

1. The petitioners prayed for quashing the work order issued in favour of respondent no. 4 dated 18th January, 2013, and further seek directions against the respondents from proceeding or constructing midway reservoir known as 'Galathi Project'. Further seeks directions that no land from the six villages as detailed in the petition be acquired.
2. We have heard Mr. Katneshwarkar, learned advocate for the petitioners, Mr. Sagar Killarikar, learned advocate for

respondent no. 4 and the learned Assistant Government Pleader.

3. The *prima donna* contention of the petitioners appears to be that the lands of the petitioners are not acquired and still the work order has been issued in favour of respondent no. 4. The lands of the petitioners are irrigated lands and the land should not be acquired for the purpose of midway reservoir.

4. Respondent no. 3 has filed affidavit. Paragraph nos. 7 and 8 of the affidavit reads thus-

“7. In reply to para No. 7, I say that group of villagers in the submergence were consulted and discussed in details about methods of land acquisition and land compensation. This is true and correct the cost of Galati storage reservoir is included in the tender of km 115-124 MRBC along with Ukkadgaon storage reservoir. It is expected to take consents of land owners for purchase of land by private negotiations as and when land required as per work progress instead of entire required land. There is condition in the tender

that the contractor is to accept as a liaison for the land acquisition process and field officers will work along with contractor staff. It is pertinent to note that we are not going to make payment to constructor for delay and its consequential losses at all.

8. *In reply to para No. 8, I say that allegation made in the para are false and incorrect, hence I deny the same. The land acquisition rules will be followed while acquiring the land. The land is not acquired yet hence no violation of article 300-A of the Constitution of India. While acquiring land by direct purchase with private negotiation, the owners have opportunity for direct justification regarding process to achieve correct value of land. I say that we have adopted new method due to which land owners also get benefit. I say that we have adopted method prescribed vide Govt circular No. MQN 18/2004/Case No 162/A-2 Dated 06/06/2006.”*

5. Though right to property is not a fundamental right, it is still a constitutional right. The respondents cannot proceed

with the work order as suggested without acquiring the property of the petitioners. Even the respondent no. 3 in the affidavit has categorically stated that efforts would be made to acquire the land by private negotiations.

6. The respondents are at liberty to acquire the land by private negotiations, if the petitioners and the interested persons are willing thereto, and if the petitioners and interested persons are not willing, then the respondents will have to follow the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. In case the petitioners and the interested persons are agreeable to give their lands by private negotiations at the agreeable rate, then no further questions would arise. If the petitioners are not willing and are objecting to acquisition, then the respondents are required to follow the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and

in that event the respondents will be required to issue the notifications. The petitioners will have the right to put forth their objections to the notifications prior to the issuance of declaration. The objections will have to be decided and if the objections are negated the petitioners can undertake remedy as is permissible in law.

8. In the view of above, at this stage no interference is required at the hands of the court. The respondents prior to the initiation of the work on the lands of the petitioners will be required to acquire the lands of the petitioners.

9. With these observations, the writ petition accordingly stands disposed of. Rule accordingly disposed of. No costs.

[SUNIL K. KOTWAL, J.] [S. V. GANGAPURWALA, J.]

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