

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10544 OF 2015

GANGABAI PRALHAD KATWATE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. R.S. Deshmukh, Advocate h/f. Mr.P.P.Kulkarni
AGP for Respondents: Miss S.S. Raut.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 19TH JULY , 2016.

PER COURT:

Mr. Deshmukh, learned counsel for the petitioner submits that land of the petitioner and their ancestors was acquired vide award of the year 1961. 3 Acres 10 Gunthas of land was acquired. The litigation was pending in the Civil Court since the year 1965. The decree for partition was passed. When the decree was sent to the revenue office for partition, measurement was carried out by the office of the Taluka Inspector of Land Records (TILR). In the said measurement, it was noticed that apart from the area of 3 Acre 10 Gunthas of land acquired for the Latur-Ausa Road, additional 1 Acre 20 Gunthas land is also acquired for Latur-Ausa Road. However, no award has been passed for said 1 Acre 20 Gunthas land of Survey No. 27/B-2. The respondent State cannot hold the property of the petitioner without due process of law. The State is required, either to pay compensation for the land taken in their possession or to return the land. According to learned counsel, the petitioner had even given notice to the

respondents, however, to no avail. Learned counsel further submits that the measurement is carried out by the responsible officer from the office of TILR and said measurement specifically states about the excess land of the petitioner being affected by the Latur-Ausa Road, which is not acquired. According to learned counsel, it is erroneous on the part of the respondents to contend that no additional land apart from 3 Acre 10 Guntha land of the petitioner has been affected in road widening. The measurement map would falsify the said contention.

2] Learned AGP states that land of the petitioner's ancestors is acquired vide the award passed in the year 1961. Apart from the land of which award is passed in the year 1961, no additional land of the petitioner has been acquired. As such, no question arises for passing any separate award for the same.

3] We have considered the submissions. Documents on record show that possession for construction of Latur-Ausa road was taken in the year 1958 and subsequently, the award has been passed in the year 1961. the area of the land for which petitioner and their ancestors were interested, was to the extent of 3 Acre 10 Gunthas. The contention of the petitioners is that, apart from 3 Acre 10 Gunthas land, 1 Acre 20 Gunthas from Survey No. 27/B-2, is affected. For the said purpose, reliance is placed on the measurement carried out in the year 2004 at the time of partition of the properties pursuant to the decree of the Court in R.D. No. 134 of 1965. The said measurement map itself states that 1 Acre 20 Gunthas from Survey

No. 27/B-2 is affected in internal roads and Latur-Ausa Road. It is not clear as to how much area is affected under the internal roads and the area affected by the Latur-Ausa Road. The Latur-Ausa Road is constructed in the year 1961 of which award is also passed in the year 1961. If the acquisition of some part of the land from Survey No. 27/B-2 is made in 1961, the grievance of the petitioner certainly cannot be considered at this stage. Moreover, it is not clear as to how much area out of the same is affected in internal roads. We do not find any document to substantiate that subsequently some construction of Latur-Ausa Road has been made after the award is passed in 1961 and that some additional land of the petitioners was affected.

4] In the light of that, the grievance of the petitioner made in the present petition cannot be considered. In case there are some documents available to show that subsequently some area has been affected in Latur-Ausa Road, in that case, the petitioner may make an application to the authorities, which shall be considered by the authorities, on its own merits.

5] Writ petition is accordingly disposed of. No costs.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-