



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO. 521/2020

Satish S/O Vijayrao Awchar And Others

Vs

Union Of India, Through Secretary, Ministry Of Road
Transport And Highways, Delhi And Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.L. Khapre, Senior Counsel assisted by Mr. Abhishek S. Shukla,
counsel for the petitioners.

Mr. C.J. Dhumane, counsel for respondent No.1.

None for respondent No.2.

Mrs. Prachi Joshi, h/f Mr. Vivek Sawarkar, counsel for respondent Nos. 3
and 4.

Mrs. K.S. Joshi, Addl. GP for respondent Nos. 5 to 8.

CORAM: AVINASH G. GHAROTE &
URMILA JOSHI-PHALKE, JJ

DATED : 26/09/2023.

1. Heard.
2. The petition questions the actions on part of the Respondent Nos. 3 and 4 in expansion of the National Highway No.461-B passing through Risod–Malegaon-Hingoli. The petitioners are the residents of the villages bordering this Section of National Highway No. 461-B. It is the contention of the learned Senior Counsel for the petitioners, that during the expansion of the National Highway No. 461-B, the respondent Nos. 3 and 4 have encroached upon their lands, which was without any acquisition proceedings being initiated, and therefore are questioning this action on the part of the respondents.
3. Mrs. Prachi Joshi, learned counsel holding for

Mr. Vivek Sawarkar, learned counsel for respondent Nos. 3 and 4 does not dispute the factum of expansion of the National Highway No. 461-B, which also includes the Risod-Malegaon-Hingoli Section. It is, however her contention, that the expansion of the road in this section does not affect the lands of the petitioners as the expansion is within the limits of the government lands, on account of the existing State Highway being expanded.

4. This is a position, which will have to be determined on the basis of the then existing width of the State Highway, the quantum/extent of expansion and determining whether the lands of the petitioners are affected or not.

5. The petitioners have placed on record (Page-60 onwards) documents detailing the extent of the lands owned by them, and the map which indicates their lands being affected. It would, therefore, be necessary for the Respondent Nos. 3 and 4 to determine whether the lands of the petitioners are affected by the expansion of the National Highway No. 461-B through the Risod-Malegaon-Hingoli stretch. Since the documents relating to the title and the reports are already filed in this petition, they shall be duly taken into consideration by the Respondent Nos. 3 and 4 while making such determination. The petition is **partly allowed** by directing the respondent No.3 to make a determination of the plea raised by the petitioners in their various documents as annexed to the petition and any other documents which may be filed by the petitioners before him.

6. The petitioners shall appear before the Respondent Nos. 3 and 4 as per the statement made by Mr. R.L. Khapre, learned Senior Counsel for the petitioners on 4/10/2023 and submit any additional documents which they may feel necessary for the determination of their contentions, which shall also be considered by the Respondent No. 3. Such determination shall be made by respondent No. 3 by 31/10/2023, which shall also be communicated to each of the petitioners or a representative to be appointed by them.

7. In case, it is found that the lands of the petitioners are affected on account of the expansion of the aforesaid National Highway No. 461-B, considering the passage of time, it would be appropriate for the petitioners and the respondent No. 3 to sit together and determine the mode of compensation by agreement, as that would be the best possible option available to them.

8. In case, if it is so done, then the compensation therefor, thereafter, shall be paid within reasonable time.

9. The petition is accordingly **partly allowed** in the above terms. No costs.

JUDGE

JUDGE