



**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.141 OF 2025**

Comunidade of Margao,
Represented by its Attorney,
Mr. Celestino Arthur Barreto e Noronha,
son of Mr. Luis Noronha, 64 years of age,
Married, businessman,
Having its Office at Old Market, Margao, Taluka Salcete,
Goa, 403601 ...PETITIONER

VERSUS

1. The Competent Authority of Land Acquisition (CALA),
PWD (Cell), Altinho, Panaji Goa.
2. The State of Goa,
through its Chief Secretary,
Government of Goa,
Secretariat, Porvorim,
Bardez Goa.
3. Miguel Rosario Cardozo,
son of late Domingos Rosario Cardozo,
aged 60 years, businessman,
Resident of House No.6001/A, Revora,
Navelim, Salcete-Goa, 403707 ...RESPONDENTS

...

Mr. Sudin Usgaonkar, Senior Advocate with Ms. Divya Parab,
Advocates for Petitioner.
Mr. Deep Shirodkar, Additional Government Advocate for Respondent
Nos.1 and 2.
Mr. C. A. Countinho, Senior Advocate with Mr. I. Shantimano,
Advocates for Respondent No.3.

...
CORAM: S. G. CHAPALGAONKAR, J.
DATED : 7th SEPTEMBER, 2026.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties,
matter is heard finally at admission stage.

2. The petitioner impugns order dated 19.09.2024 passed by respondent no.1/Competent Authority of Land Acquisition (hereinafter referred to as 'CALA'), PWD Cell, Altinho, Panaji, Goa in Proceeding No.SLAO/NH-17/PWD/F.7/2023-24/01, thereby directing petitioner to refund of Rs.67,05,076/- compensation amount received by petitioner vide Award dated 31.10.2018.

3. The petitioner contends that in June-July 2017 vide Notification issued under Sub-section (1) of Section 3(A) of National Highways Act, 1956 (hereinafter referred to as 'Act of 1956'), Land Acquisition Proceeding was initiated in respect of land bearing Survey No.76/1 Part, 89/6 Part, 212/7 Part, 76/5, 72/7 Part, 212/7 Part, 72/9 Part, 199/4 Part, 72/10 Part, 189/1 Part, 199/1 Part, 187/1 Part, 188 Part, 199/20 Part for purpose of National Highway No.NH-17 (New NH-66). On 31.10.2018, Award No.SLAO-NH17-PWD/7/2018-2019 came to be passed acquiring area of 1300 sq. mtrs. forming part of 77/7 of village Navalim, Salcete Taluka belonging to petitioner. The requisite public notices were issued under Section 3(A) of Act of 1956 to persons believed to be interested in land calling upon them to appear before Land Acquisition Officer in person or through agent or legal practitioner to state nature of respective interest in such land and amount. The compensation amount in respect of acquired land was worked out to Rs.3,60,54,206/-. The Award dated 31.10.2018 states that as per Survey

Report and Form-I and XIV, petitioner is one of the occupant alongwith one tenant in Survey No.72/7 and compensation would be paid after production of tenancy order issued by respective Mamlatdar. Since none appeared for hearing before Competent Authority, entire amount of compensation was kept as revenue deposit for its disbursement on production of legal document.

4. The petitioner received total sum of Rs.67,05,076/- as per Award passed by CALA. On 11.09.2023, on representation made by respondent no.3 seeking release of entire compensation amount, impugned order came to be passed directing petitioner to refund compensation amount, which is received by him purportedly in exercise of powers under Section 31(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'Act of 2013').

5. Mr. Sudin Usgaonkar, learned Senior Advocate appearing for petitioner would submit that provisions of Act of 2013 do not apply to acquisition under Act of 1956, particularly in absence of Notification as contemplated by provisions of Sub-Section (3) of Section 105 of Act of 2013. He invites attention of this Court to Section 105(1) of Act of 2013, which stipulates that provisions of Act of 2013 would not to apply to enactments relating to Land Acquisition specified in Fourth Schedule. He points out that Act of 1956 is enlisted at Serial No.7 in Fourth

Schedule. Relying upon observations of Division Bench of this Court in case of *Bhupendera Singh Vs. Competent Authority and ors*¹, and *Sangita Natwarlal Karwa and Another Vs. State of Maharashtra and Others*², he submits that Competent Authority constituted under Section 3-A of Act of 1956 has no jurisdiction to make any correction or pass order in the nature of correction of an Award or for that matter amend Award, once Award has been passed and Authority becomes *functus officio*. In light of aforesaid well settled legal position, impugned communication directing petitioner to refund amount received under Award is *ultra vires* and liable to be quashed and set aside.

6. Per contra, Mr. C. A. Coutinho, learned Senior Advocate appearing for respondent no.3 submits that this is not case of correction or modification of Award passed by Competent Authority. By inviting attention of this Court to contents of Award, he submits that Award itself records that as per survey report and Form-I and XIV, Comunidade of Margaon and tenant is occupant in said survey numbers. The tenant would be paid after production of tenancy order issued by respective Mamlatdar. The entire amount of compensation shall be kept as revenue deposit and shall be paid on production of legal documents. As such, Award nowhere determines entitlement of either tenant or occupant to receive compensation, hence, petitioner cannot rest his case

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relying upon preposition of law espoused in case of ***Bhupendera Singh*** or ***Sangita Natwarlal Karwa and Another*** (supra), which lays down that Competent Authority under Act of 1956 cannot resort to provision of Section 33 of Act of 2013 for correction of Award.

7. Mr. Deep Shirodkar, learned Additional Government Advocate for respondent nos.1 and 2 submits that even assuming that impugned communication/order is illegal, Writ jurisdiction can only be exercised when such exercise is essential to achieve ends of justice and not otherwise. In present case, petitioner had no right to receive compensation in wake of grant of purchase certificate in favour of respondent no.3/Tenant as to acquired land. The petitioner could not have put forth any claim on compensation amount in exclusion of Tenant's right and withdraw compensation amount under Award. In this backdrop, there is no reason to invoke Writ jurisdiction and consider prayers in this petition.

8. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that there is no dispute as to preposition of law that provisions of Section 33 of Act of 2013 cannot be extended to correct Award declared under provisions of Act of 1956. However, Mr. Usgaonkar, learned Senior Advocate appearing for petitioner submits that order impugned could not have been passed by CALA directing refund of compensation amount

received by petitioner/land holder resorting to Section 33 of Act of 2013.

9. Perusal of Award dated 31.10.2018 passed by Special Land Acquisition Officer/CALA shows that petitioner or respondent were absent for hearing under Section 3(E) of Act. Eventually, right to receive compensation by occupant or tenant of acquired land has not been finally adjudicated. The specific observations appearing in Award so far as it relates to Survey No.72/7 reads thus:

“As per survey report and Form I and XIV Comunidade of Margao is one of the occupant and there is one tenant in all the said survey Nos. The tenant will be paid after the production of Tenancy Order issued by the respective Mamlatdar. At the time of hearing under section 3E of the Act none of the occupants as well as the tenants remained absent. The entire amount of compensation shall be kept as Revenue Deposit and shall be paid on production of legal document. The entire amount of compensation shall be kept as Revenue Deposit and shall be paid on production of legal documents.”

10. The plain reading of aforesaid paragraphs depicts that Award merely refers to Form-I and XIV, wherein petitioner is shown as one of the occupant alongwith their tenant. The right of tenant to receive compensation was postponed till production of legal documents and entire amount of compensation was kept as revenue deposit. It appears that, petitioner claimed 50% of compensation amount by filing application with Land Acquisition Officer without notice to respondent no.3/tenant or without informing Land Acquisition Officer regarding purchase of land by tenant under Agriculture Tenancy Act. Eventually,

petitioner secured withdrawal of Rs.67,05,076/- i.e. 50% of compensation amount behind back of respondent no.3.

11. Undisputedly, respondent no.3 approached respondent no.1 for release of compensation amount in capacity of owner on the basis of purchase certificate dated 29.11.1993 issued in Tenancy Case No.TNC/JM-II/PUR/NAVELIM/66/1993, which depicts confirmation of ownership upon him. The petitioner did not dispute aforesaid position. Apparently, petitioner had no right to receive compensation amount against acquisition of land Survey No.72/7, which is declared in favour of respondent no.3 under Agricultural Tenancy Act, 1964 and culminated into his ownership vide purchase certificate dated 29.11.1993.

12. The aforesaid factual backdrop in unequivocal terms shows that petitioner has wrongfully withdrawn compensation amount payable to respondent no.3 without disclosing rights conferred upon tenant vide purchase certificate dated 29.11.1993. The terms of Land Acquisition Award passed by CALA nowhere confers any right upon petitioner to receive compensation being erstwhile owner, which extinguished at least upon grant of purchase certificate in favour of respondent no.3 that too much before passing of Award. The impugned order directing petitioner to refund amount wrongfully received by him would not in any manner

amount to modification, correction or review of Award in terms of Section 33 of Act of 2013.

13. Although it is argued that impugned order has been passed referring to Section 31(2) of Act of 2013, such exercise in any manner does not appear to be in nature of correction of Award. On other hand, order clarifies that petitioner is directed to refund amount in reference to paragraph no.34 of Award, which reads thus:

“34. The interested parties who may receive the compensation under the award are given to understand that they will be liable under the proviso of section 31(2) of the said Act, to refund the said compensation or a portion therefore in the event of any other person being adjudged to be lawfully entitled thereto.”

14. Even it is assumed for sake of argument that impugned order would amount to correction of Award and direction to refund amount by CALA is not in consonance with powers conferred under Act of 1956, this Court finds that in facts of case there is no justification for interfering in order impugned, particularly in exercise of Writ jurisdiction of this Court. In case of ***Bharatiya Seva Samaj Trust and Another Vs. Yogeshbhai Ambalal Patel and ors.***,³ Supreme Court observed in paragraph no.14 as under:

“14. It is a settled legal proposition that the court should not set aside the order which appears to be illegal, if its effect is to revive another illegal order. It is for the reason that in such an eventuality the illegality would perpetuate and it would put a premium to the undeserving party/person.”

15. Recently in case of ***M. S. Sanjay Vs. Indian Bank and ors.***⁴,

Supreme Court observed in paragraph no.10 as under:

“10. It has been rightly observed that legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations not to take it to the logical end, the High Court would be failing in its duty if it does not equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal Court of Appeal, which it is not. It is a settled principle of law that the remedy under Article 226 of the Constitution of India is discretionary in nature and in a given case, even if some action or order challenged in the petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties.”

16. Keeping in mind aforesaid exposition of law, this Court finds that petitioner failed to make out any case for interfering in order impugned, particularly in exercise of Writ jurisdiction under Article 226 or 227 of Constitution of India. In result, Writ Petition sans merit. Hence, dismissed.

17. Rule stands discharged.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/September-2026