

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

**CIVIL APPLICATION NO. 10573 OF 2021
IN CONT. PETITION NO.294 OF 2021**

**MACHHINDRA JIJA SHINDE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. N. J. Pahune Patil, Advocate for the applicants
Mr. A. R. Kale, AGP for the respondent/State

**CORAM : SMT. ANUJA PRABHUDESSAI AND
R. M. JOSHI, JJ.**

DATE : 31ST JANUARY, 2023

PER COURT :-

1. This Court has passed the order in Writ Petition No. 4717 of 2019 dated 30th April, 2020 as under:-

"23. The respondents are allowed to carry out the work on writ road to the extent of 10 meter wide plus one meter on either side i.e. 12 meter wide. The respondents shall not carry out construction of writ road beyond 12 meter without following due procedure of law. The respondents in that case shall acquire the affected property from the legitimate owner in accordance with the provisions of law or by private negotiations."

2. The applicants have claimed that the respondent-PWD has constructed a road, the base of which and including rain water drainage is beyond 12 meters width. This statement is disputed by the respondent. In the light of this conflicting statements the applicants have filed application for appointment of Court Commissioner to measure the base of the road including rain water drainage. Learned counsel for the applicants, has suggested six names suitable for appointment as Court

Commissioner to carry out measurements.

3. Learned AGP states that he has no objection if any one of the persons at Sr. No. 1 and 2 is appointed as a Court Commissioner to take the measurements. Hence with consent Shri. Nayan Pravin Patel is appointed as a Court Commissioner to visit writ road in Gat No. 249 and 258 village Mangrul, Tq. and District Aurangabad with directions to take joint measurements of the base of the road in the said property including rain water drainage and submit the report as regards the actual measurement of the base of the road along with rain water drainage.

4. The petitioners shall deposit before this Court sum of Rs.15,000/- tentatively towards Commissioner's fees.

5. The Officer from P.W.D., Aurangabad Division as well as the petitioners shall remain present at site on 6th February, 2023 at 11.00 a.m. The Commissioner shall take the measurement in presence of both the parties and submit the report along with photographs on or before 14th February, 2023.

6. Application stands disposed of.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

ssp