

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11618 OF 2024

Goraksha Dashrath Saswade

...Petitioner

Versus

The State Of Maharashtra & Ors.

...Respondents

Mr. Sumit Khaire for Petitioner.

Ms. M. P. Thakur, AGP for State.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 18 DECEMBER 2025

P.C.

1. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

"a. This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate Writ, Order or direction to Respondents to decide the representation dated 3/11/2023 & 7/12/2023 filed by the Petitioner.

b. This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate Writ, Order or direction to Respondents to allot land Gat No 1380 area admeasuring 00 H 40 R situated at Village Shikrapur, Tal-Shirur, Dist-Pune as per application dated 3/11/2023 & 7/12/2023."

2. The case of the petitioner is that the land of the petitioner bearing Gat No. 1786 admeasuring 01 Hectar and 15R situated at village Shikrapur, Tq. Shirur, District Pune, was subject matter of acquisition. In regard to the said acquisition, a notification under Section 4 of the Land Acquisition Act, 1894 (for short "**the LA Act**") was issued on 17 August 1987. Thereafter, respondent No.4 is stated to have issued a declaration under Section 6 of the LA Act dated 16 February 1989.

Thereafter, an award came to be published on 6 May 1991. However, in respect of land admeasuring 00H 34.5R out of the said gat number, no final award was published and only a draft award dated 31 March 1992, was prepared.

3. The case of the petitioner is that the possession of the land admeasuring 00H 34.5R was also taken over on 17 September 1990 which is prior to the said procedure under the LA Act was adopted. However, the case of the petitioner is that as no award was passed qua this portion of the land (00H 34.5R), therefore, the petitioner would become entitled for compensation in respect of the land (00H 34.5R) being acquired, of which possession was taken over amounting to deemed acquisition, as there was no award and any payment of compensation.

4. Mr. Khaire, learned counsel for petitioner, in support of his contention, has placed reliance on the decisions of this Court in **Mrs. Sumitra Shridhar Khane Vs. Deputy Collector of Special Land Acquisition No.12, Kolhapur**¹ as also a recent decision of this Court, in **Rashid Tukadu Bagwan & Ors. Vs. State of Maharashtra & Ors.**² to contend that in both these decisions, there was no award declared in respect of land possession of which was taken over and in similar circumstances, this Court has consistently taken a view that the procedure known to law would be required to be followed and an award would be required to be published and compensation would be required to be paid to the owners of such lands deemed to have been acquired.

1 WP No.4987 of 2022 along with other petitions decided on 2 May 2025

2 Writ Petition No.8716 of 2024 decided on 6 October 2025

5. Ms. Thakur, learned Addl. Government Pleader, has opposed this petition. She refers to the reply affidavit of the Deputy Collector Rehabilitation, Pune Dr. Swapnil More filed on behalf of the respondent No.3, in which in paragraph No.9, 10 and 11, the following statements are made:

"9) I further state that the area admeasuring o H 34.5 R in Gat No. 1786 belonging to the Petitioner, Goraksh Dashrath Saswade, was not adjudicated, and consequently, the compensation amount could not be paid. The Petitioner has therefore sought alternate land in the adjacent Gat No. 1380.

10) I further state that Gat No. 1380, situated in Shikrapur, Taluka Shirur, District Pune, has been included in the residential zone as per letter No. PMRDA/Planning Department/Kavi/574 dated 21/07/2023 issued by the Pune Metropolitan Regional Development Authority, Pune. Hereto annexed and marked as Exhibit R-5 is the copy of PMRDA letter dated 21/07/2023. As per letter No. RPA/3422/1092 Q. No. 149/R-4 dated 3/10/2022 issued by the Government, Revenue and Forest Department, lands reserved for rehabilitation purposes, which are included in the development plan or fall under zones other than green areas, cannot be allotted for agricultural use to project-affected persons. Consequently, the land in the residential zone, which is the subject matter of the Petitioners' demand, cannot be allotted to them. Hereto annexed and marked as Exhibit R-6 is the copy of Government letter dated 03/10/2022.

11) I state that, in cases where land in the benefit area was allotted without acquisition with prior possession from land owner, Mrs. Sumitra Shridhar Kane and others have filed Writ Petitions No. 4987/2022, 4991/2022, 4988/2022, 11372/2022, and 15996/2022 in the Hon'ble High Court, which were decided by the Hon'ble Court on 02/05/2025. Additionally, in Writ Petition No. 8115/2014 (Vilash Damu Shinde and others) filed in the Hon'ble High Court, the Hon'ble Court passed the order on 02/01/2024. As per the procedure mentioned in these orders, we are ready to calculate the compensation amount from the date of possession for the 0 H 34.5 R area of the petitioner, obtain it from the Executive Engineer, Chas Kaman Project, and pay it to the petitioners as compensation for deemed acquisition of his land."

(emphasis supplied)

6. Mr. Khaire has also submitted that the petitioner is ready and willing to take an alternate land, if so offered, and in that regard a representation has already been made by the petitioner.

7. Ms. Thakur has accordingly submitted that the respondents are ready and willing to consider the petitioner's case in terms of what was decided by this Court in *Sumitra Shridhar Khane* (supra).

8. On the aforesaid backdrop, we have heard learned counsel for the parties. We have perused the record. It appears to be not in dispute that the petitioners land 00H 34.5R from Gat No.1786, although being utilized for the public purpose, however, no final award has been passed. The petitioner, in respect of such portion of the land, was admittedly rendered landless, however, without compensation being paid to the petitioner in the absence of an award.

9. Thus, as substantially the land acquisition proceedings proceeded qua the other part of the notified land was concerned, which formed part of Sections 4 and 6 as also an award being published, however, qua 00H 34.5R of land belonging to the petitioner, a final award was not passed. We are thus of the opinion that the stand as taken by the respondents in paragraph No.11 of the reply affidavit (supra) necessarily to be accepted.

10. Considering the clear position in law, although there is a long lapse of time, the petitioner would be entitled to the relief for the land acquisition compensation to be determined and paid to the petitioner. The following observations as made by the Court in **Sumitra Khane** (supra), in our opinion, would certainly come to the aid of the petitioner. The observations of the Court are required to be noted which read thus:

"36. The learned Additional Government Pleader has also placed reliance on the decision of the Supreme Court in *Chairman, State Bank of India vs M J James* (supra). Reliance on this decision is also not well founded. In this decision, the Supreme Court was dealing with a case where the respondent, a dismissed employee, challenged his termination following an Inquiry Officer's report. The dismissal order dated 18 April 1985 remained unchallenged for over four years, and the absence of a limitation period was argued during the appeal. In such context, the Supreme Court in such facts, held that what is a reasonable time cannot be put in a straight jacket formula or judicially codified. It was also held that in the facts of the case, a satisfactory explanation justifying the delay was required to be furnished, without which the Court held that it was difficult to hold that the appeal was preferred within a reasonable time. We are at a loss to understand as to how this decision which is on the principles of service law would apply to the facts of the present case and more particularly, when there are catena of decisions as noted above, directly on the propositions that the State cannot shield itself on the ground of delay and laches in not paying compensation in such cases.

37. Thus, viewed holistically, it becomes evident that the State's actions or inactions have exacerbated the injustice suffered by the petitioner, ultimately forcing her to approach this Court, albeit belatedly. This lackadaisical approach is highlighted by the State's initiation of acquisition proceedings in respect of the petitioner's land, however, in not including the petitioner's land in the award, that too after dispossession of the petitioner without payment of compensation to the petitioner. It is quite astonishing that the State would intend to evade its obligatory duty of paying compensation to the petitioner whose land has been utilised for a public purpose to rehabilitate the project affected persons of Dudhganga Irrigation project. This is certainly not permissible. State cannot deny payment of compensation having dispossessed the petitioner as also taking away petitioner's ownership. The obligation to pay compensation is firmly rooted within the purview of the Constitutional guarantee conferred under Article 300A of the Constitution. It is implied that acquisition of private property can be recognized only on payment of fair compensation as the law would mandate unless the circumstances are otherwise. Failure to provide compensation is negation of Article 300A. Hence, any act by the State to acquire land and property without complying with these principles would be manifestly illegal and unconstitutional. This apart, such breach of the legal and constitutional rights is held to give rise to cause of action which a continuing cause of action. It thus cannot be countenanced that the land of the petitioner when acquired for public purpose, the petitioner can be deprived of the compensation. This is also not a case where the respondents are in a position to point out any material that it is the petitioner who had given up receiving compensation. It is hence a unilateral act on the part of the respondents not to pay the compensation. In this view of the matter, in our opinion, the petitioner has certainly become entitled for payment of the land acquisition compensation."

38. Now coming to the relief as prayed by the petitioner, in our opinion, reliefs would be required to be moulded, inasmuch as, considering the provisions of Section 114 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "2013 Act"), it would be required to be held that the provisions of the 1894 Act would apply to the case in hand. Section 114 of the 2013 Act reads thus:

"114. Repeal and saving.-

(1) The Land Acquisition Act, 1894 (1 of 1894) is hereby repealed."

(2) Save as otherwise provided in this Act the repeal under sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals""

11. In this view of the matter, we are inclined to dispose of this petition in terms of the following orders:

ORDER

- (i) The respondents are directed to treat the land of the petitioner as a deemed acquisition. The petitioner would accordingly be entitled for payment of monetary compensation for acquisition of the petitioner's land bearing Gat No. 1786 admeasuring 00H 34.5R, situated at village Shikrapur, Tq. Shirur, District Pune.
- (ii) The Collector, Land Acquisition, is directed to compute the compensation as payable to the petitioner from the date the possession of the land was taken over and disburse the same to the petitioner within a period of four months from today with all consequential benefits of solatium, interest and all the statutory entitlements payable under the Land Acquisition Act, 1894 under the award to be notified as per law. Further interest be calculated till the date of actual payment of all the amount.

12. The petition accordingly stands disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)