

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

13 WRIT PETITION NO. 3975 OF 2014
WITH CA/12467/2016 IN WP/3975/2014

KASHINATH GOVIND GADEKAR AND OTHERS
VERSUS
UNION OF INDIA AND OTHERS

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Advocate for Petitioners : Bajaj Anil S.
Advocate for Respondents : S.B. Deshpande for R1
Advocate for Respondents : S.B. Talekar for R2

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**CORAM : S.V.GANGAPURWALA &
P.R. BORA, JJ.
DATED : 10.10.2016.**

P.C. :-

1. Mr. Bajaj, the learned counsel for the petitioners submits that, when the writ petition was filed before this court the land of the present petitioners was not under acquisition, no notification was issued under the provisions of the National Highways Act, 1956, with regard to the acquisition of the land owned by the petitioners. After the filing of the writ petition, for the first time, notification was issued on 30.05.2015 and an award has been subsequently passed on 04.07.2016.

2. The learned counsel submits that, it was erroneous on the part of the respondents to suggest that, the petitioners has misled the

court and that their land was already a subject matter of notification. The learned counsel submits that, earlier also the land of the petitioners has been acquired. Now, because of the manner in which the highway is being extended the whole land of the petitioners would become waste. The petitioners will not be in a position to develop their land even the houses of the petitioners are being affected in the said acquisition. The respondents have also not adhered to the Schedule-1 and Schedule-2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act 2013. All these aspects are not considered by the respondents.

3. Mr. Deshpande, the learned A.S.G. states that, the work of extending the highway is almost completed up to the site of the petitioners and further work is with held because of the interim orders passed by this court. The land of the petitioners has been acquired under the award, while computing the compensation amount Schedule-1 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act 2013 has been followed. The highway is being extended as per the report submitted by the experts committee.

4. Mr. Talekar, the learned counsel for the highway authorities submits that, the award has been legitimately passed by the authority. The compensation as is due and payable to the petitioners has been assessed. The land is for expansion of the highway and not for urbanisation.

5. We have considered the submissions, now that the award has been passed the petitioners can approach Arbitrator as contemplated under Section 3G of the National Highways Act, 1956, with regard to the grievance about the compensation amount and entitlement of the petitioners as per Schedule-1 and 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act 2013.

6. This court cannot sit in appeal over the decision of the experts with regard to the alignment of the highway. It is for the experts to consider the same.

7. Learned counsel for the petitioners states that, crops are standing on the field and the respondents be directed to consider the same.

8. It is for the respondents to consider whether the work is to

be continued further or can be taken up after one month, however, we cannot pass any order in this regard.

9. Considering the above, writ petition is disposed of. No costs. In view of disposal of writ petition, civil application also stands disposed of.

[P.R.BORA, J.]

[S.V. GANGAPURWALA, J.]