

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11629 OF 2019
WITH
WRIT PETITION NO. 11688 OF 2019
WITH
WRIT PETITION NO. 11642 OF 2019
WITH
WRIT PETITION NO. 2933 OF 2020

RAMRAO PANDURANG PATIL AND OTHERS
VERSUS
THE UNION OF INDIA AND OTHERS

Advocate for Petitioners : Mr. V.D. Sapkal Senior Counsel
i/b. Mr. L.C. Patil
ASG for Respondent Nos. 1,3 & 4 : Mr. A.N. Patale
AGP for Respondent No. 2 : Mr. P.S. Patil

**CORAM : C.V. BHADANG &
SANDIPKUMAR C. MORE, JJ.**

DATE : 19 JULY, 2022.

ORDER :-

All these petitions involve a common grievance that without following the procedure for acquisition of land, National Highway No. 161 has been constructed to their lands.

2. We have heard the learned counsel for the parties. Perused record.

3. Learned Senior Counsel for the petitioners placing reliance on the decision of this Court in *Bhagoji Nathaji Maind and others Versus State of Maharashtra and others, 2021 (5) AIR Bom R 163*, and the order dated 2 March, 2022 passed in a batch of Writ Petitions being Writ Petition No. 5069/2019 *Kashinath Sopan Istalkar Versus The Union of India and others*, has submitted that in similar circumstances this Court had disposed of the petitions in light of the order passed by this Court in Writ Petition No. 4022/2019 *Pandurang Sakharam Nikam and others Versus The State of Maharashtra and Others*. Yet another order dated 5 July, 2022, in a batch of Writ Petitions being Writ Petition No. 8722/2021 *Raosaheb Hanmantrao Londhe Versus The State of Maharashtra and others*, has also been brought to our notice which is also on similar lines. There is no need to multiply such decisions which are given in the similar facts and circumstances of the case.

4. Thus without recording detailed reasons, we propose to dispose of these petitions in view of the order passed by the Division Bench of this Court in Writ Petition No. 4022/2019, in which in para No. 13 and 14, this Court has held thus :

“13. In this backdrop, upon perusal of the record, we find that the short controversy regarding the exact width of the subject road, is purely factual dispute. Nothing is on record to establish with any amount of exactitude, the actual width of the subject road. This question of fact cannot be satisfactorily resolved on the basis of the

documents available on record. The substratum of the matter is the exact extent of the width of the subject road and whether the respondents can undertake the construction/upgradation of the said road without acquiring the lands of the petitioners. It is trite that no person can be deprived of his property except by following due procedure established by law. Therefore, in case, the respondent authorities arrive at the conclusion that the lands of the petitioners are affected, they must forthwith take up acquisition proceedings as per the law.

14. In the circumstances, to resolve the issue of the exact width of the subject road, we consider it appropriate to direct the respondent authorities to take effective steps to carry out a joint measurement of the subject road at the concerned villages through appropriate authority in presence of the both the sides and under the supervision of the Collectors of Osmanabad and Solapur districts after following due procedure of law as expeditiously as possible and preferably within two months. It is also ordered that in case, after the measurement it is found that the lands of the petitioners are affected by the proposed work, the respondent authorities shall commence the process of acquisition immediately.”

5. In that view of the matter, the petitions are disposed of in terms of para Nos. 13 and 14 above, directing the acquiring body to

bear the fees for the measurement of the road, since the widening of the road is stated to be almost complete.

6. Needless to state, after the joint measurement of the writ lands, if any dispute occurs or if the petitioners are of the view that the measurement may not be acceptable to them, they would be at liberty to take recourse to the remedies as are available before the Civil Court for getting their rights adjudicated.

7. Pending Civil Applications are disposed of.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.