

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

Writ Petition No.2681 of 2016

* Sudam s/o Dayaram Borse,
Age 42 years,
Occupation : Agriculture
R/o Anawarde, Taluka Chopda,
District Jalgaon. .. **Petitioner.**

Versus

- 1) The State of Maharashtra,
Through the Secretary,
Revenue and Forests Department
Mantralaya, Mumbai - 32.
- 2) Collector of Jalgaon.
- 3) Superintendent Engineer,
Executive Engineer,
Tapi Patbandhare Vikas
Mahamandal, Sinchan Bhavan,
Akashwani Chouk,
Jalgaon 425 001.
- 4) Executive Engineer,
Lower Tapi Project,
Chopda, District Jalgaon.
- 5) The Assistant Engineer Grade-1,
Hatnur Canal Sub Division No.1,
Hated, Taluka Chopda,
District Jalgaon,
Lower Tapi Project Division,
Jalgaon. .. **Respondents.**

Shri. Prakashsingh B. Patil, Advocate, for petitioner.

Shri. A.S. Shinde, Assistant Government Pleader, for respondent Nos.1 and 2.

Smt. Chaitali Choudhari, Advocate, for respondent Nos.3 to 5.

**Coram: T.V. NALAWADE &
SANGITRAO S. PATIL, JJ.**

Date: 9 February 2017.

ORAL JUDGMENT:

Rule, rule made returnable forthwith.
Heard both sides, by consent, for final disposal.

2) The petition is filed for giving direction to the respondents to acquire the land of the petitioner which gets submerged due to water of Lower Tapi Project. Both the sides are heard.

3) It is the case of the petitioner that his land Gat No.154 of village Anwarde (Khd), Tahsil Chopda, District Jalgaon admeasuring 4 hectares 49 R is situated on the bank of the

river and gets submerged due to water of dam but no acquisition proceeding in respect of the land of the petitioner is started. Even when he has given proposal to the respondents to sell the land, this proposal is not being considered by the respondents.

4) The record produced shows that there is a certificate of Assistant Engineer of the said project showing that entire Gat No.154 gets submerged, it has come under this project. Learned counsel for the respondent produced a recent report dated 17-9-2016 to show that only 1.10 hectares land out of 4.49 hectares gets submerged. In any case, when the officers of the authority are sure that the land gets affected and at least some portion of the land gets submerged due to water it was necessary for them to take steps either of the acquisition or for purchasing by private negotiations as per the scheme framed by the Government. Unfortunately that is not done.

5) In view of these circumstances, this Court holds that the respondents need to take immediate steps either for the acquisition or for purchasing the land as the petitioner is ready to sell the land by private negotiations. These things need to be done within six months from today. The respondents are to make it sure as to whether the entire land will get submerged as per capacity of the dam then the entire land is to be acquired. In those terms rule is made absolute.

Sd/-
(SANGITRAO S. PATIL, J.)

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

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