

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5939 OF 2014

Ashruba s/o Rambhau Nikam
& others

Petitioners

Versus

The State of Maharashtra
& others

Respondents

Mr. S.J. Salunke, advocate for petitioners.
Mr. S.Y. Mahajan, A.G.P. for respondent no. 1.
Mr. P.D Suryawanshi, advocate for respondents 2 to 4.

CORAM : R.M.BORDE &

K.K. SONAWANE, JJ.

DATE : 22nd FEBRUARY, 2018

PER COURT:

1. Petitioners are praying for issuance of directions to respondents to initiate proceeding for land acquisition in respect of the area taken by respondents for construction and widening of approach road from village Ranmala Tq Georao connecting National Highway No. 222.

2. It is the contention of petitioner that while undertaking the work of widening of road, the land belonging to petitioners is affected. Petitioners requested the authorities to initiate land acquisition proceeding and to pay compensation, however, nothing has been done in the matter. It is further stated that the Zilla Parishad has not implemented the order of administrative sanction accorded on 03.03.2014 for construction of the approach road. Zilla Parishad has not commenced aforesaid work nor has paid a

single pie for the said work.

3. Affidavit-in-reply has been presented on behalf of Zilla Parishad wherein it has been stated that initially the village road appears to have been constructed in the year 1971-1972 under the supervision of Collector, Beed and thereafter, the same had been handed over to respondent Zilla Parishad Works Department, Sub-Division Georai.

4. In view of the contention raised by respondent Zilla Parishad that the road was in existence in the year 1972-1973 and the same was constructed under the supervision of the Collector, the claim of petitioner for compensation raised first time after lapse of 46 years is not entertainable. In view of decision of the Hon'ble Supreme Court in the matter of **State of Maharashtra Vs. Digambar** reported in 1995 AIR 1991, the claim in respect of the alleged acquisition in the year 1972 being hit by delay and laches is not liable to be considered. Apart from this, the allegations made by petitioners in the instant petition regarding widening and construction of the road have been denied by the Zilla Parishad. Since the petition raises disputed questions of fact, those need not be gone into in exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India.

5. For the reasons as aforesaid, no interference is called for in the instant petition. Keeping the option to avail of alternate remedies available in law open for the petitioners, writ petition stands rejected.

6. Pending civil application, if any, does not survive and stands disposed of.

K. K. SONAWANE
JUDGE

R.M.BORDE
JUDGE

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