



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

902 WRIT PETITION NO. 12931 OF 2024

Padmakar Haribhau Muley And Others

VERSUS

National Highways Authority Of India Through Project
Director And Another

...

Mr. G. K. Naik Thigle, Advocate for the Petitioner

Mr. S. J. Rahate, Advocate for Respondent no.1

Mr. A. G. Talhar, Advocate for respondent no.2

...

WITH

WRIT PETITION NO. 3387 OF 2025

National Highways Authority Of India Through Project
Director Ravindra Suhas Ingole

VERSUS

Padmakar Haribhau Muley

...

Mr. S. J. Rahate, Advocate for the Petitioner

Mr. D. A. Bide, Advocate for Respondent no.1

WITH

WRIT PETITION NO. 3386 OF 2025

National Highways Authority Of India Through Project
Director Ravindra Suhas Ingole

VERSUS

Ranjeet Padmakar Muley

...

Mr. S. J. Rahate, Advocate for the Petitioner

Mr. D. A. Bide, Advocate for Respondent no.1

WITH

WRIT PETITION NO. 3388 OF 2025

National Highways Authority Of India Through Project
Director Ravindra Suhas Ingole

VERSUS

Padmakar Haribhau Muley

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Mr. S. J. Rahate, Advocate for the Petitioner

Mr. D. A. Bide, Advocate for Respondent no.1

**WITH
WRIT PETITION NO. 3385 OF 2025**

National Highways Authority Of India Through Project
Director Ravindra Suhas Ingole

VERSUS

Ranjeet Padmakar Muley

...

Mr. S. J. Rahate, Advocate for the Petitioner
Mr. D. A. Bide, Advocate for Respondent

**WITH
WRIT PETITION NO. 12934 OF 2024**

Ranjit Padmakar Mule

VERSUS

National Highways Authority Of India Through Project
Director And Another

...

Mr. G. K. Naik Thigle, Advocate for the Petitioner
Mr. S. J. Rahate, Advocate for Respondent no.1
Mr. A. G. Talhar, Advocate for respondent no.2

**WITH
WRIT PETITION NO. 12930 OF 2024**

Padmakar Haribhau Muley

VERSUS

National Highways Authority Of India Through Project
Director And Another

...

Mr. G. K. Naik Thigle, Advocate for the Petitioner
Mr. S. J. Rahate, Advocate for Respondent no.1
Mr. A. G. Talhar, Advocate for respondent no.2

**WITH
WRIT PETITION NO. 12932 OF 2024**

Padmakar Haribhau Muley And Others

VERSUS

National Highways Authority Of India Through Project
Director And Another

...

Mr. G. K. Naik Thigle, Advocate for the Petitioner
Mr. S. J. Rahate, Advocate for Respondent no.1
Mr. A. G. Talhar, Advocate for respondent no.2

.....

CORAM : ROHIT W. JOSHI, J.

DATED : 11TH JUNE, 2025

PER COURT :-

1. Writ Petition Nos.12931 of 2024, 12934 of 2024, 12930 of 2024 and 12932 of 2024 are filed by the land owners challenging the order passed by the learned District Judge, granting stay to execution of the land acquisition award passed by the learned Arbitrator on the condition of deposit of 50 percent of the amount of compensation as awarded. The land owners contend that execution of award ought not to have been stayed without directing deposit of entire amount in terms of the award. Writ Petition Nos. 3385 of 2025, 3386 of 2025, 3387 of 2025 and 3388 of 2025 are filed by the Acquiring Body, challenging the same order passed by the learned District Judge while granting stay to execution of the land acquisition award passed by the learned Arbitrator.

2. The contention of the learned Advocate for the Acquiring Body is that having regard to mandate of Section 36(3) read with Order XXIV Rule 5 of the Code of Civil Procedure, the learned Court ought not to have granted stay to the execution of the award on condition of deposit of 50

percent of amount. He contends that going by the normal rule, stay ought to have been granted on deposit of entire amount as awarded by the learned Arbitrator.

3. The petitions filed by the Acquiring Body are of the year 2025. However, in view of office order, the petitions are clubbed and petitions of the year 2025 are assigned to this court, although, as per the roster assignment, those were to be heard by the another Court.

4. The parties in this order will be hereinafter referred to as 'Acquiring Body' and 'land owners'.

5. The Acquiring Body has acquired lands of the land owners under the provisions of the National Highways Act, 1956.

6. The land owners had initiated proceedings as contemplated under the Act seeking enhancement of compensation. The award passed by the learned Arbitrator is challenged by the Acquiring Body by filing an application as contemplated under Section 34 of the Arbitration and Conciliation Act, 1996.

7. The Acquiring Body had also filed an application seeking stay to the execution of the award passed by the

learned Arbitrator, pending final disposal of the Section 34 proceedings. The learned Court has granted stay to execution of the award, subject to condition that the Acquiring Body shall deposit 50 percent of the total amount of compensation as awarded by the learned Arbitrator. This condition of deposit is challenged in the present petitions filed by the Acquiring Body.

8. The learned Counsel for the Acquiring Body submits that the learned Court ought to have granted stay to the execution of the impugned awards without imposing any condition. He contends that persons, whose lands are not acquired, had also initiated proceedings for enhancement of compensation, which according to him amounts to fraud. He therefore places reliance on proviso to Section 36(3) to contend that the learned Court ought to have granted stay to the execution without imposing any condition.

9. Apart from this, it is contended that in Writ Petition Nos.3386 of 2025 and 3385 of 2025, the learned Arbitrator has granted seven days time for filing notes of arguments vide order dated 10.01.2024 and thereafter the award was passed in undue haste on 12.01.2024, written notes were filed on

record. He therefore contends that in two matters, the award is clearly passed in breach of natural justice.

10. Per contra, the learned Advocate for the land owners contends that although, the names of persons in whose favour award is passed may differ the total area of land acquired is the same. He contends that the land owners are family members and siblings in all the cases and as such, the contention pertaining to fraud raised by the Acquiring Body is without any substance. He contends that in view of Section 36 of the Arbitration Act coupled with fact that the award is in the nature of money decree stay to the same ought to have been granted, subject to deposit of entire amount. As regards, opportunity of hearing in the aforesaid two matters, the learned Advocate contends that repeatedly chances were granted to the Acquiring Body for advancing arguments, however, the matter was unnecessarily being prolonged. In such circumstance, the award came to be passed on 12.01.2024.

11. Learned Counsel for the land owners states that the general rule of 100 percent deposit should have been followed and there is no good reason for granting stay to the execution

on condition of 50 percent deposit. Learned Counsel for land owners has placed reliance on judgment of this Court in the matter of ***Balmer Lawrie & Co. Ltd. Vs. Shilpi Engineering Pvt. Ltd (2024 SCC Online Bombay 758)*** and particularly on paragraph 14, which reads as under:

The decisions which have been relied upon by the Counsel for both the sides and which have been adverted to, makes clear that the Supreme Court has taken a consistent stand that where the Award is in the nature of money decree, there is a requirement for deposit of 100% of the awarded amount for grant of stay. I do not find any distinction in applications for stay under Section 36(3) and under Section 37 for different parameters to be applied in exercise of discretion by the Court in imposing conditions for grant stay. There is nothing in both the provisions for taking such a view. Further, a liberal view is not contemplated under Section 36(3) of the Arbitration Act whilst imposing the conditions for stay of the Award.

12. Per contra, learned Counsel for the Acquiring Body has placed reliance on judgment of the Hon'ble Supreme Court dated 24.08.2022 in the matter of National ***Highways Authority of India Vs. Sheetal Jaidev Vade & Ors. (Civil Appeal no.5256 of 2022)*** to contend that at best 50 percent of amount of compensation as awarded by the Arbitrator should be directed to be deposited.

13. Perusal of the judgment on which, reliance is placed by the learned Advocate for the NHAI demonstrates that in the said matter, the land owners had filed a Writ Petition under Article 226 of the Constitution of India seeking directions against the Acquiring Body to deposit the amount of compensation as determined by the learned Arbitrator. The petition was allowed. The Acquiring Body had carried the matter before the Hon'ble Supreme Court. In this backdrop, the Hon'ble Supreme Court has held that the remedy of executing the award was available to the land owners and as such, the High Court was in error in entertaining the Writ Petition. The direction for depositing 50 percent of the amount of compensation in paragraph no.7.1(i) cannot be treated to be ratio of the said judgment. The judgment therefore does not assist the case of the Acquiring Body.

14. Apart from this, the learned Advocate for the Acquiring Body has also placed reliance on order dated 12.11.2024 passed by this Court in Arbitration Appeal No.20 of 2024 and other connected matters, in which this Court has granted stay to execution of the land acquisition award on condition of deposit of 50 percent of the amount of compensation as

awarded by the learned Arbitrator and security for the balance 50 percent. The learned Advocate contends that the same course should be adopted.

15. As against this, the judgment in the matter of *Balmer Lawrie & Co. Ltd. Vs. Shilpi Engineering Pvt. Ltd (2024 SCC Online Bombay 758)* refers to the normal practice of directing 100 percent deposit for granting stay to awards passed under the Arbitration Act.

16. Having heard the respective submissions and on perusal of the record of the case with the able assistance of the learned Advocates, it appears that the learned Arbitrator has granted enhancement of compensation to the extent of amount 8 to 9 times of the amount awarded by the Land Acquisition Officer. The intent behind introducing amendment to Section 36, which earlier provided for statutory stay on filing of application under Section 34 of the Act, is that the Court should exercise discretion and balance equities in case the award passed by the Arbitrator is required to be stayed.

17. The Acquiring Body is National Highway Authority of India. The compensation is determined on the basis of sale

instance as also on the basis of report by the Assistant Director of Town Planning, Aurangabad. The learned Advocate for the Acquiring Body in fairness accepts that the compensation is determined based on the rates provided by the Assistant Director of Town Planning.

18. As regards the two matters, in which despite granting 7 days time for advancing submissions, the learned Arbitrator has passed the award before the expiry of the said period, also the compensation is awarded at the rate suggested by the Assistant Director of Town Planning.

19. Having regard to totality of circumstances, justice will be subserved by modifying the order passed by the learned District Judge and directing that the execution of impugned awards passed by the learned Arbitrator shall remain stayed, subject to deposit of 50 percent of amount and further furnishing security for the balance 50 percent of amount.

20. The Writ Petitions are disposed of accordingly. The applications for withdrawal may be decided on their own merits.

(ROHIT W. JOSHI, J.)