

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

909 WRIT PETITION NO.3918 OF 2022

**ARJUN NANA KUTTARWADE AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

...  
Advocate for Petitioners : Mr. S.E. Shekade  
AGP for Respondent Nos. 1, 2 & 4 : Mr. S.K. Tambe  
Advocate for Respondent No. 3 : Mr. S.S. Deve  
...

**CORAM : RAVINDRA V. GHUGE &  
ARUN R. PEDNEKER, JJ.**

**DATED : SEPTEMBER 29<sup>th</sup>, 2022.**

**PER COURT :**

1. By this petition, the petitioners have put forth prayer clauses

14 (2), (3), (4) and (5), which read as under :-

2. Issue Writ of mandamus or any other appropriate writ or order against respondents to complete the acquisition proceeding and to pass award U/Sec. 25 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 in respect of acquired lands of the petitioners as described in para no. 3 of the Writ Petition which is required for the construction of Ahmednagar-Beed-Parli Railway line.

3. Issue writ of mandamus or any appropriate writ or order against the respondents that they shall passed Rehabilitation and Resettlement of award for the benefit of the petitioners and his family, being affected family U/Sec. 31 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013. In respect of acquired land of the petitioners as described in para no. 3 of this writ petition which is used for construction

of for Ahmednagar – Beed – Parli New Railway line.

4. Pending hearing and final disposal of the writ petition the respondents no. 2 to 4 be directed to pay to the petitioners 80% compensation of the acquired land, within a period of four weeks from today as per revealing ready reckoner rate.

5. Till the disposal of the Writ Petition respondents may kindly directed to not to disturb the peaceful possession of the Petitioners land.

2. On 4<sup>th</sup> May, 2022, this Court had passed the following order :-

“1. The learned AGP waives service of notice for the respondent Nos. 1, 2 and 4/State. Issue notice to the respondent No.3 returnable on 27-06-2022. Hamdast is permitted. In addition to Court notice, petitioner is permitted to serve respondent Nos.3 and 4 by private notice. Affidavit-in-reply shall be filed by the respondents Nos.3 and 4 within two weeks from the date of service of the present proceeding. In the affidavit-in-reply the respondent Nos. 3 and 4 shall indicate as to whether respondent Nos. 3 and 4 seek to acquire the land of the petitioner and to pay compensation permissible under provision of Right to Fair Compensation and Transparency in Rehabilitation and Resettlement Act, 2013 or not.

2. Respondent No.3 shall not disturb the possession of the petitioner till the next date. The petitioner is directed to convey this order for information and compliance to the respondents.

3. Parties to act upon authenticated copy of this order.”

3. We have considered the submissions of the learned advocate

for the petitioners and the learned advocate Shri S.S. Deve on behalf of respondent No. 3 and the learned AGP on behalf of respondent Nos. 1, 2 and 4. The Sub Divisional Officer (SDO), Patoda has prepared a sketch map for our assistance on the basis of the official record that he carries. The same is taken on record and marked as 'X' for identification.

4. The issue raised by the petitioners is that though the railway authority contends that it requires only 27 R. land, which is indicated in the sketch map of the two railway tracks, the petitioners are likely to lose 66 R. land over and above the 27 R. land. The learned advocate for the railways categorically submits that the railways need only 27 R. land, as is described in the sketch map. The entire compensation for the acquisition of 27 R. land has already been paid to Nana Kuttarwade. Nana is the father of these three petitioners and has passed away.

5. The grievance of the petitioners is that 66 R. land is likely to be taken over by the railways for the purpose of the track. They have no objection as regards the 27 R. land already acquired by the railways, for which the compensation has already been paid to the deceased father Nana, who was then alive.

6. The learned advocate for the railways submits that this petition has been filed on misplaced apprehension. Beyond 27 R. land

indicated in the sketch map, the railways does not desire to acquire even an inch of land, much less 66 R. as is claimed by the petitioners.

7. In view of the above, this petition is disposed off, with the following directions :-

- (A) The 27 R. land which is shown to be between the two railway tracks and the shoulders of the tracks as shown in the sketch map, shall account for 27 R. land.
- (B) If there is any dispute over and above the 27 R. land, which includes the shoulders outside the 2 tracks, the petitioners and the railway authority shall apply for a joint re-measurement of the land as well as that portion of the land, that would have to be utilized for the railway track.
- (C) The petitioners volunteer to make the payment of the charges for carrying out such measurement through the Taluka Inspector of Land Records (TILR), Ashti.
- (D) If the situation arises for carrying out such joint re-measurement, the said exercise would be completed, on or before 21<sup>st</sup> October, 2022.
- (E) If the land over and above 27 R. appears to be required for the laying of the railway tracks, as shown in the sketch map 'X', the competent authorities would initiate the process for acquisition of such land, whichever is more.

- (F) The petitioners specifically state that the railway authorities and the State authorities are at liberty to take possession of the 27 R. land at any time.
- (G) Needless to state that, the order dated 4<sup>th</sup> May, 2022, would merge in this order.

[ARUN R. PEDNEKER J.]

[RAVINDRA V. GHUGE, J.]

SSC/