

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4786 OF 2018

Chandrabhan Sukdev Sangle and Others ... Petitioners

vs.

The Competent Authority @ Dy. Collector
(Acquisition) Irrigation No.1, Nashik and Others ... Respondents

Mr. Pramod Joshi a/w. Mr. Pratik Rahade, for petitioners.

Mr. O.A. Chandurkar a/w. Ms. M.S. Bane, AGP for the Respondent
Nos. 1, 4 and 7.

Mr. Rakesh Singh i/b. M.V. Kini & Co., for Respondent No. 2 -NHAI.

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**CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ**

RESERVED : 23rd MARCH, 2026

PRONOUNCED : 5th MAY, 2026

JUDGMENT (Per Manish Pitale, J.)

1. The petitioners approached this Court by filing this Writ Petition, being aggrieved by the manner in which acquisition of their lands was initiated in Gut No. 897 of village Pangarwadi (Shivar), Tal. Sinnar, Dist. Nashik. The acquisition process culminated in the award dated 25th November, 2011, but, in this Writ Petition filed in February, 2017, the petitioners claimed that the initiation of the acquisition process itself was rendered defective because of lack of proper description of the portion of land from Gut No. 897 that was acquired

for the purpose of National Highway No.50 between Pune and Nashik.

2. At the point in time when the Writ Petition was filed, the petitioners were still in possession of the subject land and it was asserted that the petitioners and other villagers had been continuously representing to the authorities that the alignment of the highway was inappropriate whereby the portion of their land consisting of Wells was being acquired instead of dry land and other grievances were also raised. It was also the case of the petitioners that the defects regarding improper measurement and identification of the portion of the lands under acquisition was relevant with regard to the lands situated in Gut Nos. 896, 897 and 908. It was alleged that in respect of the lands in adjoining Gut Nos. 896 and 908 re-measurement was undertaken and it was conceded by the authorities that there was defect requiring rectification. The petitioners were discriminated against, as no such exercise was undertaken for the petitioners, further alleging that the land owners of the said adjoining Gut numbers were politically influential persons.

3. During the pendency of the Writ Petition, on 24th May, 2017, the possession of the lands of the petitioners was taken. According to

the petitioners, this was done in a clandestine manner and forcibly while the petitioners were at the office of the Collector raising their grievances in respect of the aforesaid defects in the acquisition process. Even post dis-possession, the petitioners continued to agitate with regard to the said grievances. The Writ Petition was amended to add a prayer with regard to lapsing of acquisition under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to “Act, 2013”). But, at the time of arguments, the said prayer was not pressed on behalf of the petitioners.

4. The documents filed along with Writ Petition show that the notifications under Sections 3A and 3D of National Highways Act, 1956 (“Act, 1956”) were issued stating that the land from aforesaid Gut No. 897 was only being partly acquired. The notification recorded acquisition from Gut No. 897(Part) to the extent of 0.88 R and the land was simply described as “agricultural land- dry”. On the basis of such description of the land proposed to be acquired, eventually, the said award dated 25th November, 2011 was issued. The petitioners refused to accept the compensation and protested, as according to the them, the description of the land in the notification was defective and deficient and that such an objection was raised on their behalf

immediately upon such notification being issued during the acquisition process. Despite the objection, the process was completed, culminating into the said award. It was further submitted that the respondent No. 2 National Highway Authority of India represented by the Executive Engineer, National Highway, Division No. 9, Nashik failed to take possession of the lands and did not commence any activity for construction of the highway for a long period of time. It was stated that the possession of the land was taken in May, 2017 during the pendency of the Writ Petition. Although various prayers were made in the Writ Petition at the stage of arguments much emphasis was placed on the documents filed along with the rejoinder affidavit to claim that the exercise of the measurement carried out demonstrated the actual area of the land utilized for construction of the road was 0.93 R and not 0.88 R. Reliance was also placed on the fact that the respondents in the year 2017 proceeded to grant compensation to similarly situated individuals in the adjoining Gut No. 896 on the basis of private negotiations under the Act, 2013, conceding that there was a defect in the measurement and description of the land in the earlier notification.

5. The respondents filed their reply affidavits, alleging that the petition suffers from delay and laches as the award was already passed on 25th November, 2011, while the petition was filed in the year 2017.

It was submitted that since the petitioners refused to accept the compensation, the same was deposited in a separate account, which the petitioners could collect. It was further submitted that there was no question of lapsing of acquisition of section 24(2) of the Act, 2013. It was also submitted that the petitioners were not justified in staking claim for enhanced compensation on alleged defective description of the land acquired from Gut No. 897.

6. As noted here-in-above, apart from refuting the contentions of the respondents in the rejoinder affidavit, the aforementioned submissions were made on behalf of the petitioners and certain documents were placed on record. It is in this backdrop that the rival submissions were heard.

7. Mr. Pramod Joshi, learned counsel for the petitioners submitted that when the Writ Petition was filed and possession of the subject land was yet to be taken, the petitioners had placed on record sufficient documents to indicate that even as per the office of respondent No. 6- the Superintendent of Land Records, Nashik through its Dy. Superintendent, there was indeed a defect in the joint measurement conducted for all the three adjoining Gut Nos. 896, 897 and 908 of the aforesaid village. Thereafter, rectification was made only in respect

of the joint measurement pertaining to Gut No. 896 and 908, for the reason that the land owners were politically powerful persons, unlike the petitioners in the present petition.

8. It was further submitted that the description of the land in notification issued under section 3A of the Act, 1956, was fundamentally defective and deficient as the land of the petitioners for acquisition was merely stated to be 0.88 R from Gut No. 897(P) further described as “agricultural land – dry”. Despite such description, the respondents eventually took possession of that part of land from Gut No. 897, which consisted of at least four Wells that were the only source of water for the petitioners, who are farmers. This further demonstrated the fact that the very initiation of the acquisition process was rendered defective. In this context, the learned counsel for the petitioners placed reliance on the judgment of the Supreme Court in the case of **Competent Authority vs. Barangore Jute Factory and Others**¹. It was submitted that in a similar situation, the Supreme Court held that such a defective notification deserves to be set aside, which would pave the way for acquisition of the land afresh. But, the Supreme Court finally held that the quashing of the notification may lead to further complications and therefore, the respondent- authority

¹ (2005) 13 Supreme Court Cases 477.

therein was directed to determine the compensation afresh by treating the date of taking possession of the subject land as the relevant date for determining the quantum of compensation. It was submitted that the said judgment applies on all fours to the facts of the present case and therefore similar reliefs ought to be granted.

9. It was alternatively submitted that since the petitioners in the rejoinder affidavit had placed on record the joint measurement and map drawn at the instance of the petitioners, showing obvious defects in the description of the land under acquisition and the extent of the land actually taken possession of, coupled with the fact that identically situated land owners in the adjoining Gut No. 896 were granted enhanced compensation by private negotiation under the Act, 2013, this Court may consider granting quantum of compensation, identical to the one granted to such land owners in the adjoining Gut number.

10. In this context, attention of this Court was invited to a letter dated 20th November, 2017 issued by respondent No. 2 – Executive Engineer, National Highway, Division No. 9, Nashik, conceding that there was a defect in the intended acquisition initiated as per the same notification which pertains to the land of the petitioners also and offered compensation @ Rs. 4,240/- per sq. mtr. It was emphasized

that surprisingly on the very next day on 21st November, 2017, Sale Deeds were executed with such identically situated land owners. Therefore, the petitioners had instructed their counsel in this petition to make a statement that they would be satisfied if compensation for acquisition of their lands is granted at the same rate of Rs. 4,240/- per sq. mtr. to put an end to the controversy. On this basis, the learned counsel for the petitioners submitted that the Writ Petition could be allowed by granting such enhanced rate of compensation.

11. Mr. Chandurkar, learned AGP appearing on behalf of respondent Nos. 1, 4 and 7 submitted that the petition suffers from delay and laches. It was too late in the day for the petitioners to claim enhanced compensation, particularly when they had not chosen to take recourse to the remedy available under the Act, 1956, by approaching the Arbitrator for enhanced compensation. It was further submitted that the petitioners cannot take advantage of the aforesaid judgment of the Supreme Court in the case of **Barangore Jute Factory and Ors.** (supra) for the reason that the facts are distinguishable. It was further submitted that the land owners in the adjoining Gut No. 896 were offered compensation, because it was found as a matter of fact that there was defect in joint measurement and additional area of 0.53 R was utilized for construction of the National Highway, justifying the

offer made in the year 2017. It was submitted that there was absolutely no ground for claiming lapsing of acquisition under section 24(2) of the Act, 2013. On this basis, it was submitted that the Writ Petition deserved to be dismissed.

12. Mr. Rakesh Singh, learned counsel appearing for respondent No. 2 representing NHAI supported the contentions of the learned AGP. He further submitted that the petitioners cannot raise ground of discrimination, for the reason that the land owners of Gut No. 896 were not similarly situated like the petitioners. In any case, it was submitted that the petitioners did not raise any objection for long period of six years and therefore, the Writ Petition cannot be entertained for the relief of setting aside of the land acquisition award and/or for any relief pertaining to enhanced mandatory compensation. It was submitted that the work pertaining to National Highway was completed in the year 2022 itself and therefore the Writ Petition deserved to be dismissed.

13. Having heard the learned counsel for the rival parties, we find, that, at the point in time the Writ Petition was filed, the petitioners were still in possession of the subject land. It was during the pendency of the petition that in May, 2017, they stood dispossessed. The

documents on record show that the petitioners had been sending representations to the respondents, particularly the officers concerned with the acquisition process, raising specific grounds with regard to lack of proper identification of the portion of land belonging to them in Gut No. 897, which was made subject matter of acquisition. The record shows such representations sent from the year 2012 onwards. Even though, the award was issued on 25th November, 2011, it is found that even during the acquisition process, the petitioners had raised strong objection about the portion of land from Gut No. 897 being acquired by the respondents. The petitioners claimed that the alignment of acquisition had been deliberately changed to favour certain politically powerful individuals and in the process their land consisting of Wells full of water was sought to be taken under acquisition, instead of dry land located within the said Gut No. 897.

14. It is a matter of record that although the land acquisition award was issued on 25th November, 2011, the actual possession of the land was not taken till May, 2017. In the interregnum, the land owners, similarly situated like the petitioners from adjoining Gut Nos. 896 and 908 had also made representations and protested with regard to the manner in which the acquisition had been undertaken. The documents on record show that meetings were held in the office of the Collector to

resolve the disputes.

15. In this backdrop, the document at Exhibit A assumes significance. It is a letter dated 2nd August, 2016 sent by the Dy. Superintendent of Land Records, Sinnar, Dist. Nashik to the Sub Divisional Officer, National Highway, Sub Division- II, Nashik. This letter specifically pertained to Gut Nos. 896, 897 and 908, from which lands were acquired for construction of the said National Highway. In this letter, it was specifically stated that the joint measurement undertaken at the time of initiating acquisition was done in a hurried manner under police protection and specific boundary lines were not identified at the time when the measurement was undertaken. It was further stated that there was request for proper joint measurement in the said Gut numbers and therefore if the boundary lines and areas of the land actually acquired for the purpose of National Highway were identified, it would help in resolving the controversy. Thereafter, the said Dy. Superintendent, Land Records, Sinnar sent a further communication dated 8th July, 2016 to the said competent authority, which is at page 33 of the petition. On this occasion, a reference was made only to lands in Gut Nos. 896 and 908. It was stated that a joint measurement in respect of the said land was undertaken and it was found that there were deficiencies and inaccuracies. These were

corrected and a report pertaining to such joint measurement along with the map were annexed to the said letter.

16. Thereafter on 20th November, 2017, the respondent No. 2 Executive Engineer, National Highways, Nashik sent a letter to the land owners similarly situated like the petitioners having land in Gut No. 896. In this letter, reference was made to the aforementioned two letters sent by the Dy. Superintendent of Land Records and it was stated that upon correction of the deficiency or inaccuracy in joint measurement, it was found as regards the said land owner that instead of 0.28 R of land, 0.81 R land from Gut No. 896 had been utilized for construction of the said National Highway, thereby indicating that an additional area of 0.53 R was required to be taken into consideration for the purposes of compensation. Thereupon, respondent No. 2 offered compensation @ Rs. 4,240/- per sq. mtr. to the said land owner. This was based on an earlier letter dated 29th September, 2017 sent by the Competent Authority and Dy. Collector (Land Acquisition) to the respondent No.2, referring to the said defect being cured and the offer for enhanced compensation being made. It is also a matter of record that immediately on 21st November, 2017, Sale Deeds were executed in favour of the said land owners granting them compensation/consideration @ Rs. 4,240/- per sq. mtr.

17. We find substance in the contention raised on behalf of the petitioners that the inherent defect in the joint measurement and consequent depiction of the area of land under acquisition for construction of the National Highway, pertain to such lands that were the subject matter of the notification issued under section 3A of the Act, 1956. The defect pertained to adjoining Gut numbers i.e. 896, 897 and 908. This is evident from the said letter dated 2nd August, 2016 sent by the Dy. Superintendent, Land Records, Sinnar to respondent No. 2. We also find substance in the contention raised on behalf of the petitioners that having found such a defect, running through the said adjoining Gut numbers, the rectification was done only in respect of the lands in Gut Nos. 896 and 908, thereby discriminating against the petitioners whose lands were located in Gut No. 897. The documents on record show that the petitioners had been repeatedly approaching the respondent- authorities with an identical grievance and yet relief appears to have been granted to a chosen few land owners in the adjoining Gut numbers.

18. The documents on record also show that the land that was eventually taken possession of by the respondents consisted of Wells, which were the source of water for the petitioners who are agriculturists, despite the fact that the description of the land given in

the notification under section 3A of the Act, 1956, stated that they were dry agricultural lands.

19. This brings us to the specific contentions raised on behalf of the petitioners on the basis of the judgment of the Supreme Court in the case of **Barangore Jute Factory and Ors.** (supra). In the said case, the Supreme Court considered the provisions of the Act, 1956, and the necessity of describing the lands proposed to be acquired, in a proper manner in the notification issued under section 3A of the Act, 1956, when only part of land from a Gut number was being acquired. Since the said judgment covers the arguments made by the rival parties in this petition also, the relevant portion of the said judgment is required to be appreciated. The said portion from the judgment of the Supreme Court in the case of **Barangore Jute Factory and Ors.** (supra) reads as follows:-

4]The appendix contains a long list of various portions of lands sought to be acquired. The list runs into more than 10 pages in the paper book. We have chosen to reproduce only a small portion of the appendix in order to appreciate the rival contentions of the learned counsel for the parties. The learned counsel for the writ petitioners submitted that the purpose of giving a brief description of the land sought to be acquired is that the person whose land is to be taken away, should at least know what he is being deprived of. This becomes all the more necessary when only a part of the land out of a bigger chunk of land is sought to be acquired. A reference to the Tables forming part of the appendix, which according to the acquiring Authority contain brief description of the land, will show that under various heads, only part of bigger chunks of land is being acquired. If the entire land falling in a particular survey is acquired, there cannot be any problem of identification of land. But when only a part of land out of larger tract of land is sought to be acquired, the question arises which part is going to be acquired. For instance in

the first Table full area of land in Dag No.1448 at Serial No.3 is 17 acres as per column 5. Column 7 indicates that only a part of the said 17 acres is being acquired and as per Column 8, the part which is sought to be acquired is 2.7500 acres. This means out of 17 acres only 2.7500 acres is being acquired. The question will arise as to which side this part which is sought to be acquired is falling, it could be anywhere on the northern, southern, western, eastern sides or in the centre. How is one to know which part is under acquisition? Similar position emerges with reference to other serial numbers where only part of larger chunks of land is being acquired. Such cases are several when we look at the entire Appendix and the Tables forming part of it. According to the learned counsel for the writ petitioners, the absence of information as to which part of the land is being acquired makes the description insufficient, rather vague. The owners are not in a position to identify the land under acquisition. It also renders it impossible to make claim regarding compensation for the land under acquisition because it is a matter of common knowledge that in bigger tracts of land, certain areas on a particular side are more valuable than the others. The absence of proper description of land makes it impossible to file objection against acquisition. For all these reasons it is argued on behalf of the land owners that the statutory requirement of a brief description of land is not fulfilled. According to the Writ Petitioners non-compliance of sub- section (2) of Section 3A renders the Notification invalid and the same is therefore, liable to be quashed.

5] So far as the question whether the impugned Notification meets the requirement of Section 3A(1) of the Act regarding giving brief description of land is concerned, we have already shown that even though plot numbers of land in respect of each mouza are given, different pieces of land are acquired either as whole or in part. Wherever the acquisition is of a portion of a bigger piece of land, there is no description as to which portion was being acquired. Unless it is known as to which portion was to be acquired, the petitioners would be unable to understand the impact of acquisition or to raise any objection about user of the acquired land for the purposes specified under the Act or to make a claim for compensation. It is settled law that where a statute requires a particular act to be done in a particular manner, the act has to be done in that manner alone. Every word of the statute has to be given its due meaning. In our view, the impugned notification fails to meet the statutory mandate. It is vague. The least that is required in such cases is that the acquisition notification should let the person whose land is sought to be acquired know what he is going to lose. The impugned notification in this case is, therefore, not in accordance with the law.

6] While dealing with the question of brief description of land in the acquisition notifications, reference was made to some judgments of this Court where acquisition Notifications under Section 4 of the Land Acquisition Act had come up for consideration on account of challenge being leveled on ground of vagueness of the Notifications. In most of these cases, Plan of the area under acquisition was made

part of the notifications to show that the requirement of description of land was met. This lead us to inquire whether there was any site plan forming part of the impugned Notification.

7] The availability of a Plan would have made all the difference. If there is a Plan, the area under acquisition becomes identifiable immediately. The question whether the impugned Notification meets the requirement of brief description of land under Section 3A(2) goes to the root of the matter. The High Court rightly observed : "...It is just not possible to proceed to determine the necessity of acquisition of a particular plot of land without preparation of a proper Plan." The appendix to the impugned notification shows that in many cases small parts of larger chunks of land have been notified for acquisition. This is not possible without preparing a Plan. But where is the Plan? The Notification in question makes no reference to any Plan. Our attention was drawn to averments in pleadings by Writ Petitioners and replies thereto of the acquiring authority. The Writ Petitioners have pleaded that there was no Plan. Replies are vague and by way of rolled up answers. There is no specific reply. It is obvious that there was no Plan and therefore none was referred to in pleadings nor any thing was produced before Court at the hearing. Learned counsel for the Competent Authority tried to submit before us that there was a Plan at the time of issue of the notification and the Writ Petitioners ought to have inspected it if they so desired. He further submitted that the Plan was produced before the High Court. We find that both these submissions are not sustainable as they are not correct. A reference to the impugned Notification shows that there is no mention of any Plan. Without this how can anybody know that there was a Plan which could be inspected and inspected where? We are inclined to accept that there was no Plan accompanying the impugned Notification. During the course of hearing we were shown a Plan which we are unable to link with the impugned Notification. This was a 1996 P.W.D.Plan. The P.W.D. is a department of the State Government. The impugned Notification is by the Central Government. The NHA is established under a Central Act. The Competent Authority under Section 3 of the Act is appointed by the Central Government. Therefore, this State Government Plan of 1996 (the impugned Notification is of 1998) is of no assistance. The impugned judgment of the High Court emphasises the need for a Plan. It is clear from the judgment of the High Court that no Plan was produced before it. The absence of any reference to a Plan in the impugned Notification and in fact non-availability of any Plan linked to the Notification, fortifies the argument that the description of the land under acquisition in the impugned Notification fails to meet the legal requirement of a brief description of the land which renders the Notification invalid.

8] The absence of plan also renders the right to file objections under Section 3C(1) nugatory. In the absence of a Plan, it is impossible to ascertain or know which part of acquired land was to be used and in what manner. Without this knowledge no objections regarding use of land could be filed. Since the objection regarding use of the land had

been given up by the writ petitioners, we need not go any further in this aspect. We would, however, like to add that unlike Section 5A of the Land Acquisition Act, 1894 which confers a general right to object to acquisition of land under Section 4 of the said Act, Section 3C(1) of the National Highways Act gives a very limited right to object. The objection can be only to the use of the land under acquisition for purposes other than those under sub-section 3A(1). The Act confers no right to object to acquisition as such. This answers the argument advanced by the learned counsel for the NHA that failure to file objections disentitles Writ Petitioners to object to the acquisition. The Act confers no general right to object, therefore, failure to object becomes irrelevant. The learned counsel relied on the judgment of this court in *Delhi Administration vs. Gurdip Singh Uban & Others* [(1999) 7 SCC 44]. In our view, this judgment has no application in the facts of the present case where right to object is a very limited right. The case cited is a case under the Land Acquisition Act, 1894 which confers a general right to object to acquisition of land under Section 5A. Failure to exercise that right could be said to be acquiescence. The National Highways Act confers no such right. Under this Act there is no right to object to acquisition of land except on the question of its user. Therefore, the present objection has to be decided independently of the right to file objections. De hors the right to file objection, the validity of the Notification has to be considered. Failure to file objection to the notification under Section 3C, therefore, cannot non-suit the Writ Petitioners in this case.

9] The learned counsel supporting the acquisition submitted that the delay in filing the Writ Petition is fatal to the case of land owners. It is true that 11th June, 1998 Notification was challenged only in September, 2001 by filing the Writ Petition. But if the Notification violates the very statute from which it derives its force, will delay in challenging it clothe it with legitimacy? The Act requires the Notification to be issued in a particular manner with brief particulars of land being acquired. The Notification in this case fails to meet this requirement. We have held it to be bad in law. It has no legs to stand. The conduct of the opposite party cannot be used to make it stand. Moreover, the Writ Petitioners have explained the reasons for the delay in filing the Writ Petition. The Company which owns the lands had been de-registered. It is a Company registered in the U.K. It had to be revived. Revival came in mid-2001 whereafter the action was taken. Thus we find no merit in the argument about delay in challenging the Notification rendering the challenge liable to be rejected.

.. ..

14] Having held that the impugned notification regarding acquisition of land is invalid because it fails to meet the statutory requirements and also having found that taking possession of the land of the writ petitioners in the present case in pursuance of the said notification was not in accordance with law, the question arises as to what relief can be granted to the petitioners. The High Court rightly observed

that the acquisition of land in the present case was for a project of great national importance, i.e. the construction of a national highway. The construction of national highway on the acquired land has already been completed as informed to us during the course of hearing. No useful purpose will be served by quashing the impugned notification at this stage. We cannot be unmindful of the legal position that the acquiring authority can always issue a fresh notification for acquisition of the land in the event of the impugned notification being quashed. The consequence of this will only be that keeping in view the rising trend in prices of land, the amount of compensation payable to the land owners may be more. Therefore, the ultimate question will be about the quantum of compensation payable to the land owners. Quashing of the notification at this stage will give rise to several difficulties and practical problems. Balancing the rights of the petitioners as against the problems involved in quashing the impugned notification, we are of the view that a better course will be to compensate the land owners, that is, writ petitioners appropriately for what they have been deprived of. Interests of justice persuade us to adopt this course of action.

15] Normally, compensation is determined as per the market price of land on the date of issuance of the notification regarding acquisition of land. There are precedents by way of judgments of this Court where in similar situations instead of quashing the impugned notification, this Court shifted the date of the notification so that the land owners are adequately compensated. Reference may be made to

- (a) Ujjain Vikas Pradhikaran v. Rajkumar Johri and others [1992 (1) SCC 328]
- (b) Gauri Shankar Gaur & Ors. v. State of UP & Ors. [1994 (1) SCC 92]
- (c) Haji Saeed Khan & Ors. v. State of UP & Ors. [2001 (9) SCC 513]

In that direction the next step is what should be the crucial date in the facts of the present case for determining the quantum of compensation. We feel that the relevant date in the present case ought to be the date when possession of the land was taken by the respondents from the writ petitioners. This date admittedly is 19-02-2003. We, therefore, direct that compensation payable to the writ petitioners be determined as on 19-02-2003, the date on which they were deprived of possession of their lands. We do not quash the impugned notification in order not to disturb what has already taken place by way of use of the acquired land for construction of the national highway. We direct that the compensation for the acquired land be determined as on 19-02-2003 expeditiously and within ten weeks from today and the amount of compensation so determined, be paid to the writ petitioners after adjusting the amount already paid by way of compensation within eight weeks thereafter. The claim of interest on the amount of compensation so determined is to be decided in accordance with law by the appropriate authority. We express no opinion about other statutory rights, if any, available to the parties in this behalf and the parties will be free to exercise the same, if available. The compensation as determined by us under this order along with other benefits, which

the respondents give to parties whose lands are acquired under the Act should be given to the writ petitioners along with what has been directed by us in this judgment.

20. A perusal of the above quoted portion of the said judgment of the Supreme Court shows that when the brief description of the land proposed to be acquired, is not properly stated in the notification under section 3A of the Act, 1956, particularly when only a part of the land out of a larger part of land is sought to be acquired, the notification itself is liable to be quashed. Once this happens, the entire acquisition proceedings, including the land acquisition award is liable to be quashed. We find that the Supreme Court in the said case was dealing with facts that were similar to the facts arising in the present petition.

21. A perusal of the notification under Section 3A of the Act, 1956, in the present case shows that in so far as the land belonging to the petitioners is concerned the only description was that land from Gut No. 897 (P) was being acquired to the extent of 0.88 R, with the land being stated as “agricultural land- dry”. The petitioners have placed on record 7/12 extract i.e. the revenue record to show that Gut No. 897 consisted of 8H and 35R land. The aforesaid description in the notification under Section 3A of the Act, 1956, is found to be woefully inadequate to demonstrate as to which portion admeasuring 0.88 R

from 8H and 35 R of Gut No. 897 was proposed to be acquired. Such defective brief description clearly denied the petitioners a fair opportunity to raise their objections and to place their case before the authorities. This is exactly what the Supreme Court held in the case of **Barangore Jute Factory and Ors.** (supra) as a defect going to the root of the matter, necessitating quashing of the notification itself.

22. On the question of delay, in the said judgment in paragraph 9 quoted here-in-above, the Supreme Court found that delay in challenging would not clothe the act of the authorities with legitimacy if it suffers from a fundamental defect regarding the notification itself. We find that the petitioners in the present case have placed on record sufficient documents to show that, at the stage of acquisition before the award was issued on 25th November, 2011 and even immediately thereafter, they had been pursuing the authorities on the aforesaid fundamental defect in identification of the exact portion admeasuring 0.88 R in Gut No. 897, that was made subject matter of the acquisition. It is a matter of record that till the Writ Petition was filed, the petitioners continued to be in possession. It was only during the pendency of the petition that the respondent-authorities took possession of the land and the Highway was eventually completed in the year 2022. Therefore, the respondents cannot escape responding to

the issues raised by the petitioners in the petition by taking shelter of the argument of delay and laches.

23. Apart from this, as noted here-in-above, we find that the petitioners appear to have been discriminated against, as land owners similarly situated like them in the adjoining Gut Nos. 896 and 908 were granted the relief of rectification of joint measurement and consequential modification of area under acquisition, leading to grant of compensation, under the Act, 2013. On this ground also, we find that the petitioners have made out a case in their favour.

24. If the principle laid down in the judgment of **Barangore Jute Factory and Ors.** (supra) is followed and applied to the facts of this case, the notification itself would stand quashed leading to the entire acquisition proceeding as also the award being set aside. But even the Supreme Court in the said judgment did not proceed to quash the notification, recognizing several difficulties and practical problems that would arise. In that backdrop, the Supreme Court balanced the rights of the petitioners therein by taking a different course of action. It was held that the petitioners therein would be entitled to determination and payment of compensation from a different date and in that context the crucial date was identified as the date on which the petitioners

therein were actually dispossessed. On that basis, directions were issued for determination of compensation.

25. If we were to follow the said course of action, the relevant date in the facts of the present case would be 24th May, 2017 when the petitioners were dispossessed during the pendency of this Writ Petition. The respondents would have to calculate the quantum of compensation under the Act, 2013, treating the relevant date as 24th May, 2017. Such directions could have been issued, but for the fact of the learned counsel for the petitioners on specific instructions from the petitioners and in line with their representation dated 8th September, 2020, submitted that the petitioners would be satisfied if they are also granted compensation @ Rs. 4,240/- per sq. mtr. as was granted to the similarly situated land owners in adjoining Gut No. 896.

26. We are of the opinion that if such a direction is issued, it would balance the interests of the rival parties, as the other option of quashing the notification itself following the law laid down by the Supreme Court in the case of **Barangore Jute Factory and Ors.** (supra), would lead to unnecessary problems and complications for all the stake holders.

27. In view of the above, we partly allow the Writ Petition by directing that the respondents shall pay compensation to the petitioners @ Rs. 4,240/- per sq. mtr. for the extent of their land acquired and utilized for construction of the aforesaid Highway.

28. The amount shall be calculated and paid to the petitioners within a period of eight weeks from today.

29. Pending applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J)

(MANISH PITALE, J.)