

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 WRIT PETITION NO. 3288 OF 2020

CHANDRAKANT NAGORAO PATIL AND OTHERS
VERSUS
STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. S. V. Natu h/f Mr. Kalpana S. Kulkarni
(Sonpawale)
AGP for Respondent Nos. 1 to 3-State : Mr. P. K. Lakhotia
Advocate for Respondent No.4 : Mr. V. B. Jadhav h/f Mr. A. V. Hon
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**CORAM : S. V. GANGAPURWALA, ACJ &
S. G. CHAPALGAONKAR, J.**

DATED : 24th MARCH, 2023.

PER COURT :

1. The petitioners seek direction against the respondents to pay compensation and other benefits as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of the land ad-measuring 35 Are. situated in Gat No.1 at village Umbadga (Budruk), Taluka AUSA, District Latur.

2. Mr. Natu, learned Advocate for the petitioners submits that the petitioners had also filed a Writ Petition bearing Writ Petition No. 950 of 1993 seeking directions against the respondents to initiate land acquisition proceedings for determination of compensation in respect of the writ land. The said Writ Petition was disposed off by the Division Bench of this Court directing the respondents to carry out a joint measurement, to make an inquiry and directed to pass award. No such steps are undertaken. As such, the present Writ Petition is filed. Learned Advocate for the petitioners submits that even today the land is shown in the name of the petitioners in the relevant 7/12 extract. The respondents are taking up a wrong pleading of the school being in existence prior to 1963. The said plea is erroneous. According to learned Advocate, the petitioners cannot lay hands on the memo of the earlier Writ Petition. The copy of register produced by the respondents does not depict that the said students were studying in the school in the writ plot. According to the learned Advocate, the respondents were duty bound to make an inquiry.

3. Perusing the order of the Division Bench of this Court in Writ Petition No. 950 of 1993, it appears that the contention was that the land was acquired for the purpose of road in the year 1971-1972.

4. The respondent No.4 has filed an affidavit-in-reply stating that at the relevant time, the Zilla Parishad school was already constructed and was being run by the Zilla Parishad. From 1976 onwards, the village revenue records have recorded the writ land in possession of the Zilla Parishad and the school is constructed on the said land and is also being run. The school is run from 1959. The general register of the school is placed on record to substantiate the same. It is the contention of the respondent that even panchanama was drawn in the year 2022 wherein the statements of the ex-students, who were studying in the said school, are recorded.

5. This Court in bunch of writ petitions had passed orders directing the State to take up acquisition proceedings in respect of lands affected in construction of road during the year 1971-1972. The State filed SLP. The said SLP was allowed and the judgment of this Court was set aside. The judgments even in respect of the matters for which no appeal was filed by the State were also set aside. Reference can be had to the judgment of the Apex Court in the case of *State of Maharashtra v. Digambar*, reported in 1995 (4) SCC 683.

6. Considering the above, it will not be possible to grant relief to the petitioners. The Writ Petition as such is disposed off.

7. No costs.

[S. G. CHAPALGAONKAR, J.]

[ACTING CHIEF JUSTICE]

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