

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

WRIT PETITION NO. 9072 OF 2016

Abdul Kadar Bin Sayyad

.... Petitioner

Versus

The State of Maharashtra & Ors.

..... Respondents

...

Shri. D. R. Jayabhar, Advocate for the petitioner

Shri. A. R. Kale, AGP for respondent/State

Shri. Gaurav Deshpande, Advocate for respondent No.

...

**CORAM : S. V. GANGAPURWALA
AND
A. M. DHAVAL, JJ.**

DATE : 9TH APRIL, 2019

ORAL ORDER:

1. Shri. Jayabhar, learned counsel for the petitioner submits that, initially land of the petitioner was affected in the construction of the Patoda-Kharda road in the year 1997. Subsequently in the year 2016, fresh construction is being made and the width of the road is widened. The petitioner is entitled for the compensation of the same. Without following the acquisition proceedings, the respondents have taken the possession of the petitioner's land.

2. Shri. A. R. Kale, learned Assistant Government Pleader submits that, no new acquisition has been made. The construction is on the same road which was acquired in the year 1997. The Zilla Parishad has also filed affidavit to the effect that the width of the road since 1997 is 12 meters. As per Government Resolution dt. 09.03.2001, the control and building line of the rural road is demarcated. 12 meters from the centre of the road at both the sides, there cannot be any permanent construction. There is no intention of the respondents to use the land of the petitioner more than the width of the land of 12 meters road, which is in possession of the petitioner since 1997.

3. The petitioner while filing the petition has suppressed the fact that in the year 1997, his land was taken in possession for construction of the road and that he had filed writ petition before this court bearing Writ Petition No. 2028 of 2010. The said writ petition is dismissed.

4. There is nothing on record before us to conclude that the width of the road acquired in 1997 is widened. Unless the petitioner is in position to show that the width of the 12 meter road has been widened, the petitioner would not be in a position to get any relief.

5. The petitioner, if so desires, may go for measurement of the land of the road and may proceed further as per the measurement report.

6. In case, as per measurement report the width of the road is more than 12 meters, the petitioner may agitate his grievance before the authority.

7. The Writ Petition is disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde