

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

PUBLIC INTEREST LITIGATION NO. 41 OF 2019

Dr.Moiz Shaikh and others ... Petitioners
V/s.
Union of India and others ... Respondents.

Ms.Rutuja Joshi i/b Kinjal K.Shah, for Petitioners.

Mr.P.P.Kakade – Government Pleader a/w Mr.M.M.Pabale –
Additional Government Pleader, for Respondent No.1.

Mr.Arsh Mishra i/b M.V.Kini & Co., for Respondent No.2.

Mr.V.D.Patil, for Respondent No.3.

*CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.
DATE : 1 JULY 2019.*

P.C. :-

1. Heard learned counsel for the parties. By way of the above captioned Public Interest Petition grievance projected is that after first Respondent issued the Notification dated 3 January 2017 under the National Highways Act 1956, listing therein the Gat numbers of the lands proposed to be acquired, without any

acquisition commenced the work to expand the existing 2 lane Jalgaon – Pune – Dighi Port into 4 lane and that lands belonging to farmers have been taken possession of.

2. The reply filed is that between the years 1970 and 1977 lands were acquired for construction of a road and that on the strip of land acquired only part thereof was used for laying 2 lanes and the expansion is on the said acquired land. The Notification dated 3 January 2017 has been explained by pleading that as and when said parcels of land would be needed for right of way, bridges, embankments, berms etc. acquisition would be made as per law. As per the reply said lands have not been trespassed upon during 4 laning of the road.

3. The learned counsel for the Petitioners states that lands of farmers are being trespassed upon without acquisition.

4. In the absence of reference to the Gat numbers it would be difficult to decide the grievance projected in the Public Interest Litigation. The remedy has to be availed of by the affected farmers by approaching the civil or the revenue court for relief of injunction. Evidence would be led in such proceedings concerning lands which were acquired in the past and the lands in possession of the land owners abutting the existing road.

5. Declining relief as prayed for and leaving the remedy open to be resorted at the forum where evidence can be led we terminate proceedings in the Public Interest Petition by dismissing the same.

N.M. JAMDAR, J.

CHIEF JUSTICE