

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 24155 OF 2017

Shri Nagesh Bapu Bagal & Ors.

.. Petitioners

V/s

The State of Maharashtra & Ors.

.. Respondents

Mr. R.V. Bansode for the petitioners.

Mrs. M.P. Thakur, AGP for the State.

**CORAM: DR. MANJULA CHELLUR, CJ. &
N.M. JAMDAR, J.**

DATE : 12th SEPTEMBER 2017

P.C.:

The petitioners have come before this Court seeking following reliefs:

- “a. This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and thereby direct the Respondent Authorities including Respondent no. 14 Company not to commit the construction of extension/expansion/four lining of existing road viz. Ahmednager-Karmala-Tembhurni Road project State Highway 141 more than 12 meter in width without following due process of law laid down under the New act viz. “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013”.*
- b. This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and thereby direct the Respondent Authorities including Respondent no. 14 Company not to commit the construction of extension/*

expansion/four lining of existing road viz. Ahmednager-Karmala-Tembhurni Road project State Highway 141 more than 12 meter in width without following due process of law laid down under the New act viz. "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013" and not to disposes the Petitioners from the agricultural land/field situated just adjacent to the existing road in formation of 12 meter road in width including 7 meter Tar Road.

- c. this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order of direction and thereby direct the Respondent Authorities especially present Respondent No. 1, 9 and 10 that not to provide police protection to the Respondent Authorities especially the present Respondent No. 14 company for committing the construction of extension/expansion/four lining of existing road viz. Ahmednager-Karmala-Tembhurni Road project State Highway 141 more than 12 meter in width unless and until they follow due process of law laid down under the new act "The right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013" for acquisition of land more than the width of 12 meter of existing road.
- d. Pending hearing and final disposal of the present Writ Petition this Hon'ble Court be pleased to direct Respondent Authorities including Respondent No.14 Company not to commit the construction of extension/expansion/four lining of existing road viz. Ahmednager-Karmala-Tembhurni Road project State Highway 141 more than 12 meter in width without following due process of law laid down under the New act viz. "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013".
- e. Pending hearing and final disposal of the present Writ Petition this Hon'ble Court be pleased to direct the Respondent Authorities including Respondent No. 14 Company not to commit the construction of extension/expansion/four lining of existing road viz. Ahmednager-Karmala-Tembhurni Road project State Highway 141 more than 12 meter in width without following due process of law laid down under the New act viz. "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013" and not to disposes the Petitioners from the agricultural

land/field situated just adjacent to the existing road in formation of 12 meter road in width including 7 meter Tar Road.

- f. Pending hearing and final disposal of the present Writ Petition this Hon'ble Court be pleased to direct the Respondent Authorities especially present Respondent No. 1, 9 and 10 that not to provide police protection to the Respondent Authorities especially the present Respondent No. 14 company for committing the construction of extension/expansion/four lining of existing road viz. Ahmednager-Karmala-Tembhurni Road project State Highway 141 more than 12 meter in width without following due process of law laid down under the New act viz. "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013" for acquisition of and more than the width of 12 meter of existing road."*

2. This is third round of litigation. On earlier occasion, based on letter dated 11th September 2015 at pages 49 and 50, the petitioners approached this Court in Writ Petition No. 9778 of 2015 in which the ad-interim order came to be passed on 8th October 2015. The said order reads as under:

" Heard the learned counsel appearing for the Petitioners and the learned AGP for the Respondent Nos.1 to 5. We have heard the learned counsel appearing for the Respondent No.6. The learned AGP has tendered on record a letter dated 7th October, 2015 addressed to her by the Executive Engineer of the Public Works Department.

2. It is obvious that the work on the existing road can continue without touching any private property. Only a limited ad-interim relief is granted restraining the Respondents from carrying out the work of construction of road on the land which is not acquired or which is not a part of existing road. Place the Petition on 17th November, 2015. Issue notice to rest of the Respondents who are not represented today."

3. According to the petitioners, in violation of the directions dated 8th October 2015, work of the road is being carried out. If it is in violation of the directions of the Court and if already contempt petition is filed, we are of the opinion that nothing remains for us to consider in the present petition. Accordingly the writ petition is disposed of directing the petitioners to pursue their remedy elsewhere and not in this petition.

(N.M. JAMDAR, J.)

CHIEF JUSTICE