



IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 11389 OF 2016

Ambadas s/o Dattatraya Mahanta & ors. ....Petitioners

**VERSUS**

The Union of India & ors. ....Respondents

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Mrs. Rekha Choudhary, Advocate for petitioners

Mr. N.T. Tribhuwan, Counsel for R.No.1 & 4

Mr. B.A. Shinde, A.G.P. for R.No.2, 3 & 5

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**CORAM : SIDDHESHWAR S. THOMBRE, J.**

**DATE : 5th MAY, 2026**

**ORDER:**

1. Heard learned counsel for both the parties.
2. The petitioners are aggrieved by the notices dated 20/6/2016, issued to petitioner No.1, and 6/8/2016, issued to the petitioners and the communication dated 21/10/2016, issued by the respondent No.4 to the respondents No.5 and 6.
3. Learned counsel for the petitioners submits that, the petitioners are owners of some portion of the land bearing Gat No.46, situated at village Tamalwadi, Taluka Tuljapur, District



Osmanabad. Their land to the extent of 4600 sq.mtrs. has been acquired for the purpose of widening of National Highway No.211 (New National Highway No.52). After following the due procedure of law, final award was passed on 27/10/2015 by the respondent No.4. Learned counsel for the petitioners submits that, in fact the petitioner No.2 and 3 received the amount and the petitioner No.1 consented for the same by giving consent that the petitioner No.1 is not having any objection for paying the amount to petitioner No.2 and 3 and pursuant to that, the petitioner No.2 and 3 have received the amount. Learned counsel for the petitioners further submits that, after receipt of the amount, somebody made a complaint to the respondent No.4 and pursuant to that, measurement was carried out on or about 11/5/2016 on the ground that less area of 22 R belonging to petitioner No.1 was acquired and the amount to the extent of that area would come to Rs.60,22,416/- was paid in excess and, therefore, the respondent No.4 issued a notice, asking the petitioner to refund the said amount.

4. Learned counsel for the petitioners submits that, once the award was passed under the provisions of the National Highways Authorities Act, 1956 there is no provision empowering



the respondent No.4 to measure the land again and issue notice to the petitioners to refund the amount. In fact, the award was passed after measurement of the land and, therefore, up till the award which was finalized is set aside, then the respondent No.4 is not having any power under the National Highway Authorities Act, 1956 to issue such a notice. He therefore, submits that the notices issued by the respondents are liable to be quashed and set aside. He, therefore, prayed to allow the Writ Petition.

5. Per contra, Mr. Tribhuwan, learned counsel for the respondents No.1 and 4 submitted that, pursuant to the complaint received, the measurement was carried out by the respondent No.4 and it was found that the land to the extent of 22 R less was acquired and, therefore, the respondent No.4 has rightly issued notice asking the petitioner to refund the amount. He tenders across the bar copy of the consent given by the petitioner No.1 and states that, the petitioner No.1 was not having any objection for payment of the amount to petitioners No.2 and 3. He therefore submits that, as the excess amount was paid to the petitioners No.2 and 3, he is liable to refund the same.



6. Having heard learned counsel for the parties and after going through the entire record as well as the provisions of National Highway Authorities Act, there is no dispute about the fact that the joint measurement was carried out and as per the joint measurement, the award came to be passed under Section 3G-1 of the National Highway Authorities Act, 1956 on 27/10/2015 and as per the joint measurement, the area which was acquired was mentioned and pursuant to that, the amount was paid to the petitioners No.2 and 3. As per the contention of the petitioner, the land of the petitioner No.1 was not acquired and only the land of petitioners No.2 and 3 was acquired, but as the name of petitioner No.1 was shown in the award, therefore, the petitioner No.1 consented for releasing the entire amount in favour of petitioners No.2 and 3. As regards the notices issued by respondent No.4 is concerned, the respondent No.4 has not pointed out under which provision the respondent No.4 is empowered to measure the land after the award was passed and, therefore, once the award is passed, the respondent No.4 does not have any power to measure the land and to issue notices to the petitioners to refund the amount.



7. I have gone through the provisions of the National Highway Authorities Act, 1956 which does not permit the authority to measure the land after the award was passed under Section 3G(1) and, therefore, I find that the notices issued by the respondent No.4 are without any power entrusted with it as per the provisions of the National Highways Act, 1956. Even the award is declared, it becomes final up till the said order is set aside. The respondent No.4 is not having power to measure the land and issue notices to the petitioners. Therefore, the notices issued by the respondent No.4 are liable to be quashed and set aside.

8. In the result, the Writ Petition is allowed in terms of prayer clause (B). The notices dated 20/6/2016, issued to petitioner No.1 and 6/8/2016, issued to the petitioners and the communication dated 21/10/2016, issued by the respondent No.4 to the respondents No.5 and 6 are quashed and set aside.

**(SIDDHESHWAR S. THOMBRE, J.)**

fmp/-