

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

74 WRIT PETITION NO.12770 OF 2023

**ANUP KISHORILAL RAMUKA AND ANOTHER
VERSUS
THE COMPETENT AUTHORITY AND SPECIAL LAND ACQUISITION
OFFICER AND OTHERS**

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Advocate for Petitioners : Mr. Kale Ajeet B.
AGP for the Respondents-State : Mr. V. M. Kagne
Advocate for Respondent No.1 : Mr. B. M. Dhanure

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

DATE : 16th October, 2023

ORDER:

1. This matter was heard for quite some time.
2. No doubt, there seems to be a serious dispute as regards the age of 62 Pomegranate trees in Survey 60/1/B. In the first award, compensation for 96 trees was paid at a particular rate considering the age of the trees to be 3 years. By the second award, which is impugned, age of 62 trees is held to be less than one year. The contention on behalf of the competent authority is that earlier, there was a mistake in calculating the age of the trees and hence, higher compensation was paid.
3. The learned Advocate representing Respondent No.1 relies upon (1) Vishwasrao Dattatray Kachare & ors. Vs. Union of India & Ors., 2017 (6) Mh.LJ 85 and Ganesh Nivrutti Ghadge Vs. State of Maharashtra and others, 2022 (4) Mh. LJ 343 to contend that this

Court should not embark upon entertaining this Petition and instead, refer the Petition to the remedy available under section 3G(5) of the National Highways Act, 1956.

4. The learned Advocate for the Petitioners makes a serious grievance on the part of the competent authority, National Highway No.6/Deputy Collector, Land Acquisition, Dhule by attributing malafides to her conduct, which has been visible in preparing the second award.

5. The learned Advocate for the Petitioners submits on instructions that the Petitioners would avail of the remedy under section 3G(5) of the Act.

6. In view of the above, **this petition is disposed off** as withdrawn. However, we record that in the proceedings under section 3G, if the Petitioners are able to convince the concerned authority that the competent authority, who passed the second award dated 27.03.2023, has acted malafide, we leave the issue open for the concerned authority to consider whether any cost can be imposed on the said competent authority, to be recovered from her salary grants.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan