IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16846 OF 2025

Kumar Harishchandra Kakde … Petitioner

Versus

State of Maharashtra and others … Respondents

WITH
INTERIM APPLICATION NO. 5062 OF 2026
IN
WRIT PETITION NO. 16846 OF 2025

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SWEETY RAJU BHALERAO

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Date: 2026.09.09 17:47:34 +0530

Mr. Sidheshwar N. Biradar, a/w Mr. Dinesh R. Shinde, Mr. Omhari B. Fawade, for Petitioner.

Mr. Simil Purohit, Mr. Rubin Vakil, Mr. Arun Mehta, a/w Mr. Aniket Srivastav, Mr. Nilesh Chauhan, i/b Mr. Akshar Laws for Applicant in IA/5062/2026.

Mr. A. I. Patel, Addl. G.P., a/w Ms. Tanu N. Bhatia, AGP for Respondents/State.

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

DATE : 08th SEPTEMBER 2026.

PC:

1. Heard learned counsel for the parties.

2. By this petition, the Petitioner has prayed for the following reliefs:

> *"a) Call for Record & Proceeding of the case, grant rule and allow this petition.*
>
> *b) Issue appropriate writ, order or direction thereby declaring that the petition land i.e. Survey No. 85/C admeasuring 06.10 Guntha situated at village Tulinj, Nalasopara (East), Tq. Vasai, Dist. Palghar is not part of land acquisition proceeding initiated by Respondent*

No. 2 and therefore, Respondents are not entitled to take forceful possession of the petition land without following statutory procedure under the law;

c) Issue appropriate writ, order or direction thereby restraining Respondent Nos. 2 to 4 from forcefully dispossessing the Petitioner and his family members from the petition land i.e. Survey No. 85/C admeasuring 06.10 Guntha situated at village Tulinj, Nalasopara (East), Tq. Vasai, Dist. Palghar without following statutory procedure under the law.

d) Issue appropriate writ, order or direction thereby directing Respondent Nos. 2 to 4 to carry out proper measuring and demarcation of properties acquired under the land acquisition proceeding as directed by the Respondent No. 2 vide his letters dated 12.2.2025 and 24.2.2025, and only thereafter proceed with the process of taking physical possession of the acquired lands.

e) Issue appropriate writ, order or direction thereby directing Respondent Nos. 2 and 4 to decide the representation of the Petitioner submitted on 4.3.2025 and 5.3.2025 and take necessary steps for carrying out measurement and demarcation of acquired properties as well as petition land only thereafter continue with the process of taking physical possession of the acquired lands."

3. During the course of hearing of this petition and in the light of apprehension expressed on behalf of the Petitioner, this Court on 15/07/2026 passed the following order:

". The grievance of the petitioner pertains to the respondent-State Authorities threatening to enter upon his land on the basis of acquisition proceeding, which according to the petitioner, has nothing to do with the land belonging to him and his family.

2. The beneficiary of the acquisition has filed an application for

intervention, as this Court by an order dated 10th December 2025, had directed status-quo as to possession to be maintained by the parties. The intervention Applicant also contends that the land belonging to the petitioner does not form part of the acquired piece of land. It is indicated that some confusion may have occurred, which can be clarified, if a joint measurement exercise is carried out. As a matter of fact, the petitioner himself, as per prayer clause (d), has sought a direction to the respondents to carry out such a joint measurement, so as to identify the exact piece of land acquired for the benefit of the intervention Applicant, so that the land belonging to the petitioner is left undisturbed.

3. The learned counsel for the petitioner invited attention of this Court to a letter sent by the respondent No.2-Competent Authority/Sub-Divisional Officer (SDO), as far back as on 12th February 2025 to the respondent No.4-Deputy Superintendent of Land Records (DSLR) for an immediate exercise to be carried out for joint measurement, as there was confusion with regard to the exact location of the land that was made subject matter of acquisition. Despite the said letter having been sent to the respondent No.4-DSLR, it appears that no such exercise has been carried out till date.

4. In view of the above, the respondent No.4-DSLR is directed to forthwith take up the exercise of survey and joint measurement of survey No. 85 part, situated at Village Tulinj, Nalasopora (East), Taluka Vasai, Dist. Palghar, so as to identify the piece of land that is subject matter of acquisition, as per award dated 18th February 2016. The respondent No.4-DSLR shall issue notices to all concerned and ensure that the aforesaid exercise is carried out and report is prepared within three weeks from today.

5. The respondent No.4 shall place on record the said report, along with an affidavit before this Court, within four weeks from today.

6. It is further directed that the spot inspection report, in terms of

the communication dated 24th February 2025 sent by the Competent Authority (SDO), shall also be placed on record, along with the aforesaid affidavit, of the respondent No.4-DSLR.

7. List the petition on 18th August 2026, in the supplementary list.

8. The ad-interim order shall continue to operate till then."

4. In pursuance thereof, the joint measurement exercise was carried out and an affidavit in reply dated 18/08/2026 was filed on behalf of Respondent No.4, Deputy Superintendent of Land Records (DSLR). The measurement report and the map prepared in pursuance thereof were annexed to the said affidavit. The Respondent Nos.1 to 4 have prepared a further affidavit in reply dated 04/09/2026, which was served upon the parties and the same is tendered for the perusal of this Court. The same is taken on record.

5. It is relevant to note that the beneficiary of the acquisition, i.e. a Trust filed intervention application in this petition alleging that the Petitioner was obstructing their possession and activity on the acquired land. It is in the backdrop of such facts that this Court directed the aforesaid joint measurement exercise to be undertaken by the Respondent No.4 – DSLR. The said exercise was completed on 30/07/2026, in the presence of all parties, including the Petitioner.

6. The learned counsel for the Petitioner reiterated the concern of the Petitioner with regard to perceived interference in his possession of 6.10

gunthas of his land situated in village Tulinj, Nalasopora (East), Taluka Vasai, Dist, Palghar, located in Survey No. 85/C, thereof. It was submitted that the Respondents are not entitled to disturb the possession of the Petitioner in the said piece of land. Therefore, appropriate directions are warranted in the present writ petition.

7. The learned AGP appearing on behalf of Respondent- State authorities and the learned Senior Counsel appearing for the Applicant - Trust submitted that the contents of the aforesaid affidavits dated 18/08/2026 and 04/09/2026, sufficiently clarify the position with regard to the acquired piece of land and how it has no concern with the 6.10 gunthas of land of the Petitioner. On the other hand, it is contended that the joint measurement report and the map placed on record clearly indicate that the Petitioner is claiming occupation and possession of part of the acquired land, which has no concern with the 6.10 gunthas of land being the subject matter of the writ petition.

8. It would be appropriate to refer to the relevant contents of the said affidavits.

9. In the affidavit dated 18/08/2026, the Respondent No. 4 has stated as follows:

> *"6. I state that the measurement has conclusively demonstrated that the contentions raised by the opposite party regarding the location and extent of Survey No. 85 are incorrect and contrary to the official*

records. I say that the official measurement has removed all doubts regarding the identity and boundaries of the suit property and therefore the said map deserves to be taken on record and considered while deciding the present proceeding.

7. I say that the Government Measurement Map prepared pursuant to Measurement No. 094011/2026 records the exact status and bifurcation of Survey No. 85 and identifies the various portions thereof by different colours and symbols. The said map specifically records the area under possession of the Petitioner, the area under the possession of BAPS Swaminarayan Trust, the portions affected by existing roads, the portions affected by proposed roads and the balance land available in Survey No. 85. The said official measurement, therefore, clearly establishes the present physical position of the property.

8. I say that as per the said Government Measurement Map following are the details in Tabular Form :

Sr. No.	Particulars	Area
1	Area affected by the existing road	0.01.04 H. Ares
2	Area affected by the proposed Eastern road	0.09.38 H. Ares
3	Area affected by the proposed Western road	0.04.24 H. Ares
4	Area affected by the internal road/right of way	0.03.16 H. Ares
5	Area in possession of the Petitioner outside the acquired area	0.01.88 H. Ares
6	Area in possession of the Petitioner in Survey No. 85 from the acquired area	0.14.62 H. Ares
7	Area shown in the possession of BAPS Swaminarayan Trust	0.68.17 H. Ares
8	Sanjay Sahadev Singh and Ors (Constructions) outside acquired area	0.02.87 H. Ares
9	Total Area of S. No.85 as per Survey Map	1.05.36 H. Ares
10	Total area of Survey No.85 as per 7/12 extract	1.06.30 H. Ares

9. I say that the Petitioner's land bearing Survey No. 85/C, admeasuring 6.10 gunthas, is not included in the acquisition proceedings and has not been acquired under the Award dated 18 February 2016. The acquisition is restricted to an area admeasuring 8,850 square metres from Survey No. 85 (Part). As per the Government Measurement Map prepared under Measurement No. 094011/2026, the Petitioner is presently found in possession of a total area admeasuring 0 Hectare 16.50 Ares (1,650 square metres). However, the entire area under his possession does not constitute his unacquired land bearing Survey No. 85/C. Out of the area presently occupied by him, 0

Hectare 14.62 Ares (1,462 square metres) falls within the boundary of the land already acquired under the Award, whereas 0 Hectare 1.88 Ares (188 square metres) falls outside the acquired boundary. Therefore, the map does not show that the Petitioner's land was acquired; it shows only that a portion of the acquired land is presently under the Petitioner's occupation. These measurements record the existing physical possession on the site and do not determine the title or ownership of the respective parties.

10. I say that the aforesaid particulars have been recorded by the Government Survey Authorities after carrying out an actual field measurement and demarcation of Survey No. 85. The said particulars leave no ambiguity regarding the extent of land available with each holder and the exact area lost on account of existing and proposed roads.

11. I further state that, in compliance with paragraph 6 of the order dated 15 July 2026, the Spot Inspection Report referred to in the communication dated 24 February 2025 issued by the Competent Authority (SDO) is also annexed hereto as Exhibit "B".

12. I respectfully submit that I, the Respondent No. 4, has carried out the exercise directed by this Hon'ble Court faithfully and impartially and has placed the factual survey findings before this Hon'ble Court without expressing any opinion on the rival claims of title or possession of the parties.

13. I therefore respectfully submit that the directions contained in the order dated 15 July 2026 stand complied with.

14. I therefore pray that this Hon'ble Court may be pleased to take the official measurement map on record and consider the same while adjudicating the present dispute in the interest of justice.

15. Whatever is stated hereinabove is true and correct to my personal knowledge and belief and nothing material has been concealed therefrom."

10. Perusal of the above quoted portion shows that as per the joint measurement carried out in terms of the directions issued by this Court, it is found that 6.10 gunthas of land of the Petitioner in Survey No. 85/C is outside the acquired piece of land. It is also recorded that on the other hand,

the Petitioner is in occupation of 14.62 gunthas of land from the acquired portion.

11. In the subsequent affidavit dated 04/09/2026, filed on behalf of Respondent Nos. 1 to 4, it is stated as follows:

> *"24. Pursuant to the order dated 15 July 2026 passed by this Hon'ble Court, the Deputy Superintendent of Land Records carried out an official survey and joint measurement under Measurement No. 094011/2026. As recorded in the affidavit and Government Measurement Map filed by the said authority, the Petitioner was found in physical possession of a total area of approximately 16.30 gunthas (about 1,650 square metres). Of this occupied area, approximately 14.45 gunthas falls within the boundary of the land already acquired under the Award, while approximately 1.85 gunthas falls outside the acquired boundary. These measurements record the existing physical possession on the site and do not determine or confer title or ownership.*
>
> *25. The Respondents reiterate that the Petitioner's claimed land bearing Survey No. 85/C is restricted to 6.10 gunthas and is shown in the record as remaining outside the acquisition. The Petitioner cannot enlarge that claim to the entire area of approximately 16.30 gunthas merely because such larger area is presently found in his physical occupation. To the extent that his occupation exceeds his lawful holding and overlaps the acquired land, the same is an unauthorised occupation/encroachment and cannot confer any right to compensation.*
>
> *26. In these circumstances, no cause of action survives for a blanket restraint against implementation of the completed acquisition. Compensation, if otherwise legally payable, is confined strictly to land in which the claimant establishes a lawful right, title or interest and which is actually included in the acquisition. No compensation can be claimed for any additional acquired area merely occupied by way of encroachment. Since the Petitioner's claimed 6.10-guntha holding is*

recorded as not having been acquired, the Petitioner cannot seek compensation for that unacquired holding in the present acquisition proceedings.

27. In view of the above, the Petition, as framed on the allegation that the Respondents seek to acquire or take possession of the Petitioner's unacquired 6.10 gunthas, is misconceived. The official measurement instead shows that the Petitioner is in physical occupation of approximately 16.30 gunthas, including a substantial portion falling within the acquired land. Such excess occupation neither enlarges his title nor creates any entitlement to compensation. The Petition is therefore liable to be dismissed, while recording that no land lawfully belonging to the Petitioner and falling outside the acquired 8,850 square metres shall be taken.

28. In view of the above, the petition deserves to be dismissed."

12. The above quoted portions of both the affidavits clearly show that even according to the Respondent State authorities, 6.10 gunthas of land of the Petitioner in Survey No. 85/C is not affected by the acquisition at all. Therefore, the apprehensions expressed on behalf of the Petitioner are found to be completely baseless.

13. On the other hand, the joint measurement exercise carried out in terms of the directions issued by this Court by Respondent No.4 - DSLR sufficiently demonstrate that the Petitioner is in occupation of 14.62 gunthas of land from the acquired portion. We find substance in the contention raised on behalf of the Applicant - Trust that the Petitioner is in occupation of portion of the acquired land, while his 6.10 gunthas land is totally unaffected by the acquisition and therefore, appropriate directions ought to be issued to

the Respondent State authorities to ensure that the entire acquired piece of land is properly made over to the Applicant Trust, which is the beneficiary of the acquisition.

14. As noted hereinabove, the Petitioner was duly present when the joint measurement exercise was carried out in terms of the direction issued by this Court. This is evident from the signature on the report as well as the panchnama. It is also a matter of record that the Petitioner has not challenged the contents of the said joint measurement report.

15. In view of the clear picture that has emerged in the light of the joint measurement exercise carried out by Respondent No.4 as per the order dated 15/07/2026 passed by this Court, we find no substance in the writ petition. The apprehensions of the Petitioner are sufficiently answered by the contents of the above quoted portions of the affidavit dated 18/08/2026 and 04/09/2026 filed on behalf of Respondent Nos. 1 to 4 (State authorities).

16. In view of the above, the writ petition is dismissed. Pending interim applications are disposed of.

17. Respondent State authorities are directed to take appropriate steps in accordance with law to ensure that the entire acquired piece of land is made over to the Applicant- Trust expeditiously. The possession is to be taken over as per the acquired land depicted in the aforesaid joint measurement report.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**