



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8127 OF 2026

Dr. Prakash Kahnayalal Kankriya
Age: 65 years, Occu: Doctor
R/o: Sai Surya Netra Seva,
Vadhaman, Manik Chowk, Ahilyanagar.

...Petitioner

VERSUS

1. The State Of Maharashtra,
through its Collector, Collector Office,
Ahilyanagar, District Ahilyanagar
2. Sub Divisional Officer,
Nagar Division,
Ahilyanagar
3. Deputy Superintendent Of Land Records,
Ahilyanagar
4. Executive engineer,
PWD department,
Ahilyanagar.

...Respondents

Advocate for Petitioner : Mr. Satyajit S. Bora
AGP for Respondent/State : Mr.S.K. Tambe

CORAM : NITIN B. SURYAWANSHI AND
ABASAHEB D. SHINDE, JJ.

RESERVED ON : 27.07.2026
PRONOUNCED ON : 17.08.2026

JUDGMENT : (PER : ABASAHEB D. SHINDE, J.)

. Rule. Rule made returnable forthwith. With the consent of the parties, the Writ Petition is heard finally at the stage of admission.

2. The petitioner by filing this Writ Petition under Article 226 of the Constitution of India is seeking following reliefs :

“B) That, by issuing writ, Order or direction under Article 226 of the Constitution of India, the respondent No.2 Sub Divisional Officer/ Land Acquisition Officer, Ahilyanagar, may kindly be directed to carryout correction in the Award dated 30.04.2010 thereby reducing the area under acquisition from land Gut No.190/2 of village Nimbalak, District Ahilyanagar from 63R to 23R.

C)That, by issuing writ, Order or direction under Article 226 of the Constitution of India, the respondent No.2 Sub Divisional Officer/ Land Acquisition Officer, Ahilyanagar, may kindly be directed to decide the representation dated 05.03.2026 submitted by the petitioner for correction of the area in the Award dated 30.04.2010 thereby reducing the area under acquisition from land Gut No.190/2 of village Nimbalak, District Ahilyanagar from 63R to 23R within period of one month”

3. In fact this is a second round of litigation. Undisputedly, the petitioner is the owner of land Gut No. 190/2, admeasuring 6 H 62 R from western side, by virtue of a registered Sale Deed dated 13.01.1999 executed by one, Bhausahab Kotkar.

4. After the petitioner purchased the said land, the sub division (*pot hissa*) measurement was carried out by the Taluka Inspector of Land Records (TILR), District Ahilyanagar and same was sub-divided into two parts, i.e., Gut No. 190/2/1 (Western Side) and Gut No. 190/2/2 (Eastern Side).

5. The respondents initiated the acquisition proceedings for the purpose of construction of Ring Road/Bypass Road of Ahilyanagar City. The notification under Section 4 of Land Acquisition Act, 1894 (for short, 'the Act of 1894') was issued on 13.03.2008 and the notification under Section 6 of the said Act was issued on 19.02.2009. Accordingly, the award under Section 11 of the Act of 1894 came to be passed on 30.04.2010, in which the land of the petitioner admeasuring 63 R was shown to have been acquired. Though, the ownership of the said land is with the petitioner however, instead of his name, the name of his vendor was recorded in the award.

6. After noticing the said mistake in the award, the petitioner approached the authority for correction but the said request was turned down by the District Collector, Ahilyanagar. He, therefore, approached this Court by filing Writ Petition No. 10018 of 2022. This Court by an order dated 24.11.2025, set-aside the order passed by the Collector, thereby directing him to decide the said application on its own merits within a period of six (06) months from the date of receipt of copy of the order.

7. Pursuant to the order passed by this Court, the petitioner approached the respondent No. 2/Sub-divisional Officer on

05.03.2026, seeking correction in the award. The respondent No. 2/Sub-divisional Officer, on 09.03.2026, directed the respondent No. 4/Executive Engineer, Public Works Department, as well as respondent No. 3/Deputy Superintendent of Land Record, Ahilyanagar, to submit their reports in respect of the area actually coming under the acquisition and as to whether the petitioner has withdrawn the compensation amount pursuant to the award to the extent of 63 R land.

8. Accordingly, the Executive Engineer on 06.04.2026 submitted his report to the Sub-divisional Officer stating that the petitioner had neither withdrawn the amount of compensation nor has filed any application for enhancement of the compensation. The Deputy Superintendent of Land Record, too, submitted his report on 12.03.2026 giving nod for the correction in the name as well as the area actually acquired. However since, no action pursuant to the directions issued by this Court and the reports submitted by the Deputy Superintendent of Land Record as well as the Executive Engineer, is taken by respondent No.2/Sub-divisional Officer, the petitioner has approached this Court.

9. We have heard learned Advocate for the petitioner, learned AGP for the State and perused the record.

10. Though learned AGP has raised an objection on maintainability of the Writ Petition on the ground that, there is no provision under Act of 1894, to correct the award and that the petitioner can avail other remedy as permissible in law however, we are not impressed with the submissions of the learned AGP.

11. It is trite law that the jurisdiction of this Court under Article 226 of the Constitution of India is extraordinary, equitable and discretionary. In our view, the observation of the Hon'ble Apex Court in case **Godrej Sara Lee Ltd. Vs. Excise and Taxation Officer-cum-Assessing Authority and Others**, [2023 SCC Online SC 95], which guides us to hold that, this Court should issue a command in it's extraordinary Writ jurisdiction, after noticing that the petitioner before us is innocent and it is not on account of his conduct but due to the mistake of the authorities, in place of his name, name of his vendor was shown in the Award. The relevant observation of the Hon'ble Apex Court in case of **Godrej Sara Lee Ltd. (supra)**, reads thus:-

“4. Before answering the questions, we feel the urge to say a few words on the exercise of writ powers conferred by Article 226 of the Constitution having come across certain orders passed by the high courts holding writ petitions as “not maintainable” merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction. The power to issue prerogative writs under Article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to Article 329 and ordainments of other similarly worded articles

in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the high court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the high courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under Article 226 that has evolved through judicial precedents is that the high courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the high court under Article 226 has not pursued, would not oust the jurisdiction of the high court and render a writ petition “not maintainable”. In a long line of decisions, this Court has made it clear that availability of an alternative remedy does not operate as an absolute bar to the “maintainability” of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided by a statute, is a rule of policy, convenience and discretion rather than a rule of law. Though elementary, it needs to be restated that “entertainability” and “maintainability” of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to “maintainability” goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of “entertainability” is entirely within the realm of discretion of the high courts, writ remedy being discretionary. A writ petition despite being maintainable may not be entertained by a high court for very many reasons or relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. Hence, dismissal of a writ petition by a high court on the ground that the petitioner has not availed the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper.”

12. Admittedly, while deciding Writ Petition No. 10018 of 2022 this

Court made following observations :

“3. The petitioner claims to have been purchased 6H 62 R land in Gut No.190/2 situated at Village Nimbalk, Taluka & Dist Ahmednagar, way back in the year 1999. The petitioners name was also recorded in the revenue record, pursuant to the sale deed

dated 13.01.1999. Admeasuring 63 R land out of Gut No.190/2 came to be acquired for Bypass. The authorities concerned passed the award in favour of the original owner i.e., vendor who sold the land to the petitioner herein. The vendor is very much before us. He admits that the land which has been acquired was part and parcel of the land purchased by the petitioner herein. The Land Acquisition officer in his order dated 26.04.2022 admits in so many words that the 63 R land which is acquired was part and parcel of the land purchased by the petitioner herein. The description in the sale deed of the land purchased by the petitioner also vouch for the petitioner's claim. The application of the petitioner under Section 13A of the Land Acquisition Act, 1894 was turned down on the ground that the application have been made beyond the prescribed period of limitation of six months.

5. We exercise our discretion. We find that there would be no undue mandatory ground either to the petitioner herein or loss to the State Government. Only the name of the petitioner would come in place of Respondent No.3 (original owner) in the award. It may sound that after rectification of the award a fresh period of limitation for making reference may accrued and the period of 10 years delay may said to be coming in the way of the petitioner but the fact is that the petitioner had already made an application to the Collector for referring the matter to the Civil Court, wherein, the very land was included. The authorities concerned i.e. Collector has simply turned down the application on the ground of 6 months limitation to have been crossed. In the peculiar facts and circumstances and in view of the fact that the original vendor and even Respondent No.3–Collector/Land Acquisition Officer admit the land of the petitioner to have been affected by the acquisition proceedings and the award ought to have been passed in the name of the petitioner. In view of the same, we set aside the order impugned herein and direct Respondent No.3–Collector to consider the application of the petitioner on its own merits and decide the same within a time frame of 6 months from the date of receipt of copy of this order.”

13. The aforesaid observations of this Court, as well as the reports submitted by the Executive Engineer and Deputy Superintendent of Land Record unequivocally shows that there is an apparent mistake

in the award. Therefore, in the light of observations of the Hon'ble Apex Court in case of **Godrej Sara Lee Ltd** (supra), having regard to the peculiar facts and circumstances of the case, we are inclined to exercise our extraordinary jurisdiction to entertain and allow this Writ Petition. We, therefore, pass the following order :

ORDER

i) The Writ Petition is allowed in terms of prayer clauses 'B' and 'C'.

ii) Respondent No.2/Sub-divisional Officer, District Ahilyanagar is directed to carry out the exercise of correcting the award dated 30.04.2010, within a period of four (04) weeks, from the date of receipt of copy of this order.

iii) Rule is made absolute in the above terms.

(ABASAHEB D. SHINDE, J.)

(NITIN B. SURYAWANSHI , J.)

vsj..