

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.14281 OF 2018**

BABAN SAHEBRAO BOBADE AND OTHERS ..PETITIONER
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...
Mr. Rajendra G. Hange and Mr. A. R. Hange,
Advocates for the Petitioner.

Mr. S. K. Tambe, AGP for Respondent Nos.1 to 5.

Mr. R. B. Gaikwad, Advocate for Respondent No.6.

...
**CORAM : S. V. GANGAPURWALA &
S. G. DIGE, JJ.**

DATED : 04th JANUARY, 2022.

PER COURT:-

1. Mr. Hange, learned counsel for petitioners submits that, the Committee has fixed the value of the land on the basis of the Jirayat and Bagayat land. The petitioners are not disputing the amount of compensation fixed for the Jirayat land and/or Bagayat land. However, the Committee has fixed the compensation considering the lands of petitioners as Jirayat lands. In fact, the lands are Bagayat lands. The public notice was issued by the S.D.O. In the public notice also the lands of petitioners were shown as Bagayat lands. The 7/12 extract placed on record by petitioners also demonstrates that, lands of petitioners are Bagayat lands. According to the learned counsel for petitioners, the sugarcane crop is harvested, fruit bearing trees were present and the presence of well in the land is also on record. The Committee ought to have considered the lands of petitioners as Bagayat lands.

2. Mr. Gaikwad, learned counsel for respondent no.6 and Mr. Tambe, learned A.G.P. submit that, petitioners had consented for the acquisition of lands by private negotiation. Pursuant thereto, the Award has been passed. The petitioners did not raise objection to the amount of compensation fixed by the Committee. An agreement executed by petitioners with the S.D.O. only depicts tentative price of the lands. The Committee was competent to determine the price of the lands.

3. There cannot be any dispute that, it is the Committee that determines the amounts of compensation. The petitioners are also not disputing the amount of compensation determined by the Committee payable for Jirayat and/or Bagayat lands. The only grievance of petitioners is that, their lands ought to have been considered as Bagayat lands. To fortify the contention that, the lands are Bagayat lands, petitioners have placed reliance upon 7/12 extract, the report of the Talathi and the public notice issued by the S.D.O. Relying on these documents, it is contented by the learned counsel for petitioners that, lands of petitioners are Bagayat lands.

4. Naturally, the Committee has to consider all the relevant aspects of the matter and the documents on record while arriving at conclusion as to the nature of the lands. The Committee certainly has to consider as to whether the lands

are perennial irrigated lands or seasonal irrigated lands or Jirayat lands. The said conclusion can be arrived at by the Committee considering the documents placed on record.

5. Prima facie, the documents that are placed on record depict the presence of well, fruit bearing trees and sugarcane crop suggesting the facility of irrigation. The public notice is also said to have been issued by the S.D.O. showing lands of petitioners as Bagayat lands. The Committee shall consider all the aspects of the matter and take decision as to whether the compensation is payable to petitioners of lands treating it as Bagayat lands or otherwise. The petitioners shall place on record all the documents relied by them before the Committee. The Committee shall take decision afresh with regard to the nature of lands of petitioners expeditiously and preferably within a period of three (03) months from the date the petitioners place before the Committee all the necessary documents. Depending upon the decision taken by the Committee, the parties may take further steps.

6. Writ Petition accordingly disposed of. No costs.

(S. G. DIGE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE