

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

WRIT PETITION NO. 5880 OF 2016

Venkat Baburao Jadhav Died
Through Lrs Vilas Venkat Jadhav .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Shashikiran Patil, Advocate h/f Shri G. K. Sontakke,
Advocate for Petitioner.

Shri K. N. Lokhande, A.G.P. for the Respondent No. 1.

Shri Satish S. Manale, Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
R. G. AVACHAT, JJ.**

DATE : 15TH OCTOBER, 2018.

FINAL ORDER :

. The learned counsel for the petitioner submits that, the petitioner is entitled for rental compensation. The respondents be directed to determine and pay the rental compensation along with interest.

2. Mr. Manale, the learned counsel appears for the respondent No. 2 and submits that, the possession has been taken after payment of compensation to the petitioner and not before the notification U/Sec. 4 of the Land Acquisition Act.

3. The petitioner had filed land acquisition reference U/Sec. 18 of the Land Acquisition Act bearing L. A. R. No. 482 of 1998. The same is decided under judgment and award dated 18.01.2008. In para No. 14 the finding has been recorded by the reference Court which reads as under.

"14. The claimants have claimed rental compensation. In cross examination Pw 2 Govind has admitted that the possession of acquired land is taken after payment of compensation amount and in such circumstances the claimants are not entitled for rental compensation because possession of their lands is not taken before the date of notification or without payment of compensation amount. Accordingly I record my findings to the issue No. 1 and 2 in the affirmative."

4. In view of the fact that, possession has not been received by the respondents prior to notification U/Sec. 4 of the Land Acquisition Act, the petitioner is not entitled for the rental compensation. The writ petition is dismissed. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]

bsb/Oct. 18