



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

940 WRIT PETITION NO. 473 OF 2023

Shrikumar Radheshyam Agrawal And Another

VERSUS

The National Highway Authority Of India Through Its Project
Director And Others

...

Advocate for the Petitioners : Mr. D.S. Bagul

Advocate for Respondent no.1 : Mr. D.S. Manorkar

DSGI for Respondent no. 2 : Mr. A.G. Talhar

GP for Respondent no.3 : Mr. A.B. Girase

...

CORAM : ALOK ARADHE, C.J. AND
S. G. CHAPALGAONKAR, J.

Dated : March 20, 2025

...

FINAL ORDER :- (Per S.G. Chapalgaonkar, J.)

1. The Petitioners have approached this Court under Article
226 of the Constitution of India with following prayers :-

“B. By way of appropriate writ order or directions in the like nature, the respondent authorities be directed to measure the lands of petitioners bearing gat nos.139/1, 139/2 and 140/1A forthwith and further be restrain from starting of construction activity till completion of land acquisition proceeding in pursuant to National Highway's Act, 1956.

C. By way of appropriate writ order or directions in the like nature, the respondent authorities be directed to forthwith pay compensation of 450 sq. mtr of land as shown in the joint measurement report prepared on 13.7.2015 which was prepared on the basis of joint measurement done on 3.7.2015.”

2. The petitioners contend that on 24.11.2016 the National High Ways Authority of India/Respondent no.1 passed an award u/s 3(G) of the National High Ways Act, 1956, whereby compensation for 50 square meters of land from gat no.140/1A and 400 square meters from gat no.139/1 and 139/2 was awarded. The petitioners accepted the same under protest and requested competent authority to release further compensation amount based on joint measurement report dated 3.7.2015, which depicts that land admeasuring 950 sq. meters owned by the petitioners was subjected to acquisition towards construction of road.

3. Mr. Bagul, learned advocate appearing for the petitioners invites attention of this Court to contents of the Award and points out that as per joint measurement, excess land of the petitioners has been acquired and for that purpose supplementary acquisition award was proposed.

4. Per contra, Mr. Manorkar, learned advocate appearing for the respondent no.1/National High Ways Authority submits that, joint measurement dated 2.9.2013 shows that 50 square meters land from gat no.140/1A and 400

square meters land from gat no.139/1 and 139/2 is under acquisition. Accordingly, compensation amount has been released. The measurement report relied by petitioners was never received to respondent no.1. He submits that on 17.1.2024 communication was made with the office of Land Records pointing out that as per revised measurement report dated 3.7.2015 boundaries of Gat nos.139 and 140 are shifted towards previously acquired lands depicting additional acquisition area of 500 square meters from gat no.139 and 140 which is incorrect. Eventually, office of the Land Records accepted the mistake caused in measurement and informed that previous measurement report dated 2.9.2013 may be relied. Accordingly, he urges to reject petition.

5. Contentious issue raised before us is based on inconsistent measurement report dated 2.9.2013 and 3.7.2015. Petitioners are relying upon the measurement report dated 3.7.2015. Per contra, Respondent no.1 is relying upon the report dated 2.9.2013.

6. In this background, dispute can be resolved by directing joint measurement of entire gat nos.139, 140 and

fixing the area of acquisition out of ownership of the petitioners.

7. In that view of the matter, we **partly allow** the writ petition and direct the Respondents to cause joint measurement of the lands gat nos.139/1 and 139/2 and 140/1A and fix the boundaries of the lands and area acquired from petitioners ownership. In case, additional area owned by the petitioners is found under acquisition as claimed, steps be taken for passing supplementary Award and release of compensation. Respondent no.1 shall bear expenses for joint measurement and deposit the same with the concerned authority within one month from date of this order. On deposit of amount, joint measurement shall be undertaken and report be submitted within (2) Two months. In case, excess area of petitioners found under acquisition, **further process of acquisition and release of compensation** shall be completed within a period of **Twelve (12)** months from today.

8. Writ Petition stands **disposed of** accordingly.

(S. G. CHAPALGAONKAR, J.)

(CHIEF JUSTICE)

...

aaa/-fc.