

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

**CIVIL APPLICATION NO. 675 OF 2022
IN
WRIT PETITION NO. 1927 OF 2021**

The Executive Engineer.

... Applicant.

In the matter between :

Manik Nagu Kadam And Others

... Petitioners.

Versus

The State Of Maharashtra And Others

... Respondents.

...

Mr. B. R. Survase, Advocate for Applicant in CA/675/20220 and for Respondent No.5 in Writ Petition.

Mr. Amarsinha D. Sonkawade, Advocate for the Petitioner in Writ Petition.

Mrs. M. A. Deshpande, AGP for Respondents-State.

...

**CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.**

DATED : 11th MARCH, 2022.

PER COURT :

1. By this civil application, the Executive Engineer (original respondent No.5) seeks recall of the order dated 2nd December 2021 passed by this Court thereby issuing bailable warrant to the respondent No.5 for sum of Rs.10,000/-. None had appeared for the respondent No.5 before this Court.

2. We have perused the reasons recorded in paragraph Nos. 1 to 4 and we are satisfied that the case is made out for recall of the order issuing bailable warrant to respondent No.5 for sum of Rs.10,000/- on the assurance

that the respondent No.5 would appear before this Court as and when the matter appears on board.

3. Civil Application is accordingly made absolute in terms of prayer clause (B). Order of bailable warrant against the respondent No.5 is recalled on the assurance of the learned counsel for the respondent No.5 that the respondent No.5 would appear before this Court and will not seek any adjournment.

4. We are not modifying the order to the extent it pertains to be heard finally by the said order. In so far as hearing of the Writ Petition is concerned, we have heard the parties at some length. The respondents are unable to acquire the land of the petitioners which is submerged since last few years on the ground that no measurement can be carried out.

5. Learned counsel for the respondent No.5 agrees to take instruction whether the land of the petitioners can be acquired by private negotiation and to make a statement before this Court on the next date. It is made clear that the petitioner has not given up the reliefs claimed in the petition, even when the respondent No.5 adopts exercise of negotiation to acquire the land of the petitioners.

6. Place the matter High on board on 22nd March 2022.

(S. G. MEHARE, J.)

(R.D. DHANUKA, J.)