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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4378 OF 2024

Ashok Shamrao Mang & Ors.

...Petitioners

Versus

The State of Maharashtra

Through the Secretary & Ors.

...Respondents

Mr Umesh H Pawar, for the Petitioners.

Mr Aditya R Deolekar, AGP for the Respondent/state.

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 20 February 2025

PC:-

1. Heard learned counsel for the parties.
2. The petitioner's grievance in this petition is that possession of the additional land was taken over for construction/widening of the road. The petitioner claims that no formal acquisition proceedings were initiated for acquiring this additional land, and the petitioner has also not been paid any compensation for this additional land.
3. Upon hearing the petitioner, the co-ordinate bench of this Court comprising of Nitin Jamdar, J [as is lordship then was] and M M Sathaye, J made the following order on 1 April 2024:-

The relief sought for by the Petitioners depends on the factual position as to whether the possession of the Petitioner's land have been taken over and if yes, to what extent. One of the ways of ascertaining this factual position is to carry out a measurement.

2. Stand over to 1 July 2024 to enable the Petitioners to apply to the appropriate authorities for carrying out the measurement.

4. Today, when the matter was called out, Mr Umesh Pawar submitted that the petitioners had made no application to the appropriate authorities to carry out measurements. He also made some submissions on how the stretch of almost 4 km has been acquired and, further, how some of the villagers support the acquisition and others do not. Accordingly, he suggests that the petitioner should not be directed to apply to the appropriate authority to carry out measurements.

5. The contentions raised in the petition prima facie involve disputed questions as to whether any additional land is acquired from the petitioners and, if so, the extent of such acquisition. Therefore, after hearing the learned counsel for the petitioner, the coordinate bench made the above order dated 1 April 2024. Without any measurement report from the appropriate authorities, it would not be possible for this Court to easily resolve such disputed questions of fact in the exercise of its extraordinary and summary jurisdiction under Article 226.

6. Therefore, we dispose of this petition by allowing the petitioner to apply to the appropriate authorities for the measurement. If the petitioner so desires, such application should be made within a reasonable time of, say, three to four months from today. If such an application is made, the authorities are directed to carry out measurements by following the procedures prescribed under the law. The measurement report must be furnished to the petitioner.

7. Suppose the measurement report suggests that the facts pleaded by the petitioner are correct. In that case, the petitioner can file appropriate proceedings regarding the excess acquisition and non-payment of compensation.

8. All contentions of all parties and remedies are, however, left open.

9. The petition is disposed of with the above liberty without any cost order.

10. All concerned are to act upon the authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)