



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

WRIT PETITION NO.3752 OF 2023

Vishnu s/o Narayan Jadhav and others Petitioners

Versus..

The State of Maharashtra through the Secretary,
Irrigation Department, Mumbai and ors. Respondents

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Shri G.K.Kshirsagar, Counsel for petitioners through video conferencing.

Shri A.M.Deshpande, In-charge Government Pleader for respondent nos. 1 to 3.

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**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
A.S. CHANDURKAR, J.**

DATE : 17th OCTOBER, 2023.

P.C.

1. Mr. Deshpande, learned In-charge Government Pleader has put in appearance and waives service of notice for the respondents.

2. Heard Mr. Kshirsagar, learned Counsel for the petitioners through video conferencing and Mr. Deshpande, learned In-charge Government Pleader representing the respondents.

3. Submission of the learned Counsel for the petitioners is that certain portion of the land belonging to the petitioners has

been utilised by the Irrigation Department in District Buldhana without either acquiring or paying compensation therefor. With this submission, a prayer has been made to direct the respondent nos. 2 and 3 to initiate the acquisition proceedings and to make an award and to pay compensation for the land which is allegedly utilised by the Irrigation Department.

4. Mr. Deshpande, learned In-charge Government Pleader, on the other hand, submits that the acquisition proceedings in respect of the land in question took place way back in the year 1976 and consequentially, the award was declared by the Special Land Acquisition Officer on 19.07.1976. Inviting our attention to the said award, which has been annexed as Annexure A to the writ petition, it is pointed out by the learned In-charge Government Pleader that in terms of the said award, the petitioners were also compensated and accordingly the writ petition is liable to be dismissed.

5. Learned Counsel for the petitioners has brought to our notice a communication dated 13.09.2023 which has been issued by the respondent no.3 to the In-charge Land Acquisition Officer, Office of the Collector, Buldhana whereby it has been requested to conduct joint measurement of land in question.

The said communication dated 13.09.2023 is taken on record and marked 'A' for identification.

Corrected As
per Court's
order dated
23.10.2023

6. According to the learned Counsel for the petitioners, the issue as to whether the land other than the land which forms part of the award dated 19.07.1976 having been taken possession of and utilised by respondent no.3 can be ascertained in case joint measurement is permitted. Submission is thus that in the joint measurement if it is found that any portion of land belonging to the petitioners other than the land in respect of which the award dated 19.07.1976 has been utilized by the Irrigation Department, only then the petitioners shall be entitled to the compensation.

7. In view of aforesaid facts, we are of the opinion that as to whether the land belonging to the petitioners which does not form a part of the award dated 19.07.1976, has been taken possession of and has been utilized by the Irrigation Department without acquiring the same, can be ascertained in case joint measurement is directed to be conducted. In the joint measurement if any portion of such land is found to be in possession of the Irrigation Department which has been utilised without acquisition, only in that situation the petitioners will be

entitled to seek compensation.

8. Thus, without entering into the merits of the claim put forth by the petitioners in this writ petition, at this juncture, we dispose of the writ petition with a direction to the authorities of the Office of Collector, Buldhana, to conduct joint measurement of the land in question in terms of the communication dated 13.09.2023. The petitioners shall bear the expenses of the joint measurement to be conducted under this order.

9. In case in the joint measurement it is found that any portion or piece of land belonging to the petitioners has been taken possession of and utilized by the Irrigation Department, which does not form a part of the award dated 19.07.1976, adequate steps shall be taken by the authorities concerned to compensate the petitioners accordingly.

Corrected
as per
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10. The writ petition stands disposed of with aforesaid directions.

(A.S. CHANDURKAR, J.)

(CHIEF JUSTICE)

Andurkar...