the impugned order, the LAO apportioned the compensation as requested by the third and fourth respondents by rejecting the petitioners' request.

14. The Petitioners instituted Writ Petition No. 4363 of 2024 before this Court, challenging the impugned order dated 11 March 2024 on various grounds. On 01 April 2024, the coordinate bench noted that the issue raised in the petition was whether the compensation for acquisition, which was to be disbursed to the partnership firm, was to be directly credited to the bank account of the individual partners or

should be credited to the bank account of the firm. The Court noted that according to the Petitioners, the compensation amount had to be deposited in the firm's bank account, and according to the fourth and fifth Respondents, the same had to be deposited in the personal bank accounts of the individual partners.

15. In its order dated 01 April 2024 (Exhibit P1 at Page No.403), this Court noted that such matters cannot be decided on a case-to-case basis. The State must have a specific policy in this regard. No policy or circular was placed on record. Accordingly, the matter was adjourned to 18 April 2024 after directing the disbursal of the amount to be deferred till 22 April 2024.

16. On 18 April 2024, AGP stated that there was no policy or circular to deal with such cases. Accordingly, the Court required the Government Leader to place a copy of the order before the Principal Secretary (Revenue) so that he could examine the matter and issue necessary directions on whether guidelines could be issued or file an affidavit. On 29 April 2024, the learned AGP sought adjournment on the grounds that instructions were awaited from the Principal Secretary (Revenue). The Court then directed the State Government/LAO to deposit the compensation amount in the Registry of this Court and directed the Registry to place the amount in an interest-bearing account. On 21 October 2024, the Petitioners were granted leave to withdraw Writ Petition No. 4363 of 2024, with the liberty to file a fresh petition. The interim order was extended by 15 days, And all contentions of all parties were expressly kept open.

17. Pursuant to the liberty granted, this petition was lodged and mentioned on 29 October 2024. On 30 October 2024, the Vacation Court continued the interim relief and restrained the fourth and fifth Respondents from withdrawing the amounts deposited in this Court. As noted earlier, this interim relief has continued and was directed to continue until further orders after the conclusion of arguments on 13 February 2025.

18. Mr Aman Kacheria, the learned counsel for the Petitioners submitted that the provisions of the MH Act concerning acquisition of lands, determination of amount payable as compensation, deposit and payment of amount, and the LAO having certain powers of Civil Court are *pari-materia* to the provisions of the National Highways Act, 1956 (“NH Act”). He submitted that under 19-C (3) where several persons claimed to be interested in the amount deposited under Sub-Section (1) of Section 19C, the LAO shall determine the persons who in his opinion are entitled to receive the amount payable to each of them. He submitted that in terms of Section 19C (4), if any dispute arises to the apportionment of compensation or any part thereof or any person to whom the same or any part thereof is payable, the LAO shall refer the dispute to the decision of the Principal Civil Court of Original Jurisdiction (Civil Court) within the limits of whose jurisdiction the land is situated.

19. Mr Aman Kacheria submitted that by the impugned order dated 11 March 2024, the LAO, instead of referring the dispute to the decision of the Civil Court, had chosen to himself decide such dispute and further proceeded to order disbursement of the compensation amount based on the apportionment made by him. He submitted that such exercise

was *ex-facie* without jurisdiction and contrary to the law laid down by the Hon'ble Supreme Court in **Vinod Kumar and others Vs. District Magistrate Mau and others¹**, **Ganesh Sonawane Vs. Sub Divisional Officer, Panvel²** and **Sojar @ Rukminibai W/o Hari Mule Vs. Krishnath @ Krishna S/o Gopal Tate and Others³**.

20. Accordingly, Mr. Aman Kacheria submitted that the impugned order dated 11 March 2024, at least to the extent it sought to apportion the compensation amount and directed the disbursal thereof, *inter alia*, to the fourth and fifth Respondents, was *ex-facie* without jurisdiction, null and void. Accordingly, he submitted that the LAO's impugned order warranted interference.

21. Ms V R Raje, the learned AGP for the Respondent-State, submitted that in terms of Section 19-C (3), where several persons claim to be interested in the amount deposited under Section 19-C(1), the LAO had to determine the persons who in his opinion are entitled to receive the amount payable to each of them. She submitted that if the operative portion of the impugned order dated 11 March 2024 is perused, it only says that the compensation amount must be paid to the four partners of the firm according to their share in the partnership, i.e. 25% each. Accordingly, she submitted that there was no error in the operative portion of the impugned order dated 11 March 2024.

¹ (2023) Live Law SC 511

² WP No.13497 of 2024 decided on 04 October 2024

³ WP No.2679 of 2024 decided on 13 February 2024 by this Court.

22. Upon this Court inviting Ms Raje's attention to the portion of the order where the LAO had directed the disbursement of the compensation amount to the individual partners of the firm, Ms Raje did not defend this part of the impugned order. She submitted that the entire compensation amount was already deposited in this Court and if directed, Reference could be made in terms of Section 19-C (4) of the MH Act to the appropriate Civil Court or resolving the apportionment disputes.

23. Mr Rafiq Dada, the learned Senior Advocate for the 4 and 5 Respondents, opposed the grant of any relief to the Petitioners in this Petition. He pointed out that there was no claim on behalf of the firm, and therefore, there was no dispute about apportionment. He referred to the communications dated 06 August 2023 (at Exhibit-K pages 343 to 357) and pointed out that the first Petitioner signed these communications on behalf of the firm, though he had no authority to do so. He also pointed out that the contact details and e-mail IDs referred to in these communications were of unrelated parties, rendering the communications or the request made in the said communications highly suspect.

24. Mr Dada submitted that the firm could never have purchased agricultural property; therefore, the property, a portion of which was now acquired, was never reflected in the firm's balance sheets. Therefore, he submitted that these properties, including the acquired property, could never be regarded as the property of the firm. He referred us to the balance sheet of the firm at Exhibit-G (pages 201 to 205).

25. Mr Dada submitted that the petitioners had not claimed compensation. He also submitted that in the absence of any claim for compensation by the firm or the Petitioners, there was no dispute about apportionment. Therefore, the impugned order apportioning the compensation amount between the four partners of the firm or directing the disbursal of compensation in their individual bank accounts was correct and warranted no interference.

26. Mr Dada also submitted that the impugned order dated 11 March 2024 was an Award under Section 19-B (3) of the MH Act. He submitted that if the Petitioners were dissatisfied with this Award, they could have applied to the LAO under Section 19-B (8) for Reference to an arbitrator. He submitted that given this alternate remedy provided under Section 19-B (8) of the MH Act, this Court should not entertain this Petition but relegate the Petitioners to such alternate remedy available under the MH Act.

27. For all the above reasons, Mr. Dada submitted that this Petition may either be dismissed on the merits or on the grounds that the alternate remedy under Section 19B(8) of the MH Act has not been exhausted.

28. Mr Aman Kacheria, in rejoinder, only pointed out how the email IDs referred to in the communications dated 06 August 2023 were not of some unrelated parties. He referred to the letterhead of the firm and pointed out how the very same email IDs appeared on the firm's letterhead. He also invited our attention to the firm's balance sheet at Exhibit G and pointed out the reference to Options Builders and Developers from whom unsecured loans to the tune of Rs.6.59

Crores were obtained by the firm and also the reference to Sundry Creditors for Land, land cost, project account, etc. He once again invited our attention to the conveyance deed dated 02 February 2008 annexed to the petition and emphasised that it was the firm which was the purchaser of the properties in question and not the individual partners.

29. The rival contentions now fall for our determination.

30. At the outset, we note that the provisions of Sections 19B, 19C and 19D of the Maharashtra Highways Act (“MH Act”) are *pari materia* with the provisions in Sections 3G, 3H and 3I of the NH Act.

31. Section 19B of the MH Act is concerned with the determination of the amount payable as compensation for the lands acquired under the MH Act. Sub-section (2) is concerned with determination of compensation by agreement between the State Government and the person to be compensated. Sub-section (3) applies where no such agreement can be reached. It then provides that the State Government shall refer the matter to the LAO for determination of the compensation amount to be paid for such acquisition and the person or persons to whom such compensation shall be paid. Sub-section (8) provides that if the amount determined by the LAO under Sub-section (3) or Sub-section (5) is not acceptable to either of the parties, the amount shall, on application by either of the parties, be determined by the arbitrator to be appointed by the State Government.

32. In this matter, we are not concerned with the quantum of compensation determined by the LAO. If there were to be any dispute on that score, then it was for the parties to seek a reference to the arbitrator to be appointed by the State Government. This case is mainly concerned with the provisions of Section 19C of the MH Act, which deals with deposit and payment of the amount determined under Section 19B by the LAO. Therefore, the argument based on an alternate remedy cannot be accepted. This is a case of dispute of apportionment involving the Petitioners and the third, fourth and fifth Respondents. Such disputes must be essentially resolved under the provisions of Section 19C of the MH Act, which requires the LAO to refer such disputes to the decision of the Civil Court within the limits of whose jurisdiction the acquired land is situated.

33. Section 19C of the MH Act, which is *pari materia* to Section 3H of the NH Act, is transcribed below for the convenience of reference :-

“19C. Deposit and payment of amount.

(1) The amount determined under section 19B shall be deposited by the State Government, in the prescribed manner, with the Land Acquisition Officer before taking possession of the land.

(2) As soon as may be after the amount has been deposited under subsection (1), the Land Acquisition Officer shall on behalf of the State Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the Land Acquisition Officer shall determine the persons who in his opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the Land Acquisition Officer shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under sub-section (8) of section 19B by the arbitrator is in excess of the amount determined by the Land Acquisition Officer, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 19 till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the Land Acquisition Officer, the excess amount together with an interest, if any, awarded under sub-section (5), shall be deposited by the State Government in the prescribed manner, with land Acquisition Officer and the provisions of subsections (2) to (4) shall apply to such deposit.”

34. In the context of the provisions of Sections 3G and 3H of the NH Act, 1956, which provisions are almost *pari materia* with the provisions in Sections 19B and 19C of the MH Act, The Hon’ble Supreme Court of India, in the case of **Vinod Kumar** (supra) has held the following:-

“.....23. The scheme of the Act 1956 and the statutory provisions referred to above makes it very clear that once any land is acquired under the Act 1956, the competent authority is obliged to pay an amount by way of compensation. There is a procedure which has been prescribed under Section 3G of the Act 1956. Subclause (5) of Section 3G makes it abundantly clear that if the amount determined by the competent authority under subsection (1) or subsection (2) of Section 3G is not acceptable to either of the parties, the amount will have to be determined by the arbitrator who may be appointed by the Central

Government on the strength of an application by either of the parties. Section 3H provides that the amount determined towards compensation under Section 3G will have to be deposited by the Central Government in accordance with the rules. It is only after such amount is deposited by the competent authority that the possession of the land can be taken. Subclause (4) of Section 3H talks about apportionment of the amount. The language of subclause (4) of Section 3H is plain and simple. It provides that if any disputes arises as to the apportionment of the amount or any part thereof, the competent authority is obliged to refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated....”

35. The Hon’ble Supreme Court explained that there was a fine distinction between determining the amount to be paid towards compensation and the apportionment of that amount the reasons. The Court held that while the amount to be determined by the LAO (competent authority) in the first instance, the issue of apportionment, in the event of any dispute, had to be referred to the Civil Court.

36. The reasons for such distinction were explained by the Hon’ble Supreme Court in paragraphs Nos. 27, 28 and 29, which are transcribed below for the convenience of reference:

“...27. The question of apportionment of compensation is not free from difficulties. In apportioning the compensation, the Court has to give to each claimant the value of the interest which he has lost by compulsory acquisition. So stated, the proposition may appear simple, but in its practical application numerous complicated problems arise in apportioning the compensation awarded. The difficulty experienced is due to the nature of a variety of interests, rights and claims to land which have to be valued in terms of

money. The compensation awarded for compulsory acquisition is the value of all the interests which are extinguished and that compensation has to be distributed equitably amongst persons having interest therein and the Court must proceed to apportion the compensation so that the aggregate value of all interests is equal to the amount of compensation awarded. But in the valuation of competing interests, which from its very nature is dependent upon indefinite factors and uncertain data, considerable difficulty is encountered. Indisputably, in apportioning compensation the Court cannot proceed upon hypothetical considerations but must proceed as far as possible to make an accurate determination of the value of the respective interests which are lost. The Court must, in each case, having regard to the circumstances and the possibility of a precise determination of the value having regard to the materials available, adopt that method of valuation which equitably distributes the compensation between the persons entitled thereto. [See : Dossibai Nanabhoy Jeejeebhoy v. P.M. Bharucha, (1956) 60 Bom LR 1208]

28. Thus, the only general principle one could state is that apportionment under subclause (4) of Section 3H of the Act 1956 is not a revaluation but a distribution of the value already fixed among the several persons interested in the land acquired in accordance with the nature and quantum of the respective interests. In ascertainment of those interests, the determination of their relative importance and the manner in which they can be said to have contributed to the total value fixed are questions to be decided in the light of the circumstances of each case and the relevant provisions of law governing the rights of the parties. The actual rule for apportionment has to be formulated in each case so as to ensure a just and equitable distribution of the total value or compensation among the persons interested in the land.

29. In the circumstances referred to above, the legislature thought fit to assign such function to

none other than the Principal Civil Court of original jurisdiction...”

37. The Hon’ble Supreme Court also held that when it comes to resolving the dispute relating to apportionment of the amount determined towards compensation, it is only the Principal Civil Court of original jurisdiction which can do so. The Court concluded by holding that if any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, then, the competent authority shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. The competent authority possesses certain powers of the Civil Court. Still, in the event of a dispute of the above nature, the summary power, vested in the competent authority of rendering an opinion in terms of sub-section (3) of Section 3H, will not serve the purpose. The dispute being of nature triable by the Civil Court that the law steps in to provide for that to be referred to the decision of the Principal Civil Court of original jurisdiction. The dispute regarding apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable would then have to be decided by that Court.

38. Applying the above principles to the provisions of Sections 19B and 19C of the MH Act, which are *pari materia* with the provisions in Sections 3G and 3H of the NH Act, we believe that while the LAO may go as far as determining the persons who, in its opinion, are entitled to receive the amount payable to each of them. Still, suppose after such determination, any dispute arises as to the apportionment of

the amount or any part thereof or to any person to whom the same or any part thereof is payable, in that case, LAO is duty bound to refer the dispute to the Principal Civil Court of original jurisdiction within the limits in whose jurisdiction the land is situated. In other words, even the LAO should not take it upon itself to determine the dispute of apportionment of the compensation. The reasons for this fine distinction between determining the compensation amount and the apportionment of the compensation amount have been succinctly explained by the Hon'ble Supreme Court in **Vinod Kumar** (supra).

39. Therefore, if LAO had restricted himself in only determining the persons who, in his opinion, were entitled to receive the amount payable to each of them, the matter would have been different. However, in this case, there was clearly a dispute as to the apportionment of the compensation amount. Therefore, the LAO had no jurisdiction or authority to decide such an apportionment dispute and even direct the payment of compensation according to his decision on the apportionment issue. The portion of the impugned order by which the LAO has directed the apportionment of the compensation amount favoring each of the partners of the firm in their individual capacities is *ex facie* without jurisdiction and warrants interference. To this extent, the impugned order not only violates the provisions in Section 19C (4) of the MH Act but also contravenes the law laid down by the Hon'ble Supreme Court in the case of **Vinod Kumar** (supra).

40. In **Ganesh Sonawane**, (supra) the Co-ordinate Bench, in the context of disputes between the parties on the apportionment of compensation under the provisions of

Section 19C of the MH Act, made the following observations, which apply in the facts of the present case as well:

“....9. We have heard Learned Counsel for the parties and have examined the record with their assistance. Section 19C(3) of the Act indeed provides that where several persons claim to be interested in the amount deposited in respect of the land acquired, the Land Acquisition Officer shall determine the persons, who in his opinion, are entitled to receive the amount payable to each of them. Section 19C(4) of the Act provides that if any dispute arises, as to apportionment of such amount or any part of such amount, the Land Acquisition Officer shall refer the dispute to the principal Civil Court of original jurisdiction in the place where the land is situated. In the case at hand, in our opinion, once again, without expressing any opinion on the merits of the case, it is evident and writ large on the face of the record, that there is a dispute among the parties over ownership and title to the land acquired for the purposes of the State Highway. Various strands of the dispute are at various stages before various fora. Suffice it to say that disputes indeed exist and are pending, among the parties.

10. Evidently, there is a dispute over entitlement to the properties in question. The entitlements claimed may be with or without merit, but that position would be determined in the outcome of the proceedings involved in the dispute. The dispute over entitlements, necessarily translates into a consequential dispute over apportionment of the compensation amount. Therefore, we are of the view that the appropriate course of action that the Land Acquisition Officer, Respondent No.1 ought to have taken, was to make a reference of such dispute to the jurisdictional Civil Court. Since such reference has not been made, we are of the view, without expression of any opinion on the merits of the matter, that it would only be proper to direct Respondent No.1 make a reference of the dispute over apportionment of compensation to the Civil Court having territorial jurisdiction over the lands in question, under intimation to the Petitioners and all the other Respondents, including the intervenors. The

intervenors in this Writ Petition are at liberty to adopt such proceedings as advised before the Civil Court.....”

41. In **Sojar @ Rukminibai** (supra), we had the occasion to deal with the several precedents on the subject of Land Acquisition Officers or competent authorities usurping jurisdiction to decide apportionment disputes and hurriedly disbursing the compensation amounts to some of the parties to the apportionment disputes. After reference to earlier Division Bench decisions in **Arun s/o Trimbakrao Lokare Vs. State of Maharashtra and Others**⁴, **Rajaram Waman Rane and Others Vs. Ramkrishna Mahadev Rane and Others**⁵, **Pandurang Balu Pujare and Anr Vs. The Competent Authority and Sub-Divisional Officer and Others**⁶ and **Shriram R. Deshprabhu Vs. State of Goa and Others and Connected matters**⁷, and **Ashok More Vs. Union of India and Others**⁸, in the context of *pari materia* to provisions of the NH Act, 1956, we held that the provisions of Sections 3H(3) and 3H(4) of the National Highways Act [which are *pari materia* with the provisions in Sections 19C (3) and 19(C)4 of the MH Act] must be construed harmoniously. Therefore, while the competent authority or the LAO may proceed to determine the issue of compensation entitlement, there was no question of the competent authority or the Land Acquisition Officers deciding apportionment disputes given the clear and categorical provisions on the subjects.

⁴ 2017 (6) Mh. L.J

⁵ 2018 SCC Online Bom 6437

⁶ WP/10577/2024 decided on 10 January 2025

⁷ 2023 (2) ALL MR 72

⁸ 2017 (2) ALL MR 792,

42. Adopting our reasoning in **Sojar @ Rukminibai** (supra), the impugned order to the extent that it usurps the jurisdiction to decide apportionment disputes or directs the disbursal of the compensation amounts according to the decision of the apportionment disputes will have to be interfered with.

43. Mr. Dada's argument about the firm not being the owner of the larger property of which the acquired property forms a part, or that there was no claim of compensation from the firm and therefore, there was no dispute of apportionment, are untenable. Mr. Dada stressed on the firm's balance sheet as of 31 March 2008 at Exhibit-F (pages 201 to 205) to contend that the property was not reflected in the firm's balance and, therefore, cannot be considered as the firm's property.

44. At least, *prima facie*, the above contention cannot be accepted. The three conveyance deeds dated 02 February 2008 by which the properties were purchased at an aggregate amount of Rs.8.5 crores show that the purchaser of these properties was the firm represented by its four partners. Even the LAO, in his impugned order, referred to 7x12 extracts at Exhibit-B (pages 175 to 177), which record the name of the firm through its four partners.

45. Besides, the balance sheet of the firm as of 31 March 2008 refers to the amount of Rs.9,13,76,865/- on the asset side under the head of "Project Account". The details of the said amount of Rs.9,13,76,865/- as appearing in the Profit and Loss Account for the year ended on 31 March 2008 includes land cost of Rs.8,50,00,000/-. The breakdown of the

land cost is shown as under:-

- (i) Rs.2.59 crore as per the deed of conveyance bearing Serial No.MLS 906/2008 at page No.45,
- (ii) Rs.2.59 crore as per the deed of conveyance dated 02 February 2008 bearing Serial No.MLS 914/2008 at page No.92
- (iii) Rs.3.31 crore as per copy of conveyance deed dated 02 February 2008 bearing MLS 914/2008 at page No.133.

46. The aggregate of the above-referred three figures comes to Rs.8.5 crores. From this, the contention that the properties, including the acquired properties, are not reflected in the firm's balance sheet cannot be *prima facie* accepted. The aggregate amount of Rs.9,13,76,865/- as appearing under the head "Project Account" in the balance-sheet on the asset side, *prima facie* includes the cost of Rs.8.5 crores for which these lands were acquired, and other charges like franking, registration etc, which are debited under the Profit and Loss Account.

47. The firm's balance sheet upon which considerable stress was laid by Mr. Dada also suggests that for acquiring three properties, loans were obtained from the Cos-mos Co-operative Bank Ltd. and Options Developers & Builders. Ledger account filed in the petition shows that the loan obtained from the Co-operative Bank Ltd. is utilised for making payment for acquiring three properties which are subject matter of the acquisition. This is a reasonable

inference to draw on the perusal of the entries in the balance sheet and the ledger of Pune Property (page 204 in which payments made to various sellers are appearing therein tallies with the names appearing in three conveyance deeds dated 02 February 2008.

48. The balance sheet as of 31 March 2019 under the current assets shows the work in progress of Rs.25,53,82,581/-. This consists of opening work in progress of Rs.23,61,25,511/-. The break-up of the work in progress is not enclosed in the petition but there being no other land which the parties have purchased from 2008-2019, the reference to the work in progress in the balance sheet of 31 March 2019 would appear to include the 3 lands under consideration which as per the balance-sheet of 31 March 2008 was shown under the head "Project Account" and now shown under W-1-P.

49. Mr. Dada' contention that the firm had not lodged any compensation claim also cannot be accepted. Exhibit I is the letter dated 1 November 2022, in which the firm, through its two partners, respondent Nos. 4 and 5, lodged the claim on behalf of the firm. In the said letter, respondent Nos. 4 and 5 claimed that the property belongs to the firm and that compensation should be given to all four partners equally. There appears a deadlock between the partners of the firm on the apportionment of compensation. Based upon such deadlock, neither partners can seriously allege that there is no claim on behalf of the firm, so there is no apportionment dispute.

50. Suffice it to note that from the material on record, it is apparent that there was a serious dispute about the apportionment of the compensation amount between the partners of the firm. There was serious dispute concerning the apportionment of the compensation payable for the acquisition of the properties which *prima facie* belonged to the firm of which they were the partners. The LAO had no authority or jurisdiction to decide such disputes of apportionment. The LAO had no option, in the facts of the present case, than to refer such apportionment dispute to the Civil Court for its determination.

51. Normally, we would not have gone into the issues of the firm's balance sheet, etc. However, since considerable stress was laid by Mr. Dada on this singular circumstance, we were left with no option but to observe how *prima facie* even the balance sheet of the firm reflects the purchase of the three properties, a portion of which is now acquired under the MH Act. Besides, the three conveyance deeds referred to the firm purchasing these properties through four partners. Even the 7x12 extracts are in the name of the firm through four partners. There is obviously a serious dispute between the partners *inter-se*. Since the Petitioners (two partners) are at loggerheads with the other two partners (fourth and fifth Respondents), there appears to be a logjam about representing the firm. None of the partners can take advantage of this unfortunate situation and raise pleas like there was no claim on behalf of the firm or that there was no apportionment dispute regarding the compensation payable for the acquisition of the property *prima facie* belonging to the firm.

52. In any event, the LAO clearly had no authority or jurisdiction to decide such complicated issue of apportionment. As explained in **Vinod Kumar** (supra), this was one of the reasons why the legislature deemed it appropriate that such disputes of apportionment are best decided by the Civil Courts. Accordingly, we allow this Petition by quashing and setting aside the impugned order dated 11 March 2024 to the extent it purports to decide the apportionment dispute and directs the disbursal of the compensation amount to the individual partners of the firm.

53. Further, we direct the LAO to refer the apportionment dispute to the Principal Civil Court of Original Jurisdiction, within the limits of whose jurisdiction the acquired land is situated, i.e., the Competent District Court at Pune. This reference should be made within two months of today. The Civil Court must decide this apportionment dispute according to the law and on its merits. The observations in this order concerning the apportionment dispute are only *prima facie* and in response to the contentions on behalf of the fourth and fifth respondents. The Civil Court should not be influenced by these observations while deciding the apportionment dispute.

54. Upon receipt of intimation from the LAO about making the reference to the Competent District Court at Pune, this Court's registry is directed to forward the amount deposited by the State Government/LAO in this Court pursuant to the orders made in Writ Petition No.4363 of 2024 and continued in this Petition, to the Registrar of the Competent District Court at Pune. The Competent District Court at Pune will ensure that this amount is invested in an appropriate interest-

bearing instrument with the Nationalized Bank. This amount shall abide by the decision of the Competent District Court at Pune on the apportionment dispute.

55. Considering the fair stand adopted by Ms. Raje, the learned AGP, we refrain from imposing costs on the LAO or the State Government. However, this was a fit case to impose costs on the fourth and fifth Respondents. Still, we refrain from imposing such costs because we hope that the partners of the third Respondent firm will at least attempt to settle their disputes, including this apportionment dispute, amicably or through mediation. Any imposition of costs at this stage would not help in an amicable settlement.

56. The Rule is made absolute in the above terms without costs order. All concerned must act upon an authenticated copy of this order.

(Jitendra Jain, J)

(M. S. Sonak, J)