



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1980 OF 2025

SURYAKANT VITTHAL SHELKE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS

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Advocate for the Petitioner : Mr. Ameya N. Sabnis
AGP for Respondent Nos. 1 and 2 : Mr. M. M. Nerlikar

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CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR , JJ.

DATE : 12.02.2025

PER COURT :

. The petitioner claims to be entitled to have a share in respect of the portion constructed and affected by the National Highways Act. Without resorting to the provision of Section 3-H(4) of the National Highways Act, he had directly approached the respondent No. 2 - competent authority, who sought to make an attempt to modify the award, but the attempt was struck down by this Court, and the order was sustained up to the Supreme Court.

2. In fact, at earlier point of time, the competent authority had, in light of the fact that the suit was already pending before the Civil Court in respect of the same property, had decided to make a reference and had transmitted the money. However, subsequently he

recalled/modified the order holding the petitioner entitled to have compensation to the extent of the construction that was affected.

3. It appears that, while withdrawing the challenge before the Supreme Court, liberty was sought by the petitioner to approach before the appropriate forum.

4. Considering the fact that, except in the form of a reference to be made by the competent authority under Section 3-H(4), there is no other remedy or forum, it is unbecoming of the petitioner to have solicited such a liberty and still to persist with this Court in invoking the powers under Article 226 of the constitution of India, which can be exercised within circumscribing limits.

5. Once a reference has been made by the competent authority under the statutory mechanism provided under the National Highways Act and when the authority is already seized of the matter, no decision, much less in the form of issuance of writ of mandamus, can be taken. It would have been appropriate for the petitioner to have participated in the reference proceedings. With that liberty, the petition is dismissed.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)

jhs/