



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 13838 OF 2025

- 1] Popat s/o Bhanudas Pawar
Age: 45 years Occ.Aгри,
- 2] Nana s/o Sona Nikam (Dead)
Minabai w/o Sunil More
Age: 42 years Occ. Agri
- 3] Jagan s/o Sona Nikam (Dead)
Through Legal heirs,
Shantabai w/o Jagan Nikam
Age:68 years Occ. Agri,
- 4] Arun s/o Sona Nikam
Age: 68 years Occ. Agri..
- 5] Vikram s/o Chandu Pawar
Age: 50 years Occ.Aгри.
- 6] Gorakh s/o Chandu Pawar
Age: 56 years Occ.Aгри.
- 7] Tulshiram s/o Babu Pawar
Age: 67 years Occ.Aгри,
- 8] Ramesh s/o Dalpat Rathod
Age: 56 years Occ.Aгри,
- 9] Ratan s/o Bhura Pawar (Dead)
Through his legal heirs,
Salachand s/o Ratan Pawar
Age: 50 years Occ.Aгри,
- 10] Morsing s/o Mohandas Rathod
Age: 68 years Occ.Aгри,
- 11] Gulab s/o Madan Rathod
Age: 63 years Occ.Aгри,

- 12] Babulal s/o Kaniram Rathod
Age: 64 years Occ.Aгри,
- 13] Chagan s/o Fakira Rathod
Age: 68 years Occ.Aгри,
- 14] Santosh s/o Maharu Rathod
Age-53 years, Occu. Agri.
- All R/o.
R/o At/ Post-Uppalkheda
Taluka - Soygaon, Dist: Aurangabad.

---PETITIONERS

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
Irrigation Development Department,
Mantralaya, Mumbai.
- 2] The District Collector,
Aurangabad, Dist: Aurangabad.
- 3] Land Acquisition Officer,
Sub Divisional Officer
SDM Office Sillod, Taluka -Sillod
Dist-Aurangabad.
- 4] Executive Engineer,
Minor Irrigation (Division No. 01)
Near Hedgewar Hospital,
Aurangabad.

AND WRIT PETITION NO. 13844 OF 2025

- 1] Malanbai w/o Jorsing Rathod
Age: 65, Occ. Agri
- 2] Dagadu s/o Saheb Chavan,
Age: 65, Occ. Agri
- 3] Mohanabai w/o Dagadu Chavan
Age: 40, Occ. Agri.,

- 4] Jorsing s/o Maharu Rathod
Age: 65, Occ.Aгри,
- 5] Vinod Rupchand Ladhe
Age: 35, Occ.Aгри,
- 6] Dhanraj s/o Fakira Bagul (Dead)
Through his Legal heirs,
Vimalbai w/o Dhanraj Bagul
Age: 40, Occ.Aгри,
- 7] Tapabai w/o Bhila Pawar
Age: 53, Occ.Aгри.
- 8] Bhikan Ahmed Ali
Age: 55, Occ.Aгри,
- 9] Sakharam s/o Bhila Pawar
Age: 57, Occ.Aгри,
- 10] Tukaram s/o Bhila Pawar
Age: 57, Occ.Aгри,
- 11] Sandu Pratap Chavan
Age: 58, Occ.Aгри,
All R/o.
R/o At/Post-Uppalkheda
Taluka Soygaon, Dist: Aurangabad.

---PETITIONERS

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
Irrigation Development Department,
Mantralaya, Mumbai.
- 2] The District Collector,
Aurangabad, Dist: Aurangabad.
- 3] Land Acquisition Officer,
Sub Divisional Officer
SDM Office Sillod, Taluka -Sillod
Dist-Aurangabad.

4] Executive Engineer,
Minor Irrigation (Division No. 01)
Near Hedgewar Hospital,
Aurangabad.

-----RESPONDENTS

Mr. D. H. Thote, Advocate for petitioners in both petitions
Mr. S. B. Pulkundwar, AGP for respondent-State in WP/13838/2025
Mr. R. S. Wani, AGP for respondent-State in WP/13844/2025

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 20th November, 2025

JUDGMENT (PER : Hiten S. Venegavkar, J) :-

1. Heard.
2. Rule. Rule made returnable forthwith.
3. Both the petitions filed under Article 226 of Constitution of India seeks quashing and setting aside of award dated 07.11.2016 passed by respondent No. 3 and further directions to respondent No. 3 to pass fresh award in respect of acquired land of the petitioners. Taking into consideration the relevant rate of determination of market value as 01.01.2014, the petitioners also prays for direction to respondent No. 3 to apply multiplier factor of 2 instead of 1.50. While calculating the compensation for the petitioners acquired land under the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

4. The facts involved in both the petitions are that, petitioners' land has been acquired by the respondent authorities for construction of Storage Dam and bypass road at village Uppalkheda which a public purpose. Respondent Nos. 3 and 4, according to petitioners, have not considered the compensation amount for irrigated agricultural land and have also not considered that the land had fruit bearing trees such as Mango and Nut tree with other fruit trees while passing the final award. According to the petitioners, respondent Nos. 3 and 4 in terms of Section 24(1) of New Land Acquisition Act, 2013 (for short "**New Act, 2013**") who have considered the relevant date for determination of compensation of the acquired land of the petitioners as on 01.04.2014 which is the date of commencement of New Act, 2013. The petitioners also states that respondents who have applied appropriate multiplier along with the value of the assets attached to the land or building including the pipeline which was situated in the land belong to the petitioners while calculating the final award. Respondent No. 4 has taken possession of the land of the petitioners on 10.04.2008 and award has been passed on 07.11.2016 by respondent No. 3 in respect of the said acquisition.

5. According to the petitioners, respondent No. 3 had issued a notification under Section 4(1) of Old Land Acquisition Act, 1894 (for

short "**Old Act, 1894**") on 02.06.2011 and even though the award came to be passed in the year, 2016. The said award is being passed under the Old Act, 1894. According to the petitioners, after the new enactment of Land Acquisition Act came into force on 01.01.2014, then the award should have been passed by the authority under the New Act, 2013 and not under the Old Act, 1894. The petitioners also raises grievance about the applicability of multiplier of 1.5 while calculating the compensation amount during the final award by the authorities. According to the petitioners, as per Government Resolution dated 26.05.2015, multiplier factor of 2 is applicable to the petitioners' land as the land is situated in a rural area almost 160 KMs away from Aurangabad city. As per the directions given by the Central Government by notification dated 26.10.2015, the calculation of the market value under Section 24(1) of the New Act, 2013 is held to be 01.01.2024. Hence, compensation should have been calculated in accordance with the said notification.

6. Learned Advocate for the petitioners argued that the award passed by respondent No. 3 on 07.11.2016 stands vitiated for the reason that it has been passed as per the Old Act, 1894 and not as per the New Act, 2013. According to his argument, the relevant date for determination of value for acquired land should be the date on which the notification under Section 11 was issued. In absence of any contingency, date of

enforcement of the New Act, 2013 i.e., 01.01.2014 would be the relevant date for determination of market value. He also argued that the award passed by respondent No. 3 is also contrary to Section 24(1)(a) of New Act, 2013 as the compensation amount ought to have been calculated at the rate of 12 percent per annum from the date of notification till the date of award. He thus, argued that the compensation calculated by the respondent No. 3 while passing final award is in contravention with the New Act, 2013 and more specifically violation with Section 24(1)(a) of New Act, 2013 and also for the reason that appropriate multiplier factor have not been applied by the authorities. The learned Advocate relied upon the judgment of **Pune Municipal Corporation Vs. Harakchanda Mishrimal Solanki and others AIR 2014 Supreme Court 982** in which the Hon'ble Supreme Court has held that the provisions of Section 24(2) of New Act, 2013 comes into operation as soon as conditions mentioned therein are satisfied. Thus, according to the petitioners' Advocate, petitioners are entitled for compensation in respect of their acquired lands as per the New Act, 2013. The learned Advocate also placed his reliance on several orders passed by this Court in **Writ Petition No. 9630/2017 Sahebrao Bhausaheb Kalate & others Vs. State of Maharashtra & others 2019 (6) Bom CR575, 2020 (2) MhLj.** and judgment dated 09.05.2017 in Allahabad High Court **in Writ Petition C No. 60276/2015 Ishant International Education**

Society Vs. State of U.P. & ors MANU/UP/1064/2017 2017(6) ADJ507, 2017(6) ALJ 68. and submitted that while making the aforesaid submission, furthermore, learned Advocate relied upon the order passed by Bombay High Court in **Writ Petition No 13031/2021, Dalshing Shivlal Chandwade & others Vs. The State of Maharashtra & others** and also order passed in **Writ Petition No. 2547/2023 in Pandurang Rautray & Ors. Vs. the State of Maharashtra & Ors** pointing out that no award was passed under Section 11 of the Old Act, 1894 and only notification under Section 4 was issued and, therefore, in view of provisions of Section 24(1)(a) of New Act, 2013, determination of the market value of the land under Section 26 of the New Act, 2013 was held as 01.01.2014. He accordingly prayed for setting aside the award passed by respondent No. 3 dated 07.11.2016 and for issuance of fresh award taking into consideration the market value as on 01.01.2014 and also by applying the multiplier of 2 while calculating the compensation amount.

7. Learned AGP appearing for the respondent-State opposes the petition by stating that respondent No. 3 has taken into consideration the provisions of both the Act while passing the award. Respondent No. 3 has also applied a correct multiplier while passing the final award. According to learned AGP, the ultimate grievance that has been raised by

petitioners in both the petitions amounts to challenge the compensation that has been awarded to the petitioners for their lands being acquired by the respondents. According to him, there is an alternate remedy of approaching the competent authority under Section 64 of the New Act, 2013. Learned AGP thus prayed for dismissing the petitions as there is effective and efficacious remedy available to the petitioners.

8. We have carefully considered the submissions of both the sides. Admittedly, the award has been passed in the year 2016, when the New Land Acquisition Act, 2013 has already come into force. Obviously, therefore, in view of provisions of Section 24(1)(a) of the New Act, the provisions of the new Act relating to the determination of the compensation would apply.

9. Section 26 of the New Act, 2013 describes for determination of the market value of the amount by the Collector and interalia provides that determination of the market value shall be on the date on which the New Act, 2013 came into force. Admittedly, the effective date therefore is 01.04.2014 i.e., the date on which the new Act was enforced. Needless to say that compensation therefore has to be determined by taking 01.01.2014 is the date.

10. Though, there is some substance in the argument of learned

AGP that petitioners could have resorted to the statutory remedy under Section 64 of the New Act, 2013 raising all these disputes, however, if the said grievance are brought to the notice of this Court then we cannot ignore the fact that the respondents seeks to exercise the right of eminent domain which come with an inherent duty to act fairly. If the actions of the State are blatantly violating the legislative provisions, the action would be certainly arbitrary and capricious and this Court in exercise of the extraordinary power of the Article 226 of the Constitution of India, who step in and rectify the error or mischief of the State. In such circumstance, it would not lie in the mouth of the State to raise the objection regarding the availability of alternate remedy or even the delay and latches.

11. Thus, we are of the considered opinion that the award passed by respondent No. 3 dated 07.11.2016 suffers from serious illegality and demonstrates utter lack of application of mind. In such circumstance, allowing the award to exists will amount to permit illegality to continue. It was expected from the respondent No. 3 that he should have acted fairly and pass the order in tune with the provisions of New Act, 2013. We, therefore, allow the present writ petitions partly and also Quash and set aside the award dated 07.11.2016 passed by respondent No. 3 and direct the respondent No. 3 to pass fresh award in the light of the above

observations, as early as possible, and in any event, within a period of six months from today. The petitioners challenge in respect of applicability of a multiplier of 2 instead of 1.5 cannot be considered at this stage and therefore, both writ petitions to that extent stand rejected.

12. Rule is made absolute in above terms.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi