

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

Writ Petition No.2872/2014

Narendra s/o Shankarrao Potode and another Vs. State of Mah. And others.

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

Court's or Judge's
Orders.

Shri S.G. Karmarkar, Advocate for the petitioners.
Shri Nitin Rode, AGP for respondents 1 and 3.

CORAM : B.P. Dharmadhikari &
A.P. Bhangale, JJ.
DATE : February 20, 2015.

The petitioners-land owners are before us complaining of undue harassment. Advocate Karmarkar submits that on third occasion land of the petitioners is being acquired. He further contends that instead of providing approach road to the bridge from the middle of field, it could have been provided through periphery thereby avoiding sub-division of agricultural land. He is relying upon the judgment of the Hon'ble Apex Court reported at **(2013) 8 SCC 99** (Women's Education Trust and another Vs. State of Haryana and others) to support his contention about denial of Section 5-A of the Land Acquisition Act, 1894 opportunity. He has also invited our attention to copy of the map placed as Annexure-E on record.

Learned AGP submits that the bridge has already been constructed to connect Katol-Jalalkheda road. Approach way to that road is to be provided and the Experts/Engineers have looked into the alternate alignment for such approach way suggested by petitioners. It is submitted that alternate way if accepted, approaches bridge from its side i.e. at a right angle and, therefore, creates an

accident prone spot.

This reply-affidavit is filed by respondent no.3 on 22.9.2014. There is no rejoinder thereafter.

Perusal of map at Annexure-E filed by petitioner supports the stand in reply-affidavit. Approach way shown therein in green arrows as alternate way by petitioner touches bridge by its side. The land under acquisition aligns with the bridge mouth and, therefore, has been chosen.

In this situation, as bridge is already constructed, it is apparent that there cannot be any other alternate land available. No case of denial of opportunity in Section 5-A inquiry is made out.

Decision appears to have been taken in public interest. No case is, therefore, made out warranting interference. Writ petition is rejected. No costs.

JUDGE

JUDGE

Ambulkar