

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

WRIT PETITION (WP) 3200/2022

Dhruv S/o Parshuram Rathod,
Aged about 58 Yrs., Occ. Agriculturist,
R/o Waigaul, Tq. Manora,
Distt. Washim.

..... PETITIONER

// VERSUS //

1. National Highway Authority of India,
G 5 & 6, Sector – 10;
Through its Executive Engineer,
Dwarka, New Delhi 110075
2. Executive Engineer,
National Highway Division, Amrawati
“Bandhkam Bhawan, Camp,
Amrawati.
3. M/s RNS Infrastructure Ltd.,
Through Authorized Signatary,
“Mrudueshwar Bhawan,
604/B, Gokul Road,
Hubli 580030.
Distt Dharwad, Karnataka .
4. Government of India,
Ministry of Road Transport & Highways,
Regional Office, Room No. 508 & 509,
Konkan Bhawan, CBD Belapur,
Navi Mumbai – 400 614.

.... RESPONDENT(S)

Amended as per Court's ord. Dt. 11.4.23

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Mr. A.S. Mehadia, Advocate for the petitioner
Ms. Vidhi Verma with Mr. A.A. Kathane, Advocates for respondent 1
Mr. S.B. Gandhe, Advocate for respondent 2
Mr. V.N. Patre, Advocate for respondent 3
Ms. Mugdha Chandurkar, Advocate for respondent 4
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**CORAM : ROHIT B. DEO AND
M. W. CHANDWANI, J.J.**

DATED : 13/07/2023

ORAL JUDGMENT : (PER:- ROHIT B. DEO, J.)

Rule. Rule made returnable forthwith.

2. The petitioner claims to be the owner of agricultural land admeasuring 0.46 R which is portion of Field Survey 661 admitted in 11.21 HR situated in Village Waigaul, Tq. Manora, Distt. Washim.

3. The petitioner claims that the respondent 3 is a contractor who was executing the road widening work of Arni - Naygaon road NH- 163A. The petitioner claims that while executing the work by porcelain machine, Teak and other trees standing on the boundary of the petitioner's land were damaged. The petitioner claims that since he lodged a complaint to the Range Forest Officer (RFO), the Field Assistant visited the spot on 22.08.2020 with Panchas. Spot panchnama was recorded, which according to the petitioner substantiates the claim of damage to the roots of the teak trees.

4. According to the petitioner, the panchnama records that one teak tree was uprooted and roots of 38 teak trees were damaged. The petitioner further contends that it is in view of the damage, that the RFO

by order dated 29.01.2021 imposed penalty of Rs.33,000/- on the respondent 3 – contractor, which order the contractor did not challenge, and complied with.

5. The grievance of the petitioner is that while the contractor was imposed with penalty, the petitioner has not received any compensation, which he is entitled to receive.

6. We note from the affidavit in response dated 20.06.2023 filed on behalf of the respondent 2, that the claim is denied inter alia on the ground that the trees which are damaged do not belong to the petitioner inasmuch as the trees are standing on ROW (Row of Width). In sum and substance, the stand of the respondent 2 appears to be that since the trees which are damaged are standing on land which is not owned by the petitioner, the petitioner is not entitled to any damage.

7. The controversy cannot be resolved in writ jurisdiction. However, we note the stand of the Deputy Superintendent of Land Record, Manora that the subject land is measured, and the measurement may possibly provide an answer to the narrative and counter-narrative.

8. In this situation, we direct the Collector, Washim to issue notice to every stake-holder, to consider the material which may be placed on record and the measurement, if any, which is carried out by

the Office of the the Deputy Superintendent of Land Record, Manora, and ascertain whether the trees which are damaged, and that the trees are damaged is incontrovertible, belong to the petitioner.

9. The respondents shall act on the basis of the findings which may be recorded by the Collector, Washim.

10. We request the Collector, Washim to take a decision as early as possible and in any event within ninety days from the date of appearance of the parties.

11. The writ petition is disposed of in the aforesaid terms.

(M. W. CHANDWANI, J.)

(ROHIT B. DEO J.)