

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

WRIT PETITION NO. 4974 OF 2016

Rajkumar Bhagatram Rajdeo .. Petitioner

Versus

The National Highway Authority of
India through its Registrar
Solapur and others .. Respondents

Shri Girish K. Thigale (Naik), Advocate for the Petitioner.

The Respondent No. 1 is served.

Shri A. B. Dhongade, Standing Counsel for the Respondent No.
2.

Mrs. Geeta L. Deshpande, A.G.P. for the Respondent/State.

Shri M. V. Kini, Advocate for the Respondent No. 3.

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

DATE : 15TH FEBRUARY, 2018.

FINAL ORDER :

. The petitioner claims to be owner and possessor of land bearing gut No. 217/1 situated at village Sindfal, Tq. Tuljapur, Dist. Osmanabad. The land adm. 2.82H of the petitioner was acquired by the Highways Authority. Two awards are passed. The details are as under

A. Land Acquisition Number/2011/L.A.NHA/CR/06 area 4994 sq. mtrs.

I.	Section (a) Notification	:	15.02.2011
II.	Section 3(A) Notification	:	21.08.2012
III.	Section 3(D) Notification	:	17.06.2013
IV.	Section 3(G) Notification	:	17.10.2015
V.	Date of Interim order by High Court	:	03.05.2016
VI.	Date of Payment of Compensation	:	10.08.2016

B. Land Acquisition Number/2014/L.A.NHA/CR/ area 1806 sq. mtrs.

I.	Section (a) Notification	:	15.02.2011
II.	Section 3(A) Notification	:	18.02.2014 & 13.03.2014
III.	Section 3(D) Notification	:	25.06.2014 & 25.07.2014
IV.	Section 3(G) Notification	:	21.10.2015
V.	Date of Interim order by High Court	:	03.05.2016
VI.	Date of Payment of Compensation	:	10.08.2016
VII.	Date of Possession	:	10.08.2016

02. The aforesaid details of the dates of the respective notifications of the award are not disputed.

03. The contention of Mr. Thigale, the learned counsel for the petitioner is that, the petitioner is owner of land gut No. 217/1 and the name of the petitioner is recorded as owner and possessor of land gut No. 217/5 in the year 1982. The land of the petitioner was not under any notification, nor the area of the

land of the petitioner under acquisition is notified in any of the notifications. The learned counsel submits that, the boundaries were also not given. In the award also it is not stated about the area of the land of the petitioner under acquisition. In fact, gut number of the petitioner was not mentioned, though the name of the petitioner finds place.

04. It is the contention of the learned counsel for respondents that, the land of the petitioner adm. About total 6800 square meters/2H 82R is acquired under both the awards. The gut numbers were mentioned as were provided by the revenue authorities.

05. We had asked the learned Assistant Government Pleader to place on record 7/12 extracts and as per the 7/12 extracts placed on record, land gut No. 217/1 has been carved out much earlier that is on or about 1979 and the name of the petitioner appears therein as owner and possessor.

06. After going through the notifications it is abundantly clear that the land gut No. 217/1 is not mentioned either under notification under Section 3-A or under Section 3-D, nor under Section 3-G of the National Highways Act while preparing both the awards, nor the area of the land under acquisition of the petitioner is mentioned in any of the notifications leaving aside boundaries. In fact, no details are given in the notification with

regard to land under acquisition. The description of land gut No. 217 part is vague. The petitioner's land is part of land gut No. 217/1. The same is not mentioned in any of the notification. The specifications of the land of the petitioner acquired is also not given in notification under Section 3-A, 3-D of the National Highways Act, nor in the award though the name of the petitioner is mentioned. The Apex Court **Competent Authority Vs. Barangore Jute Factory and others** reported in (2005) 13 SCC 477 has observed thus :

“So far as the question whether the impugned Notification meets the requirement of Section 3A (1) of the Act regarding giving brief description of land is concerned, we have already shown that even though plot numbers of lands in respect of each mouza are given, different pieces of land are acquired either as whole or in part. Wherever the acquisition is of a portion of a bigger piece of land, there is no description as to which portion was being acquired. Unless it is known as to which portion was to be acquired, the petitioners would be unable to understand the impact of acquisition or to raise any objection about user of the acquired land for the purposes specified under the Act or to make a claim for compensation. It is settled law that where a statute requires a particular act to be done in a particular

manner, the act has to be done in that manner alone. Every word of the statute has to be given its due meaning. In our view, the impugned notification fails to meet the statutory mandate. It is vague. The least that is required in such cases is that the acquisition notification should let the person whose land is sought to be acquired know what he is going to lose. The impugned notification in this case is, therefore, not in accordance with the law.

07. Section 3A (2) of the Act of 1956 requires every notification under sub-section (1) to contain a brief description of the land. In the present case, the brief description of the land to be acquired vis-a-vis the petitioner is not given. Even, the name of the petitioner was not included in the notification, nor the details were given of the part of the land of the petitioner being acquired.

08. The notification does not stand the test of Section 3-A(2) of the National Highways Act and the judgment of the Apex Court in a case of Competent Authority Vs. Barangore Jute Factory and others (supra). The land was not identifiable.

09. As there is no provision for amending the award with regard to the description of the property and the name of the

person, whose land is acquired, the notification would not be valid.

10. Considering the fact that, the land has been acquired, we do not feel it proper to quash and set aside the notifications. We would adjust the right of the petitioner. The petitioner shall be paid compensation as per the market value of the land of the petitioner acquired as on the date of possession i. e. 10.08.2016.

11. The compensation along with statutory benefits shall be computed afresh within a period of three (03) months as per the market value of the petitioner's land on 10th August, 2016. If the petitioner is aggrieved of the computation of compensation, the petitioner is at liberty to approach the arbitrator within a period of six (06) weeks from the date of computation of compensation.

12. While delivering judgment in Writ Petition No. 11738 of 2017 under order dated 16th March, 2018 for the similar lapses on the part of the authorities we had made following observations.

17. We would hasten to add that the respondents are required to pay higher compensation to the petitioner on account of their laxity and that they had not scrupulously taken steps to issue proper notifications upon confirmation of the

ownership of the property which resulted into loss to the public exchequer. The authorities are expected to be scrupulous and meticulous while drafting and publishing notifications. They are required to correctly specify the land qua the person being affected under the acquisition and thereafter issue notifications. The same would avoid the situation as has arisen in this case and save the public exchequer.

13. We reiterate that the authorities shall scrupulously and meticulously draft and publish the notifications thereby detailing the property under acquisition. They are required to correctly specify the land qua the person, affected under the acquisition and thereafter issue notification giving details of the property. The authorities shall take utmost care and caution while publishing the notification. The respondents shall correct the award accordingly. The writ petition accordingly is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]