

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

WRIT PETITION NO. 417 OF 2015

Ravindra Shivilal Agrawal and others ...PETITIONERS

versus

The State of Maharashtra and others ...RESPONDENTS

.....
Mr. Ajeet B. Kale, Advocate for petitioners
Smt. S.S. Raut, AGP for respondents No. 1 to 3

.....
**CORAM : S. V. GANGAPURWALA AND
K.K. SONAWANE, JJ.**

DATED : 7th JULY, 2016.

Order :-

1. Mr. Kale, learned counsel for petitioners submits that petitioners had applied for grant of non-agricultural permission in respect of land Gut No. 8-A admeasuring 2 Hectare, 80 *Aar* on 17-11-2006, however, no decision has been taken upon said application. As such, in view of provisions of Section 44 of the Maharashtra Land Revenue Code, 1966(for short "MLR Code") non-agricultural permission is deemed to have been granted. According to learned counsel, area of 90 *Aar* which is earmarked for acquisition was not an impediment for granting non-agricultural permission. Said notification was also issued subsequent to the application of the petitioners. As no decision has been taken within time stipulated under section 44 of the MLR Code, non-agricultural permission is deemed to have been granted.

2. Learned Assistant Government Pleader states that possession of the land to the extent of 3 Hectare, 60 *Aar* from land Gut No. 8-A had

been taken by acquiring body way-back in the year 2009 itself as such, non agricultural permission could not be granted.

3. We have considered the submissions canvassed by learned counsel for respective parties. *Taba Pawati* has been also placed on record. From land Gut No. 8-A land admeasuring 90 *Aar* is taken in possession and remaining land appears to be from land Gut Nos. 8-B and 8C. The petitioners are concerned to the extent of land admeasuring 2 Hectare, 80 *Aar* from Gut No. 8A. It is a fact that out of said 2 Hectare 80 *Aar*, 90 *Aar* land is taken in possession by the Acquiring Body. Earlier section 4 notification was issued, however, the same has lapsed.

4. We would have considered the request of the petitioners about deemed non-agricultural permission, however, considering the fact that out of area owned and possessed by the petitioners some part is under acquisition, we pass following order-

Respondent-authority concerned shall consider application of the petitioners for grant of non-agricultural permission as early as possible preferably within a period of 90 (Ninety Days) from the date of this order.

5. Considering the aforesaid aspects of matter, writ petition stands disposed of. No costs

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]