



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

WRIT PETITION NO. 9551 OF 2024

**ZUMBAR RAGHU KALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH THE SECRETARY AND OTHERS**

.....
Advocate for the Petitioner : Mr. Temkar Rajendra K.
Addl. GP for Respondents: Mr. M.M. Nerlikar
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**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 4th September, 2024**

PC. :-

1. We have considered the submissions of the learned advocates for the respective sides and perused the petition paper book with their assistance.
2. These are about 57 Petitioners before us who claim that their irrigated lands are abutting National Highway No.548-D at Dhokewadi, Tq. Shrigonda, Dist. Ahmednagar. These lands are sought to be utilized for the purpose of public projects like Kukadi Left Bank Canal No.13 at KM stone 6 and 7, Left Minor distributary 2 and 3 and Right Minor Distributary 4 and 5. Their grievance is that though the lands are irrigated, they are being

treated as Jirayat lands. They are not agreeable to the rates that are being suggested.

3. The lands are sought to be acquired through private negotiations. At a nascent stage, disputes have been brought before this Court in this Writ Petition under Article 226 of the Constitution contending that the lands of the Petitioners are all irrigated. Details of the lands, their gut numbers, their areas etc. are set out in the memo of the Petition.

4. For the purposes of private negotiations, Respondent No.3 issued a public notice in Dainik Nava Maratha on 29.01.2021, declaring the intention to acquire the lands. Contention is that in the 'notice prior to purchase', all the lands are shown to be either Bagayat 1 or Bagayat 2, by the Acquiring Authority. The Joint Director Town Planning, Ahmednagar seems to have conveyed to the Acquiring Authority vide communication dated 19.04.2022, that the lands are either irrigated class 1 or irrigated class 2, which are adjacent to a National Highway. The market rates are also mentioned.

5. The Petitioners filed a representation to the Acquiring Authority, Respondent No.3 herein, discussing the location of their lands and with the contention that when the lands would be purchased for the

project, they should be given the rates as are made available for lands which are abutting the highway. The Committee has dealt with the contentions of the parties and has observed in its report dated 18.03.2024, that the lands are of irrigated nature, standing trees and crops are also considered, the rates are mentioned and it is concluded that there should be private negotiations for direct purchase. The Petitioners are not happy with the rates that have been suggested in the said report.

6. The learned AGP submits that if the Petitioners are not happy, there cannot be any compulsion for signing a registered sale-deed. The Petitioners can decline to accept the said rates. If the award is delivered on the basis of the same rates, the Petitioners can challenge the award including the quantum of the compensation.

7. The learned advocate for the Petitioners has relied upon a judgment delivered on 09.12.2021, in Writ Petition No.2806/2020, at Aurangabad Bench. We find from the said judgment that there were already registered sale-deeds executed by the agriculturists. Since registered sale-deeds were executed, the claim of the Petitioners was that they should be paid compensation at the rate of irrigated lands as is considered by the Committee. Since no remedy was available to them having entered into registered sale-deeds with the Requiring Body, that this

Court entertained the Petition and concluded that there is discrimination at the hands of the Requiring Body and the State should give them appropriate compensation.

8. In the case in hand, the proceedings are at an elementary stage. Neither the Petitioners have executed the registered sale-deeds, nor is there any award pronounced. In view of the fact situation, the Petitioners would be at liberty to refuse to enter into private negotiations and can also refuse to execute the registered sale-deeds. If the Authorities desire to resort to compulsory acquisition, all rights of the Petitioners are protected under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

9. In view of the above, **this Writ Petition is dismissed.**

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]