

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2973 OF 2025

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1. Vidyadhar Gajanan Mote,
Age : 60 Years,
2. Bhalchandra Gajanan Mote,
Age : 48 Years,
3. Madhav Dattatraya Mote,
Age : 79 Years,

All Adult, Occu.: Agriculture.

All R/at : 522, Budhwar Peth, Juni
Tapkir Galli, Pune 411002.

...Petitioners

Versus

1. State of Maharashtra

[Summons to be served on the Learned
Government Pleader appearing for State
of Maharashtra under Order XXVII, Rule
4, of the Code of Civil Procedure, 1908].
H.C. Appellate Side.
2. The Learned District Collector
Pune and the President
District Level Compensation
Determination Committee Pune District
Having the Officer at :
Collector's office, Opp. Sasoon Hospital,
Pune 411001.
3. The Learned Authorized Land
Acquisition Officer and, Sub-Divisional

Officer, Haveli sub-Division Pune,
Having the address at :
6C, Abhimanyu road, Camp, Nilgiri
Lane, Near 7 Bungalow, Pune,
Maharashtra 411001.

4. Maharashtra State Road Development
Corporation Ltd.
Having the address at :
Council Hall, Bundgarden road,
Pune 411001.

[Summons Upon Respondent No.1, 2
and 3. To Be Served on the Learned
Government Pleader appearing for State
of Maharashtra under Order XXVII, Rule
4, of the Code of Civil Procedure, 1908].

...Respondents

Mr Anil V. Anturkar, Senior Advocate a/w Mr Paresh Mote, Mr
Atharva Date i/b Mr Ranjit D. Shinde, for Petitioners.

Mr Vijay D. Patil, Senior Advocate i/b Mr Yogesh Patil, for
Respondent No.4-MSRDC.

Mr Aditya R. Deolekar, AGP, for the Respondent-State.

**CORAM: M.S. Sonak &
Jitendra Jain, JJ.**

RESERVED ON: 28 March 2025

PRONOUNCED ON: 01 April 2025

JUDGMENT (Per M. S. Sonak, J.)

1. Heard the learned counsel for the parties.

2. Rule. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.

3. Although several reliefs are sought in this petition, Mr. Anturkar, learned Senior Advocate for the Petitioner, primarily urged that the award dated 02 January 2025, issued under Section 19-B(3) of the Maharashtra Highways Act, 1955 (the “said Act”), was ultra vires, illegal, null and void, and should be struck down, with directions issued to make a fresh award in accordance with the law.

4. The Petitioners are concerned with property bearing Gat No. 266/1, measuring 8 hectares and 65.6 Acres, situated at Koregaon Mul, Haveli, District Pune (“said property”). A notification was issued under Sections 15 and 17 of the said Act on 19 May 2021 for the acquisition of lands, including the said property, for Pune East Ring Road. Vide notification under Section 18 of the said Act, dated 17 May 2022, the details of the acquired lands came to be published. A public notice under Section 19-B(6) was published in two newspapers on 27 May 2022.

5. On 04 July 2023, Petitioners represented to the authorities seeking an opportunity to negotiate the price at which the Petitioners could agree to the acquisition. On 19 July 2023, a notice was issued to the Petitioners, inquiring whether the Petitioners would consent to acquisition if offered 25% enhanced compensation. The Petitioners followed up

with the authorities via representations dated 04 August 2023, 21 August 2023, 24 November 2023 and 30 November 2023.

6. Finally, on 05 January 2024, the Petitioner instituted Writ Petition No. 389 of 2024, challenging the notice issued under Section 19-B of the said Act. On 01 August 2024, this Court directed the Respondents to consider the Petitioners' grievances. The Petitioners made detailed representations on 12 August 2024, and the Land Acquisition Officer/Sub-Divisional Officer made an order dated 20 December 2024, rejecting the Petitioners' contentions. After that, yet another notice under Section 19-B was issued to the Petitioners.

7. This Court's order dated 01 August 2024 disposing of the Writ Petition No. 389 of 2024 suggests that the Petitioners' main grievance was that the notice under Section 19-B of the said Act, offering the Petitioners compensation of approximately Rs. 55 Crores was on the erroneous factual premise that the Petitioners' land was "*Jirayat Land*". The Petitioners claimed to have produced several documents to show this was not so. Therefore, this Court found prima facie substance in the Petitioners' contention, and directions were issued to the Land Acquisition Officer/Sub-Divisional Officer/Deputy Collector to re-examine the issue and proceed in accordance with the law to pass such appropriate orders under Section 19-B of the said Act and complete the acquisition of the land by a settlement.

8. As noted earlier, the Petitioner's representations, made pursuant to this Court's order dated 01 August 2024, were considered by the Land Acquisition Officer/Sub-Divisional Officer after hearing the Petitioners. The representations were disposed of by a detailed order. In line with the liberty granted by this Court, a fresh Section 19-B Notice was issued to the Petitioners, this time offering them compensation of approximately Rs. 68.71 Crores should they consent to accept this compensation amount for the acquisition of the said property.

9. The Petitioners challenged the Land Acquisition Officer/Sub-Divisional Officer's order dated 20 December 2024 and the notice offering the Petitioner Rs. 68.71 Crores by instituting Writ Petition No. 19509 of 2024. During the pendency of this Petition, the impugned Award dated 02 January 2025 was made for acquiring the said property. Accordingly, Writ Petition No. 19509 of 2024 was withdrawn with liberty to challenge the impugned Award dated 02 January 2025. Accordingly, the present Writ Petition No. 2973 of 2025 was filed to challenge the impugned Award dated 02 January 2025.

10. An affidavit-in-reply was filed on behalf of the 4th Respondent on 17 March 2025 and the 3rd Respondent on 19 March 2025.

11. Mr Anturkar, learned Senior Advocate for the Petitioners, submitted that under the scheme of Section 19-B

of the said Act, until and unless the State Government takes steps to try and reach at an agreement with the parties whose lands were being acquired, there was no question of referring the matter to the Land Acquisition Officer for determination of compensation. He submitted that, in this case, no efforts were made by the State Government to try and reach an agreement to acquire the said property for some mutually acceptable compensation. He, therefore, submitted that the impugned Award dated 02 January 2025 made by the Land Acquisition Officer was illegal, ultra vires and in breach of the procedural scheme of Section 19-B of the said Act.

12. In the alternate and without prejudice, he submitted that the State Government had not referred to the Land Acquisition Officer the issue of determining the amount of compensation to be paid for the acquisition of the said property. He submitted that the making of such a reference is a jurisdictional parameter and in the absence of any reference from the State Government, the Land Acquisition Officer derived no power to make the impugned Award dated 01 January 2025 and determine the compensation. In this regard, he gave the analogy of a reference under Section 18 or 30 of the Land Acquisition Act 1894. He, therefore, submitted that the impugned Award and the determination made therein is ultra vires, illegal, null and void.

13. Mr Anturkar, without further prejudice, submitted that under Section 19-B (1) of the said Act, where any land is to be

acquired, there shall be paid an amount of compensation which shall be determined “*in accordance with the provisions of this Section*”. He submitted that the determination by the Land Acquisition Officer vide impugned Award dated 02 January 2025 is not in accordance with the provisions of Section 19-B of the said Act, and there were several flaws in such determination. He submitted that this is yet another ground for quashing and setting aside the impugned Award dated 02 January 2025 and directing the Land Acquisition Officer to issue a fresh Award in accordance with the provisions of the Section.

14. Mr Anturkar relied on the principle that when a statute requires a particular thing should be done in a particular manner, then, it should be done in that manner or not at all. He submitted that this principle has been breached in the present case and, therefore, the impugned Award dated 02 January 2025 deserves to be quashed and set aside.

15. Mr Anturkar submitted that the Award relies on Government Resolutions (GRs) dated 12 May 2015 and 29 May 2018. He submitted that the Government issues such GRs in exercise of its executive powers under Article 162 of the Constitution. He submitted that since the field for determination of compensation is covered by the said Act, no resort could be had to such GRs issued under Article 162 of the Constitution. Accordingly, he submitted that the impugned Award, in so far as it determines the compensation by

reference to the GRs dated 12 May 2015 and 29 May 2018, is not an award determining compensation in accordance with Section 19-B of the said Act and therefore, it should be set aside.

16. Mr Anturkar submitted that the Land Acquisition Officer, in this case, left it to the District Level Committee, the Chairperson of which was the District Collector, i.e., an officer superior to the Land Acquisition Officer. He submitted that the compensation determined under the impugned Award is based upon the determination by this District Level Committee. Accordingly, he submitted that the compensation in this case has not been determined in accordance with the provisions of Section 19-B. Besides he submitted that if the Section required the Land Acquisition Officer to determine the compensation, such Land Acquisition Officer could not have left determination to the District Level Committee headed by the District Collector. He submitted that this is also a ground which vitiates the impugned Award.

17. Mr Anturkar submitted that the provisions of the Right to Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013, and the schedules to the said Act, which the Land Acquisition Officer was explicitly required to advert to and apply, were not adverted to or applied by the Land Acquisition Officer. This is also another ground for setting aside the impugned Award.

18. Mr Anturkar then submitted that the Land Acquisition Officer had not applied the correct multiplier or the proper belting principle and failed to note relevant notifications for determining the compensation. For all these reasons, Mr Anturkar submitted the impugned Award does not determine the compensation in accordance with the provisions of Section 19-B of the said Act. Therefore, the impugned Award dated 02 January 2025 deserves to be set aside.

19. Mr. Vijay Patil, learned Senior Advocate for MSRDC and Mr Aditya Deolekar, learned AGP for the State, at the outset submitted that the impugned Award was entirely consistent with the provisions and scheme of Section 19-B of the Said Act. They pointed out that the Land Acquisition Officer had been appointed as designated under Section 15(4) of the Act. They pointed out that there were several negotiations with the Petitioners, and since the Petitioners were not willing to accept even the enhanced compensation of Rs.68.71 Crores, there was no option but to proceed with the compulsory acquisition by the Land Acquisition Officer making the impugned Award dated 02 January 2025.

20. Mr. Patil and Mr. Deolekar submitted if the determination made by the Land Acquisition Officer under Section 19-B (3) was not acceptable to the Petitioners, the Petitioners could have applied for a determination by the arbitrator to be appointed by the State Government in terms of Section 19-B(8) of the said Act. They submitted that since

the statute provided this alternate remedy, this Court should not entertain the present Petition.

21. Mr. Patil and Mr. Deolekar submitted that Section 19-B (3) does not refer to some formal reference by the State Government to the Land Acquisition Officer. They submitted that under the scheme of Section 19-B, once the negotiations fail, the Land Acquisition Officer appointed for the purposes of acquisition, can proceed to make an Award determining the compensation in accordance with the provisions of Section 19-B. They submitted that there is a qualitative difference between a reference being made by a Land Acquisition Officer to a court under the 1894 Act and the State Government referring the matter to the LAO appointed to determine the compensation amount.

22. Mr. Patil and Mr. Deolekar submitted that the compensation in this case has been determined in accordance with the provisions of Section 19-B, and any event, if this compensation was not acceptable to the Petitioners or if the Petitioners felt that there were errors in such determination, it was open to the Petitioners to resort to the alternate remedy of arbitration provided explicitly under Section 19-B(8) of the said Act. They submitted that there was no question of entertaining a Writ Petition under Articles 226 or 227 of the Constitution of India for this purpose.

23. Mr. Patil relied upon the order dated 01 February 2024 in WP No. 15001 of 2023 (Sopan Vs. State of Maharashtra)

and order dated 21 August 2024 in WP 1810 of 2024 (M/S. Real Venture Investments LLP Vs. State of Maharashtra). He submitted that this Court has not entertained Petitions to challenge Awards made under Section 19-B of the said Act but relegate the Petitioners to avail of the alternate remedy of arbitration under Section 19-B(8) of the said Act. Mr. Deolekar relied upon order dated 12 February 2023 in Nita Vs. State of Maharashtra in WP No. 3962 of 2021. This last order is quite irrelevant to this case.

24. No arguments were made in rejoinder, though the opportunity was explicitly offered.

25. The rival contentions now fall for determination.

26. Based on the rival contentions and also the propositions submitted by Mr. Anturkar, learned Senior Counsel for the Petitioners, broadly, the following issues arise for determination in this Petition:-

- A) Whether under the scheme of Section 19B of the said Act, there is a bar to the Land Acquisition Officer making an Award for determining the compensation amount until the State Government has made attempts to reach an agreement with the parties whose lands are being acquired and despite such efforts, no agreement has been reached with such parties. ?
- B) Whether Section 19B(3) of the said Act

contemplates a formal reference by the State Government to the Land Acquisition Officer for determination of the compensation amount and also the person or persons to whom such compensation shall be paid and in the absence of any such formal reference, an Award made by the Land Acquisition Officer is illegal, ultra vires, null and void?

- C) Whether, based on grounds like the Land Acquisition Officer taking aid of some Government Resolutions or reports of the District level committee or allegedly ignoring the provisions in Schedule – I and II of the 2013 Act or applying the incorrect multiplier or incorrect belting system, the Award of Land Acquisition Officer can be set aside by this Court exercising its jurisdiction under Article 226 of the Constitution of India, ignoring the provisions Section 19 B (8) of the said Act which provide that if the determination made by the Land Acquisition Officer is not acceptable to either of the parties, on an application by either of the parties, the compensation can be determined by the arbitrator to be appointed by the State Government.?

27. Since the determination of the above issues hinges on the interpretation of some of the provisions of the said Act, including particularly Section 19-B of the said Act, reference to such relevant provisions becomes necessary.

28. The preamble to the said Act states that the said Act was to provide for the restriction of ribbon development along highways, for the prevention and removal of encroachment thereon, for the construction, maintenance and development of highways, for the levy of betterment charges and for certain other matters.

29. Section 2 (d-1) defines Competent Authority and Section 15 deals with the power to acquire land, etc. Section 15 (1) provides that any land required by the Highway Authority for discharging its functions under the said Act shall be deemed to be the land needed for a public purpose and such land may, on a request being received from the Authority, be acquired by the State Government for the said Authority under the provisions of the said Act.

30. Section 15(2) provides that on the Highway Authority approaching the State Government with a requisition and the State Government being satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a highway or part thereof, it may, by notification in the *Official Gazette*, declare its intention to acquire such land.

31. Section 15(4) provides that any officer authorised by the State Government, by notification in the *Official Gazette*, for acquisition of land for the purposes of this Act (hereinafter called as "the Land Acquisition Officer"), shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

32. Section 16 deals with the power to enter or survey, etc. Section 17 refers to the hearing of objections if made by any persons interested in the land. Section 18 provides that where objections have been disallowed, the Land Acquisition Officer shall, as soon as may be, submit a report to the State Government and on receipt of such report, the State Government shall declare, by notification in the *Official Gazette*, that the land should be acquired for the purposes mentioned in Section 15(2) of the said Act.

33. Section 18(2) of the said Act provides that on publication of such declaration under Section 18(1), the land shall vest absolutely in the State Government free from all encumbrances. Section 18(4) provides that a declaration made by the State Government under Sub-Section (1), shall be called in question in any court or by any other authority.

34. Section 19 deals with the powers to take possession. This Section reads as follows: -

“19(1) Where any and has been vested in the State Government under sub-section (2) of section 18, and the amount determined by the Land Acquisition Officer under section 19B with respect to such land has been

deposited under sub-section (1) of section 19C with the land Acquisition officer by the State Government, the Land Acquisition Officer may by notice in writing direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the Land Acquisition Officer or any person duly authorised by him in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under subsection (1), the Land Acquisition Officer shall apply-

(a) in case of the land situated in any area falling within the metropolitan area to the Commissioner of Police

(b) in case of the land situated in any area other than the area referred to in clause (a), to the Collector of a District; and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the Land Acquisition Officer or to the person duly authorized by him.

35. Section 19-A deals with the right to enter into the land vested in the State Government. Section 19-B is the most relevant Section for purposes of this Petition, and it deals with determining the amount payable as compensation.

36. Section 19-B is transcribed below: -

“19-B- (1) Where any land is acquired by the State Government under this chapter there shall be paid an amount of compensation which shall be determined in accordance with the provisions of this section.

(2) **Where the amount of compensation has been determined by agreement between the State Government and the person to be compensated, it shall be determined in accordance with such agreement.**

(3) **Where no such agreement can be reached, the State Government shall refer the case to the Land Acquisition Officer for determination of the amount of compensation to**

be paid for such acquisition and also the person or persons to whom such compensation shall be paid:

Provided that, no compensation exceeding such amount as the State Government may by general order specify, shall be determined by the Land Acquisition Officer without the previous approval of the State Government or such Officer as the State Government may appoint in this behalf.

[Provided further that, the State Government while issuing the general order under the preceding proviso shall adhere to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (30 of 2013), relating to the determination of amount of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families.]

(4) Notwithstanding anything contained in sub-section (3), if, after the case is referred to the Land Acquisition Officer under the said sub-section (3) but before he finally determined the amount of compensation, such amount is determined by agreement between the State Government and the person to be compensated, the compensation shall be determined by the Land Acquisition Officer in accordance with such agreement.

(5) Where the right of user or any right in the nature of an easement on any land is acquired under this Act, there shall be paid, to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition, an amount calculated at ten per cent. of the amount determined under sub-section (2) or sub-section (3), as the case may be, for that land.

(6) Before proceeding to determine the amount under sub-section (3) or sub-section (5), the Land Acquisition Officer shall give a public notice published in two local newspapers, one of which shall be in a vernacular language, inviting claims from all persons interested in the land to be acquired.

(7) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner

referred to in sub-section (2) of section 17 before the Land Acquisition officer, at a time and place, and to state the nature of their respective interest in such land.

(8) If the amount determined by the Land Acquisition Officer under subsection (3) or sub-section (5) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the State Government.

(9) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(10) The Land Acquisition Officer or the arbitrator while determining the amount under sub-section (3) or sub-section (8), as the case may be, shall take into consideration,

(a) the market value of the land on the date of publication of the notification under section 15;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change. [Provided that, the Land Acquisition Officer or the Arbitrator shall consider the general order of the State Government issued under the first proviso to sub-section (3) relating to the determination of amount of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).”

37. Section 19-C deals with depositing and paying the compensation amount. Section 19-D vests the Land Acquisition Officer with certain civil court powers.

38. As noted above, Section-19-B (2) provides that where the amount of compensation has been determined by agreement between the State Government and the person to be compensated, it shall be determined in accordance with such agreement. Section 19-B (3) provides that where no such agreement can be reached, the State Government shall refer the case to the Land Acquisition Officer for determination of the amount of compensation to be paid for such acquisition and also the person or persons to whom such compensation shall be paid. Section 19-B(4) provides that notwithstanding anything contained in sub-section (3), if, after the case is referred to the Land Acquisition Officer under the said sub-section (3) but before he finally determines the amount of compensation, such amount is determined by agreement between the State Government and the person to be compensated, the compensation shall be determined by the Land Acquisition Officer in accordance with such agreement.

39. The above provisions basically suggest that where any agreement is reached between the State Government and the person to be compensated, then the Land Acquisition Officer is bound to determine the compensation amount in accordance with such agreement. The entire thrust is upon determining compensation based on the agreement reached

with the parties, i.e. the Highway Authorities and the landowner. However, the provisions of Section 19-B do not suggest any legislative mandate that, in every case, the State government must go through the process of negotiations and try to reach an agreement with the person to be compensated and without recording such failure, there is some statutory bar to the determination of compensation by the Land Acquisition Officer.

40. There is nothing in the provisions of Section 19-B from which it would be inferred that the determination of compensation by the Land Acquisition Officer is barred or is incompetent unless the same is preceded by an attempt by the State Government to reach some agreement on the compensation issue and such agreement is not reached. If such an effect or consequence were intended, the legislature would have said so without mincing words. In the guise of interpretation, the Court cannot add or subtract words in the statute or read some consequences not provided by the statute.

41. Based on the language currently used by the legislature, it is inappropriate to infer a jurisdictional bar preventing the Land Acquisition Officer from determining compensation until the State Government has made efforts to negotiate and reach an agreement, and those efforts have failed without a resolution. Such a jurisdictional bar cannot be implied through strained interpretations of the statutory provisions.

Clear and explicit language is essential for such a conclusion, and the straightforward wording in subsections (2), (3), and (4) of Section 19-B does not support such a significant inference or outcome. The statute's clear language should generally reflect the legislature's intention. Only in cases of ambiguity may the Court explore the intention to interpret the provisions in alignment with legislative intent or to advance the remedy and suppress the mischief the provision intended to address.

42. There is no provision in Section 19-B which states that no Land Acquisition Officer can determine the amount of compensation until and unless the State Government attempts to reach an agreement with the person to be compensated, and such attempts fail. Sub-section (2) of Section 19-B merely states that where the amount of compensation is agreed to by the person to be compensated, then it shall be determined in accordance with such agreement. So also, even after the matter is taken up for compensation determination by the Land Acquisition Officer, if an agreement is reached with the person to be compensated, the Land Acquisition Officer shall determine the compensation in accordance with such agreement.

43. Thus, the mandate, if at all, is that where an agreement is reached with the person to be compensated, then the compensation must be determined in accordance with the agreement and not by any other mode or principle.

However, from this, we cannot infer any jurisdictional bar to the determination of compensation by the Land Acquisition Officer in accordance with the provisions of Section 19-B of the said Act simply because no attempts may have been made to reach an agreement.

44. This also does not mean that no attempts need ever be made to reach an agreement. The attempts should be made, not because the law mandates, but because this would expedite the acquisition process, and a settlement is any time better than a verdict after a dispute. But there is a difference between what should generally be done and what must, as a law mandate, be invariably done. One of the tests for determining if a provision is mandatory is to see if the legislature has provided for any consequences for failure or even breach. Here, neither do the provisions suggest any mandate or jurisdictional bar, nor are any consequences provided by the legislature.

45. On a demurer, we must add that in the facts of the present case, an offer for payment of compensation of Rs.55 crores was made to the Petitioners. The Petitioners, however, felt that this offer was too low because it proceeded on the premise that the Petitioners' land was "*Jirayat Land*" when, according to the Petitioners, the same was not. Therefore, the Petitioners chose to challenge the notice by which such an offer was made by instituting Writ Petition No.389 of 2024. This Court found *prima facie* merit in the Petitioners'

submission and, therefore, directed the Land Acquisition Officer to reconsider the matter. Pursuant to this, the Petitioners made a representation to the Land Acquisition Officer, raising several objections mainly concerning the determination of the compensation.

46. After hearing the Petitioners and considering the Petitioners' objections, the Land Acquisition Officer made a detailed order dated 20 December 2024. This was followed by yet another offer notice, this time offering the Petitioners compensation of Rs.68.71 crores so that the necessity of adjudication by the Land Acquisition Officer could be avoided. Still, the Petitioners were dissatisfied with the offer and chose to institute yet another Writ Petition No.19509 of 2024 before this Court, picking holes in the offer. Pending Writ Petition No.19509 of 2024, the impugned Award dated 02 January 2025 was made, and therefore, the Petitioners withdrew Writ Petition No.19509 of 2024 with liberty to challenge the impugned Award dated 02 January 2025.

47. From the above, it is apparent that several attempts were made to reach an agreement with the Petitioners but were unsuccessful. The contention, therefore, that there were no attempts to see if some agreement could be reached is factually incorrect in the present case. The Petitioners, perhaps, having regard to the provisions of Section 19, are making every attempt to see that there is no effective determination of compensation and then to urge that the

possession should not be taken until such compensation amount is deposited under Section 19-C(1). Possibly, this is why the Petitioners are raising repeated objections and filing Petitions to challenge the determination of the compensation amount.

48. Initially, to reach an agreement, the Petitioners were offered compensation of Rs.55 crores or thereabouts. Later, this offer was revised to Rs.68.71 crores. While there can be no compulsion to the Petitioners to accept this compensation amount, challenging such offers and then contending that there were no attempts to negotiate or reach an agreement is not a conduct which can be countenanced. It is not for the Writ Court to encourage such repeated attempts, given the facts and the absence of any serious prejudice to the petitioners who have been provided with a statutory remedy of seeking arbitration if they are dissatisfied with the compensation determined.

49. Therefore, even on facts, this is not a case in which no attempts were made to reach an agreement with the Petitioners. The material on record clearly establishes that such attempts were made, but thanks to the Petitioners, such attempts were repeatedly frustrated. Now, the Petitioners cannot argue that the Land Acquisition Officer should not have determined the compensation amount until and unless the attempts to reach an agreement with the Petitioners had conclusively failed.

50. Accordingly, for the above reasons, we answer the first point for determination against the Petitioners.

51. The Petitioners' second contention is that there was no reference by the State Government to the Land Acquisition Officer under Section 19-B (3) of the said Act, and in the absence of such a reference, the impugned Award made by the Land Acquisition Officer was legally infirm or a nullity.

52. By analogy, Mr. Anturkar referred to the provisions in Sections 18 and 30 of the 1894 Act, which deal with a reference by the Land Acquisition Officer to the Court for enhancing or apportioning compensation. He submitted that, without a reference, the Principal Court of Original Civil Jurisdiction or the District Court would lack the jurisdiction to resolve disputes regarding the enhancement or apportionment of compensation.

53. Section 19-B(2) and 19-B(3) must be harmoniously construed. Section 19-B(2) deals with determining compensation by agreement with the person to be compensated. Section 19-B(3) provides that where no such agreement can be reached, the State Government shall refer the case to the Land Acquisition Officer for determination of the amount of compensation and the person or persons to whom such compensation shall be paid.

54. The above Sections do not contemplate any formal reference as was contemplated under Sections 18 or 30 of the Land Acquisition Act 1894. The references under Sections 18

or 30 of the Land Acquisition Act, 1894 were from the Land Acquisition Officer, [*who was nothing but an agent of the Government or an Executive Officer*] to a Court of Law, which is a judicial institution. For reference, under Section 18, an applicant had to fulfil certain conditions like refusing to accept the compensation offered by the Land Acquisition Officer or accepting such compensation under protest. Besides, a reference under Section 18 had to be sought by an application in writing with the limitation period prescribed. Only after all such parameters were fulfilled could the Land Acquisition Officer make a formal reference to the District Court under Section 18 of the Land Acquisition Act, 1894.

55. Section 19-B (3) does not require a formal reference to grant the Land Acquisition Officer jurisdiction to determine the compensation amount. The land acquisition officer, unlike a Court, is a government official. The Act does not stipulate any preconditions, such as limitation or the filing of a written application by any dissatisfied party, before the matter is referred. Therefore, it is inappropriate to equate a reference under Sections 18 or 30 of the Land Acquisition Act, 1894, with the provisions of Section 19-B (3) of the same Act, where the legislature has simply stated that the State Government shall refer the case to the Land Acquisition Officer for determination. Due to the lack of a formal reference order and by using the analogy of a reference under Sections 18 and 30 of the 1894 Act, we cannot assert that the impugned award is without jurisdiction for this reason.

56. In this case, attempts to reach an agreement with the Petitioners to determine compensation had repeatedly failed. This Court, in its order dated 01 August 2024, disposing of Petitioners' Writ Petition No.389 of 2024, had explicitly directed the Deputy Collector (Land Acquisition Officer), who had issued the impugned notice, to re-examine the issue and to issue a fresh notice to the Petitioners in accordance with law with an appropriate description and based on documents which would be available with the Revenue Department of the Respondents and also as furnished by the Petitioners.

57. The Petitioners were given an opportunity to respond to such fresh notice, and further proceedings in accordance with law under Section 19B(2) of the said Act were directed to be undertaken. The Court also held that if the Petitioners' grievances about the description of the land were resolved, the authorities were free to proceed in accordance with law and to pass such appropriate orders under Section 19B of the said Act and complete the land acquisition by a settlement. Since no settlement could be reached despite efforts, the Land Acquisition Officer determined the compensation vide the impugned Award dated 02 January 2025 as an essential step towards completion of the acquisition.

58. The Petitioners obtained orders for the Land Acquisition Officer to proceed with the acquisition. Significantly, the Petitioners did not raise objections before the Land Acquisition Officer on the basis that the State Government made no formal reference and, therefore, the

Land Acquisition Officer lacked jurisdiction. The Petitioners participated and fully acquiesced in the process. Simply because the compensation determined by the Land Acquisition Officer is unacceptable, the Petitioners cannot subsequently question the alleged lack of jurisdiction due to the absence of a formal reference order. The entire attempt does appear to be the prolongation of the compensation determination issue, so there are difficulties in expediting the acquisition process.

59. For all the above reasons, we hold that there is no requirement of a formal reference to the Land Acquisition Officer, and a determination by a Land Acquisition Officer under Section 19-B(3) of the said Act cannot be held to be illegal, ultra vires or without jurisdiction merely because there was no formal reference to such Land Acquisition Officer. The principle of acquiescence would also apply in this case, thereby precluding the Petitioners from raising such challenges. We have not applied this principle and prevented the Petitioners from raising such a challenge. But we have considered the Petitioners' challenge and rejected the same on merits.

60. The second point for determination also needs to be answered against the Petitioners for the above reasons.

61. As regards the third issue or point for determination, we are quite satisfied that all the grounds relating to the alleged invalidity of the impugned Award dated 02 January 2025 can always be raised by the Petitioners by resorting to the

alternate remedy provided under Section 19-B(8) of the said Act. The provisions in Section 19B (10) are quite exhaustive on the principles to be applied to determine compensation. They apply to the Land Acquisition Officer and the Arbitrator equally.

62. The Respondents maintain that the Land Acquisition Officer has determined the compensation in accordance with the provisions of Section 19-B read with the 2013 Act. The Petitioners dispute this position. The Petitioners also contend that the Land Acquisition Officer, in determining the compensation, has not correctly applied the correct multiplier or the belting principle. All such matters relate to the Petitioners' dissatisfaction with the compensation determined by the Land Acquisition Officer. For this, it is always open to the Petitioners to seek the remedy under Section 19-B (8) of the said Act. This Court's extraordinary jurisdiction under Article 226 cannot be invoked for such purpose.

63. The argument that the Land Acquisition Officer, in this case, has acted under the dictation of the District Level Committee chaired by the District Collector or that the Land Acquisition Officer allowed himself to be guided by GRs of 12 May 2015 and 29 May 2018 is prima facie not very appealing. In any event, these are not grounds for this Court to set aside the impugned Award. At the highest, these could be grounds that the Petitioners could raise before the Arbitrator and contend that the compensation determined is vitiated due to such factors. Where the statute has provided a specific remedy

to redress such objections, there is no question of this Court entertaining a Writ Petition and investigating such disputed facts.

64. Regarding the dictation or reliance on GRs argument, Mr Patil pointed out that under Section 19-B(3), while the Land Acquisition Officer is empowered to determine the compensation amount still, the first proviso to Section 19-B(3) states that no compensation exceeding such amount as the State Government may by general order specify, shall be determined by the Land Acquisition Officer without the previous approval of the State Government or such officer as the State Government may appoint in this behalf. He submitted that the GRs or the District Level Committee had undertaken the exercise of determining the compensation limit. In terms of the proviso, the Land Acquisition Officer is not competent to determine compensation exceeding such limit without the previous approval of the State Government or the officer as the State Government may appoint in this behalf.

65. At this stage, we cannot comment upon the merits or demerits of Mr Patil's contention or Mr Anturkar's opposition. We do not wish to or intend to prejudice any Party's case should the remedy for arbitration be resorted to. Suffice it to note that this is not a case where the Land Acquisition Officer has not made the Award, but some extraneous authority has made the Award as was sought projected. Even if, on a demurer, all the contentions in the Petition relating to the

third issue for determination are accepted, this is still a case where the Petitioners would be entitled to seek some higher compensation if the compensation amount awarded is not acceptable to the Petitioners via the alternate statutorily provided remedy under Section 19-B(8). There is no question of entertaining this Writ Petition for such a purpose.

66. Accordingly, even the third issue for determination will have to be answered against the Petitioners.

67. For all the above reasons, we see no merit in the Petition and dismiss the Petition.

68. However, if the petitioners are so advised, nothing in this order will preclude them from resorting to the remedy under Section 19-B (8). None of the observations in this order should even remotely affect the determination of the compensation amount under Section 19-B (8) of the said Act, should the Petitioners resort to such remedy in accordance with law.

69. The rule is discharged without any cost orders.

70. All concerned can act on an authenticated copy of this judgment and order.

(Jitendra Jain, J)

(M.S. Sonak, J)