

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

WRIT PETITION NO. 11417 OF 2015

Baburao Sandu Sonone .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 12521 OF 2015**

Janardhan S/o Aouchitrao Sahane
and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 12543 OF 2015**

Shardabai Ramesh Mohite and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Sandeep N. Lute, Advocate for Petitioners in all matters.
Mrs. M. A. Deshpande, Addl.G.P. for Respondent Nos. 1 and 2 in
all matters.
Shri Vaibhav Deshmukh, Advocate for Respondent Nos. 3 and 4
in all matters.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.
DATE : 09TH FEBRUARY, 2017.**

PER COURT :

. We have heard Mr. Lute, the learned counsel for petitioners, the learned Additional Government for respondent Nos. 1 and 2 and Mr. Deshmukh, the learned counsel for respondent Nos. 3 and 4.

2. The learned counsel for respondent Nos. 3 and 4 submits that, the petitioners are similarly situated persons as petitioners in Writ Petition No. 6723 of 2015 with other connected writ petitions decided on 10.10.2016.

3. After hearing learned counsel for respective parties, we pass following order.

4. Though, right to property is not a fundamental right it still remains a constitutional right. Nowadays, it has been brought within the contours of human right. The land of the petitioners-agriculturist is taken in possession by the respondents for the purpose of construction of percolation tank in the year 2008. Till date, the respondents have not taken up acquisition proceedings nor have paid any compensation amount to petitioners. Agriculture is the only source of livelihood of such agriculturists

their land is acquired and total apathy is shown by the respondent-authorities in the matter. No person can be deprived of his property without due process of law, without acquisition the property of the petitioners has been taken in possession. The respondent-state cannot lose the concept of a welfare state, it has to take recourse to the provisions of law while taking possession of the property. As the percolation tank is already constructed, it would not be appropriate to pass any orders with regard to possession, as the situation has become irreversible.

5. The learned A.G.P. on instructions of the Land Acquisition Officer who is present in the court does not dispute that proposal has been received from Zilla Parishad for acquisition. The respondent-state shall make endeavour to initiate acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 immediately. The notification as required under the provisions of the Act 2013 shall be issued expeditiously and preferably within three months from the date of this order and acquisition proceedings thereafter shall be completed within the period stipulated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The compensation amount that would be arrived at shall be paid to the petitioners upon passing of the award immediately. The state may also endeavour to pay advance

compensation to the petitioners if it is feasible.

6. The writ petitions accordingly are disposed of with aforesaid observations and directions. No costs.

7. As far as rental compensation is concerned, after the passing of the award the petitioners may take appropriate steps for the same.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Feb. 17