

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

WRIT PETITION NO. 8319 OF 2019

Nitin S/o Raybhan Bhavar,
Age: 45 years, Occ. Legal Practitioner,
R/o. Krishimitra Co-operative Housing
Society, Kopargaon, Tq. Kopargaon,
Dist. Ahmednagar.
Now at Flat No.302, Kailas Arcade,
Near Cannaught Garden,
CIDCO, Aurangabad.

.. **Petitioner**

Versus

1. The State of Maharashtra,
Through the Secretary,
to the Government of Maharashtra
in Irrigation Department,
Mantralaya, Fort. Mumbai.
2. The Collector, Ahmednagar,
Dist. Ahmednagar.
3. The Tahsildar, Kopartgaon,
Dist. Ahmednagar.
4. The Special Land Acquisiton
Officer & Deputy Collector,
Ahmednagar,
Nandur-Madmashwar Project,
Dist. Ahmednagar.
5. The Executive Engineer,
Nandur-Madmashwar
Irrigation Department
(Public Works) Department,
Vaijapur, Dist. Aurangabad.

.. **Respondents**

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Mr. A.S. Khedkar & Mr. H.D. Deshmukh, Advocate for the Petitioner.

Mr. A.R. Kale, AGP for Respondent nos.1 to 4.

Mr. S.P. Sonpawale, Advocate for Respondent no.5.

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**CORAM : SMT. VIBHA KANKANWADI &
Y.G. KHOBRAGADE, JJ.**

DATE : 11th November, 2022

JUDGMENT:- (Per: Y.G. Khobragade, J.)

1. Rule. Rule made returnable forthwith. With the consent of the parties taken up for final disposal at admission stage.

2. Heard Mr. A.S. Khedkar learned counsel for the petitioner, Mr. A.R. Kale learned AGP for the respondent nos.1 to 4 and Mr. Sonpawale learned counsel appearing for the respondent no.5.

3. By the present petition under Article 226 of the Constitution of India the present petitioner prayed for issuance of directions against respondent no.2 for initiation of acquisition proceedings in respect of his land bearing gut no.178/2 ad-measuring 56 R situated at Talegaonmale, Tq. Kopargaon, District Ahmednagar in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred as 'Act').

4. Advocate Mr. A.S. Khedkar the learned counsel appearing for the petitioner submitted that the petitioner is the owner of gut no.178/2 ad-measuring 56 R situated at Talegaonmale, Tq. Kopargaon, District Ahmednagar and the petitioner's land has been acquired by the respondents for construction of Nandur-Madmeshwar Express Canal long back in the year 2004, however, no proceeding under the Act of 2013 has been initiated till date and no any rental compensation has also been paid to the petitioner. Mr. Balaji Kshirsagar the Special Land Acquisition Officer (SLAO) who has been authorized on behalf of the respondent nos.2 and 4 filed affidavit in reply and stated that land of the petitioner came to be acquired for the purpose of construction of Nandur-Madmeshwar Express Canal and possession also been taken after joint measurement. The Co-ordinator Officer (Land Acquisition) has issued communication dated 22.12.2016 to the respondent no.3-Executive Engineer but returned said proposal of acquisition for compliance with certain queries and documentation for submitting the proposal for acquisition under the Act. However, there is no response from the respondent - Executive Engineer, Nandur - Madmeshwar Irrigation Department. Therefore, the acquisition proceedings has not been taken till date.

5. On face of record, it appears that the respondent nos.2 to 5 on one hand, the respondent no.5 on the other hand are passing the buck on each other and though it is a fact that the land of the petitioner has already been acquired by the respondent-authorities for construction of canal in the year 2004 itself without initiation of proceedings of acquisition since 2004 i.e. even after lapse of 18 years and no compensation has been paid to the petitioner. Therefore, it is necessary to direct the respondent nos.2, 4 and 5 to commence acquisition proceedings in respect of land of the petitioner by issuing necessary notification within a period of four months from today. The respondent nos.2, 4 and 5 shall complete the acquisition proceedings within a stipulated period under the Act of 2013 and shall determine and pay appropriate rental compensation to the petitioner. With these directions, the present writ petition is hereby disposed of. No order as to costs. Rule is made absolute in above terms.

[Y.G. KHOBRAGADE, J.]

[SMT. VIBHA KANKANWADI, J.]