

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

918 WRIT PETITION NO.1579 OF 2023

WITH

WRIT PETITION NO. 6909/2022

WITH

WRIT PETITION NO. 11721/2022

VILAS PUNDALIK PATIL AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

...

Mr. A.B. Kale, Advocate for Petitioners

Mr. S. G. Karlekar, AGP for Respondents State

Mr. B. M. Dhanure, Advocate for Respondents-Competent Authority

Mr. D. S. Manorkar, Advocate for Respondent- NHAI

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

DATE : 11th August, 2023

ORDER:

1. In all these matters, the common grievance of the petitioners is that the fruit bearing trees that were visible on the 7/12 extract, are being disputed as having been subsequently planted, on the basis of Google map.

2. The learned Advocate representing NHAI and the standing counsel for the Union of India submit that the trees have been subsequently planted and a record is being created. These days it has become a modus operandi to plant well grown trees as soon as the notification indicating reservation/acquisition is published. These

aspects can be gone into by the Arbitrator under section 3G (5) of the National Highways Act, 1956.

3. The Standing Counsel for the Union of India relies upon the following judgments in support of the contention that Section 3G(5) is an appropriate remedy :-

- (1) Vishwasrao Dattatray Kachare & others Vs. Union of India & others, 2017 6 Mh.LJ 85,
- (2) Ganesh Nivrutti Ghadge Vs. State of Maharashtra and others, 2022 (4) MH.LJ 343.

4. The learned Advocate for the petitioners vehemently refutes the contentions of the respondents and submits that those trees were planted long ago, there are joint measurements carried out and the report indicates well grown trees. The learned Advocate submits that these petitioners have already initiated proceedings under section 3G(5).

5. In view of the above, **these petitions are disposed off.** All contentions of the petitioners as well as of the respondents, are kept open to be considered by the Arbitrator under section 3G(5). The 7/12 extract prior to the publication of the notification for acquisition would also be looked into by the concerned Authority.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan