

SA Pathan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6873 OF 2022

Gajarabai @ Sojarbai Eknath Gore & Ors ... Petitioners

V/s.

Competent Authority and Dy. Collector
Land Acquisition & Ors

... Respondents

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SHAMSHUDIN
PATHAN
Date: 12.11.2023
Time: 10:30
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Mr. Manoj B. Bagal, for Petitioners.

Mr. S. L. Baba, AGP for State-Respondent No.1.

Mr. Amit Sale, for Respondent Nos.2 to 5.

Mr. Aniesh S. Jadhav a/w Mr. Rushikesh Kekane, for
Respondent Nos.6 & 7.

Mr. Prashant R. Suryawanshi i/by Mr. Gajanan M.
Savagave, for Respondent No.8.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 13, 2023

P.C.:

1. The petitioners challenged an order dated 2 May 2022 passed by Civil Judge, Senior Division, Barshi in LAR No.11 of 2014 in exercise of power under Section 3(H)(4) of the National Highways Act, 1956.

2. By the Notification dated 13 October 2012 under Section 3(A) of the National Highways Act, 1956, the properties bearing No.1068/4 and 1068/5 at Tembhurni, Taluk Madha were acquired.

3. Accordingly, the amount Rs.1,90,19,208/- was decided to be compensation which included proceeds of Rs.1,77,14,500/- towards compensation of land and, the balance amount towards compensation of fruit bearing trees, well, bore well and pipeline.
4. The petitioners claim share to the extent of 1/6. The Trial Court rejected petitioners claim mainly on the ground that the petitioners had sold land bearing Gat No.1068/5 in favour of respondent Nos.6 and 7.
5. Upon hearing parties to the writ petition, it appears that there is no serious dispute amongst the parties that petitioners are entitled to 1/6 share. However, it appears that sale deed dated 8 January 2013 regarding Gat No.1068/5 saves right of petitioners to claim compensation for fruit bearing trees, well, bore well and pipeline. Therefore, there is no serious dispute that petitioners have 1/6 share in relation to compensation regarding Gat No.1068/4. Hence, following order:
 - a) The petitioners are permitted to withdraw amount of compensation of Gat No.1068/4 to the extent 1/6 share and in relation to Gat No.1068/5 petitioners shall be entitled compensation as per the impugned order.
 - b) Rest of the parties shall permitted to withdraw the compensation amount as per the impugned order.
6. The writ petition stands disposed of in above terms.

(AMIT BORKAR, J.)