



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12205 OF 2025

Parvati w/o. Maharudra Kurbetti
Since deceased by Lr.
R 1A. Gangubai Jambu Desai
Age – 86 yrs., Occu. – Agriculture,
R/o. Abdul Lat, Tal. Shirol,
Dist. Kolhapur

...Petitioner

Versus

1. The State of Maharashtra
Through Director of Resettlement,
Revenue & Forest Department,
Mantralaya, Mumbai - 400 032
2. Deputy Collector (Resettlement)
Kolhapur, Collector Office,
Kolhapur
3. Deputy Collector (Land Acquisition)
No. 12, Collector Office,
Kolhapur

...Respondents

Mr. Tejpal S. Ingale a/w Ms. Vrunali J. Vilankar for Petitioner.
Mr. Siddheshwar B. Kalel, AGP for the Respondents-State.

CORAM : Sharmila U. Deshmukh &
Neeraj P. Dhote, JJ.

RESERVED ON : August 31, 2026.

PRONOUNCED ON : September 03, 2026

JUDGMENT : [Per : Sharmila U. Deshmukh, J.]

1. **Rule.** Rule made returnable forthwith by consent and taken up for final disposal.

2. By the present Petition, the Petitioner initially sought the relief of declaration that the action of the Respondents in not determining the compensation by completing the acquisition proceedings and passing an Award in respect of acquired land of the Petitioner from Gat No.2358 admeasuring 76-R situated at Taluka Shirol, District Kolhapur is illegal and bad in law and for direction to initiate fresh acquisition proceedings.

3. During the pendency of the present Petition, the Respondent No. 3 - Deputy Collector and Land Acquisition Officer No. 12, Kolhapur, filed its affidavit-in-reply dated 24th June, 2026, bringing on record the Award dated 1st November, 2004, pursuant to which the Petition came to be amended, and by the amended prayer, the Petitioner seeks a declaration that the impugned Award dated 1st November, 2004, in respect of the Petitioner's acquired land bearing Gat No.2358, admeasuring 76-R, situated at Taluka Shirol, District Kolhapur, is illegal and bad in law, and that the entire acquisition proceedings are deemed to have lapsed in view of Section 11A of the Land Acquisition Act, 1894 (for short, "**LA Act**"), and fresh acquisition proceedings be commenced.

4. Briefly stating, the facts of the case are that on 8th January, 1987, notice under Section 4(1) of the LA Act was published in respect of the Petitioner's land bearing Gat No.2536, admeasuring 61-R, based on the Notification dated 19th September, 1986, for the public purpose of

resettlement of the Dudhganga Project displaced persons. During the hearing under Section 5A of the LA Act, the deceased-Petitioner landholder willingly offered alternate land bearing Gat No.2358, admeasuring 76-R, in lieu of the notified land bearing Gat No.2536, admeasuring 61-R, for the said public purpose, as the acquisition of Gat No.2536 would have resulted in division of the land. The Respondent authorities accepted the offer for acquisition of the alternate land Gat No.2358 and obtained possession of the said land from the Petitioner and also allotted the land to a project-affected person by the name of Anandibai Soma Chavan, which is evident from Mutation Entry No.3786 dated 12th February, 1992.

5. The original landowner expired on 9th May, 1990, and the name of her daughter was duly entered in the record of rights in respect of both Gat Nos.2536 and 2358. It is pleaded in the Petition that, erroneously, the acquisition proceedings in respect of the earlier notified land Gat No.2536, admeasuring 61-R, proceeded and an Award came to be passed in respect of the said land. In the record of rights of Gat No.2536, the name of the Collector was entered and subsequently came to be deleted. The Respondent authorities initiated fresh acquisition proceedings in respect of the acquired alternate land Gat No.2358, admeasuring 76-R, and issued a Notification under Section 4 of the LA Act on 19th April, 2001. Section 6 Notification was issued on 31st

December, 2001. On 8th April, 2002, notices under Section 9(3) and (4) of the LA Act came to be issued in the name of the Petitioner.

6. It is pleaded that thereafter the Petitioner visited the office of Respondent Nos. 2 and 3 on various occasions seeking compensation for the acquired land by passing a necessary Award, which was not done. It is pleaded that in respect of Gat No.2358 admeasuring 76-R, the notification under Section 4 was issued on 19th April, 2001 and, considering the provisions of Section 11A of the LA Act, the acquisition proceedings stand lapsed as the declaration under Section 6 was published on 31st December, 2001 and Award is passed on 1st November, 2004.

7. The amended Petition pleads that the Award dated 1st November, 2004, which is brought on record by the Respondent's affidavit-in-reply, was not to the knowledge of the Petitioner and, even considering the said Award, the period of two years prescribed under Section 11A would apply and the entire acquisition proceedings lapsed.

8. By the affidavit-in-reply, the Deputy Collector and Land Acquisition Officer pleads that Gat No.2358 was not part of the acquisition proposal and the Petitioner's offer came to be accepted for the handing over of Gat No.2358 in lieu of the original notified land. In respect of the initial notified Gat No.2536, the Award was duly passed on 9th March, 1990, and notice under Section 12(2) of the LA Act was

issued on 28th August, 1990. Fresh proceedings were initiated for acquisition of Gat No. 2358 by Notification under Section 4 of the LA Act, and the Section 6 declaration came to be published on 10th January, 2002, and the Award came to be passed on 1st November, 2004. The notices were issued to the concerned persons under Section 12(2) of the LA Act. However, the Petitioner did not come for collecting the amount of compensation, and after a period of 22 years, representation has been made for release of the compensation, which was immediately responded to by a letter dated 7th July, 2025, asking her to comply with necessary procedural formalities.

9. There is a rejoinder affidavit stating that there is no notice under Section 12(2) of the LA Act annexed to the affidavit-in-reply in respect of the Award dated 1st November, 2004. The Petitioner was not aware of the passing of the Award and learnt about the same only upon perusing the affidavit-in-reply.

10. There is an additional affidavit filed by the Deputy Collector (Land Acquisition) dated 27th August, 2026, relying upon judicial pronouncements to plead that stale claim cannot be reopened even though the Award in respect of Gat No.2358 was passed beyond the period of 2 years.

11. Mr. Ingale, learned counsel appearing for the Petitioner, would submit that the original notified land was Gat No.2536 admeasuring

61-R and the alternate land, which was voluntarily handed over in lieu of the notified land, was Gat No.2358 admeasuring 76-R, which was acquired long back in the year 1987-88. He would further point out that even accepting the Award dated 1st November, 2004 in respect of Gat No.2358, which was the alternate land, Section 6 Notification was issued on 31st December, 2001 and, therefore, the Award was beyond the period of two years.

12. Drawing attention to the provisions of Section 11A of the LA Act, he submits that, by virtue of the said statutory provisions, the entire proceedings for acquisition of land bearing Gat No.2358 admeasuring 76-R have lapsed. He would submit that as the acquired land bearing Gat No.2358 has now been allotted to a project-affected person, he is not seeking restoration of the land and is only confining his relief for initiation of fresh acquisition proceedings and fresh Award of compensation. He would further submit that the issue of delay and laches cannot be considered in the case of a continuing cause of action, and in the present case, as the compensation has not been paid, there is a continuing cause of action. In support he relies upon the following decisions :

1. *Bapu Tatoba Chougule and Ors. Vs. The State of Maharashtra and Others*¹.

1 In Writ Petition No.15028 of 2022 dated 29.11.2023.

2. *Shital Anna Walawade and Others Vs. State of Maharashtra and Others*².

3. *Raja Harish Chandra Raj Singh Vs. Deputy Land Acquisition Officer and Another*³.

4. *Vidya Devi Vs. State of Himachal Pradesh and Others*⁴.

13. Per contra, learned AGP would submit that the Award was passed on 1st November, 2004 and Section 12(2) notice was issued and it is failure on the part of the Petitioner to collect the compensation which has been determined by the Award dated 1st November, 2004. He submits that it is open for the Petitioner to collect the compensation which has been determined by the Award dated 1st November, 2004 which was also communicated to her in response to her representation on 7th July, 2025. He would submit that as the Award in respect of Gat No.2536 admeasuring 61-R was passed within a period of 2 years of the Notification issued under Section 4, the subsequent delay in passing the Award in respect of Gat No.2358 admeasuring 76-R will not result in lapsing of the reservation. He relies upon the following decisions.

1. *Tatoba Rama Chavan, through her legal heir Sou.Nanda Balkrishna Mane Vs. Collector and Others*⁵.

2. *State of T.N. and Another Vs. Mahalakshmi Ammal and Others*⁶.

2 (2023) 3 Mh.L.J.560

3 AIR 1961 SC 1500

4 (2020) 2 SCC 569

5 2023 SCC OnLine Bom 1520

6 (1996) 7 SCC 269

14. We have considered the submissions and perused the record.

15. There is no dispute about the fact that the Notification under Section 4(1) of the LA Act was published on 8th January, 1987 in respect of Gat No.2536 admeasuring 61-R. In the Section 5A hearing of objections, the Petitioner's predecessor offered Gat No.2358 admeasuring 76-R in lieu of the original notified Gat No.2536 admeasuring 61-R. The offer was accepted by the Respondent-Authority, which is evident from the fact that Mutation Entry No.3786 was effected in respect of Gat No.2358 admeasuring 76-R on 12th February, 1992 in the name of the allottee, who was the project-affected person of Dudhganga Project, i.e. Anandibai Soma Chavan. The Respondent-Authority therefore acquired the land bearing Gat No.2358 admeasuring 76-R which was offered by the Petitioner.

16. Despite the same, instead of passing an Award in respect of the acquired land, i.e. Gat No.2358, the Respondents passed an Award in respect of Gat No. 2536 admeasuring 61-R on 9th March, 1990, and notice was issued under Section 12(2) of the LA Act determining the compensation. This is sought to be taken in support of the contention by Respondent-Authority that within a period of two years, the Award was passed and, therefore, there is no lapsing within the meaning of Section 11A of the LA Act. The said contention is clearly erroneous as the Award was required to be passed in respect of Gat No.2358

admeasuring 76-R and not in respect of Gat No.2536 admeasuring 61-R which, though notified, was not acquired and instead the alternate land was acquired. The passing of the Award in respect of Gat No.2536 admeasuring 61-R within a period of two years is meaningless. Realizing their mistake, the Respondent Authorities on 19th April, 2001 issued a Notification under Section 4(1) of the LA Act in respect of Gat No.2358 admeasuring 76-R, long after the land came to be allotted to the project-affected person in the year 1992. There is also a Section 6 declaration dated 31st December, 2001.

17. The Petitioner came to the Court with a case that there was no Award passed in respect of land bearing Gat No.2358 admeasuring 76-R and therefore the acquisition proceedings have lapsed. It is only in the reply-affidavit that the Respondent Authorities have produced the Award dated 1st November, 2004 in respect of Gat No.2358 admeasuring 76-R.

18. Upon repeated query by this Court, learned AGP would submit, on instructions, that the record of the Respondent Authorities does not disclose notice issued under Section 12(2) of the Land Acquisition Act. The contention of Mr. Ingale that the Petitioner had no notice of the Award has substance as the Respondents have not been able to produce the notice issued under Section 12(2) of the LA Act in respect of Award dated 1st November, 2004. Having failed to give notice of the

Award to the Petitioner, it is not open for the Respondent Authorities to thereafter raise the contention of a stale claim. In the case of ***Vidya Devi Vs. State of Himachal Pradesh and Others*** (supra), the Hon'ble Apex Court was considering the issue of an acquisition which had taken place in the year 1967-1968 for the purpose of construction of a road which was completed in the year 1975. The Appellant therein did not file any proceedings for compensation for the land, being an illiterate widow coming from a rural background, and in the year 2010, when she became aware of her rights to claim compensation, approached the High Court. The contention of the Writ Petition being barred by laches was taken by the Respondent-State. The Hon'ble Apex Court noted that the right to property continued to be a constitutional right under Article 300A of the Constitution and that the State cannot dispossess a citizen of his property except in accordance with the procedure established by law. It further held that the obligation to pay compensation, though not expressly included in Article 300A, can be inferred from that Article. It held that delay and laches cannot be raised in a case of a continuing cause of action or if the circumstances shock the judicial conscience of the Court. There is no period of limitation prescribed for the Court to exercise its constitutional jurisdiction to do substantial justice. Noting the facts of the case, where the person has been divested of her right to property without being paid any compensation, the Hon'ble Apex Court

negated the plea of delay and laches and directed the payment of compensation with all statutory benefits.

19. The decision of the Hon'ble Apex Court is a sufficient answer to the contentions raised by the Respondent Authorities as regards the claim being a stale claim. Though the Respondent Authorities took possession of Gat No.2358 admeasuring 76-R and allotted the same to the project-affected person in the year 1992, there was no Award passed in respect of Gat No.2358 admeasuring 76-R till the year 2004. To compound the error, the Respondent Authorities passed an Award in respect of Gat No.2536 admeasuring 61-R on 9th March, 1990, which land was not at all acquired by the Respondent Authorities.

20. The passing of the Award on 9th March, 1990 is immaterial and meaningless, as there was no acquisition of the said land and the acquisition was of the alternate land being Gat No.2358 admeasuring 76-R. The Respondent Authorities, despite acquiring Gat No.2358 and allotting the same to the project-affected person in the year 1992, did not follow the due process of law and issued the Notification under Section 4 of the LA Act only after a lapse of almost 9 years, i.e. on 19th April, 2001. The Award dated 1st November, 2004 passed in respect of Gat No.2358 indicates that the Section 6 declaration was made on 31st December, 2001 and came to be published in the Official Gazette on 10th January, 2002 under Section 6(2) of the LA Act.

21. The provisions of Section 11A of the LA Act provide that the Collector shall make an Award under Section 11 within a period of two years from the date of publication of the declaration and if no Award is made within that period, the entire proceedings for the acquisition of the land shall lapse. As the declaration under Section 6 came to be published on 10th January, 2002, the period of two years contemplated under Section 11A lapsed on 10th January, 2004 and the Award passed on 1st November, 2004 was beyond the period of two years. In order to save the lapsing of the acquisition as contemplated under Section 11A, Learned AGP would rely on the decision in the case of ***State of T.N. and Another Vs. Mahalakshmi Ammal and Others*** (supra) by terming the Award of 1990 which was passed in respect of Gat No.2536 as an initial Award. In that case, the Notification under Section 4(1) of the LA Act was published on 26th July, 1978 and the Section 6 declaration was published on 3rd June, 1980. The Award was passed on 22nd September, 1986 and the possession was taken on 24th November, 1986, and a further Award was made on 31st August, 1990 in respect of Survey No.2/11, which lands were not covered under the initial Notification under Section 4(1), errata Notification published. The Hon'ble Apex Court held that once errata was published, it dates back to date of initial Section 4(1) Notification. In that case, the declaration was published prior to the Amendment Act 68 of 1984 and, therefore, the proviso to

Section 11A was applicable, which provided for the Award to be passed within a period of two years from the commencement of the Amendment Act of 1984. After the initial Award was made, in respect of Survey No.2/11, a further Award was made on 31st August, 1990. The Hon'ble Apex Court held that the initial award having been made within two years, subsequent Award does not render the initial Award invalid. The factual scenario before the Hon'ble Apex Court was completely different, and the decision does not assist the Respondents.

22. In the present case, the passing of Award dated 9th March, 1990 in respect of a land, which was never acquired, cannot be said to be an initial Award in order to save the acquisition from lapsing.

23. Though it is sought to be contended that notice was issued under Section 12(2) of the LA Act in respect of Gat No.2358, no notice has been produced on record and it is admitted that no such notice is traceable. Surprisingly, the Respondents in reply to representation of the Petitioner claiming compensation has responded on 7th July, 2025 calling upon the Petitioner to submit various documents including notice issued under Section 12(2) of the LA Act. The Petitioner was, therefore, unaware of the passing of the Award, and the issue of delay and laches cannot come in the way of the Petitioner to claim compensation in accordance with the statutory provisions.

24. The Petitioner has been deprived of her property by acquisition in

the year 1992 and till date has not received compensation. The Award in respect of Gat No. 2358 was passed after a period of two years after the publication of the Section 6 declaration on 10th January, 2002, and the provisions of Section 11A squarely apply. The Award dated 1st November, 2004 was without jurisdiction as the acquisition proceedings had lapsed. In peculiar facts of the case, as the acquired land is already allotted to project-affected person, the Petitioner would confine her relief to seeking direction to initiate fresh acquisition proceedings.

25. Resultantly, the Respondent Authority is directed to initiate fresh acquisition proceedings and pass a fresh Award determining the compensation and pay the same to the Petitioner along with all statutory benefits.

26. In light of the above discussion, the Petition is allowed in terms of prayer clause 17(b)(iv), which reads as under:

“17(b)(iv) To hold & declare that, the impugned Award dated 01.11.2004 by Respondent No. 3 Special Land Acquisition Officer u/s. 11 of L. A. Act, 1894 bearing No. LAQ-SR-337/2000 in respect of Petitioner's acquired land bearing Gat No.2358 admeasuring 0-H 76-R situated at Village Abdul Lat, Taluka Shirol, District Kolhapur is illegal and bad in law and the entire acquisition proceedings of the land has deemed to have lapsed in view of the provisions of Section 11-A of the Land Acquisition Act, 1894 and the Respondents be directed to initiate fresh Acquisition Proceeding and pass fresh Award and determine the compensation and pay to the Petitioner forthwith alongwith interest from the date of possession.”

27. Rule is made absolute in above terms.

[Neeraj P. Dhote, J.]

[Sharmila U. Deshmukh, J.]