

Pallavi

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5205 OF 2016

Mohammed Arif Shareeq Ahmed Patel

...Petitioner

Versus

State of Maharashtra and Ors.

...Respondents

Mr. Ratnesh M. Dubey a/w Mr. Abdul A. Shah for the Petitioner.

Ms. Priyanka Thakur a/w Mr. Pratik Kasukar for the Respondent
Nos.3, 2A, 2C to 2I.

Mr. Hamid Mulla, AGP for the Respondent No.1 – State.

CORAM : ADVAIT M. SETHNA, J.

DATE : 15 DECEMBER 2025

P.C.:

1. Heard the learned counsel for the parties.
2. This Petition arises out of the judgment and order dated 9 March 2016 passed by the Joint Civil Judge, Senior Division, Panvel in order below Exh.150 in Special Civil Suit No.514 of 2008. By way of background, the suit for specific performance of the agreement dated 2 October 2006 which is an agreement to sale was preferred by the Plaintiff i.e. the Petitioner before this Court.
3. By the said agreement, the Respondent (Defendant) agreed to sell to the Plaintiff the plot and parcel of the land at Panvel, the details of which have been recorded in the said agreement.

Note: This order is corrected vide speaking to minutes of order dated 18 December 2025.

4. It is undisputed that out of such larger plot of land which was a subject matter of sale under the agreement also included a portion/parcel of the land which was subsequently acquired by the National Highway Authorities of India (NHAI) under the land acquisition proceedings. Pursuant thereby, it is also not disputed that the Respondents i.e. the original defendants have received compensation to the tune of Rs.6,54,103/- from the Sub-Divisional Officer (SDO).

5. In such backdrop, an application for amendment of pleadings under Order 6 Rule 17 of the CPC was filed by the Petitioner before the said Trial Court on 26 February 2016. By an order dated 9 March 2016, the said application for amendment filed by the Petitioner was rejected by the said Court in light of the reasons set out therein.

6. Ms. Thakur, learned counsel for the Respondent would submit that the Ld. Trial Judge has erred in deciding the application for amendment of pleadings of the Petitioner filed under Order 6 Rule 17 of the CPC. This is inasmuch as the said Court had delved into the merits of the controversy, required the Petitioner to justify as to why at an earlier stage, such amendment could not be inserted. This, according to Mr. Thakur, is contrary to

law as settled by the judicial decisions in regard to amendment applications. Mr. Dubey would also contend that the Petitioner had filed the said application before the Trial Court as soon as the Petitioner became aware of the grant/receipt of compensation to/by the Respondent in respect of the part of the land. Therefore, there is no delay on the part of the Petitioner.

7. Per contra, Ms. Thakur would urge that the Petitioner had, in fact, raised objections in writing regarding the compensation received by the Respondent (Defendant) before the appropriate/concerned Land Acquisition Authority. However, she is not having the details in this regard. This, according to her, is both material and vital in the given factual matrix, so as to demonstrate the incorrectness of the submissions made by the Petitioner.

8. After hearing the matter for some time, the parties on instructions are *ad idem* to state that the proceedings can be remanded to the Trial Court i.e. Jt. Civil Judge, Senior Division, Panvel. In light of the above, both sides would want to avail of an opportunity to represent themselves before the Ld. Trial Judge so as to place all relevant facts, including those stated above for its consideration.

9. In light of the above, ends of justice would be served by

quashing, setting aside the impugned order dated 9 June 2016 passed by the Trial Court. The Trial Court is hereby directed to hear the parties *de novo* and pass appropriate fresh orders on its own merits and in accordance with law.

10. It is made clear that considering the above, this Court has not expressed any opinion on merits of the rival conventions including the maintainability, entertainability, etc. of the said amendment application before the Ld. Trial Judge, which are kept open.

11. Needless to mention that as far as the issue of compensation which is now withdrawn by the Respondents (Defendants) is ‘without prejudice’ and is left open subject to its determination in the suit. This Court has at this stage has not delved into this aspect.

12. For all the above reasons, the proceedings are remanded to the Ld. Trial Judge for fresh consideration on merits and in accordance with law as indicated above. The Ld. Trial Judge is requested to expedite the hearing of the Application.

13. Considering that the suit is of the year 2008, the hearing of the Impugned (Exh.150) application be concluded as expeditiously as possible not later than within two months from the date a copy of this order is made available to the said Court.

14. In the given peculiar factual complexion, the Trial Court is

also requested to expedite hearing of the suit. The parties shall fully cooperate with the Trial Court in its endeavour.

15. Writ Petition is disposed of in the above terms. No costs. Interim Application, if any, does not survive and the same is disposed of.

16. Parties to act on an authenticated copy of this order.

[ADVAIT M. SETHNA, J.]