

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

WRIT PETITION NO. 10435 OF 2016

Sadashiv Bhagwat Dhupekar

..PETITIONER

VERSUS

Union of India and Others

..RESPONDENTS

....

Mr. R.V. Naiknavare, Advocate for petitioner.

Mr. D.S. Manorkar, Advocate for respondent no.2.

Mrs. M.A. Deshpande, A.G.P. for respondent no.3 - State.

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CORAM : S.V. GANGAPURWALA AND

R.G. AVACHAT, JJ.

DATED : 26th OCTOBER, 2018

ORDER :

Mr. Naiknavare, the learned Counsel for the petitioner submits that 200 sq. mtrs. of the land owned by the petitioner in Block no. 265 has been acquired under two separate awards. One award is dated 14th January, 2015, under which land admeasuring 155 sq. mtrs. from Gut no. 265 was acquired. Thereafter, another award is passed on 05th August, 2015 for 45 sq. mtrs. of land. The learned Counsel submits that compensation of Rs.1,55,000/- is determined for 155 sq. mtrs., whereas no compensation is awarded nor determined for 45 sq. mtrs. The petitioner is not paid any compensation for 200 sq. mtrs. of land acquired on the ground that the said land was under service road. The learned Counsel submits that the petitioner

is entitled for compensation of land. The petitioner is paid compensation for the structure standing over the said land to the extent of Rs.45,000/-.

2. Mr. Manorkar, the learned Counsel for respondent no.2 – National Highway Authority and the learned A.G.P. submits that 200 sq. mtrs. land is acquired from the petitioner under the service road. The Assistant Town Planner has opined that as the land is under service road, compensation is not payable to the petitioner. Even reliance is placed on regulation 13.2.3.3 of the Standardised Development Control and Promotion Regulations for Municipal Councils and Nagar Panchayats in Maharashtra published under Notification dated 21st November, 2013 by the Government of Maharashtra in Urban Development Department.

3. It is not disputed that an area of 200 sq. mtrs. of land of the petitioner is acquired under two separate awards viz. 155 sq. mtrs. under order dated 14th January, 2015 for which compensation of Rs.1,55,000/- is determined and 45 sq. mtrs. under order dated 05th August, 2015 for which no compensation is determined. The regulation, as relied by the respondents, would not apply in the present case as the land is situated under Gram Panchayat and not within the limits of Municipal Council or Nagar Panchayat.

4. There is no provision that service road would vest with the authority free of cost. It is not a case of internal road. If the internal road is part of acquisition, the petitioner would not be entitled for any compensation. However, it is a service road that has been acquired. The award also specifies that same. In light of the above, we pass the following order :-

(I) The respondents shall pay compensation of Rs.1,55,000/- as determined by the Acquisition Officer for an area of 155 sq. mtrs. of land to the petitioner within period of three months from today.

(II) For remaining 45 sq. mtrs. of land for which award is passed but compensation has not been determined, the respondent authority shall determine compensation for 45 sq. mtrs. of land within a period of three months from today and the respondents shall pay compensation to the petitioner as determined by the competent authority for 45 sq. mtrs. of land within three months thereafter.

(III) It is for the competent authority to consider payment of Rs.45,000/- to the petitioner for the structure standing in the

200 sq. mtrs. of land for which compensation has been paid to the petitioner.

(IV) With these observations, writ petition is allowed. No costs.

SSD
(R.G. AVACHAT, J.)

(S.V. GANGAPURWALA, J.)