

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

WRIT PETITION NO.12879 OF 2016

**TRIMBAK PANDHARINATH KAPARE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

**AND
WRIT PETITION NO.12890 OF 2016**

**SUREKHA JAGANNATH KHARAT
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Advocate for the Petitioners : Shri Thombre S.S.
AGP for Respondent 1 : Shri S.B. Pulkundwar
ASGI for Respondent 2 : Shri A.G. Talhar
...

**CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.**

DATE :- 16th September, 2021

Per Court :-

1. Vide order dated 05.01.2017, this Court has protected the petitioners by directing that the petitioners shall not be dispossessed till the next date in the matter. The issue is about laying of a road viz. National Highway No.222 (Tisgaon-Pathardi- Kharwandi- Midsangavi- Padalsingi Road – State Highway No.144).

2. Since the public project has to be completed without delay and as the rights of the petitioners to the extent of the lands that they hold, cannot be compromised and the said lands could be acquired by following the due process of law, we have heard the extensive submissions of the learned advocates for the respective sides.

3. The learned ASGI submits that an affidavit in reply has been filed. The work of widening of the existing road has been undertaken on National Highway No.222. He points out the colour photographs appended to his affidavit in reply.

4. We find from the photographs that the existing road has a very narrow width and the purported widening of the road is more than two times of the existing width of the road. In view of Article 300-A of the Constitution of India, we cannot ignore the rights of the petitioners if the lands are to be utilized for laying of the said road as per the project of the respondents. At the same time, the public project cannot be stalled in the light of catena of judgments delivered by the Honourable Supreme Court.

5. In view of the above, these Writ Petitions are partly allowed in the following terms :-

(a) The public project of laying the road on National Highway No.222 (Tisgaon- Pathardi- Kharwandi- Midsangavi- Padalsingi Road – State Highway No.144), shall be completed.

(b) In the event, the lands to which the petitioners have right, title and interest, are to be utilized for such laying of the road, which is being purportedly termed as road widening project, they shall not be dispossessed without following the due process of law.

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(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)