

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2979 OF 2025

Prakash Narayan Dhanariya ...Petitioner
Versus
State of Maharashtra Through The Principal ...Respondents
Secretary & Ors

Ms Amrita Kharkar, i/b Ms Potnis, for the Petitioner.
Ms VR Raje, AGP, for Respondents Nos. 1 to 3, 5 & 6-State.

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 3 April 2025.

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1. Heard Ms Amrita Kharkar, learned Counsel for the Petitioner and Ms VR Raje, AGP, for Respondent Nos. 1 to 3, 5 and 6.

2. Ms Kharkar very ably submitted that the demolition of the Petitioner's structure should not proceed until joint measurements are in place. She referred to some correspondence from the Highway Authorities regarding such joint measurements and submitted that directions are liable to be issued to the Highway Authorities to comply with the

requirement of joint measurements before demolition can proceed.

3. Ms Kharkar submitted that without joint measurements the Petitioner may have difficulties before the Arbitrator for claiming appropriate compensation. She submitted that such joint measurements would assist not only the Petitioner but also the Highway Authorities because there would be no disputes on this aspect. She submitted that this is also a case where the entire compensation amount is likely to be paid to the Petitioner's brother, and even such disputes would be void or at least reduced if the joint measurement is ordered.

4. For all the above reasons, Ms Kharkar submitted that we should entertain this Petition and stay the demolitions undertaken for highway purposes.

5. Ms Raje learned AGP submits that, admittedly, the government has already acquired the land on which the structure is situated for highway purposes. She submits that the Petitioner has no legal right to continue in such structure and that there is nothing wrong with demolishing the structure for highway purposes. She submitted that the Petitioner would have ample opportunity on the issue of compensation, and it is open to the Petitioner to lead appropriate evidence in this regard before the proper authorities, including the Arbitrator, should the matter be

ultimately referred to the Arbitrator. For these reasons, Ms Raje submitted that this Petition may not be entertained.

6. Rival contentions now fall for our determination.

7. In this Petition, there is no dispute that the acquisition proceedings are complete. There is also no dispute that the subject structure is a part of the acquisition. Therefore, the Petitioner can no longer resist either handing over possession or demolition of the structure, which is a part of the acquired property.

8. In so far as joint measurements are concerned, assuming that the measurements have not already been carried out, the Petitioner has several remedies. Suppose joint measurements are not held despite the Petitioner's request as claimed by the Petitioner. In that case, it is always open to the Petitioner to engage a Surveyor and carry out such measurements. Besides, it is legitimate to presume that the Petitioner must be having plans, permissions, etc., which would reflect the area and dimensions of such structure. All such evidence will eventually be led before the authorities enjoined to determine the compensation amount. For this purpose, no case is made to stall the demolition or allow the Petitioner to resist handing over possession.

9. Regarding the issues, if any, between the Petitioner and his brother, it is for the Petitioner to take appropriate steps

before the appropriate forum. If there is a dispute about the apportionment, such disputes are normally required to be referred to the Court. In any event, based on such disputes, there is no question of stalling the demolitions and thereby delaying the highway works.

10. For all the above reasons, we decline to entertain this Petition.

11. However, all rights and contentions of all parties regarding the compensation issue or the apportionment issue are left open.

12. The Petition is disposed of without any order of cost. All concerned to act on an authenticated copy of this order.

(Jitendra Jain, J)

(M. S. Sonak, J)