

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 834 OF 2018

Shri Nitin Harihar Kelkar & Ors. ... Petitioners

Versus

State of Maharashtra & Ors. ... Respondents

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Mr. Ketan A.Dhavle for the Petitioners.

Mr. V.S.Gokhale, 'B' Panel Counsel for the State.

Mr. M.L. Patil for the Respondent No.2.

Mr. Rakesh Singh i/b. M.V.Kini & Co. for the Respondent No.5.

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CORAM : NITIN JAMDAR &
SHARMILA U. DESHMUKH, JJ.

DATED : 19 SEPTEMBER 2022

P.C. :-

By this petition, the Petitioners have sought the following prayer :

“a. For Writ of Mandamus or a Writ in the nature of Mandamus or any other Writ, Order or Direction, directing the Respondents to decide and pay compensation including the compensation for cutting the trees, destroying the fencing and septic tank for the said portion admeasuring 1100 sq. mtrs (shown in yellow colour in Exhibit “A”) of S. No. 188/ 1/A/E and S. no. 188/1/(B)/D Nashik within 3 months in accordance with law”.

2. A bare perusal of this prayer shows that to grant the same several disputed questions of fact would arise as regarding the extent of the area, quantum of compensation etc. By earlier orders in this petition, the Court had directed that there be a joint meeting and in the meeting the case of the Petitioners would be put forth and the Respondent -authority would examine the facts and take necessary steps.

3. We are informed that the joint meeting has taken place and minutes of the said meeting are placed on record. In the minutes, it is recorded that 16 sq. meters of area of land is acquired by the authority and the land acquisition compensation is not paid and the compensation will be paid for the land that is acquired.

4. The learned Counsel for the Petitioners states that the Petitioners are satisfied with the stand of the Respondents, however, according to the Petitioners, more than 16 sq. meters of area of land is acquired. The learned Counsel states that for ascertaining the exact extend of acquired land, a report from the Taluka Inspector of Land Records is necessary. In the minutes, the Respondents have left it to the Court to determine the area. This is not a correct approach as the acquiring authority will have to determine and state conclusively as to what is the area they have acquired. The learned Counsel states that this will have to determine on the basis of map made by the authority.

5. Therefore, we direct that the concerned Taluka Inspector of Land Records will carry out measurement in respect of the land in question to the extent which is acquired. The measurement be carried out with notice to the concerned parties within a period of six weeks from today. Thereafter, report be placed before the National Highway Authority and the Special Land Acquisition Officer. After report is so submitted, the concerned Respondent will take a decision as to payment of compensation for the land which is stated to be acquired under the report at the earliest preferably within a period of twelve weeks.

6. As regard the acquisition for 16 sq. meters is concerned, which is position admitted by the National Highway Authority, that compensation will be paid to the Petitioners within a period of four weeks.

7. With these observations and directions, the writ petition is disposed of.

(SHARMILA U. DESHMUKH,J.) (NITIN JAMDAR, J.)