

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

WRIT PETITION NO. 4703 OF 2016

1. Nandkumar s/o Kundlik Wagh
Age 59 years, Occu: Agri
R/o Adul (Kh), Tq. Paithan
Dist. Aurangabad.

2. Satish s/o Nandkumar Wagh
Age 30 years, Occu: Agri
R/o Adul (Kh), Tq. Paithan
Dist. Aurangabad.

... Petitioners

VERSUS

1. Union of India
Through Its Secretary,
Ministry of Road Transport and
Highways, New Delhi

2. Project Director,
Project Implementation Unit,
B-23, Kamgar Chowk,
CIDCO, N-4, aurangabad 431 003

3. The Competent Authority (Land
Acquisition)
Indian National Highway No.211
Deputy Collector, Land
Acquisition, Krushna Khore Vikas
Mahamandal, Aurangabad.

4. The State of Maharashtra,
Through its Principal Secretary,
Public Works Department,
Mantralaya, Mumbai 400 032

... Respondents.

Mr. S. S. Tope, Advocate for the petitioner,
Mr. S. B. Talekar, Advocate for respondent NO.2,
Mr. B. V.Virdhe, AGP for respondent No.4,

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 25th October, 2016

JUDGMENT (Per S.V. Gangapurwala, J):

1. Rule. Rule made returnable forthwith. With consent of parties, the petition is taken up for final disposal

2. Mr. Tope, the learned counsel for the petitioners submits that the land of the petitioners was acquired under the award dated 01.09.2014. Compensation is awarded, however, not in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The said Act of 2013 has been made applicable to the acquisition under the National Highways Act pursuant to Circular dated 03.02.2016 from 01.01.2015 and if compensation is not paid prior to 31.12.2014, though the award is passed prior to the said date, compensation is required to be paid as per the new Act of 2013.

3. According to the learned counsel for the petitioners, compensation was paid to the petitioners on 28.01.2015 by R.T.G.S. in the accounts of the petitioners. The learned counsel submits that even the Highways Authority has taken a decision on 28.09.2016 to award compensation as per the Act of 2013.

4. Mr. Talekar, the learned counsel for the respondent National Highways Authority submits that on 01.11.2014, the Competent Authority (Acquisition) had directed to the petitioners to submit account particulars and the documents for depositing the amount. The same was much prior to 31.12.2014. It was delay on the part of the petitioners in forwarding the documents and information as solicited by letter dated 1.11.2014. As such, the compensation is rightly paid.

5. We have heard the learned AGP also.

6. We have gone through the affidavit in reply filed by the Special Land Acquisition Officer. The Special Land Acquisition Officer has categorically admitted in his affidavit in reply that the petitioners are entitled for the compensation as per the Act of 2013 and the same is required to be done.

7. We need not go into other aspects of the matter in view of the letter dated 28.09.2016 issued by the National Highways Authority, whereby, it has taken a decision to grant escalation in the amount of compensation awarded. The award pursuant to which the land of the petitioners is acquired is also included in the same. The said letter is placed on record by the

petitioners. As the National Highways Authority has taken a decision to grant escalation in compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, we need not debate into the merits of the contentions.

8. The amount has been deposited as per the award dated 01.09.2014 in the accounts of the petitioners on 28.01.2015.

9. Considering the aforesaid conspectus of the matter, the respondents shall calculate the compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of the award dated 01.09.2014 with regard to the land of the petitioners. The said exercise shall be done expeditiously, preferably within six months from today and the amount be paid to the petitioners.

10. Rule is made absolute accordingly. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC