



(Corrected as per order dated 10.09.2024)  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 8674 OF 2022

1. Manjulabai Agrawal Sevabhavi Sanstha,  
Through its President  
Kalpesh Rameshchandra Agrawal  
Age: \_\_\_ years, Occu: Business,  
R/o Chinchpada Taluka Navapur,  
District Nandurbar.

2. Manish Omprakash Agrawal,  
Age: 44 years, Occu: Business,  
R/o Chinchpada,  
Tal. & Dist. Nandurbar.

... PETITIONERS

V/s.

1. The State of Maharashtra  
Through Collector, Nandurbar.

2. The Competent Authority and or  
Special Land Acquisition Officer  
(National Highway No.6) /  
Assistant Collector, Nandurbar,  
Tq. & Dist. Nandurbar.

3. National Highway Authority of India,  
Through Project Director,  
NHAI-PIU, Dhule, Mansaram Nagar,  
Near Circuit House, Sakri Road,  
Dhule – 424 002.

4. Deputy Superintendent of Land Record,  
Navapur, Tal. Navapur,  
Dist. Nandurbar.

... RESPONDENTS

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Mr. D.S. Bagul, Advocate for the Petitioner

Mr. R.B. Bhosale, Advocate for Respondent-UIO

Mr. S.K. Tambe, AGP for Respondent-State

Mr. V.D. Sapkal, Sr. Advocate i/b. Mr. D.S. Manorkar, Advocate for Resp.  
No.3

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CORAM : RAVINDRA V. GHUGE &  
Y.G. KHOBRAGADE, JJ.  
RESERVED ON : 27<sup>th</sup> June, 2024  
PRONOUNCED ON : 16<sup>th</sup> August, 2024

**JUDGMENT (Per: Y.G. Khobragade, J.) :-**

1. Rule. Rule made returnable forthwith. With the consent of both the sides, the matter is heard finally at the stage of admission.

2. By the present Petition under Article 226 of the Constitution of India, the Petitioners have put-forth prayer clauses B and C as under :-

*“B) By way of appropriate Writ order or directions in the like nature, appropriate contempt proceeding be initiated against the respondent Authorities for deliberate violation of the order passed by this Court in Writ Petition No.7500/2020 dated 29.07.2021.*

*C) By way of appropriate Writ order or directions in the like nature, the respondent Authorities be directed to issue notification under Section 3A of National Highway Act, 1956 and further be directed to pay the compensation in pursuant to the report prepared by the respondent Authorities as directed by this Honourable High Court in Writ Petition No. 7500/2020 dated 29.07.2021.”*

3. Heard at length Mr. Bagul, learned counsel for the Petitioner, Mr. Bhosale, the Standing Counsel for the Respondent No.1,

Mr. V.D. Sapkal, learned Senior Counsel appearing for the Respondent No. 3 and learned AGP for the Respondent Nos. 1 & 4.

4. Perused the Written Notes of Arguments tendered on behalf of Petitioner as well as on behalf of Respondent No.3-National Highway Authority of India. Having regard to the rival submissions canvassed on behalf of both the sides, we have gone through the Petition paper book. On careful perusal of the record, *prima facie*, following questions arise for consideration which are as under:-

i) Whether Writ jurisdiction can be exercised for initiation of contempt proceeding for disobedience of order passed by this Court in W.P. No. 7500/2020, dtd. 29.07.2021?

(ii) How much area of land out of Gut no. 200/2 has been acquired by the Respondent No. 3 under notifications dated 29.10.2012 issued under Section 3D and 3G in pursuance of notification dated 11.11.2011 issued under Section 3-A of the National Highways Act?

5. In order to order ascertain the question No.1, we have gone through the order dated 29.07.2021 passed by this Court in W.P. Nos. 7476/2020, 7490/2020; 7499/2020, 7498/020, and 7500/ 2020 which is reproduced for ready reference as under:

*“1. All these petitions are being disposed off in the light of a chart submitted by respondent No.2 National Highway Authority of India (For short, NHAI) which is acceptable to the petitioners and considering certain directions issued by this Court in judgment dated 03/07/2021, delivered in WP No.5250/2020 filed by Bhaguji Nathaji Maind and others Vs. the Union of India and others.*

2. *The chart (3 pages) placed before us by respondent No.2 is taken on record and marked as 'X-1 collectively'. This chart shall be a part and parcel of this order.*

3. *In WP No.7499/2020, the National Highway Authority of India/ respondent No.2 has acquired 9656 Sq.Mts. of land for which an award is delivered and amounts are paid to the beneficiaries. NHAI further desires to acquire 8050 sq.mts. of land and for which purpose, a notification is issued and an award is yet to be delivered. The NHAI submits that the legal procedure set out u/s 3 of the National Highways Act, shall be followed and any person who may have a title or interest, may raise an objection before the appropriate authority. The petitioners are agreeable.*

4. *In WP No.7490/2020, NHAI indicates from X-1 that 11366 Sq.Mts. of land has been acquired and a further 19156 sq.mtrs. of land is required. A notification has been issued and CALA will consider the objections of any person whose land is affected, by following the procedure laid down u/s. 3 of the National Highways Act and all objections would be dealt with by CALA. The petitioners are agreeable.*

5. *In WP No.7476/2020, NHAI makes a statement that no further land is needed and this petition can be disposed off.*

6. *In WP no.7500/2020, NHAI makes a statement that no further land is required and this petition can be disposed off.*

7. *In WP No.7498/2020, besides the 200 Sq.Mts. acquired for which an award has been declared, no further land is sought to be acquired by the NHAI.*

8. *In view of the above statements, we dispose off all these petitions by recording the above statements in the light of X-1.*

9. *In the event of any measurement of lands being required to be done, the District Collector, Nandurbar shall monitor such measurement. If any of the petitioners are aggrieved by any portion of their land, over and above the lands mentioned in X-1, being affected, they would be at liberty to raise a dispute before a CALA. The measurement of lands, if required, shall be undertaken by the District Collector and in presence of all the*

*litigating parties/title holders/persons having interests in the property, preferably within a period of 30 days.*

*10. Needless to state, any land over and above the details set out in X-1 is to be acquired, the procedure laid down in Law shall be followed.*

*11. As these petitions are disposed off, ad-interim order passed by this Court stands vacated.*

*12. Parties are at liberty to act on this order being uploaded on the official website of the Bombay High Court.”*

6. Mr. Bagul, the learned counsel for the Petitioners canvassed that the Petitioner No.1-Trust had filed W. P. No. 7500 of 2020 and prayed for quashment of order dated 19<sup>th</sup> October, 2020 passed by the Respondent No.2 NHAI (present Respondent No.3) whereby the proposal submitted by the Competent Authority/Land Acquisition Officer National Highway No.6 was turned down. On 29.07.2021, this Court was pleased to pass an order and directed that in the event of any measurement of lands being required to be done, the District Collector, Nandurbar, shall monitor such measurement. If any of the Petitioners are aggrieved by any portion of their land over and above the lands mentioned in X-1, being affected, they would be at liberty to raise a dispute before CALA. The measurement of land, if required, shall be undertaken by the District Collector and in presence of all the litigating parties, title, holders, persons having interest in the property preferably within a period of 30 days and if any land over and above set out in ‘X-1’ is to be acquired, the procedure laid down in law shall be followed.

However, the Respondents have carried out measurement of Gut No.200/2 on 14.09.2021 in presence of the Petitioners. Accordingly, on 08.10.2021, the Respondent No.4 prepared a report stating that earlier measurement which was carried out matched, however, an area 19,300 sq. mtrs from Gut No. 200/2 was affected. Therefore, the officers of Respondent Nos.1 & 3 intentionally and willfully disobeyed order dated 29.07.2021 passed by this Court in W. P. No. 7500 of 2020, hence, prayed for initiation of action against Respondent No.1 under the Contempt of Courts Act.

7. Mr. V .D. Sapkal, the learned Senior Counsel appearing for ~~the~~ Respondent No.3 canvassed that after the order was passed by this Court, the Petitioners raised an objection on 04.08.2021 with the Respondent No.2 - Dy. SLR, Navapur vide its letter No. 956/2021 stating that joint measurement was scheduled on 14.09.2021, which does not suggest that the Respondents have intentionally or willfully disobeyed the order of this Court. Since the Respondents have not acted against the order of this Court nor deliberately avoided to obey the order. Therefore, no action under the Contempt of Courts Act is warranted.

8. Needless to say that in Para 6 of above quoted order of this Court, it clearly shows that the Respondent No.3 - NHAI made a specific statement that no further land is required from Gut no. 200/2, which

was subject matter of W.P. No. 7500 of 2020. In Para No. 9 of above quoted order, it is further observed that in the event of any measurement of lands being required to be done, the District Collector, Nandurbar, shall monitor such measurement. If any of the Petitioners are aggrieved by any portion of their land over and above the lands mentioned in 'X-1', being affected, they would be at liberty to raise a dispute before CALA. The measurement of lands, if required, shall be undertaken by District Collector and in presence of all the litigating parties, title, holders, person having interest in the property preferably within a period of 30 days.

9. Since the Respondent No.3-NHAI had made a categorical statement that no further land is required from Gut no. 200/2, which was subject matter of W. P. No. 7500 of 2020, therefore, we do not find any willful disobedience of the order dated 29.07.2021 by the Respondent Authorities.

10. Further after order was passed by this Court on 29.07.2021, the Petitioner No.2 raised an objection on 04.08.2021 with the Respondent No.2 - Dy. SLR, Navapur vide its letter No. 956/2021 stating that joint measurement was scheduled on 14.09.2021 and same was carried out in presence of the Petitioners. Since the Respondents have not acted against the order passed by this Court nor deliberately

avoided to obey said order, hence, prayer of the Petitioners to initiate contempt proceedings against Respondent No.1 is unwarranted.

11. Mr. Bagul, learned counsel appearing for the Petitioners canvassed that on 20.06.2019 (date not disclosed by the Petitioners. We have perused it from Exh. R-5 produced by Respondent No.3), the Petitioner No.2 - Manish Omprakash Agrawal purchased subject land from the Petitioner No.1 - Manjulabai Agrawal Sevabhavi Sanstha, who was sole Petitioner in Writ Petition No. 7500 of 2020.

12. Learned counsel appearing for the Petitioner further canvassed that on 11.11.2011, the Government of India issued a Notification u/s 3A of N.H. Act, 1956 and notified the Writ land for Four Lane widening of National Highway No.6. On 29.10.2012 a notification u/s 3A & 3D was published. As per said notification, the land admeasuring 6438 sq.mtrs. from Gut No. 200/2 of village Chinchpada was notified for acquisition.

13. It is further canvassed that in the year 2019, the Petitioner No.1 Sanstha/Trust applied for conversion of said land into Non-agriculture and prepared tentative Layout Plan then the Petitioners realized that more than 19,000 sq.mtrs area was shown under acquisition of the N.H.A.I. Thereafter, on 01.06.2019, (correct date is 01.01.2019), the Petitioner No.1 - Sanstha applied for measurement of

entire Gut No. 200/2. On 18.11.2019, the Respondent No.4 - Dy. SLR, Navapur measured Gut No. 200/2 and prepared a report. The report was forwarded to Respondent No. 2 - CALA on 15.06.2019. As per said measurement report, the Respondent-NHAI acquired 19,300 sq.mtrs of land and previously land admeasuring 7700 sq. mtrs., was already acquired for the National Highway No. 6.

14. The learned counsel for the Petitioners submits that on the basis of measurement report dated 06.09.2019 prepared by Respondent No. 4 - Dy. SLR, Navapur it was requested to the Respondent No. 3 to issue notification u/s 3A of the Act of 1956, however, the Respondent No. 3 - NHAI raised queries and requested Respondent No.2 to rectify those queries. Accordingly, the Respondent No.2 rectified queries and submitted fresh report on 20.12.2019 to Respondent No.3 with a request to issue notification u/s 3A. After receipt of proposal dated 20.12.2019, the Respondent No.3 again raised queries which were rectified by Respondent No. 2 vide reports dated 23.06.2020 and 17.08.2020. After receipt of said proposal, the Respondent No.3 deputed its representatives and Dy. SLR, Navapur to visit Writ land to verify the same. Thereafter, the Respondent No.4 prepared a report dated 19.10.2020 showing that out of Gut No. 200/2, total area of 7764 sq. mtrs., has already been published in 3D notification for Gut No. 200/2 and 200/1/C. The area mentioned in new 3-A proposal is 11536

sq. mtrs out of Gut No.200/2. The nature of land was shown as agricultural at the time of previous notification for acquisition, but under new proposal nature of land was shown as non-agricultural standing in the name of Manjulabai Agrawal Sevabhavi Sanstha. The area under consideration does not change and additional land is not required from Gut No. 200/2 for the project. The said land was converted to Non-Agricultural in 2019. Therefore, this new land parcel was left out of notification.

15. Thereafter, Petitioner No.1 Sanstha/Trust sought information under Right to Information (in short RTI) from the Respondent No.4 - Dy. SLR, Navapur in respect of measurement carried out on 26.08.2020 and 02.10.2020. The Respondent No.4 provided information that earlier report dated 28.10.2020 is still intact and no measurement was done. Being aggrieved by said order, the Petitioner No.1 - Trust had approached this Court by filing W. P. No.7500/2020. On 29.07.2021, this Court (Coram: Ravindra V. Ghuge and S.G. Mehare JJ.) disposed off said Petition and observed that NHAI does not require further land from Gut Nos. 200/2 and 200/1/C.

16. Thereafter, Petitioner No. 1 - Sanstha with due permission of the Ld. Jt. Charity Commissioner sold Writ property to Petitioner No.2. Thereafter, on 04.08.2021, Petitioner No.2 applied to the District Collector for joint measurement of Gut No. 200/2 and as per the order

passed in W.P. No. 7500 of 2020. On 24.08.2021, Collector, Nandurbar passed an order directing the Respondent No. 4 - Dy. SLR, Navapur to carry out joint measurement of Gut No.200/2.

17. In pursuance of order dated 24.08.2021, Respondent No.4 issued notices to the Petitioner and officers of Respondent No.3 to remain present for measurement of land bearing Gut No.200. Accordingly, the Respondent No.4 carried out the measurement on 14.09.2021 and prepared a report on 08.10.2021 stating that the measurement which was carried out earlier tallies with the new measurement sheet. As per previous measurement sheet, the land admeasuring 19,300 sq.mtrs., from Gut No. 200/2 has been affected. However, though representatives of Respondent No. 3 were present, but they refused to sign the measurement sheet and Panchnama.

18. On 16.11.2021, Petitioner No.2, who is subsequent purchaser of Writ land sought information under RTI from Respondent No.4 - Dy. SLR Navapur about acquisition of land out of Gut No. 200/2 of village Chinchpada. On 25.11.2021, the Respondent No.4 issued communication therein stated that on 22.09.2021 measurement of Gut No. 200/2 of village Chinchpada was carried out and as per joint measurement land admeasuring 19300 sq.mtrs. from Gut no. 200/2 was acquired.

19. The learned counsel for the Petitioners further canvassed that on 17.05.2022, the Petitioner No.2 submitted an application and pointed out that he was out of station from 2<sup>nd</sup> May to 6<sup>th</sup> May, 2022, and by taking advantage of his absence, the Respondent No.3 - NHAI started construction of road and completed the same. Therefore, the Petitioner approached the District Collector with a grievance that the Respondent No.3 acquired his land without paying the compensation and also has not complied the order dated 29.07.2021 passed by this court in W. P. No. 7500/2020. Therefore, the Petitioner prayed for issuance of Writ of mandamus against the Respondents for issuance of Notification u/s 3A of National Highways Act, 1956 and to pay compensation pursuant to the report prepared by the Respondent-Authorities and to act as per order dated 29.07.2021 issued by this Court in W.P. No. 7500/2020.

20. To buttress these submissions the learned counsel for the Petitioners relied on case of ***Sukh Dutt Ratra and Anr. V/s. State of H. P.; (2022) 7 S.C.C. 508***, wherein the Hon'ble Supreme Court has held that, nobody can be deprived of liberty or property without due process, or authorization of law and the State on ground of delay and laches cannot evade its legal responsibility towards those from whom private property has been expropriated.

21. He further relied on the case of **Govind Poslya Gavit and Anr. V/s. Competent Authority, 2022 (5) Mh. L.J. 632**, wherein the Co-ordinate Bench of this Court has held that the Petitioner cannot be dispossessed without due process of law and without acquisition of land by following procedure under Section 3-A to 3-E of the Act, 1956. In cited case, an attempt was made by Respondents to take possession of the lands of the Petitioners for carrying out construction and it was held that said act is clearly in breach of Section 3-A to 3-D of the Act, 1956 and Article 300-A of the Constitution of India. However, ratio of both these cases relied by the Petitioners are not applicable to the facts and circumstances of this case.

22. Respondent No. 3 filed affidavit in Reply and countered the claim of the Petitioners. Mr. V.D. Sapkal, the learned Sr. Counsel appearing for Respondent No.3 submits that the Central Government published a Notification No. 2549 (A) dated 11/11/2011 u/s 3A of N.H. Act, 1956 and notified the land from Gut No.200 admeasuring 8665 sq.mtrs. On 29.10.2012, a notification bearing No. 2597 (A) was published for acquisition of land admeasuring 6438 sq.mtrs from Gut No. 200/2 of village Chinchpada owned by Petitioner No. 1 Manjulabai Agarwal Trust/Sanstha. As per joint measurement reports dated 27.02.2013 & 26.04.2013, the Dy. SLR, Navapur informed about acquisition of land admeasuring 6438 sq.mtrs from Gut No. 200/2 of

village Chinchpada owned by Petitioner No.1. Thereafter, on 29.07.2013, an award bearing No. 09/2011 came to be passed and an amount of compensation Rs. 16,78,387/- in respect of land Gut No. 200/2, Adm. 6438 sq.mtrs, has been disbursed in favour of the Petitioner No.1 - Sanstha on 25.11.2013. Accordingly, on 15.06.2019, the Respondent No.4 informed about acquisition of land admeasuring 19300 sq. mtrs. out of Gut No. 200/2 for National Highway No.6. As per joint measurement report, the land adm. 7700 sq.mtrs. out of Gut No. 200/2 is affected.

23. The learned senior counsel further canvassed that the NH-6 road is already in existence since five decades ago and it is passing through some parts of Gut No.200. Since the Central Government intended for widening of NH-6, therefore, on 11.11.2011, a notification No.2549 (A) u/s 3-A of the Act was issued declaring intention for acquisition of some portion of Gut No.200 of village Chinchpada Tq. Navapur, District Nandurbar. After publication of notification, the Respondent-Authority was authorized to enter into the land to be acquired for the purpose of measurement and conducted joint measurement of Gut no. 200 through the office of Respondent No.4. As per joint measurement map, it shows the existing NH-6 road and proposed land under acquisition from the Gut No.200.

24. It is further canvassed on behalf of Respondent No.3 that the notification no. 2597 (A) dated 29.10.2012 published u/s 3-D of the Act, shows acquisition of land for the road widening, however, before publication of the notification a joint measurement was carried out and determined about acquisition of 6438 sq. mtrs land from Gut no.200/2, which has been identified by the officials of Respondent no.3 and the Petitioners. Therefore, the Competent Authority determined the amount of compensation of Rs. Rs.16,78,387/- for the area of 6438 sq. mtrs land from Gut no.200/2 as per award dated 29.07.2013 and no excess land is affected due to acquisition out of Gut No.200/2.

25. Mr. Sapkal, the learned senior counsel further submits that the P.W.D., had provided details of road map of NH-6 while handing over its charge and it shows about existence of 30 meters wide road at the disputed location. The Petitioners have not denied about existence of old NH-6. As per joint measurement reports dated 15.06.2019 and 22.09.2021 drawn by the Respondent No.4 and relied upon by the Petitioners does not show existence of 30 meters wide road. Therefore, the officers of Respondent No.3 denied about joint measurement report. Therefore, no further land is required in respect of Gut No. 200/2. Therefore, prayed for dismissal of the petition.

26. Mr. S.K. Tambe, the learned A.G.P, appearing for the Respondent Nos. 1 & 4 canvassed in vehemence that as per joint

measurement report chainage 615.000 to 639.000 a road of 30 meter wide in Gut No. 200/2 is shown in demarcation certificate. Approximately, 11536 sq.mtrs land is already covered in National Highway and compensation in respect of land Adm. 6338 sq.mtrs and 1326 sq.mtrs out of Gut No. 200/2 and 200/1/C is already paid to the Petitioners. As per joint measurement report dated 16.10.2015 existing road of 30 meter was shown in the said map and no additional land from Gut No. 200 is required. Therefore, prayed for dismissal of the petition.

27. The learned AGP further canvassed that the Petitioner No.2 purchased area from Gut No.200/2 including the area of old existing road from Petitioner No.1 - Sanstha on 20.06.2019 and thereafter converted the said land into Non-Agricultural in order to seek huge compensation though the acquisition proceeding of Gut No.200/2 was completed in the year 2013. The Petitioner No.2 with an ulterior motive has not shown proper four corner boundaries of land in the sale-deed. So also, recital of sale-deed does not disclose that the land in sale deed is abutting to NH-6.

28. Having regard to the submissions canvassed on behalf of both the sides, we have gone through the Petition paper book. Needless to say that in the year 1972 an area of 3 A 22 R i.e. (14340.569 sq.mtrs) and 35 R i.e. (3500 sq. mtrs.) from land bearing Gut Nos.

80/1B & 80/2 have already been acquired under award dated 28.03.1972 by following due process of law under the Land Acquisition Act, 1894 for diversion of road to Navapur Town. The measurement and schedule of land prepared by the office of Executive Engineer, B & C Dept., Dhule show dimensions of 325 meters x 45 meters which is equal to 14,625 sq.mtrs. area and 2 x (30 meters x 36 meters) which is equal to 2160 sq. mtrs. area proposed for acquisition from Gut No. 80/1B and Gut No. 80/2 respectively. The award dated 28.03.1972 shows that the notification u/s 4 of Land Acquisition Act, 1894 was published on 24.12.1970 and the acquisition process from the Navapur village was initiated. The publication of notice u/s 4(1) of the Act and notices were served upon the interested persons calling for objections. Thereafter, notification u/s 6 was published on 24.06.1971.

29. In case of *State of Maharashtra V/s. Digambar; AIR 1995 SC 1991*, the Hon'ble Supreme Court held that the claim for compensation of a road which was constructed in 1971 cannot be entertained after a lapse of 20 years and more so, for unexplained delay and laches on the part of the Petitioners for preferring such belated claim.

30. In the case in hand the Petitioner No. 2 has filed an Affidavit Rejoinder and contended that he received information on 07.06.2023 under the Right to Information Act, from the office of Dy.

S.L.R., Navapur, wherein clause 6 of said information reveals the depth of old road as 7 Meter, and the width is 410 Meter i.e. total 2,870 sq.mtrs from Gut No. 200 part. But no compensation was paid for construction of said PWD road. Needless to say that neither Petitioner No.1 nor Petitioner No. 2 was owner of Gut No.200 in the year 1971 or at the relevant time. Therefore, the Petitioners are having no right to agitate the grievance about non payment of compensation for acquisition of land out of Gut No. 200 for construction of old road. Nonetheless, claim of the Petitioners to that effect is hopelessly barred by law of limitation.

31. The Petitioners have claimed that exact area required for construction of National Highway from Gut No. 200 part is 19,300 sq. mtrs as per the measurement carried out in pursuant to the order dated 29.07.2021 passed by this Court in W.P. No. 7500/2020. Out of 19,300 sq.mtrs land, an award of 7,764 sq. mtrs. from Gut No. 200 part is already passed. The Petitioner has not disputed about passing of award for 7,764 sq.mtrs of land and payment of compensation. The dispute of the Petitioners is that though the Respondent No.3 acquired 11,536 sq.mtrs of land, but no award has been passed and no compensation was paid. According to the Petitioners as per information provided under RTI by Respondent No. 3 NHAI, the PWD had constructed road of 15 mtr. x 400 mtr. = 6,000 sq.mtrs, still the Respondents are duty

bound to publish notification u/s 3A and 3D for remaining area i.e. 11,536 sq.mtrs. - 6,000 sq. mtrs. = 5,536 sq.mtrs., out of Gut No. 200 part. As per documents supplied by the Respondent No. 4 - Dy. SLR, it shows that the area of old existing PWD road i.e. 7 mtr. x 410 mtr. = 2,870 sq. mtrs. Then the Respondent Authorities are required to publish 3A and 3D of 11,356 sq. mtrs. - 2,870 sq. mtrs. = 8,486 sq. mtrs. for rest of the part.

32. Needless to say that the Respondent No.4 prepared a report dated 19.10.2020 stating that total area of 7764 sq. mtrs., land from Gut No. 200/2 is required for acquisition and notification u/s 3-D of the Act published for Gut Nos. 200/2 and 200/1/C. The area mentioned in new notification u/s 3-A proposal is 11536 sq. mtrs, out of Gut No.200/2. So also, the nature of land was agricultural at the time of previous notification for acquisition, however, in the new proposal u/s 3-A of the Act, nature of land is shown as Non-Agricultural standing in the name of Manjulabai Agrawal Sanstha. The area under consideration has not changed and additional land is not required for the project at this location. The Respondent No.4 has already notified said land in the year 2012 but it was converted to Non-Agricultural in the year 2019. Therefore, Gut No.200/2 should not be considered as new land pocket which was left out of notification. The office of Respondent No.4-Dy. SLR, Navapur repeatedly conducted measurements and sent reports

with modified area. As per its letter dated 15.06.2019 he stated that land Adm. 19300 out of Gut No. 200/2 of Kalpesh Ramesh Chandra Agrawal is acquired.

33. Therefore, it seems that there is existence of disputed questions of fact about measurement of Gut No. 200/2 carried out by the Respondent No.4. On 14.09.2021, as per order dated 24.08.2021 passed by the Collector, Nandurbar. So also, preparation of report stating that the measurement which was carried out earlier matches with new measurement sheet. As per previous measurement sheet land admeasuring 19,300 sq. mtrs. from Gut No. 200/2 is affected, but said measurement sheet does not bear signature of the representatives of the Respondent No. 3.

34. On the contrary, Respondent No.3 contended that as per joint measurement reports dated 15.06.2019 and 22.09.2021, drawn by the Respondent No.4 and relied upon by the Petitioners does not show about existence of 30 meter wide road. As per Notification No. 2549 (A) dated 11/11/2011 u/s 3A of N. H. Act, 1956, land admeasuring 6438 sq. mtrs., from Gut No. 200/2 of village Chinchpada owned by the Petitioner No.1 - Trust and subsequently purchased by the Petitioner No.2 along with Shri Niranjana Omprakash Agrawal under sale-deed dated 20.06.2019 after publication of notification for widening of NH-6. The Petitioners have not joined Shri Niranjana Omprakash Agrawal as

party Petitioner. As per joint measurement reports dated 27.02.2013 & 26.04.2013, the Respondent No.4 Dy. SLR, Navapur informed about acquisition of land admeasuring 6438 sq.mtrs from Gut No.200/2 of village Chinchpada owned by Petitioner No.1 - Manjulabai Agrawal Trust. Thereafter, on 29.07.2013, Award No. 09/2011 was passed and amount of compensation of Rs.16,78,387/- in respect of land Gut No. 200/2, Adm. 6438 sq. mtrs., was disbursed in favour of the Petitioner No.1 - Sanstha on 25.11.2013. Thereafter, on 15.06.2019, Respondent No.4 informed about acquisition of land to the extent of 19300 sq. mtrs out of Gut No. 200/2 for National Highway No.6. As per joint measurement report, the land adm. 7700 sq.mtrs. out of Gut No. 200/2 is affected. As per joint measurement report, an area of 7764 sq. mtrs. from Gut Nos. 200/2 and area 1326 sq. mtrs from Gut No.200/1/C was already acquired and no additional area of land is required from Gut No.200/2 for widening of NH-6. In view of above, though the Petitioners contended that an additional area of 11536 sq. mtrs from Gut No.200/2 has been affected due to acquisition, but in fact said area of 11536 sq. mtrs is the area of old existing road. Therefore, it appears there is existence of disputed questions of facts in respect of measurement of land Gut No. 200/2.

35. In *City and Industrial Development Corporation V/s. Dosu Aardeshir Bhiwandiwalla and Ors.*; (2009) 1 SCC 168, Hon'ble Supreme

Court has held that the High Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether;

- (a) adjudication of Writ Petition involves any complex and disputed question of facts and whether they can be satisfactorily resolved;
- (b) the petition reveals all material facts;
- (c) the Petitioner has any alternative or effective remedy for the resolution of the dispute;
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;
- (e) Ex facie barred by the law of limitation;
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors.

36. Needless to say that since the Petitioner No.2 was not satisfied about measurement of land, therefore, he applied to the Collector Nandurbar for measurement of land Gut No. 200/2. On 24.08.2021, Collector, Nandurbar, passed an order and directed the Respondent No. 4 - Dy. SLR, Navapur to carry out joint measurement of said land. Thereafter, the Respondent No.4 issued notices to the Petitioners and officers of the Respondent No.3 directing them to remain present for measurement of said land. Accordingly, on 14.09.2021, the Respondent No.4 has carried out measurement and

prepared a report stating that the measurement which was carried out earlier matches with new measurement sheet. As per previous measurement sheet, land admeasuring 19,300 sq.mtrs from Gut No. 200/2 is affected, but said measurement sheet does not bear signature of the representatives of the Respondent No.3. No doubt, the Petitioner No.2 claimed that, though the representatives of Respondent No. 3 were present at the time of measurement, but they refused to sign on the measurement sheet and Panchnama, however, said fact was denied by the Respondent No. 3.

37. No doubt, while passing order dated 7<sup>th</sup> February, 2024, this Court observed about leveling serious allegations by the Respondent No. 2 N.H.A.I., about creation of documents and forgery. Therefore, this Court called upon to furnish affidavit declaring that if it is eventually noticed in either of these proceedings or any other proceedings concerning the Writ land, that any of these Petitioners are found to be indulged in fabrication of record or forgery or any dishonest act, they would deposit Rs. 10,00,000/- (Rs. Ten Lakhs) towards cost and that they would be willing to face criminal prosecution. Therefore, the Petitioner was called upon to file second affidavit that if he would be liable for the same consequences. In response to said order dated 07.02.2024, the Petitioner filed affidavit dated 15.02.2024 and voluntarily deposited Rs. 10,00,000/- with the Registry of this Court

through Demand Draft No. 951504 dated 13<sup>th</sup> February, 2024. This Court had not directed that the amount be deposited in advance. Needless to say that, both, the Petitioner and the officer of Respondent No.2, have alleged against each other about creation of documents and forgery. This Court cannot deal with disputed issues and conclude as to which of the documents are forged and fabricated. This could be possible in a Civil Suit with the aid of oral and documentary evidence and upon producing the original revenue record. Therefore, issue pertaining to manufacturing of documents and forgery of documents is kept open, which can be decided by the Competent Court of law, if the parties desire to avail of the remedy permissible in law. Therefore, amount of Rs. 10,00,000/- deposited by the Petitioner with the Registry of this Court needs to be refunded with accrued interest, if any.

38. Since the Respondent No.3 - NHAI made a categorical statement that no further land is required from Gut No. 200/2 and as such an area of 7764 sq. mtrs., has already been acquired from Gut Nos. 200/2 and 200/1/C for widening of NH-6. But as per the contention of the Petitioners an additional area of 11536 sq. mtrs from Gut No.200/2 is affected due to acquisition in fact such area is part of old existing road. Therefore, it clearly shows that disputed and complex question of facts are involved in the present case, hence, we do not find any cogent reason to exercise Writ jurisdiction under Article 226 of the Constitution

of India to ascertain exact acquisition of land from Gut no. 200/2 as per ratio laid down in case of **City And Industrial Development Corporation, (supra)**. Therefore, present Petition is liable to be dismissed. Accordingly, **this Writ Petition is dismissed**. Rule is discharged.

39. The amount of Rs. 10,00,000/- deposited by the **Petitioner No.2** be refunded to him with accrued interest, if any.

[Y.G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

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