



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

**WRIT PETITION NO. 1567/2023**

**Dr. Sarang Ramesh Deshmukh**

**Vs.**

**The State of Maharashtra, through Secretary, Department of Revenue and Forest  
and others**

|                                                                                                                    |                           |
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| Office Notes, Office Memoranda<br>of Coram, Appearances, Court's<br>orders or directions and<br>Registrar's orders | Court's or Judge's orders |
|--------------------------------------------------------------------------------------------------------------------|---------------------------|

Mr. K.S. Narwade, Advocate for Petitioner  
Mr. A.S. Fulzele, Addl. GP for Respondent / State

**CORAM: AVINASH G. GHAROTE AND  
SMT. M.S. JAWALKAR, JJ.**

**DATED : 6<sup>th</sup> MAY, 2024**

It is contended, that the road which is being resurfaced by the Public Works Department (PWD), is passing through the land of the petitioner for which reliance is placed upon the measurement sheet at page 20 of the petition, which indicates a measurement done on 19.08.2020 in which there is a caption that 0.44 H.R. land out of Survey No. 114/1 is fallow and part is in road and therefore the part of the land owned by the petitioner is being used by the respondents without acquiring the same, thereby depriving the petitioner from just compensation.

2. The learned Additional Government Pleader, however, has relied upon the map at page 63, in which the position as extant in 1970 has been demonstrated to submit, that the road is

already in existence since 1970 and what is being now done, is only resurfacing of the road and nothing else. Therefore, there is no acquisition as claimed by the petitioner.

3. The map at page 20 of record is as vague as possible. Though there is a caption indicating that 0.44 H.R. from and out of the land Survey No.114/1 is fallow and affected by road, there is no specification as to to what extent it is fallow and to what extent it is affected by road. That apart, the map does not indicate that the measurement was taken with due notice and in the presence of the officials of the PWD department, considering which, it is impossible for us to place any reliance upon the map to hold that the land of the petitioner is being built upon by way of road. That apart, the pursis by the State dated 06.05.2024 tendered across the bar which is taken on record indicates, from the 7/12 extracts appended thereto, that the entire holding for the petitioner *vis-a-vis* survey No.114/1 continues to be 2.41 H.R. Though an entry therein indicates that 0.40 HR is specified as class B that by itself, cannot indicate that any portion of the land belonging to the petitioner is being used for the purpose of road. On the basis of the material on the record in the petition we are,

therefore, unable to determine that the land of survey No.114/1 has gone under the road specifically in the light of the map of 1970. Though Mr. Narwade, learned counsel for the petitioner contends, that there is no denial of the averments in the petition regarding the use of the land of the petitioner by the respondents for the purpose of the road and, therefore, the petition needs to be allowed, we are unable to accept this contention as it is a settled position of law that the petitioner has to demonstrate the existence of a case on its own merits and the non-denial by respondents cannot be accepted as a gospel truth merely because there is no denial. We, therefore, do not see any merit in the petition. The petition is dismissed. No costs.

(SMT. M.S.JAWALKAR,J.)

(AVINASH G. GHAROTE,J.)