

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

WRIT PETITION NO.13535 OF 2023

**ATHAR SAYEED MAZHARUDDIN AND ANOTHER
VERSUS**

THE UNION OF INDIA THROUGH ITS SECRETARY AND OTHERS

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Mr. Bhushan Mahajan, Advocate for Petitioners

Mr. S. G. Karlekar, AGP for Respondent Nos. 2 and 4

Ms. Sudha Kulthe, Standing Counsel for Respondent Nos. 1 and 3

Mr. D. S. Manorkar, Advocate for Respondent No.5

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

DATE : 31.10.2023.

PER COURT :-

1. The Petitioners have put forth prayer clauses (B), (C)

and (D) as under:-

“(B) To direct the respondents to carry out joint measurement at Gut No.80/3, Vadhod (Bk.), Tq. Khultabad, Dist. Aurangabad.

(C) To direct the respondents to initiate due process of land acquisition for the land of Gut No.80/3, Vadhod (Bk.) utilized in construction of the Phulambri-Khulatabad National Highway No.752H.

(D) To direct the respondent No.4 – Executive Engineer, PWD, Aurangabad to decide the representation dated 20.07.2023 (EXHIBIT-“E”) preferred by the petitioner preferably within four weeks.”

2. The learned Advocate for the Petitioners submits, on the representation of the Petitioners dated 10.06.2022, that the Project Director has issued a communication to the Executive Engineer, PWD, Aurangabad, calling for his report. The learned Advocate, therefore, submits that, his representation be taken to a logical end, and if there has been no measurement of the land of the Petitioners, which is said to have been utilized in the Phulambri-Khultabad National Highway No.752H, there should be a joint measurement. If it reveals that the Petitioners' land has been utilized, the Competent Authority be directed to acquire the land by following the procedure laid down under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

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

(A) If a measurement of the Petitioners' land has not been carried out, appropriate directions shall be issued for carrying out the said measurement. The Petitioners and the Respondent No.4, Public Works Department, would pay equal shares of the fees for measurement.

(B) The above exercise of depositing the fees, if any, shall be completed within 45 days from today. Thereafter, measurement shall be carried out within 30 days with due notice to the parties concerned.

(C) If it is revealed that the Petitioners' land, to be specific, Gut No.80/3 Vadhod (Bk.), Tq. Khultabad, has been utilized for the said road, the concerned authorities shall resort to acquisition of the said portion of the land in terms of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and shall ensure that the process of acquisition is completed within the prescribed 12 months period.

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

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