

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

WRIT PETITION NO. 7565 OF 2015

1. Nanebai W/o Kisan Waybhat,
Age : 75 Years, Occu. : Agri. and Household
2. Mohan S/o Kisan Waybhat,
Age : 50 Years, Occu. : Agri.
3. Ashruba S/o Kisan Waybhat,
Age : 45 Years, Occu. : Agri.

All R/o. : Limbaganesh,
Tq. and Dist. : Beed

.. Petitioners

Versus

1. The State of Maharashtra,
Through the Secretary, Revenue and
Forest Department, Mantralaya,
Mumbai-32
2. The Collector,
Collectorate, Beed
3. The Deputy Collector (Land Acquisition),
Jayakwadi Project, Beed,
Dist. : Beed
4. The Executive Engineer,
Minor Irrigation (Local Sector),
Division Beed, Dist. : Beed

.. Respondents

Shri Dnyaneshwar A. Bide, Advocate for Petitioners.
Smt. M. A. Deshpande, A. G. P. for Respondent Nos. 1 to 3.
Respondent No. 4 served.

**CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.**

DATE : 23RD FEBRUARY, 2016.

PER COURT :-

1. Mr. Bide, the learned counsel submits that, the land of the present petitioners from Gut No. 139 was also included in acquisition. The possession of the land of petitioners from Gut No. 139 of village Limbaganesh is also taken by the respondents. However, in the award the name of present petitioners and their land do not appear. The respondent No. 4 had also taken possession. However, as per the affidavit filed by the respondent, the receipt of possession was not forwarded by the respondent No. 4 to the respondent No. 3. The learned counsel submits that, in the revised proposal the land of the petitioners is not included though the petitioners have lost their possession. According to the learned counsel the respondent be directed to take up acquisition proceedings.

2. The learned A. G. P. states that, the respondent No. 4 has forwarded the proposal. Initially the land of petitioners was included but in the revised proposal the land of the petitioners is not included. The respondent No. 4 has not even forwarded the possession receipt alongwith the proposal in respect of the land of the petitioners. The learned A. G. P. submits that the office of the respondent No. 3 has directed the office of the respondent No. 4 and office of Deputy Superintendent of Land Records for remeasurement of the petitioners land Gut No. 139 vide letter dated 12.02.2016. However, the report of remeasurement is not yet received and if as per the remeasurement report if the land of the petitioner is found to be necessary for the said project then the land acquisition proceedings would be undertaken.

3. We have considered the submissions.

4. There is no possession receipt on record so as to come to a definite conclusion. 7/12 extract is placed on record regarding the ownership of the petitioners over land Gut No. 139. In the said 7/12 extract also nothing is mentioned about land to be affected in the acquisition. No doubt, as per the affidavit filed the joint measurement was undertaken. As per the earlier measurement which is signed by the representative of the respondent No. 4 it is observed that land Gut No. 139 was required to be acquired as per the joint measurement report. However, in the revised list of lands the petitioners land is not included in acquisition proposal. The Deputy Collector (Land Acquisition) has filed affidavit in reply stating as under -

“5. I say and submit that, the office of the respondent No. 3 also again directed the office of the respondent No. 4 and the office of the Dy. Superintendent of Land Records, Beed for remeasurement of the petitioners land from Gut No. 139 of village Limbaganesh, Taluka and District. Beed by way of letter dated 12.02.2016.

7. I say and submit that, the report of the remeasurement from office of the respondent NO. 4 and office of the Dy. Superintendent of Land Records, Beed is not yet received to the office of the respondent No. 3.

8. I say and submit that, as per the remeasurement report if the land of the petitioners is found to be necessary for the said project, then the land acquisition as per the procedure will be followed.”

5. The remeasurement is already directed in respect of the land of the petitioners. The office of the Deputy Superintendent of Land Records shall carry out the remeasurement as directed vide letter dated 12.02.2016 by the office of the respondent No. 3 expeditiously and preferably within three (3) months. In case, as per the remeasurement report if the land of the petitioner is found necessary then the respondent shall take up acquisition proceedings preferably within three (3) months from the date of receipt of the report. In case, the remeasurement report is not favourable to the petitioners the petitioners are at liberty to take further steps as is permissible in law.

6. The writ petition is accordingly disposed of. No costs.

[A. M. BADAR, J.]

[S. V. GANGAPURWALA, J.]

sam/Feb.16