

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION No. 1240/2013.

Janaradhan Haribhau Hend and another.

-VERSUS-

The National Highway Authority of India, Amravati and another.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

**CORAM : B.P.DHARMADHIKARI &
S.B.SHUKRE, JJ.**

DATE : MARCH 17, 2015.

Heard Shri S.S. Sharma, learned Counsel for the petitioners, Shri A.A. Kathane, learned Counsel for respondent no.1 and Shri N.R. Rode, learned A.G.P. for respondent no.2.

Learned A.G.P. sought adjournment to produce original record for the perusal of this Court, however, we have rejected that request.

It is not in dispute that notification under Section 3 C(1) of the National Highways Act, 1966 came to be published on 03.03.2012 and petitioners raised objection on 13.03.2012. Thereafter, petitioners have not been extended any opportunity of hearing. A further notification under Section 3B has been issued on 23.11.2012, and petitioners filed objections thereto on

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12.12.2012. Even in that objection, petitioners reiterated the objection filed by them on 13.03.2012 and of not extending them opportunity of hearing.

It is in this background Shri Sharma, learned counsel for petitioners has invited our attention to defence raised by the respondents. He points out that the respondents claim that petitioners were heard on 13.03.2012, when they filed their objections. Order sheet in Land Acquisition matter maintained by respondent no.2 is shown to this Court to demonstrate that there is no order sheet for date 13.03.2012, and hence, story of extending opportunity of hearing to petitioners is, incorrect.

Shri Rode, learned A.G.P. and Shri Kathane, learned counsel appearing for respondents are opposing any intervention by this Court. Shri Kathane, learned Counsel submits that work of four laning of National Highway has already commenced and therefore, situation has become irreversible.

Learned A.G.P. submits that as there is no mention in the order sheet, it does not imply that petitioners could have been heard. Only to demonstrate that petitioners are heard on 13.03.2012, he again reiterates his request to produce records before this Court.

With the assistance of learned counsel for the parties, we have perused the order sheet which is tendered on

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record along with rejoinder affidavit filed by the petitioner. The order sheet dated 06.03.2012 mentions gazette notification dated 25.11.2012, and its publication in local newspapers on 03.03.2012. Next order sheet is 20.04.2012. Order sheet dated 20.04.2012 mentions that as per the publication in gazette and local newspaper, total 13 objections were received. The respondent no.2 has asked the office to call for the report from the concerned departments on the said objections. This order sheet therefore, clearly shows that there could not have been any hearing before receipt of comments of concerned departments on the objections. Story of hearing petitioners on 13.03.2012 is, therefore, falsified.

The facts however, show that work of four laning has progressed further. According to the petitioners, they still continue in possession of their lands. According to respondent no.1, in view of language of Section 3D, the land vests in the Central Government.

As the work is proceeding further and there is basic infirmity, a valuable right available to the petitioners has been violated, we find it appropriate to direct the respondent no.2 to give an opportunity of hearing to the petitioners before proceeding further with the work of four laning on their lands. Petitioners shall appear before the respondent no.2 for said

purpose on 15.04.2015 and shall abide by his further instructions in the matter. The said Authority shall after perusal of the objections, reports of concerned departments and also hearing the respondent no.1 in the matter, take suitable decision upon petitioners objection's in accordance with law, within a period of next two weeks.

With these directions and keeping all rival contentions open, we partly allow the writ petition. No costs.

JUDGE

JUDGE

Rgd.