

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

WRIT PETITION NO. 6519 OF 2020

Smt. Amarjitkaur Surendrasingh Manan
and others .. Petitioners

Versus

The Competent Authority and others .. Respondents

Shri S. R. Bagal, Advocate h/f Shri Bharat N. Gadegaonkar,
Advocate for Petitioners.

Shri A. B. Dhongade, Advocate for the Respondent No. 1.

Shri Ganesh Gadhe, Advocate for Respondent Nos. 2 to 4.

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

DATE : 27TH JANUARY, 2021.

FINAL ORDER :

. Mr. Bagal, the learned counsel for petitioners submits that, the dispute is raised to the extent of 04R land. The respondents have encroached upon the 04R land of the petitioners. The civil suit is also filed by the petitioners for removal of encroachment. In fact, the petitioners are entitled for the compensation of 04R acquired land. The learned counsel further submits that, the competent authority failed to consider all these aspects in its correct perspective. The rejection of Exhibit 05 application is only on prima facie satisfaction and is not conclusive.

2. Mr. Gadhe, the learned counsel for respondent Nos. 2 to 4 submits that, the respondents have not encroached upon the land

of the petitioners. Measurement was carried out. After the measurement it was found that 04R land was acquired. The petitioners were not concerned with the acquired land. The learned counsel for respondents submits that, respondents are the purchasers. They have purchased the land from the petitioners. The application filed by the petitioners below Exhibit 06 in civil suit is rejected.

3. Mr. Dhongade, the learned counsel for the respondent No. 1/Competent Authority supports the order passed by the competent authority.

4. It is not disputed that, the petitioners are vendors of the respondents. The petitioners have filed civil suit against the respondents on the ground that the respondents have committed encroachment. Application for interim injunction has been rejected.

5. According to the competent authority as per the joint measurement map, the land of the petitioners is not affected.

6. Be that as it may, the petitioners have filed civil suit for removal of encroachment. It presupposes that the respondents were in possession of the land at the time of acquisition. The rejection of Exhibit 06 application certainly is not conclusive. The Court after the parties adduce the evidence will have to decide the matter.

7. Considering that the petitioners themselves are vendors of the respondents and the respondents were admittedly in possession of the land at the time of acquisition, we pass the following order.

8. The respondents are allowed to withdraw the compensation of 04R (04 Guntha) land on furnishing a solvent security to the satisfaction of the authority and the copy of the same shall be placed in the civil suit filed by the petitioners in which the respondents are also parties.

9. The Court where the suit filed by the petitioners against the respondents is pending, on the decision of the suit may pass appropriate order with regard to the amount of 04R land. With aforesaid observations and directions the writ petition stands disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/Jan. 21