

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

**90 WRIT PETITION NO.5420 OF 2020
WITH WP/4898/2020 WITH WP/5512/2020 WITH
WP/5582/2020**

DHONDIBA NARAYAN SHINDE AND OTHERS ..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Vikram S. Kadam, Advocate for the Petitioners.
Mr. S. R. Yadav-Lonikar, AGP for Respondents-State.
Mr. G. K. Naik-Thigle, Advocate for Respondent
No.3.

...

**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 21st OCTOBER, 2020.

PER COURT:-

1. Mr. Kadam, learned counsel for petitioners submits that the action of the respondent Authority in widening and constructing the State Highway No. 261 beyond 10 meters without acquiring agricultural lands of petitioners and without paying compensation is bad and deserves to be set aside.

2. The learned counsel submits that the road in question has a width of 10 meters. The respondents cannot expand the width of the road beyond 10 meters without acquiring the lands of petitioners. If the road is expanded beyond 10 meters, the lands of petitioners are affected.

3. Mr. Thigle, learned counsel for the respondent no.3 submits that the lands of petitioners were acquired under Award dated 25.01.1974. From the lands acquired under Award dated 25.01.1974, the road with a width of 20 meters is constructed and the present work is done on the 20 meters road. The learned counsel submits that the work is carried out only from the lands acquired under Award dated 25.01.1974.

4. Mr. Thigale, learned counsel further submits that the petitioners have also filed the Civil Suit for the same relief.

5. Mr. Kadam, learned counsel submits that the petitioners have not filed any Civil Suit. The Civil Suit referred to in the affidavit are filed by different persons.

6. It is trite that, no person can be deprived of his land without due process of law. Though, the right to property is not a fundamental, it still remains a Constitutional right. Nowadays, it has been brought within the contour of the human right.

7. It would appear that, the lands of petitioners are acquired under Award dated 25.01.1974. The lands at the time of Award were recognized by Survey Numbers. Thereafter, under consolidation, Survey Numbers are converted into

Gut Numbers and now the lands are identified by Gut Numbers.

8. In the present matter, we are not required to adjudicate further in view of the statement made by respondents that respondents are going to construct the road only from the lands that were acquired under Award dated 25.01.1974 and not beyond that.

9. If the respondents are constructing the road from the lands acquired under Award dated 25.01.1974, then the petitioners cannot have any grievance. However, respondents would not be entitled to construct the road from the lands of petitioners, if the same is not acquired under Award dated 25.01.1974. In that case, respondents will have to be initiated acquisition proceedings in accordance with law.

10. With the aforesaid observations, writ petition stands disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE