

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

WRIT PETITION NO. 11509 OF 2017

Nitu Bipin Bhasin and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri. A. B. Kale, Advocate for the Petitioners.

Smt. A. V. Gondhalekar, Addl.G.P. for Respondent Nos.1 and 2.

Shri. D. S. Manorkar, Advocate for Respondent No. 3.

**CORAM : S.V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATED : 11th April, 2018

PER COURT:

. The petitioners state that they are owners of Plot No. 5 in land Gut No. 248/1-A and Plot No. 1 in land gut No. 248/1-B.

2. As per the award an area of 1700 sq. meters of Plot No. 5 in land Gut No. 248/1-A and area 550 sq. meters of Plot No. 1 in land Gut No. 248/1-B is shown under acquisition in the award. According to the

learned counsel for petitioners, the area under acquisition and as affected in the road is much less. The petitioners have received the amount of compensation for the area acquired as shown in the award. The learned counsel for petitioners states that the area required under acquisition would be about 585 sq. meters from Plot No. 5 in land Gut No. 248/1-A and area of 247.5 sq. meters from Plot No. 1 in land Gut No. 248/1-B. In fact in one of the joint measurement the said area was mentioned, however award is passed for excess area.

3. Mr. Manorkar, the learned counsel appears for the Highways Authority of India and submits that the payment has been made as per the award to the claimants.

4. We have also heard the learned Additional Government Pleader for respondents/State.

5. There appears to be different areas affected in land acquisition and in joint measurement different area is mentioned.

6. No explanation is coming forth about the different areas being affected in acquisition and being stated in separate joint measurements.

7. Considering the above anomaly, we pass the following order.

8. The respondents shall undertake fresh joint measurement of the area being affected in acquisition from Plot No. 5 in land Gut No. 248/1-A and Plot No. 1 in land gut No. 248/1-B and determine the area affected in acquisition. As per the fresh joint measurement, the respondents shall take further steps with regard to the award that is passed. If after fresh joint measurement, it is found that the less area is affected under acquisition of these plots, then the petitioners shall refund the amount received in respect of the excess area to the respondents within a period of six (06) weeks upon an intimation given by the respondents to the petitioners. The respondents shall take further effective steps with regard to the award. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]