

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

WRIT PETITION NO. 9567 OF 2018

Manikrao Tulshiram Kale

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri N. J. Pahune Patil, Advocate for the Petitioner.

Shri P. K. Lakhotiya, A.G.P. for Respondent Nos. 1 to 3.

Shri B. R. Survase, Advocate for the Respondent No. 4.

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

DATE : 22ND APRIL, 2019.

ORDER :

. We have heard Mr. Pahune Patil, the learned advocate for the petitioner. The learned advocate submits that, though the award is passed in respect of acquired land in the year 2010, however, the respondent/acquiring body took possession of the acquired land more than the land under the award. The petitioner had filed civil suit bearing R.C.S. No. 225 of 2011 for injunction. In Misc. Civil Appeal T. I. L. R. was appointed as Commissioner. Report was submitted by the T. I. L. R. showing excess land in possession of respondents. In view of that the respondent be directed to take up acquisition proceedings for the additional land in their possession.

2. We are afraid, we cannot accept the said statement. The T. I. L. R. has submitted report as Court Commissioner, same is not proved by the T. I. L. R. before the Court. Before same could be done, the petitioner withdrew the suit. The respondents have not admitted said map. Map prepared by the T. I. L. R. as Court Commissioner does not have evidentiary value. Same is not map under Sec. 83 of the Evidence Act. The petitioner is at liberty to take up appropriate steps, if according to the petitioner excess land than the land under award is taken in possession by the respondents. In that event all contentions of respective parties are kept open. The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb / April 19