



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14435 OF 2021

Manish Omprakash Agrawal,
Age: 44 years, Occu: Agri. & Business,
R/o Visarvadi, Tq. Navapur,
Dist. Nandurbar.

... PETITIONER

V/s.

1. The Competent Authority and or
Special Land Acquisition Officer
(National Highway No.6) /
Assistant Collector, Nandurbar,
Tq. & Dist. Nandurbar.
2. National Highway Authority of India,
Through Project Director,
NHAI-PIU, Dhule, Mansaram Nagar,
Near Circuit House, Sakri Road,
Dhule – 424 002.
3. Deputy Superintendent of Land Record,
Navapur, Tq. Navapur,
Dist. Nandurbar.

... RESPONDENTS

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Mr. D.S. Bagul, Advocate for the Petitioner
Mr. R.B. Bhosale, Advocate for Respondent-UOI
Mr. S.K. Tambe, AGP for Respondent-State
Mr. V.D. Sapkal, Sr. Advocate i/b. Mr. D.S. Manorkar, Advocate for Resp. No.2

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CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRADE, JJ.

RESERVED ON : 27th June, 2024

PRONOUNCED ON : 16th 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 Petitioner has put-forth prayer clauses-B, C and D as under :-

“B. By way of appropriate Writ, Order or Direction in the like nature, the impugned order dated 10th November, 2021 passed by the Respondent No. 1 may kindly be quash and set aside and the respondents be directed to initiate the land acquisition proceedings under the provisions of National Highway Act, 1956 in pursuant to the joint measurement report submitted by the office of Respondent No. 3 on 15.06.2019, 08.10.2021, 23.09.2021 and 28.10.2021.

C. By way of appropriate Writ, Order or Directions in the like nature, an independent officer or any advocate be appointed as a Court Commissioner to conduct joint measurement of the land of the Petitioner bearing Gut No. 80/1/A and 80/1/B.

D. By way of appropriate Writ, Order or Directions in the like nature, the respondent authorities may kindly be restrained from doing any work of construction of road of National Highway No. 6 in the land of Petitioner bearing Gut No. 80/1/A and 80/1/B.”

3. Heard at length Mr. D.S. Bagul, the learned counsel for the Petitioner, Mr. Bhosale, the standing counsel for the Respondent No.1, Mr. V.D. Sapkal, the learned senior counsel appearing for the Respondent No. 2 and Mr. Tambe the learned AGP for the Respondent No. 3.

4. Perused the written notes of Arguments tendered on behalf of both the sides. Having regard to the rival submissions canvassed on behalf of the rival parties as well after going through the written submission the issue arises for our consideration is that whether this Court can exercise Writ jurisdiction under Article 226 of the Constitution of India to adjudicate disputed question of facts about measurement carried out by the Respondent No. 3 to show how much area of the Petitioner's land has been acquired for 4 lane widening of National Highway No.6 including the bypass under notification dated 11.11.2011 issued under Section 3A of National Highways Act, 1956 (hereinafter to be referred as the Act, 1956).

5. On the face of the record it appears that originally one Mr. Rana was holding land Gut No. 80 ad-measuring 01 H 30 R (130 R) situated at Navapur, Tq. Navapur, Dist. Nandurbar. The original owner Mr. Rana sold 60.70 R out of 130 R to one Mr. Kamlesh Nathulal Agrawal (i.e. 130 R – 60.70 R=69.30 R). Accordingly, the mutation was recorded and said land was given separate Gut No. 80/2 to the extent of 60.70 R land and remaining land 69.30 R remained with the original owner. Subsequently, original owner Mr. Rana again sold 40 R land out of remaining land 69.30 R to Mr. Rameshchandra Dhansuklal Rana as such mutation entry was recorded to the extent of 40 R land and given separate Gut No. 80/1/B. As a result, the original owner Mr.

Rana was in possession of only 29.30 R land from Gut No. 80 which was renumbered as Gut No. 80/1/A.

6. Thereafter, Shri Rameshchandra Dhansuklal Rana purchased land Adm. 40 R out of Gut No. 80/1/B, which he later on sold entire 40 R land to Jitendra Murari Agrawal and Rajesh Puranmal Agrawal (the Petitioner Nos. 1 & 2 in earlier W.P. No. 7498/2020). As such, Petitioners in W.P. No. 7498/2020 became the owner of Gut No. 80/1/B. Thereafter, in the year 2019, Shri Jitendra Murari Agrawal and Shri Rajesh Puranmal Agrawal sold 22 R land out of 40 R land from Gut No. 80/1/B to the present Petitioner namely Manish Omprakash Agrawal. Therefore, 18 R land remained with Jitendra & Puranmal out of 40 R from Gut No. 80/1/B and this land has not been affected for widening of the road.

7. It is contention of the Petitioner that remaining land Adm 29.30 R from Gut No. 80/1/A was with the original owner Mr. Rana and after his sad demise, land admeasuring 29.30 R was allotted to the share of Shri Sandeep Satish Rana and other 5 members from family of original owner. On 30th September, 2020, the Petitioner namely Manish Agrawal purchased the land admeasuring 19.30 R out of 29.30 R land under the registered Sale Deed. Subsequently, on 23rd December, 2020, the Petitioner again purchased remaining 10 R land.

8. Mr. Bagul, the learned counsel for the Petitioner canvassed that the Respondent No. 2 issued a notification dated 11.11.2011 u/s 3A of National Highways Act, 1956, and propose to acquire the land specified in the schedule of notification for the purpose of construction 4 lane of National Highway No. 6 including the bypass. The affected stretches of land are between K.M. 606-000 and 649-000 in Nandurbar District of Maharashtra, near the Maharashtra-Gujarat Border. After issuance of said notification, following series of notifications were published as under: -

1st - 3D on 14.09.2013,

2nd - 3D on 10.09.2014.

3rd - 3A on 30.10.2015 & 3rd 3D on 28.10.2016.

4th - 3A 08.06.2017 & 4th 3D on 09.01.2018.

5th - 3A on 05.07.2017 & 5th 3D on 24.05.2018.

6th 3A 23.08.2018 & 6th 3D on 21.12.2018.

Therefore, he submits that due to above notifications, the Respondent No. 2 National Highway authorities were not sure as to which land was to acquire and to what extent lands are affected.

9. According to the learned counsel for the Petitioner, as per 3D Notification dated 21.12.2018, an area of 200 square meters from Gut No. 80/1/B was affected for four lane widening of National Highway No. 6 (hereinafter to be referred as N. H. No. 6.) Though, in said notification 200

square meters of land is shown to be acquired, however, more than 200 square meters of land of Petitioner was acquired. Therefore, Petitioner submitted an application requesting for joint measurement of land. In response of said application, Respondent No. 1 issued an order on 07.04.2017 and directed the Deputy Superintendent of Land Record (hereinafter to be referred as Dy. S.L.R.) to measure the land and to submit the Report. Respondent No. 3 measured the land on 18.01.2019 in pursuance of order dated 07.04.2017 in the presence of a representative from the National Highway PIU, Dhule and submitted its joint measurement report on 15.06.2019, stating therein that, the land admeasuring 1900 sq. meter from Survey No. 80/1/A and land admeasuring 2200 sq. meter from survey No. 80/1/B has been affected. Thereafter, on 06.09.2019, Respondent No. 1 forwarded the proposal and requested to Respondent No. 2 for issuance of notification u/s 3A and initiate the proceeding for acquisition for additional area in addition to the proposal dated 06.09.2019, Respondent No. 1 forwarded proposal draft u/s 3A. However, Respondent No. 2 raised queries on said joint report and requested Respondent No. 1 for rectification. Accordingly, Respondent No.1 rectified those queries and submitted a fresh report with a request for issuance of notification u/s 3A. Following the receipt of report dated 29.12.2019, Respondent No. 2 again for second time raised queries vide letter dated 17.06.2020. These queries were again for the second time resolved by Respondent No.1 vide report dated 27.07.2020. After

receiving this clarification, Respondent No.1 sent a letter dated 17.08.2020, rectifying the queries and requested Respondent No. 2 to issue a Notification u/s 3A of the Act, 1956. On perusal of Exh "G" rectification of query it is evident that the queries pertain to six different field Gut numbers mentioned in the letter, but it does not disclose about land of the Petitioner. After receiving said clarification, Respondent No.1 sent a letter dated 17.08.2020, rectifying the queries and requested Respondent No. 2 to issue a notification u/s 3A of the Act,1956.

10. It is further canvassed on behalf of the Petitioner that despite above said report submitted by Respondent No.1, Respondent No.2 deputed it's representatives and Respondent No.3 - Dy. SLR, Navapur for revisit at land in question for verification of the actual position, however, the Respondent Nos. 2 & 3 visited at the spot behind his back and without notice to the Petitioner as well as without carrying out any measurement, submitted a report. Therefore, the Project Director of NHAI-PIU, Dhule, issued an impugned order on 19.10.2020 and refused to issue notification u/s 3A of the Act, 1956 to the extent of land belonging to the Petitioner.

11. Being dissatisfied by order dated 19.10.2020, the vendors of Petitioner had filed W.P. No. 7498/2020 before this Court. On 29.07.2021, the Co-ordinate Bench of this Court has passed an order and directed the Ld.

Collector Nandurbar to monitor the measurement in presence of all the litigating parties/title holders/persons having interests in the property. So also, any land over and above the details set out in 'X-1' is to be acquired, the procedure laid down in law shall also be followed.

12. On 04.08.2021, the Petitioner submitted an application before the Ld. Collector, Nandurbar and raised objection that, Shri Mhatre, the officer of National Highway has dumped sand/soft stone (Murum) and other construction material at the site and started construction work. Therefore, the Petitioner requested the Collector to investigate the matter in accordance with the order passed in W.P. No. 7498/2020 and to measure the land.

13. On 24.08.2021, the Ld. Collector Nandurbar passed an order, directing the Respondent No. 3 to conduct a joint measurement of the specified land and directed all interested parties to participate for joint measurement. On 01.09.2021, the Respondent No. 3 issued notices to all interested parties, including NHAI for joint measurement of Gut No. 80/1/A and 80/1/B on 15.09.2021, but schedule of joint measurement was rescheduled due to administrative work. Accordingly, schedule for measurement fixed on 23.09.2021 and measurement took place in presence of Shri Jitendra Murarilal Agrawal, Shri. Rajendra Bhamre (Talathi, Navapur), Shri. Raghunath Niranjana Agrawal (the Petitioner's representative) and Shri.

Nagesh Motilal Chaudhari and NHAI's representative, Shri. Yashodeep Patil, but he refused to sign the measurement sheet.

14. Mr. D.S. Bagul, Ld. Counsel for Petitioner, submits that the joint measurement was carried out as per order of the Collector, Nandurbar clearly reveals that the Petitioner's land ad-measuring 1900 square meters from Gut No. 80/1/A and land ad-measuring 2200 square meters from Gut No. 80/1/B are affected in four lane widening of the road. The said measurement report is based on measurement sheet submitted to Respondent No. 1 on 08.10.2021. However, Respondent No. 1 on the instructions of Respondent No. 2 called Respondent No. 3 and orally informed to submit fresh joint measurement report considering sanctioned layout map of Gut No. 80/2. Therefore, Respondent No. 3 again submitted fresh joint measurement report and shown earlier measurement sheet dated 23.09.2021 tallies with the fresh measurement report/sheet. Therefore, action on part of the Respondents is illegal and bad in law, hence, the same needs to be quashed and set aside.

15. To buttress these submissions the learned counsel for the Petitioner 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.

16. 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 acquiring the land of the Petitioners by following procedure under Section 3-A to 3-E of the Act, 1956. An attempt made by Respondent No. 2 to take possession of the lands of the Petitioners to carry out construction 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, the ratio laid down in both these case laws are not applicable to the facts and circumstances of this case.

17. Respondent No. 2 filed an affidavit in reply and strongly resisted claim of the Petitioner. According to Respondent No. 2, the Central Government issued Gazette notification No. 4178 (A) dated 23.08.2018 u/s 3-A of the Act, 1956 declaring its intention to acquire lands required for operation of the N. H. No.6. Section 3C provides that any person may raise objection within a period of 21 days from the date of publication of notification to the competent authority and object the use of land for the purpose or the purposes mentioned in Section 3A. However, the Petitioner himself admitted that he purchased the land out of Gut No. 80 on 26.06.2019. Therefore, this itself shows that the

vendors of the Petitioner never raised any objection at the relevant time. The Respondent No. 2 carried the joint measurement in respect of the Gut No. 80/1B and at the time of measurement, it was noticed that the Navapur-Dhule Diversion Road is passing through the Gut no. 80/1/B of the village Navapur and an area of 200 Sq. mtrs., is only required for widening of National Highway as width of the road which was in existence was of 45 meters because the Respondent No. 2 intended to carry out the road construction in the above said gut within the available width of 45 meters.

18. Respondent No. 2 submits that in the year 1972 area of 3 A 22 R i.e. (14340.569 sq.m) and 35 R i.e. (3500 sqm) from land bearing gut no.80/1B & 80/2 respectively 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 the Navapur Town. The measurement and schedule of land prepared by the office of Executive. Engineer, B & C Dept., Dhule, shows about 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 L.A. Act, 1894 was published on 24.12.1970 and the land acquisition process from the Navapur village was initiated. The publication of notice u/s 4(1) of

the Act and notices served upon the interested persons calling for objections. Thereafter, notification u/s 6 was published on 24.06.1971 in the village and the locality calling upon the claim of valuations of the lands to be acquired.

19. It is a matter of record that re-measurement was done on 15.05.2019 clearly stated that after doing a verification from the measurement sheet dated 20.12.2002 in respect of said Gut number, the area which is acquired shown including the old road. Therefore, it shows that the inflated area of 4100 sq. mtr., was shown after including the Dhule-Navapur Diversion Road. The map of 2002 and the measurement sheet tallied each other. Therefore a letter was sent by Respondent No. 1 (in short CALA) on 06.09.2019, for considering new inclusions in 3A, does not give any reference as to why new supplementary 3A is being proposed. As per order dated 19.10.2020 the Project Director, NHAI, PIU, Dhule submitted detail report that, no further acquisition from Gat No.80 is required. The extract of said report reads as under:

"The total area 200 sqm. has already been published in 3(D) notification for gut no.30P/1B. The area mention in new proposed 3(A) proposal is 3960 Sq. Mtrs. from 80/1/B and 80/1/A. Also the nature of land is Agriculture at the time of notification for acquisition. The PROW shown in submitted sheet for proposed 3(A) proposal is not proper. Therefore this gut 115 & 80/1/4 should not considered as new land pocket which was left ad for Notification".

20. Though the Petitioner contented that Gut No. 80 consist of 1 H 30 R area i.e. 13,000 sq.mtr. itself is contrary to the record of acquisition done in 1972. Further Shri Jitendra Agrawal and Shri Rajesh Agrawal (vendors of Petitioners) have purchased the land admeasuring 40 R from Ramesh D. Rana from Gut No. 80/1B out of 4000 Sq. Mtrs. an area of 2200 Sq. Mtrs., is being purchased by the Petitioner. That all the transactions mentioned by the Petitioner are post land acquisition award dated 28.03.1972 in respect of the land from Gut No. 80/1B and 80/2, which are itself contrary and *void ab initio*, hence, said transactions are not binding upon the State Authorities including the present Respondent.

21. On perusal of the documents available on record it would show that an area of 40 R out of Gut No. 80/1B which was acquired portion of the old existing diversion road was purchased by Shri Jitendra Agrawal and Shri Rajesh Agrawal from one Shri Rameshchandra Dhansukhlal Rana and subsequently by the present Petitioner. All the above sale transactions are against the provisions of law and are not binding upon Respondent No.2.

22. It is not in dispute that on 29.07.2021 that the Co-ordinate Bench of this Court passed an order in W.P. No. 7498 OF 2020 and observed in para Nos. 7 to 12 as under :

“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 petitioner is 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.”

23. It is further canvassed on behalf of Respondent No.2 that the award dated 28.03.1972 pertaining to Gut No.80/1B and 80/2 was noted to be brownish and MURMAD and of inferior quality. Therefore, the compensation was determined to the tune of Rs.3266/- for Gut No. 80/1B and Rs.805/- for Gut No. 80/2 along with the amount of solatium vide award dated 28.03.1972

against the acquisition of land from above guts. So also, payment of compensation paid to the owners of the land Gut No. 80/1B and Gut no.80/2 on 09.05.1972. Thus, the land ad-measuring 3 A 22 R i.e. (14340.569 Sq. Mtrs.) from the Gut No. 80/1B and 35 R (3500sq.m) from Gut No. 80/2 already acquired vide award dated 28.03.1972 for the construction of diversion road to Navapur Town.

24. Therefore, it clearly appears about existence of disputed question of facts about measurement carried out in the year 1972 while acquiring Gut No. 80, which has been considered in award dated 28.03.1992 as well subsequent measurement carried out on 22.08.1989. On perusal of impugned order it *prima facie* appears that Competent Authority considered corrected measurement report dated 02.11.2021 submitted by the Respondent No. 3 and held that, no land out of Gut No. 80 has been additionally acquired.

25. In case of **City and Industrial Development Corporation V/s. Dosu Aardeshir Bhiwandiwalla and Ors.; (2009) 1 SCC 168**, the 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 any laws of the limitation;
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors.

26. In case in hand it *prima facie* shows that the Petitioner has failed to give details in respect of purchase of land and its boundaries. On the contrary, Respondent No.2 produced sale-deed dated 26.06.2019, which shows that, Shri Jitendra Murarilal Agrawal & Shri Rajesh Puranmal Agrawal sold land ad-measuring 0.22 R out of Gut No. 80/P1/B to the present Petitioner. The another sale deed dated 29-09-2020 shows that the present Petitioner purchased land ad-measuring 0.10 R out Gut No. 80/P/1A from the vendors Shri Sandip Satish Rana and 4 others. The third sale-deed dated 04.01.2021 shows that the present Petitioner again purchased land admeasuring 0.10 R out of Gut No. 80/P/1A from the vendors Shri Sandip Satish Rana and 4 others. Therefore, it clearly shows that the Petitioner intentionally and deliberately has not disclosed boundaries of the land purchased by him under different sale-deeds. However, Respondent No.2 denied about boundaries of the lands described in sale-deeds.

Therefore, in absence of said details, it exhibits suppression of material facts on part of the Petitioner about purchase of the land and existing old Navapur-Dhule Road subsequent to the acquisition.

27. As per measurement dated 28.10.2021 it appears that the land ad-measuring 1900 square meters out of Gut No. 80/1/A and land ad-measuring 2200 square meters out of Gut No. 80/1/B affected by acquisition. However, as per second revised joint measurement report carried by the Respondent No. 3, on 02.11.2011 lacking clarity regarding the exact affected area due to land acquisition.

28. Further, as per Report dated 15.06.2019 (*pg. 232-233 of petition paper book*) it shows that an area of 2200 Sq.mtrs. in the name of Jitendra Agrawal and area of 1900 Sq.mtrs. in the name of one Sandip Satish Rana who is successor/heir of the Rameshchandra Dhansukhlal Rana. The said Report further indicates that the entire area of $2200 + 1900 = 4100$ Sq. Mtrs., is an area from the old existing diversion road. Thus, from the above it becomes clear that the present Petitioner and all his vendors have purchased the land from Gut No. 80/1B was already acquired by following due process of law and utilized in the old existing road.

29. Needless to say that the Petitioner countered reply to the Respondents by filing Rejoinder and contended that in affidavit in reply, the Respondent Authorities have made several incorrect statements, hence, prayed for taking stringent action against the officers of the Respondents - Authorities. Per contra, serious allegations are being made by the NHAI that the Petitioners in W.P. No. 8674 of 2022 and W.P. No.14435 of 2021 have resorted to creation of documents and forgery. Therefore, on 07.02.2024, this Court passed an order, which reads as under:

“1. Having considered the submissions of the learned Advocates for some time, we are quite sure that there are several disputed issues in the cause brought before us in these 2 Petitions. Since there are serious allegations by the NHAI that the Petitioners have resorted to creation of documents and forgery, we called upon the learned Advocate for the Petitioners i.e. one Petitioner in the first Petition namely Manish Omprakash Agrawal, who is Petitioner No.2 in the second Petition alongwith Kalpesh Rameshchandra Agrawal, to state as to whether they are willing to file their independent affidavits in these Petitions declaring that if it is eventually noticed either in these proceedings or any other proceedings concerning the Writ land, that any of these Petitioners have indulged in fabrication of records or forgery or any dishonest act, they would deposit Rs.10,00,000/- (Rs. Ten lakhs) each, in this Court as costs and would be willing to face criminal prosecution.

2. We are granting time to these Petitioners to enter their personal affidavits in both these matters. The sole Petitioner in the first Petition will also have to file a second affidavit in the second Petition also and he will have to be liable for the same consequences. If these Petitioners are agreeable, they may file their affidavits declaring that they will

deposit Rs.10,00,000/- as costs in each of these Petitions and suffer criminal prosecution if it is noticed that they have indulged in the above mentioned acts. The affidavits may be filed on or before 16.02.2024, if desired. Needless to state, besides the Petitioners, if any Officer/ Respondents/Authorities is found to have indulged in any such act, he / she would also be liable to suffer the same consequences. If the Petitioners are not willing to file such affidavits, they are at liberty to withdraw these Petitions and approach the appropriate Civil Court for adjudication on all the issues raised in these Petitions. Nevertheless, it would be open for the Civil Court to look into the all the allegations and contentions of the parties.

3. Simultaneously, the Petitioners and the Respondents are at liberty to file their written notes of submissions, on or before 16.02.2024. List this Petition on 20.02.2024 in the “Urgent Orders category”, only to peruse the affidavits, if filed and to receive the written notes of submissions.”

30. Respondent Nos. 1 & 2 have filed affidavits stating that, on 28.03.1972 an award has been passed under the Land Acquisition Act, 1894 and acquired land ad-measuring 14400 Sq.mtrs. (1 H 44 R) from Gut No. 80/1B and land ad-measuring 3500 Sq. mtrs. (35 R) from Gut No. 80/2. So also, appropriate compensation has already been paid to the erstwhile owner, but the Petitioner suppressed material facts. Therefore, we do not appreciate contention of the Petitioner in this regard.

31. No doubt, while passing order dated 7th 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 either in these proceedings or any other proceedings concerning the writ land, that, any of these petitioners have found to be indulged in fabrication of record or forgery or any dishonest act, they would deposit Rs. 10,00,000/- (Rs. Ten Lakhs) toward cost and that 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. 951505 dated 13th February, 2024. This Court had not directed that the amount be deposited in advance. Needless to say that though the Petitioner and the Officer of Respondent No. 2 alleged each other about creation of documents and forgery, however, 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 desires 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.

32. Needless to say that the Petitioner disputed about measurement carried out by Respondent No. 2 while acquisition of land in the year 1972 as well measurement described in award dated 28.03.1972, so also, the measurement carried by Respondent No. 2 through Respondent No.3 on 08.10.2021, 28.10.2021 & 02.11.2021 denied by the Petitioner. Per contra, the Petitioner's claim is based on the joint measurement allegedly carried out on 28.10.2021, however, said measurement denied by Respondent No.2. These are disputed questions which cannot be decided without proper evidence. The Petitioner is at liberty to file a Civil Suit for redressal of his grievance, if so desired.

33. Since it clearly appears that this Petition involves disputed and complex questions of facts, which do not warrant an adjudication while exercising jurisdiction under Article 226 of the Constitution as per ratio laid in case of *City And Industrial Development Corporation*, (supra), present Petition is liable to be dismissed. **Accordingly, this Writ Petition is dismissed. Rule is discharged.**

34. In so far as prayer clause-D is concerned, the Writ land being used for construction of public road/public project. Therefore, prayer of the Petitioner is hit by Section 20-A of the Specific Relief Act, which provides as under:

Sec. 20-A - Special provisions for contract relating to infrastructure project.- (1) No injunction shall be granted by a court in a suit under this Act involving a contract relating to an infrastructure project specified in the Schedule, where granting injunction would cause impediment or delay in the progress or completion of such infrastructure project.

35. Therefore, considering the public infrastructure project and taking into consideration Section 20-A of the Specific Relief Act, coupled with the fact that this Writ Petition is dismissed, **the interim relief granted on 21.12.2021 is hereby vacated.** Nevertheless, the Petitioner is at liberty to claim compensation in case he successfully proves about acquisition of his land by the Respondents Authorities as per specification claimed by him.

36. The amount of Rs. 10,00,000/- deposited by the Petitioner be refunded to him with accrued interest, if any.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

L/O

37. After the pronouncement of the judgment the learned counsel for the Petitioner prayed for extension of interim order granted on 21.12.2021 for

a period of four weeks. The learned counsel appearing for the Petitioner submit that the Petitioner is under apprehension that the Respondent-NHAI may start road widening construction soon after the judgment is passed by this Court and whole purpose of the Petition would be frustrated and as such the Petitioner intends to approach the Hon'ble Supreme Court. The learned counsel appearing for the Respondent-NHAI strongly opposed the prayer.

38. Needless to say that in para 34 of the judgment, we have considered the scope of Section 20-A of the Specific Relief Act which puts bar on grant of injunction on a public project which would delay the progress or completion of road widening work. Therefore, we are not inclined to consider the prayer made by the learned counsel for the Petitioner.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]