

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

41 WRIT PETITION NO.10639 OF 2023

SHIVAJI NARAYAN SHENDGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND
OTHERS
WITH

[42 WP/10640/2023](#) WITH [43 WP/10641/2023](#)
[44 WP/10642/2023](#) WITH [45 WP/10643/2023](#)
[46 WP/10644/2023](#) WITH [47 WP/10645/2023](#)
[48 WP/10646/2023](#) WITH [49 WP/10658/2023](#)
[51 WP/10662/2023](#) WITH [53 WP/10666/2023](#)
[55 WP/10669/2023](#) WITH [57 WP/10673/2023](#)
[60 WP/10676/2023](#) WITH [61 WP/10680/2023](#)
[62 WP/10681/2023](#) WITH [63 WP/10682/2023](#)
[64 WP/10683/2023](#)

Mr.R.B.Dhaware, Advocate for the Petitioner.
Mr.V.M.Kagne, Mr.PK.Lakhotiya, Mr.A.V.Deshmukh, Mr.S.K.Tambe,
Mr.S.G.Karlekar, AGPs' for Respondent/State.
Mr.P.D.Suryawanshi, Advocate for Respondent Nos. 3 and 4.

(CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.)

DATE : AUGUST 28, 2023

PER COURT :

1. In all these matters, the Petitioners claim to be identically placed. All of them claim to be the owners and possessors of agricultural lands alongwith fruit bearing trees, wells, residential

houses, borewells etc. adjacent to the State Highway No.232. Their grievance is that earlier the width of the road was only 8 to 10 meters in 1971-1972. Now the road has become a State Highway and the width is around 30 meters.

2. By now, it is well settled that a public project should not be stalled. If the Petitioners are encroachers, the encroachments have to be removed. However, if they have a right and title, evidence through documents pertaining to such lands which are being utilized for the State Highway, will have to be produced and if the record reveals that their lands are being acquired for the State Highway, they would be entitled for compensation under the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. In view of the above, **these petitions are disposed off** with the following directions :-

[a] Let the Executive Engineer, PWD of all the respective Divisions complete the exercise of issuing notices to all these Petitioners (some of them have already been issued with such notices) for removal of encroachments.

[b] All those who have received the notices and those who would receive such notices shall tender their written replies alongwith authenticated documents showing their title and ownership over the property, within 15 days from today or within 15 days from the receipt of the notices which would now be issued.

[c] The Respondents would be at liberty to carry out a joint measurement of the lands in order to assess the size of the lands, which are being utilized for the public project.

[d] If the record reveals and the Petitioners are unable to establish their ownership over the said lands, portions of which would be utilized for the widening of the road, they would be informed to remove the encroachments voluntarily within a particular time, failing which, the Respondents can initiate steps for removal of such encroachments and charge for such exercise.

[e] Needless to state, if the Petitioners' claims are sustained in Law and it is proved that their lands have been acquired, a appropriate proposal shall be forwarded by the Acquiring Authority to the competent authority and the proceedings under the 2013 Act would be completed within the timeline as may be prescribed. In such a situation, the Petitioners will have to relocate themselves so as to make way for the said project.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)