

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16177 OF 2025

Shakuntala Abdul Kuddus Choudhari ..Petitioner
Versus
Suchitra Sachin Kpatekar & Ors ...Respondents

WITH
WRIT PETITION NO. 7996 OF 2025

Shakuntala Abdul Kuddus Choudhari ..Petitioner
Versus
Mandhar Jangal Gosavi Since Deceased Through ...Respondents
L.H. & Ors

Mr. Surel Shah, Senior Advocate, Chaitanya B. Nikte, i/b Prajit S
Sahane, for the Petitioner.
Mr. Laxman S Deshmukh, for Respondent No.1 in WP/16177/2025.
Mr. Pavan S Patil, with Tanmay A Deshmukh, for Respondent Nos. 1A
and 1B in WP/7996/2025.
Smt. Pratibha Gavhane, AGP, for the Respondent-State in
WP/16177/2025.
Smt. Savina R. Crasto, AGP, for the Respondent-State in
WP/7996/2025.

CORAM: N. J. JAMADAR, J.
DATE : 3rd DECEMBER 2025

ORAL ORDER

- 1.** Heard the learned Counsel for the parties.
- 2.** The challenge in these Petitions is to the orders dated 4th April 2025 (in Writ Petition No. 7996 of 2025) and 9th May 2025 (in Writ

Petition No. 16177 of 2025) passed by the Ad-hoc District Judge-1, Khed-Rajgurunagar, Pune in the references purported to be made under Section 35 of the Maharashtra Industrial Development Act, 1961 (“the Act, 1961”)

3. It appears that the Sub Divisional Officer had passed an award in respect of the acquisition of land on 27nd December 2019. In the wake of the dispute as to apportionment of compensation, a reference was made to the Competent Authority on 20th July 2020 purportedly under Section 35 of the Act, 1961.

4. By the impugned order dated 4th April 2025 in WP No.7996 of 2025, the learned District Judge declared that the Respondent No.1 through his L.Rs. Surekha Manohar Gosavi, Ramdas Alia Appa Manohar Gosavi and Laxman Manohar Gosavi, is entitled to receive the compensation in respect of the land bearing Gat No.812/1/18, Area 1H 21R of village Ambethan, subject to certain deductions. The learned Judge also gave consequential directions.

5. When the Petition was listed before this Court, on 27th June 2025, this Court was persuaded to pass *inter alia* the following order:

“5. Learned Senior Counsel appearing for the Petitioner submits that the impugned order would be without jurisdiction as the reference should have been made to the competent authority. However, the reference was made to the civil Court and the decision is also taken by the civil Court. He points out

the amended Section 35 and sub-Section (a-1) of Section 2 of the Maharashtra Industrial Development Act, 1961.”

6. The provisions contained in Section 35 of the Act, 1961 which provides for the resolution of the disputes as to apportionment of the compensation settled under Section 33 of the 1961, came to be amended by Mah. Act of 27 of 2019. The word ‘Court’, to which the reference was to be made by the Collector, came to be substituted by the word ‘Authority’.

7. A new clause i.e. clause (a-1) also came to be inserted by the said amendment, whereby the “Authority”, referred to under Section 35, came to be defined to mean the Authority defined in Clause (f) of Section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

8. Mr. Pravin Patil, the learned Counsel for the Respondent No. 1A and 1B in Writ Petition No. 7996 of 2025 fairly submitted that in view of the aforesaid amendment in the Act, 1961, reference to the Court was not competent.

9. Evidently, in view of the legislative change, the impugned orders passed by the Court are without jurisdiction. Since the reference to the Court itself was incompetent and the orders of apportionment passed by the Court are clearly without jurisdiction, the impugned orders deserve to be quashed and set aside.

10. Hence, the following order:

: O R D E R :

- (i) Petitions stand allowed.
- (ii) The impugned orders stand quashed and set aside
- (ii) The Collector is directed to make the reference to the 'Authority' as defined under Clause (a-1) of Section 2 of Act, 1961, within a period of one month from today.
- (iii) In the event such references are made, the Authority is requested to decide the references as expeditiously as possible, and, preferably, within a period of six months.
- (iv) The amount deposited by the acquiring body along with accrued interest thereon be remitted by the Civil Court to the Authority, which shall, in turn, deposit the said amount in an interest bearing account.
- (v) All contentions of all the parties are kept open for consideration.

[N. J. JAMADAR, J.]