

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 99 OF 2017

Tulshiram Shankarrao Suryawanshi .. **Petitioner**

Versus

The State of Maharashtra and others .. **Respondents**

Shri Gajanan K. Sontakke, Advocate for the Petitioner.
Mrs. M. A. Deshpande, Addl. G. P. for Respondents.

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 6th March, 2018

PER COURT :

1. Mr. Sontakke, learned advocate for the petitioner submits that the land of the petitioner to the extent of 36 Are from Survey No. 29 at village Somnathpur was acquired. However in the award the area was wrongly mentioned as 56 Are and the mutation of the Government is already effected to the extent of 56 Are. In fact, the land of only 36 Are was acquired. The petitioner is ready to return the compensation for excess 20 Are land received by the petitioner. The learned advocate submits

that the petitioner is the owner of land admeasuring 56 Are land in Survey No. 29. The learned advocate submits that after the award was passed measurement was carried out and it was noticed that land to the extent of 20 Are is shown to have been acquired in excess from the petitioner's land. According to the learned advocate, it also shows that land to the extent of 36 Are is only acquired. According to the learned advocate, even as per the panchanama conducted at the behest of Vishwanath Kashinath Malge, it would show that inadvertently land to the extent of 56 Are is wrongly mentioned in the award. The learned advocate submits that, the petitioner was already directed to refund the amount of the excess compensation. The petitioner was willing to refund the amount and requested the respondent to release the possession of 20 Are land to the petitioner.

2. The learned A.G.P. submits that, in notification under Section 4, so also, Section 6 of the Land Acquisition Act, the land of the petitioner required to be acquired is shown as 56 Are. After the joint measurement was carried out, acquisition proceedings culminated into the award of 56 Are. The petitioner

has received the compensation of 56 Are. In the reference filed by the petitioner under Section 18 of the Land Acquisition Act, the petitioner claimed for enhanced compensation of 56 Are land.

3. We have considered the submission.

4. It appears that notice under Section 4 of the Land Acquisition Act was issued in which the land of the petitioner sought to be acquired was shown as 56 Are. The petitioner could have raised the objection under Section 5A of the Land Acquisition Act. The petitioner did not raise any such objection. Thereafter, even declaration under Section 6 of the Land Acquisition Act was issued showing the land of the petitioner to be acquired to the extent of 56 Are from survey No. 29 of village Somnathpur and award came to be passed in respect of 56 Are land. The petitioner has also filed reference claiming enhanced compensation for 56 Are land.

5. Considering all the aforesaid conspectus of the matter, the case of the petitioner that 20 Are land is inadvertently taken in possession by the respondent in excess cannot be considered at

this stage. Award has been passed and all other stages have been concluded, so also, the reference is filed by the petitioner for enhancement of compensation for 56 Are land.

6. In the light of above, the writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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