

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

26 WRIT PETITION NO. 10063 OF 2015

ANKUSH APPARAO SONWANSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. S. S. Thombre h/for Mr. P. V.
Ambade .

Addl. GP for Respondents 1 to 3 : Mrs. M. A. Deshpande
Advocate for Respondent Nos.4 and 5 : Mr. D. S. Manorkar

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

DATE : 22nd November, 2016

ORDER:

1. The petitioner is seeking directions against the respondents to pay the compensation for his acquired property as described in the Panchanama dated 03.10.2013 and valuation report dated 18.10.2013 prepared by the Executive Engineer, National Highway Division, Osmanabad.

2. Mr. Thombre, the learned counsel for the petitioner submits that the land of the petitioner from Gat No.136 situated at village Bhosga, Tq. Lohara, Dist. Osmanabad was acquired by the Highways Authority. The petitioner is the owner of Plot No.9. In form No.8, existence of two floors RCC Building is also mentioned. Respondent No.3 acquired the plot and construction over it, however, while determining the compensation

amount, has not valued the house and has given compensation only for the land. The learned counsel submits that on 22.03.2012, the petitioner had raised objection and had apprised the authority about the existence of the house. The notification under section 3(A) of the National Highways Act is issued on 20.01.2012. The Grampanchayat, on 13.04.2011 had granted no objection for construction of the Building. According to the learned counsel, the measurement report dated 20.06.2012 also mentions about the existence of the house. According to the learned counsel, even panchanama is made on 03.10.2013 by the Junior Engineer in presence of witnesses, wherein RCC frame structure is mentioned, the building having two floors and the dimension is also stated. Thereafter, valuation is made by the concerned authority about the said structure. However, the compensation of house is not paid and only compensation amount of the land Rs.13,26,384/- is paid without making any valuation of the structure. The respondents be directed to pay the amount of compensation of the structure as has been valued by the Executive Engineer, Sub Divisional Engineer and Junior Engineer.

3. Mr. Thombre, the learned counsel further submits

that the compensation is paid only in respect of 103 square meters of the constructed area and not in respect of the entire constructed area.

4. Mr. Manorkar, the learned counsel for Respondent Nos.4 and 5 submits that on the date when inspection was made, the construction of house was in progress and the same was not completed. The valuation has been made. "E" Statement makes the position clear.

5. We have also heard the learned AGP.

6. We have perused the "E" statement, wherein separate compensation is shown for the land and for the constructed portion. For constructed portion, compensation is shown to have been paid of Rs.11,79,884/- and for land, compensation of Rs.1,66,500/- is shown to have been paid.

7. If the petitioner has any grievance with regard to the quantum of compensation paid in respect of the constructed area, the petitioner is entitled to agitate the same before the Arbitrator where the petitioner has already moved for enhancement of compensation amount. The petitioner is allowed to amend the said petition before the Arbitrator and also entitled to place on

record, additional documents.

8. The Arbitrator shall consider the grievance raised by the petitioner with regard to the constructed area and quantum of compensation that the petitioner is entitled to and decide the same expeditiously, preferably within one year.

9. With these observations, writ petition is disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC