

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

Writ Petition No.6703 of 2015

Akkabai Rohidas Bhosale. .. **Petitioner.**

Versus

The State of Maharashtra & Others. .. **Respondents.**

Shri. P.R. Katneshwarkar, Advocate, for petitioner.

Shri. S.R. Yadav, Assistant Government Pleader, for
respondent Nos.1 & 2.

Shri. M.R. Sonwane, Advocate, for respondent Nos.3B to
3D & 4 to 6.

CORAM: T.V. NALAWADE, J.

DATE : 25 AUGUST 2016

ORDER:

1) The petition is filed to challenge the order made on Exhibit 81 of Land Acquisition Reference No.3/2006 by the Civil Judge, Senior Division, Shrigonda. Both sides are heard.

2) In LAR No.3/2006 application was moved by the respondent, Government for appointment of Cadestral

Surveyor as Court Commissioner to ascertain as to portion acquired during acquisition proceeding belongs to which party. There is dispute between two parties of the said proceeding. One party is contending that after the measurement made for taking possession of acquired land, the property was purchased by her like 2 hectares 40 R portion from Block No.1027 and the portion of her property is acquired for the project by the Government. On the other hand it is the case of the other side that the portion acquired belongs to him.

3) The record shows that the dispute was taken upto the Supreme Court and by setting aside the decision of this Court delivered in First Appeal No.343/2014 (between Akkabai and State of Maharashtra), the Supreme Court has remanded the matter to reference Court for fresh trial.

4) Almost in every order there is mention of joint measurement but it can be said that said joint measurement is not with reference to the respondent who purchased some portion after the so called joint

measurement which was probably conducted by the Government for acquisition in the presence of the persons who were on the record. It appears from the application given by the Government at Exhibit 81 that the Government is also not sure as to the ownership of the persons in respect of the acquired portion. The parties disputing are owners of some portions from the same block number and so the Government also wants to ascertain as to who is entitled to get compensation. It can be said that on the basis of sale deed executed in favour of the applicant, it can be ascertained as to whether the portion purchased by this applicant was acquired. There is other record like acquisition proceeding and so for adjudication of the dispute such measurement appears to be necessary and due to that such measurement is ordered by the trial Court.

5) The submissions is made by the learned counsel for the petitioner that there is some record available and in the past also similar applications made by some disputants were rejected. It is true that in the past, one of the contesting parties had filed applications for similar

relief and it was rejected. Now the Government wants measurement through cadestral surveyor and in view of the aforesaid circumstances this Court holds that such measurement is necessary. There is something more like complications created due to record created at the time of implementation of consolidation scheme and there is mention about such complication in the application made by the Government. In view of these circumstances this Court holds that it is not possible to interfere in the order made by the trial Court. In the result, the petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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