

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

WRIT PETITION NO. 7330 OF 2016

**KAKA BABA VAIDYA AND ANOTHER
VERSUS
AMOL SARJERAO VAIDYA AND OTHERS**

Mr.Vishal V. Udhan, Advocate for the petitioners
Mr.V.S.Badakh, AGP for the respondent/State
Mr.V.D.Salunke, Advocate for respondent Nos. 1 to 8
Mr.Ashok B. Tele, Advocate for respondent No.10-A

**CORAM : S.V. GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 05.09.2018

P.C. :-

. Learned counsel for the petitioners submits that the impugned order dated 27.06.2016 passed by the Tahasildar is without notice to the petitioners and without hearing the petitioners. The order adversely affects the right of the petitioners. Even the respondents in their affidavit have admitted that the petitioners are in possession of 9-Acres 79 Gunthas land. According to the learned counsel as the order is without following the principle of natural justice the same is bad in law.

2. Mr. Salunke, learned counsel for respondent Nos. 1 to 8 and Mr. Tele, learned counsel for

respondent NO.10-a submits that, in fact only an area of 70-R land stands in the name of the petitioners and Ahilyabai in the revenue record. In view of that the Tahasildar did not feel it necessary to issue notice to the petitioners. The petitioners and Ahilyabai have been granted compensation for acquisition of the land.

3. We have considered the submissions of the learned counsel for the parties.

4. It is not disputed by either of the parties that the impugned order is passed without hearing the petitioners and without notice to the petitioners. When an order adverse to the rights of a particular party is to be passed, the fundamental and cardinal principles of natural justice are required to be adhered to. As in the present case, the order is passed in flagrant violation of the principle of natural justice, the impugned order, as such, cannot be sustained and is hereby set aside.

5. Parties are relegated before the Tahasildar and they shall appear before the Tahasildar on 25.09.2018. The Tahasildar shall after hearing all

the parties decide the said proceedings afresh on its own merits, preferably, within a period of three months from the date of appearance of all the parties.

6. As this Court has given date of appearance to the parties, it is not necessary for the Tahasildar to issue fresh notices to the parties. It is made clear that we have not considered the merits of the contentions of either parties and they are kept open.

7. Accordingly, the writ petition stands disposed of. No costs.

[S.M.GAVHANE,J.]

[S.V. GANGAPURWALA,J.]