

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

WRIT PETITION NO.12731 OF 2016

1. Sharadchandra s/o Kalyanrao Jadhav
Age: 55 dyears, Occ: Agri.,
R/o. Nimbhari, Tq. Newasa,
District Ahmednagar
2. Savitra w/o Sharadchandra Jadhav,
Age: 48 years, Occ: Household,
R/o. Nimbhari, Taq. Newasa,
District Ahmednagar
3. Sujit s/o Sharadchandra Jadhav,
Age: 22 years, Occ: Education,
R/o. Nimbhari, Tq. Newasa,
District Ahmednagar

PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Public Works Department,
Mantralaya, Mumbai
2. The Superintending Engineer,
Public Works Department,
Ahmednagar, Dist. Ahmednagar
3. The Executive Engineer,
Rojgar Hami Yojna Division,
Ahmednagar, Dist. Ahmednagar
4. Sub Divisional Engineer,
Public Works Sub Division,
Newasa, Tq. Newasa,
District Ahmednagar

RESPONDENTS

Mr Pravin S. Dighe, Advocate for the petitioners;
Mr A.B. Girase, Govt. Pleader for respondents

**CORAM : PRASANNA B. VARALE &
AVINASH G. GHAROTE, JJ.**

DATED : 15th OCTOBER, 2019

ORAL ORDER:

In response to the notice issued by this Court vide order dated 16th September, 2019, affidavit in reply is filed on behalf of respondent No. 2 Gopinath Shivba Mohite. Respondent No. 2 Mr. Gopinath Shivba Mohite, Superintending Engineer, P.W.D. Ahmednagar, respondent No.3 Mr. Anilkumar Bhaidas Chavan, Executive Engineer (E.G.S.), P.W.D. Ahmednagar and respondent No.4 Mr. Mahendra Gavanath Bansode, Sub Divisional Engineer, P.W.D. Sub Division, Newasa, District Ahmednagar are personally present in this Court today.

2. Mr. Girase, the learned Government Pleader invited our attention to the statement made in paragraph

Nos. 5,6 and 7 in the affidavit in reply filed on behalf of respondent No.2. Though the petitioners raised a grievance in the petition of non payment of compensation of their land on a premise that the possession of the land of the petitioners is taken by the respondents for construction of a road, only material in support of the submissions is a representation submitted to the authority in the year 2016 and the proposal is dated 27th June, 2003.

3. On perusal of the contentions in the petition, what emerges is the fact situation that the claim of the petitioners is of taking possession of their land for road in the year 2003, this statement is as vague as it could be, because there is no reference to any date or at least approximation of the month and sweeping statement is made that the land of the petitioners was taken in possession in the year 2003 and compensation is not paid to them. Now, this was only a statement in the petition but there was no corresponding prayer in the petition.

4. The amended prayer finds place at page No.8 and amendment is allowed by the order of this Court dated 11th January, 2017. Thus, from the date of filing of the petition in the year 2016 except for making a statement in the petition that the possession of the land is taken in the year 2003, there is nothing on record and the petitioners have only permitted time to pass and then suddenly after one year of filing of the petition, the petition is amended by a prayer seeking compensation. We may hasten to add that the original petition did not seek relief of compensation for land acquired but only sought a direction to consider and decide the representation dated 8th November, 2016 made by the petitioners for developing/widening of the road only from western side of the road passing through the land of the petitioners, on the ground that on account of an earlier acquisition, the land of the petitioners stood divided into two, by the road passing in between, leaving only a strip to one side and in case of a proposed road widening, the same be done

by taking over the strip. The petition does not give any details of the alleged prior acquisition, except for a bland statement in para 3 as adverted to earlier.

5. Mr. Dighe, the learned Counsel for the petitioners though made an attempt to substantiate the claim of the petitioners by inviting our attention to the copy of the work order placed on record at Exhibit-D dated 11th November, 2016, however, there is absolutely no explanation as to why the petitioners kept silent for more than 13 years i.e. from the year 2003 till filing the petition in the year 2016. This silence of the petitioners speaks in volume for itself.

6. That apart it is material to note that except for a draft proposal at Exh.F, which runs into 37 pages and except for the front page, does not bear a date on any of the subsequent pages, the date on which the alleged possession is claimed to have been taken, is absent. Further, if as alleged, the acquisition was for

expansion for road, there ought to have been a proposal for acquisition of all the lands affected by such expansion, which is conspicuously absent. It is inconceivable as to how there can be a solitary, individual proposal for the acquisition of the land of the petitioners alone, which also does not refer to any notification under Section 4 and 6 of the Land Acquisition Act or for that matter any awards, which may have been passed, for acquisition of the entire strip of land, required for for road widening. The petition and the documents annexed thereto do not disclose any concrete and reliable information to arrive at a conclusion that there was any acquisition or proposed acquisition as alleged.

7. The respondents in their reply tendered today have also denied of any proposal, as alleged, having been submitted, in respect of the land of the petitioners. In fact, in Para-8, it has been specifically stated, "it appears from record that inadvertently Deputy Engineer

forwarded proposal to Executive Engineer in respect of that the deponent will take action and called explanation from the then Executive Engineer and Deputy Engineer who were working in the year 2003-2004” It then goes on to say that the land of the petitioners is not required at all.

8. On the backdrop of the inordinate delay, we may draw support from the judgment of the Apex Court in the matter of ***State of Maharashtra vs Digambar***, reported in ***1995 A.I.R. SC 91*** for not entertaining the petition as it suffers from the delay and latches. This being the position, there is nothing even on merits in the matter too.

9. The petition is therefore not only affected by delay and latches but is even devoid of merits and thus is accordingly dismissed.

10. The presence of respondent No. 2 Mr. Gopinath Shivba Mohite, Superintending Engineer, P.W.D. Ahmednagar, respondent No.3 Mr. Anilkumar Bhaidas Chavan, Executive Engineer (E.G.S.), P.W.D. Ahmednagar and respondent No.4 Mr. Mahendra Gavanath Bansode, Sub Divisional Engineer, P.W.D. Sub Division, Newasa, District Ahmednagar is recorded.

[AVINASH G. GHAROTE, J.]

[PRASANNA B. VARALE, J.]