

IN THE HIGH COURT OF JUDICATURE AT BOMBAYBENCH AT AURANGABAD**WRIT PETITION NO. 10910 OF 2015**

Girdharilal S/o Bhaulal Pardeshi,
 Aged : 65 Years, Occ. Agril.
 R/o Jalke (Kh), Tq. Newasa,
 District Ahmednagar
 PETITIONER

:

...VERSUS...

1. The State of Maharashtra,
 Through its Secretary,
 Public Works Department,
 Mantralaya, Mumbai-32.
2. The Collector, Ahmednagar,
3. The Executive Engineer,
 E.G.S. (Works), Ahmednagar Division,
 Ahmednagar.
4. The Sub-Divisional Officer,
 Public Works Sub-Division,
 Newasa, Tq. Newasa,
 Dist. Ahmednagar
5. Zilla Parishad, Ahmednagar,
 through its Chief Executive Officer,
 Ahmednagar

: RESPONDENTS

 Shri. R.N. Kulkarni, Advocate for the petitioner
 Ms. M.A.Deshpande, A.G.P. for the respondent nos. 1 to 4.
 Shri S.T. Shelke, Advocate for the respondent no.5.

AND**CORAM : PRASANNA B. VARALE****ANIL S. KILOR, JJ.****DATED : 28th NOVEMBER, 2019**

JUDGMENT (Per Court : ANIL S. KILOR, J.)

Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.

2. The petitioner by way of present petition has approached to this Court and seeking direction to respondent no.2 to 4 to initiate land acquisition proceeding in respect of land owned by the petitioner and to pass award under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred as 'Act, 2013'.)

3. Heard Shri R.N.Kulkarni learned counsel for the petitioner, Ms. M.A.Deshpande, learned A.G.P. for the respondent no.1 to 4 and Shri Shirke, learned counsel for the respondent no.5 Zilla Parishad.

4. Shri Kulkarni, learned counsel for the petitioner submits that petitioner owned agricultural land bearing survey no. 211/A admeasuring 21 acres situated at village

Jalke (Kh), Tq. Newasa, Dist. Ahmednagar. He submits that the respondent nos. 2 to 4 constructed road passing through the land owned by the petitioner and it resulted in division of his land in two parts. According to him, the construction of the said road was started in 2013, however, because of promise made by respondent nos. 2 to 4 that they will pay compensation to the petitioner, he did not object the construction of road through his land.

5. Learned counsel for the petitioner further submits that petitioner deprived of his property and till date no compensation has been paid to the petitioner for the land acquired for construction of road. According to him, till date award is not passed as per Section 24 of Act, 2013.

6. Per contra, learned Assistant Government Pleader submits that no construction of new road was done by Public Works Division since the road mentioned in the petition is notified as proposed village road no. 166 and therefore there is no question of acquiring any land of the petitioner.

7. Learned Assistant Government Pleader further submits that the road work was sanctioned under D.P.D.C and administration approval was granted to it by District Collector, Ahmednagar on 19th April, 2010. The said work has received technical sanction from the Superintendent Engineer, Public Works Circle, Ahmednagar in June 2010. The work was started in September, 2010 and completed in July, 2011.

8. Learned Assistant Government Pleader points out that the work which was carried out about the road the same was of improvement of existing road and no construction of road as alleged by the petitioner was carried out in the year 2013 or thereafter.

9. Learned AGP has invited our attention to the technical as well as administrative sanction granted in 2010 by the competent authorities. Thus, according to the learned A.G.P. there is no merit in the present writ petition and the same deserves to be dismissed.

10. To consider the rival contentions, we have gone

through the records. The documents filed by the respondent no.2 showing that the work which was carried out was not in relation to construction of new road as alleged in the petition, but it was the improvement of the existing road. The documents granting technical as well as administrative sanction support the case of the respondent no.2 that no new road was constructed but there was existing road and improvement made on the said road.

11. Zilla Parishad also states that there was a cartway since beginning and the respondents have carried out the work on the same cart way and therefore there was no question of acquiring any land for construction of road.

12. We find substance in the submissions made by the respondents and on the basis of record available we have no hesitation to hold that the petitioner has failed to point out that there was no road in existence and the road which is constructed is a new road.

13. In absence of any material in support of contention of the petitioner, we do not find any merit in the

present petition.

14. Accordingly, the petition is dismissed. Rule is discharged.

JUDGE

sknair

JUDGE