

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

BENCH AT AURANGABAD.

WRIT PETITION NO.8225 OF 2016

Eknath S/o Sitaram Mote ... Petitioner.

Versus

National Highway Authority
of India and others. ... Respondents

...

Mr.V.D.Salunke, advocate for the petitioner.
Mr.S.W.Munde, A.G.P.for the State.
Mr.U.R.Awate, advocate holding for Mr.Talekar and
Associate for Respondent Nos.1 and 4.

...

**CORAM : S.V.GANGAPURWALA AND
S.M.GAVHANE, JJ.**

Date : 14.11.2017.

PER COURT :

1. Heard Mr.Salunke, learned counsel for
the petitioner and Mr.Awate, learned counsel for
the Respondents.

2. The petitioner seeks directions to
cancel the by-pass at Pargaon (Basle), Tq.Wasi,
Dist.Osmanabad and construct the highway at

existing site by expanding the National Highway 211 at Pargaon.

3. Upon hearing the learned counsel for respective parties, it is manifest that the acquisition has been done resorting to the provisions of the National Highways Act. The notifications are issued. The map shown as per notification has become final considering the award already passed. At this stage, the notifications issued under the provisions of the National Highways Act, culminating into the award can not be a subject matter of challenge before this Court. However, both the parties will be required to adhere to the notifications issued by virtue of which the award has been passed.

4. It appears that the petitioner did not allow the measurement of his land to take place and subsequently in the award, nothing is shown about the construction.

5. Mr.Salunke, learned counsel submits that Respondents may carry out the measurement in

presence of the petitioner. Mr.Awate, learned counsel accedes to the same.

6. The Respondent authorities shall carry out the measurement in respect of the petitioner's land as per the map attached to the notification issued under the National Highways Act, for the purpose of acquisition and pursuant to which the award has been passed.

7. Upon the measurement being carried out, the parties can take further recourse. If after the measurement is carried out, it is shown that the constructed portion of the petitioner's land is not included then the parties certainly would be governed by the said measurement and/or if it is shown that the petitioner's construction is included/affected in acquisition then the petitioner can claim compensation as may be permissible in a Reference that may be filed before the Arbitrator under the National Highways Act. In that event, all contentions of respective parties are kept open.

8. Mr.Awate, learned counsel submits that the measurement would be carried out within three (3) weeks.

9. Mr.Awate, learned counsel submits that the construction is carried out by the petitioner after the initial notification issued under National Highways Act.

10. Mr.Salunke, learned counsel disputes the said fact.

11. With these observations, the Writ Petition is disposed of. No costs.

(S.M.GAVHANE, J.)

(S.V.GANGAPURWALA, J.)

