

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

**WRIT PETITION NO. 9903 OF 2018
WITH
CIVIL APPLICATION NO.10871 OF 2018 IN WP/9903/2018**

**RAJESH BALAPRASAD BIYANI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Petitioners : Shri M. M. Patil (Beedkar)
AGP for Respondent Nos. 1 and 2 : Shri S. R. Yadav-Lonikar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 29th AUGUST, 2018.

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PER COURT :

1. The Civil Application No. 10871/2018 is allowed as the formal correction is sought in the cause title of the petition.
2. Correction be carried out forthwith.
3. The petitioners, who are L.Rs. of the original claimant, are aggrieved by the order dated 14/08/2015, passed by the executing Court, by which, Application Exhibit 120 filed in Special Darkhast No. 22/1989 by the Assistant Commissioner, Nanded Waghala City Municipal Corporation, Nanded has been allowed and the said authority is permitted to contest the present Special Darkhast as an objector.

4. The learned Advocate for the petitioners, who are the claimants in the land acquisition proceedings, contends that the said authority has nothing to do with the pending Darkhast Proceedings. The compensation to the claimants has been granted by the L.A.R. Court and as such, there is no requirement of the Municipal Corporation participating in the Darkhast Proceedings. My attention is drawn to the five grounds formulated by him in the memo of the petition

5. On the one hand, an order passed on 14/08/2015, permitting the Assistant Commissioner, Nanded Waghala City Municipal Corporation to participate as an objector in the Darkhast Proceedings has been passed three years ago. The Darkhast Proceedings are of 1989. On the other hand, the record reveals that the decree holder had filed L.A.R. Proceedings against the State of Maharashtra through the Collector seeking enhancement in compensation under Section 18 of the Land Acquisition Act, 1894.

6. The record further reveals that the land was acquired for the purpose of a vegetable market in the Itwara area of Nanded. The land was acquired by the Collector for the Municipal Council, Nanded which is now the Nanded Waghala

City Municipal Corporation. Since the land has been acquired for the Corporation, it has approached the executing Court putting forth a request that it needs to participate in the Darkhast Proceedings in order to protect the right of the Corporation and to avoid financial loss to the public exchequer. The trial Court has permitted the addition only with an object that it should not so happen that the authority for whose project the land was acquired by the Collector on behalf of the said authority which was earlier a Municipal Council, is kept away from the Darkhast Proceedings.

7. Considering the law laid down by the Honourable Apex Court in the matters of *Syed Yakoob vs K.S. Radhakrishnan & Others, 1964 AIR 477* and *Surya Dev Rai v. Ram Chander Rai 2003 6 SCC 675*, unless gross injustice is caused to an aggrieved party, no interference in the impugned order is called for merely because a different view is possible. In view of the above, this petition being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-