

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8279 OF 2021

SOPAN S/O GOVIND VARPE
VERSUS
THE STATE OF MAHARASHTRA & ORS.

...
Mr. Sanket S. Kulkarni, Advocate for the Petitioner
Mr. S. W. Munde, AGP for Respondents/State
...

CORAM : AVINASH G. GHAROTE, J.

DATE : 2nd August, 2021

PER COURT :

. Heard Mr. Kulkarni, learned counsel for the petitioner, who challenges the impugned order dated 06/04/2021, whereby, the application at Exhibit-11 has been allowed and the Assistant Superintendent, Kopergaon, is directed to pay the sum of Rs.92,96,071/- to the applicant No.1 – Kiran Sampat Lohar, subject to the undertaking, that if at the conclusion of the trial of R.C.S. No.406/2019, it is revealed that the applicant No.2, namely, Sopan Govind Varpe was owner and in possession of 9 R. of land, then he would be entitled to share in the compensation to the tune of 9 R. of land. Learned counsel submits, that by virtue of a sale deed dated 03/04/1993, the petitioner had purchased land admeasuring

0.23 R from and out of the land of Survey No.36 totally admeasuring 0.43 R. and the land being acquired by the respondent Nos.1 & 2, was from and out of the land purchased by the petitioner under the sale deed dated 03/04/1993. To substantiate this, learned counsel relies upon the Map (Page-27) of the record. However, a perusal of the Map, indicates, that it does not contain the area either of the two portions of Gut No.32, nor the area of the road, so as to indicate, that the area owned by the petitioner, had been acquired by the respondent Nos. 1 & 2.

2. That being the position, the impugned order cannot be faulted with. Even otherwise, the interest of the petitioner, is protected on account of the direction No.4 as contained in the impugned order and if the petitioner on the merits of the trial is able to prove that the land belonging to him, was actually acquired, then he would be entitled, to the share in the compensation, to the extent of what is proved by him. However, that is a matter of trial and is left to be determined. Therefore there is no merit in the petition. The petition is accordingly dismissed. No costs.

(AVINASH G. GHAROTE, J.)