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

42 WRIT PETITION NO.4937 OF 2019

**KHIRBA SHIVRAM GOTAMWAD AND OTHERS
VERSUS
THE UNION OF INDIA THROUGH SECRETARY AND
OTHERS**

....

Mr S. B. Patil, Advocate for petitioners;
Mr S. S. Dande, A.G.P. for respondents/State
Mr M. A. Golegaonkar, Advocate h/f Mr S. B. Deshpande, ASGI
for respondent Nos.1, 3, 6 & 7

**WITH
WRIT PETITION NO.6947 OF 2019**

**JAYSHREE BAPURAO DESHMUKH & OTHERS
VERSUS
THE UNION OF INDIA THROUGH SECRETARY AND
OTHERS**

....

Mr S. B. Patil, Advocate for petitioners;
Mr S. S. Dande, A.G.P. for respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 6th June, 2022

PER COURT:

1. The learned Advocate for the petitioners submits that in similar matters viz. Writ Petition No.5069/2019 along with group of matters, this Court has passed an order on 02/03/2022. Similar orders were passed by a Co-ordinate Bench, which dealt with Writ

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Petition No.4022/2019 and connected matters, vide judgment dated 20/01/2022. He, therefore, prays that these two petitions can be disposed off, by issuing the same directions.

2. In our order dated 02/03/2022, we had recorded in paragraph Nos.2 to 7 as under :-

“2. A coordinate bench dealt with a bunch of petitions in Writ Petition No.4022 of 2019 filed by Pandurang Sakharam Nikam and others Vs. The State of Maharashtra and others and connected matters vide judgment dated 20.01.2022. Those petitioners were also similarly placed and the petitioners in those petitions had put-forth similar grievances. Vide the said judgment, this Court concluded in paragraph nos. 13 and 14 as under:-

“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

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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.”

3. In view of the above, we intend to follow the same course and as the coordinate bench has not mentioned as to who would make the payment of charges for the joint measurement, we initially would direct the acquiring body to bear the fees for the measurement of the road since the widening of the road is almost completed.

4. As such, all these petitions are disposed off in terms of the reproduced paragraph nos. 13 and 14.

5. 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.

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6. *It goes without saying that these petitioners would participate in the joint measurement and would be ready with their land records/revenue records for assisting the authority while measuring the land.*

7. *We make it clear that we have not passed any order staying or stalling any project.”*

3. In view of the above, we intend to follow the same course and as the coordinate bench has not mentioned as to who would make the payment of charges for the joint measurement, we initially would direct the acquiring body to bear the fees for the measurement of the road since the widening of the road is almost completed.

4. As such, both these petitions are disposed off in terms of the reproduced paragraph nos. 13 and 14 in Writ petition No.4022/2019.

5. 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 remedy as available before the Civil Court for getting their rights adjudicated.

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6. It goes without saying that these petitioners would participate in the joint measurement and would be ready with their land records/revenue records for assisting the authority while measuring the land.

7. We make it clear that we have not passed any order staying or stalling any project.

(SANDIPKUMAR C. MORE, J.) (RAVINDRA V. GHUGE, J.)

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