



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

WRIT PETITION NO.11172 OF 2018

1. Ashabai w/o. Punjahari Shaharwale
2. Ganesh s/o. Laxman Rahtekar ..Applicants

Vs.

The State of Maharashtra and anr. ..Respondents

Mr.Punit S. Mehta, Advocate for applicants
Mr.P.K.Lakhotiya, AGP for respondent no.1
Mr.D.S.Manorkar, Advocate for respondent no.2

**CORAM : R.G.AVACHAT AND
ABASAHEB D. SHINDE, JJ.
DATE : SEPTEMBER 04, 2025**

ORDER :-

Heard.

2. The lands of the petitioners in gut no.14 and 42, situated at Hatnoor, Tq. Kannad, Dist. Aurangabad, have been acquired for construction of national highway. The petitioners have, however, not been paid compensation for the land to the extent of 1700 sq. mtrs. of petitioner no.1 and 2000 sq. mtrs. of petitioner no.2, on the ground that the said land was being used as service road (public purpose).

3. Learned counsel for the respondent - National Highway relies on the judgment of the Apex Court in the case of **Shirdi Nagar**

Panchayat Vs. Kishor Sharad Borawake and others, 2023 SCC OnLine SC 1214, to submit that if the Government gives benefit of development of land concerned with permission to sub-divide the same and uses it for commercial purpose and it, in turn, requires the landowner to handover part of land free of cost for public utility purpose, such a clause cannot be held to be illegal. The same cannot be held to be illegal. The facts of the said case, however, indicate that the land owners therein had entered into an agreement with the local authority, whereunder, it had waived its right to claim compensation. The waiver was not for free. It was in consideration of the land that was permitted to be developed and used for commercial purpose. So is not the case herein.

4. Since the petitioners are owners of the land acquired for construction of national highway, they are necessarily entitled for adequate compensation.

5. In the case of **Anup Walmik Katkade and Anr. Vs. The State of Maharashtra, Through its Secretary and others (Writ Petition No. 4522 OF 2024 decided on 11.07.2025)**, we had observed as under:-

4. *We fail to understand how such an opinion can be given. It is a basic tenet of law that no person shall be deprived of his property without paying him adequate compensation. The right to property has now been recognized as a constitutional right, in view of Article 300-A of the Constitution of India. We, therefore, hold that the Petitioners are entitled to compensation for the land which has been acquired for widening of a National Highway.*

6. In view of the above, if the petitioners approach the competent authority, which has been authorised to determine the amount of compensation for the acquired land for national highway, it shall decide the claim of the petitioners, on their own merits, within the time frame of six months from the date of receipt of a copy of this order. The Writ Petition stands disposed of accordingly.

[ABASAHEB D. SHINDE, J.]

[R.G. AVACHAT, J.]

KBP