

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.4767 OF 2013
WITH
CIVIL APPLICATION NO.1206/2014**

Sanjay Dilip Patil & Ors. ...Petitioners.
V/s.

The State of Maharashtra & Ors. ...Respondents.

Mr. Rajaram V. Bansode for the Petitioner/applicant.

Mrs. M. P. Thakur, AGP for Respondent Nos.1 to 5, 7 to 9 & 11.

Mrs. S. V. Bharucha for Respondent No.3.

Mr. Satish Upadhyay i/b M. V. Kini & Co. for Respondent No.6.

Mr. R. S. Apte, Sr. Advocate i/b Mr. Anand S. Kulkarni for respondent No.12.

**CORAM : A.S.OKA &
VL. ACHLIYA,JJ.**

DATE : 21st SEPTEMBER, 2015.

P.C.:

. Heard learned Counsel appeared for the petitioner. We have perused the affidavit of Shri Sattar Ismail Mulla, Sub Divisional Engineer, National Highway Sub Division No.30, Shetphal, District-Solapur. It records that inquiry under Section 5(A) of the Land Acquisition Act, 1894 is in process. The paragraph 8 of the said affidavit reads thus:

8. I say that after following due procedure of law under the LAQ, and after acquisition of the land from the farmers thereof, the further land will be acquired and construction of further road widening will be carried out."

2. We accept the said statement made in paragraph 8 of the said affidavit.

3. In this petition, there is an apprehension expressed that the petitioners will be illegally dispossessed for widening of road.

4. In view of categorical statement made in paragraph 8 of the said affidavit, it is obvious that petitioner cannot be dispossessed unless due process of law is followed as per the provisions of the law relating to compulsory acquisition. Thus, it follows that unless urgency clause is applied after giving notice to the petitioner or unless an award is made, the petitioner cannot be dispossessed.

5. Inquiry under section 5(A) of the Land Acquisition Act, 1894 is still pending. Issue regarding public purpose will be gone into in the said inquiry.

6. By accepting the aforesaid statement and subject to what is observed above, the petition is disposed of. Civil Application 1206/2013 does not survive and the same is disposed of.

(V. L. ACHLIYA, J.)

(A. S. OKA, J.)

C E R T I F I C A T E

“ Certified to be true and correct copy of the original signed Judgment/Order.”