

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7592 OF 2021

Vinayak S/o Sukhdev Rathod

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr. S. S. Tope, Advocate for the petitioner.

Mr. S. G. Sangle, AGP for respondents No. 1 to 4.

Mr. S. V. Adwant, Advocate for respondent No. 5.

Mr. G. J. Kore, Advocate for respondent No. 7.

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

DATE : 22nd APRIL, 2022.

PER COURT :

1. This matter has been heard extensively. We have gone through the affidavit-in-reply filed by respondent No. 5 which has voluminous documents appended thereto. Eventually, the case rests on the statement of the petitioner that his land has been consumed by the National Highway Authority in laying the highway, in the face of a contrary statement on oath by respondent No. 5 that, an order was issued on 16th March, 2021 declaring that Gat No. 48 in

Kanakwadi, Tq. Partur, Dist. Jalna, is not being acquired by the authorities as the widening of the road has been maintained only to the extent of 30 mtrs. within the limits of the State property.

2. In the above backdrop, we are aware of limitations on our extra ordinary powers under Article 226 of the Constitution of India. The matters involving 'word against word' and that too on oath in the backdrop of seriously disputed issues, should be left to the competent authority to be dealt with rather than this Court causing any indulgence.

3. We, therefore, called upon the learned Advocate for the petitioner to take instructions whether he would prefer a civil suit for causing measurement of the property and consequential reliefs.

4. On instructions, the learned Advocate for the petitioner submits that the petitioner would prefer a civil suit.

5. In view of above, this petition is disposed off. The petitioner would be at liberty to file a civil suit. We grant liberty to

the petitioner to seek measurement of the suit property with the intervention of the trial Court and consequential reliefs.

(S. G. DIGE)
Judge

(RAVINDRA V. GHUGE)
Judge

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