

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10933 OF 2025

Swati Maruti Ghogare And Ors ...Petitioners
Versus
The State Of Maharashtra Thru.
Secretary And Ors ...Respondents

AND
WRIT PETITION NO. 11700 OF 2025

Tukaram Genu Ghogare And Ors ...Petitioners
Versus
The State Of Maharashtra Thr.
The Secretary Department Of Revenue
And Ors ...Respondents

MS. B.R.Mangale, for Petitioners. _____

Ms. Leena Patil, AGP for Respondent – State. _____

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

DATE: 7th October 2025

P.C.

1. There are two Petitions wherein similar questions of fact and law are involved.

2. At the outset we may observe that the Petitioners had earlier approached this Court, in the proceedings of Writ Petition No. 11855/2018, which were decided by Judgment and Order dated 16th January 2023, passed by a co-ordinate Bench of this Court (Nivrutti D. Ghogare & Ors. Vs. MIDC Mumbai & Ors.). The said Petition was disposed of considering that the Award as declared was

illegal as it proceeded on the footing that there was an agreement between the parties, when in fact there was no agreement between the parties, with regard to payment of compensation. A relevant observations in that regard are required to be noted. Which are as follows:

13. Since the copy of the agreement produced for perusal of this Court by the Respondents clearly indicates that the writ property was excluded from the payment of compensation of the agreement. In our view, since there was no agreement between the parties for the writ property, the mandatory procedure required under Section 33(3) of the MID Act was to be followed by the State Government for determining the compensation. If the compensation would have exceeded the amount as the State Government may by general order specify, to be paid for such acquisition shall be determined by the Collector prior to any approval required under Section 33 (3) of the MID Act. Admittedly, the award is not made under Section 33(3) of the MID Act though there was no agreement for payment of compensation under Section 33(2) read with 33(3) of the MID Act.

14. It is not the case of the State Government or MIDC that the impugned award has been declared under Section 33(3) of the MID Act considering the compensation to be determined under Section 33(3) of the MID Act. In our view, the compensation thus determined in respect of the writ property is improper on the premise that, there was an agreement between the parties, and is thus illegal and contrary to Section 33(3) of the MID Act. The impugned award annexed at Exhibit "E" dated 31st January, 2005 is quashed and set aside. The Special Land Acquisition Officer or the Competent Authority as the case may be is directed to determine the compensation in respect of the writ property under Section 33(3) of the MID Act within a period of three months from today. Upon receipt of such award, the Special Land Acquisition Officer or the Competent Authority, as the case may be, shall serve a copy thereof upon the Petitioners within two weeks from the date of communication of such award. The rights and remedies of the Petitioners, if any, upon receipt of the award are kept open.

15. The certified copy of the agreement is taken on record. It is made clear that by this order we have not set aside the acquisition proceedings in respect of the writ property and the same attained finality.

16. The above writ petitions are allowed in aforesaid terms.

Rule is made absolute accordingly. The Petitioners would be at liberty to agitate the issue of relevant date for the purpose of computation of compensation before the Competent Authority. The objections that would be raised by the Petitioners, if any, to be decided on merits and in accordance with law.

3. It is thus clear that as the Land Acquisition Awards as assailed dated 31st January 2005, were quashed and set aside, the Competent Authority was directed to publish the fresh Award within a period of 3 months from the date of the Judgment. Also the said order was challenged by the Petitioners before the Hon'ble Supreme Court. However the proceedings of Special Leave Petition filed by the Petitioners were dismissed.

4. In pursuance of the aforesaid Orders passed by this Court, it appears that the Competent Officer has proceeded to publish a fresh Award. However, before the said Award could be published, present Petitions are filed by the Petitioners illustratively we note the prayers as made in the first Petition i.e. Writ Petition No. 10933 of 2025, which reads thus:

- a. Rule be issued;
- b. This Hon'ble Court by way of its appropriate writ, order or direction may kindly be pleased to quash land acquisition proceedings initiated under Maharashtra Industrial Development Act with respect to Survey no. 150, Hissa no.3 situated at village Mann, Taluka Mulshi, District Solapur;
- c. Pending hearing and final disposal of present Writ Petition this Hon'ble Court may kindly be pleased to restrain the Respondent authorities from disturbing the possession of Petitioners over land bearing Survey no. 150, Hissa no. 3 situated at village Mann, Taluka Mulshi, District Pune;
- d. Ad-interim relief in terms of prayer clause (c) may kindly be granted;
- e. To grant such other and further reliefs as the nature and circumstances of the case may require.

f. For such further and other reliefs as the nature and circumstances of the case may require;

5. Ms. Patil, learned counsel appearing for the Respondents has placed on record, a copy of the Award dated 18th July 2025, as declared by the Sub-Divisional Officer, Mulshi, Sub Division Pune viz. Competent Authority / Special Land Acquisition Officer.

6. Admittedly, this Petition was filed on 3rd July 2025, i.e. prior to the declaration of these Award.

7. In this view of the matter, considering the clear provisions of Section 24 of the Maharashtra Industrial Development Act, 1961, as the contentions of the Petitioners is that the amount of compensation as granted to the Petitioners under the Award, is inadequate, the remedy for the Petitioners would be to approach the Appellate Authority under Section 24 of the Maharashtra Industrial Development Act, 1961. The said provision reads thus:

24.(1) The Corporation shall make provision for such reserve and other specially denominated funds as the State Government may, from time to time, direct

(2) The management of the funds referred to in sub-section (1), the sums to be transferred from time to time to the credit thereof and the application of money comprised therein, shall be determined by the Corporation.

(3) None of the funds referred to in sub-section (1) shall be utilised for any purpose other than that for which it was constituted, without the previous approval of the State Government.

8. In this view of the matter, we permit the Petitioners to approach the Appellate Authority within a period of 4 weeks from today. In the event such

proceedings are filed, the same be decided without an objection as to the limitation, as the Petitioners are pursuing the present Petition bonafide.

9. All contentions of the parties are expressly kept open.

10. We have passed the aforesaid order considering the clear mandate of the orders passed by this Court on the earlier batch of Petitions and what was required to be done by the Competent Officer was to render a fresh Award and which has now been passed following the due process of law.

11. Disposed of in the above terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)