

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

12 WRIT PETITION NO.4232 OF 2021

**PANDIT VITTHAL TALELE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner: Mr. Girish S. Rane
AGP for Respondents/State: Mr. K. N. Lokhande
Advocate for Respondent No. 3: Mr. A. B. Dhongade
Advocate for Respondent No. 4: Mr. D. S. Manorkar

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**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE: 22nd NOVEMBER, 2021

PER COURT:

1. Mr. Rane, learned Counsel for the Petitioner submits that the land acquired of the petitioner is 66.07 Are, however, the Award is passed only for 58 Are. The learned Counsel submits that subsequently, the adjacent owner had measured the property and found that area of 66.07 Are of the Petitioner is acquired. There is dispute between the Petitioner and his cousin brother. The same is subjudiced. However, as far as the area of the land is concerned, there would not be any dispute. The compensation amount is for 58 Are only. The

Acquiring Body (National Highway) has filed application U/Sec. 34 of the Arbitration and Conciliation Act and the same is pending before the District Court.

2. Mr. Manorkar, the learned Counsel submits that as per the Joint Measurement and the Award the amount of compensation is determined with regard to area of 59 Are.

3. We have heard Mr. Dhongade, the learned Counsel also.

4. After the Joint Measurement was carried out the acquisition proceedings proceeded further. The Award has been passed. It appears that the parties had also approached the Arbitrator for enhancement of compensation. The same is also decided and now the application U/Sec. 34 of the Arbitration and Conciliation Act is pending.

5. The Competent Authority, certainly, could not have directed the Superintendent of Land Records to correct the record on the basis of a private

measurement and behind the back of the Acquiring Body. In view of that, we are not inclined to issue directions as sought by the Petitioner in the present matter.

6. The Petitioner may approach the National Highway Authority with a request for Joint Measurement considering the subsequent private measurement done. If, *prima facie*, it is found that excess area of the land in which the Petitioner claims to be interested is acquired then, certainly the parties can go for Joint Measurement. The Petitioner shall bear the charges of Joint Measurement. However, it is also made clear that as there is a dispute with regard to the persons entitled to the compensation amount the other persons interested shall also be given notice of the same. The Petitioner shall file an application with the Acquiring Body preferably within a period of two (02) weeks from today. Acquiring Body shall consider the record, the private measurement and may thereafter proceed for the Joint Measurement.

7. Depending upon the facts and the circumstances, the Joint Measurement if it is to be conducted be conducted expeditiously in the presence of all interested parties.

8. Writ Petition accordingly stands disposed of.
No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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