

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10966 OF 2023

SHANKAR DHAYAPPA HALLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...

Advocate for the Petitioners : Shri Shinde Ram S.
AGP for Respondents 1 to 3/State : Shri S.K. Tambe
Advocate for Respondent 6 : Shri R.R. Bangar

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CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.

DATE :- 11th September, 2023

Per Court :-

1. All these Petitioners have put forth prayer clauses B,
C and D as under:-

- “B) *The respondent authorities may be directed to consider the representation dated 10.02.2023 and 17.01.2023 filed by the petitioners and carry out the joint measurement of the petitioners land excluding the existing width of road to the extent of 6.7 mtrs and to pay the compensation as per the provisions of law.*
- C) *Pending hearing and final disposal of the present writ petition, the respondents may be restrains from construction of National Highway No.652 without payment of compensation.*
- D) *pending hearing and final disposal of the*

present writ petition, the respondents may be restrained from taking the possession of the land of the petitioners for the construction of National Highway No.652.”

2. The issue is as regards the laying of the National Highway No.652 after upgrading it from the State Highway. This connects to the National Highway Nos.50 and 150. These Petitioners appear to have their agricultural lands or some constructions, if any, on the land which is being acquired for the National Highway. At best, the Petitioners are entitled for compensation in the light of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. In several such matters, this Court has directed the authorities to measure the lands and after verifying the records, if any land belonging to the land owner having a valid title, is utilized for a project, the concerned authorities would forward the proposal for acquisition and accordingly, the procedure laid down under the 2013 Act would be followed for the purposes of payment of compensation.

4. Per contra, after the measurement is carried out, if it is noticed that any of the land owners are encroachers, we have

also ordered that they should be removed from the encroached area.

5. In view of the above, **this Writ Petition is disposed off** with the following directions:-

(a) Respondent No.5/Authority (Executive Engineer, National Highway Department, Division Solapur) shall deposit the requisite fees for measurement with Respondent No.3/ Superintendent of Land Records, within 30 days from today.

(b) Thereafter, the due procedure laid down in law would be followed by Respondent No.3 and after issuing notices with adequate notice period to all the stakeholders, a joint measurement of the land would be carried out.

(c) Needless to state, the measurement will be carried out in the light of the records available pertaining to the road, which is now being converted into the National Highway.

(d) If it is noticed that the Petitioners' land is utilized for the project, appropriate procedure for tendering the proposal for acquisition would be lodged, within 90 days and thereafter, the procedure and timeline laid down in the 2013 Act shall be followed for the purposes of payment of compensation.

(e) If any of the Petitioners are found to be

encroachers, they would remove such encroachments, failing which, the Authorities would initiate steps and charge the expenses for removal of encroachments to such encroachers.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)