

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION NO. 1102 OF 2019

(Anil Samadhan Shitre & Ors. Vs. National Highways Authority of India & Ors.)

*Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders.*

Court's or Judge's order

Shri H.R. Gadhia, Advocate for the petitioners.
 Shri Anish A. Kathane, Advocate for respondent No.1.
 Ms. N.P. Mehta, Assistant Government Pleader for respondent Nos. 3 to 5/ State.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : APRIL 10, 2023

Heard.

2] The petitioners who are the owners of Gat No. 64 ad measuring 2.57 HR are seeking a direction to be issued to respondent Nos. 1 to 3 not to take possession of land ad measuring 2.01 HR without following due process of law.

3] On hearing the learned Counsel for the parties, we find that on 13/8/2021, i.e., during pendency of the Writ Petition, an award has been passed by the Sub-Divisional Officer/ Competent Authority, Land Acquisition by which land to the extent of 0.59 square meter from Survey No. 64 has been acquired. In that context, the petitioners had filed Civil Application No. 2362/2022 praying therein that necessary Notification under Sections 3A and 3D of the National Highways Act, 1956 be directed to be issued. In the reply filed to the Civil Application by respondent No.1, it has been stated in paragraph 7 as under:

“7) Further, at the cost of repetition, it will be apt to mention here that, the present respondent have not carried out any activity of construction beyond 0.35 HR land of the petitioners. The entire construction of the said National Highway carriageway is on the said acquired land only. That, due to the recent grievance raised by the petitioners in respect of existing road width, the present respondent authorities intends to review/ challenge the decision of the Deputy Superintendent, Land Records, Balapur dated 16.4.2021 in respect of road width. However, it is submitted that, no construction is done on land beyond 0.35 HR of the petitioners on the subject stretch of National Highway.”

4] From the aforesaid, it is clear on record that respondent No.1 has undertaken necessary activities only on land ad measuring 0.35 HR of the

petitioners and it does not intend for the present to take over the other land. We accept the said statement made in paragraph 7.

5] The decision of the Deputy Superintendent of Land Records, Balapur dated 16/4/2021 is also the subject matter of dispute between the parties. The grievance is with regard to the width of the existing road being either 24.5 meters or 45 meters. As stated above, respondent No.1 intends to challenge the said decision by taking recourse to appropriate revenue proceedings. The petitioners are also at liberty to challenge the said decision dated 16/4/2021 in the matter of width of the said road. Based on such adjudication, the parties are free to seek appropriate relief in that regard.

6] By accepting the statement made that land to the extent of 0.35 HR from Survey No. 64 has been acquired, the Writ Petition is disposed of. Needless to state that if recourse is taken to such revenue proceedings, the same shall be decided expeditiously in accordance with law. In the result, Civil Application No. 2362/2022 also stands disposed of.

7] An authenticated copy of this order be supplied to the learned Counsel for the parties.

(M.W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)

SUMIT