

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5053 of 2014

- 1) Jankiram s/o Balbhim Shinde
Age: Major, occu. Agricultural,
- 2) Sundarrao s/o Balbhim Shinde,
Age: Major, occu. Agricultural,
- 3) Machindra s/o Dagdu Shinde,
Age: Major, occu. Agricultural,
- 4) Ajinath s/o Dagdu Shinde,
Age: Major, occu. Agricultural.

All R/o Manjarsumba, Tq.Beed,
District Beed.

- PETITIONERS

VERSUS

- 1) The State of Maharashtra
Through its Secretary
Department of Land Revenue,
Mantralaya, Mumbai-32.
- 2) The District Collector,
Beed (Special Land Acquisition
Officer,Beed), Tq. and
District Beed.
- 3) The Chief Executive Engineer,
Department of Minor Irrigation,
(Water Conservation), Beed.
Tq. and Dist. Beed.
- 4) The Deputy Executive Engineer,
Department of Minor Irrigation,
(Water Conservation), Beed,
Tq. and Dist. Beed.

- RESPONDENTS

Mr. Manoj U.Shelke, Advocate for Petitioner/s
Mr. SG Karlekar, AGP for Resp.Nos. 1 & 2;

**CORAM : R.M.BORDE &
P.R.BORA,JJ.**

DATE : 10th JULY,2015.

ORAL JUDGMENT (PER:- R.M.BORDE,J.)

1) Heard. Rule, with the consent of parties, the petition is taken up for final disposal at the admission stage.

2) According to the petitioners, Respondent No.4, which is an acquiring body, has taken over possession of the agricultural lands belonging to the petitioners. It is the contention of the petitioners that the respondents have taken over the possession of the agricultural property bearing Survey No. 134 admeasuring 1 hectare and 04 R., situated at village Manjarsumba in the year 2003, without initiating the proceedings under the provisions of Land Acquisition Act, 1894 (for short, the Act) and without making payment of compensation. The land has been acquired for construction of village water tank. The petitioners state that as a result of

excavation activities by the respondent authorities, the black soil in the field has been taken away and big trenches are dug in the agricultural property belonging to the petitioners. The petitioners also contend that as a result of taking over possession of the property by the respondents, that too without initiating the proceedings under the Act, they are being deprived of the usufructs of the land for last more than ten years. The petitioners, as such, seek directions against the respondents for initiation of the proceedings under the Land Acquisition Act and for determination of fair compensation payable to them and for making actual payment of compensation within stipulated period.

3) In response to the notice issued by this Court, Respondent No.2 – Collector, Beed, who is present in the Court, has presented an affidavit in reply, wherein it has been stated that the land, in question, has been taken in possession

for the purposes of construction of Manjarsumba village water tank under Employment Guarantee Scheme (EGS). It is admitted that possession of the property, in question, has been taken over in yuear 2003 and some work had been carried out. However, it is stated that owing to unavailability of sufficient funds, only 10% of the work could be completed. It is further stated that the Government has taken a decision to abandon the project, as a result of which, the land which was taken in possession, shall have to be returned back to the petitioners. It has been also stated in the affidavit in reply that whatever amount of compensation/damages, payable to the petitioners on account of deprivation of the landed property or owing to non-user of the land as a result of temporary acquisition, such damages/compensation would be ascertained after making due enquiry and amount would be disbursed to the petitioners. Respondent No.2 has undertaken to complete such enquiry within a period of eight weeks from today and further time

of 12 weeks' is prayed for payment of actual amount to the petitioners.

4) In view of the affidavit in reply, this petition needs to be disposed of with direction to Respondent No.2 to determine quantum of damages sustained by the petitioners on account of temporary acquisition of landed property belonging to them from 2003 onwards till this date. The Collector shall also determine the quantum of damages sustained by the petitioners on account of lifting of black cotton soil from the land and digging of trenches in the agricultural property. The aspect of monetary loss sustained by the petitioners owing to temporary acquisition of the property, and their inability to enjoy the usufructs of the property since last ten years, shall also be taken into account. The Collector shall determine the amount of damages, after extending due opportunity of hearing to the petitioners, as expeditiously as possible and preferably within a

period of eight weeks from today. The petitioners shall cause appearance before the Collector on 20th July, 2015 and as such, no separate notice for causing appearance before the Collector, would be necessary. The Collector shall also ensure payment of damages so determined, expeditiously and preferably within a period of 12 weeks from such decision. It would be also responsibility of Respondent No.2 – Collector to ensure return back possession of the property to the petitioners/agriculturists by drawing panchanama in presence of the petitioners, within eight weeks from today.

5) It would be open for the petitioners, in the event they disagree for the quantum of compensation awarded by the Collector, to resort to appropriate remedies, available under law for claiming enhanced amount of compensation/damages.

6) In the peculiar circumstances, since the petitioners are constrained to approach this

court, we direct Respondent No.2 to pay costs, quantified at Rs.5,000/- (Rupees five thousand) to the petitioners.

7) Rule is accordingly made absolute in the aforesaid terms.

sd/-
(P.R.BORA)
JUDGE

sd/-
(R.M.BORDE)
JUDGE

bdv/