

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11199 OF 2025

Govind Narayandas Oza ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

AND

WRIT PETITION NO. 8924 OF 2025

Varad Madan Jagdale & Anr. ...Petitioners
Versus
The State of Maharashtra & Ors. ...Respondents

AND

WRIT PETITION NO. 11200 OF 2025

Balasaheb Madhav Londhe & Anr. ...Petitioners
Versus
The State of Maharashtra & Ors. ...Respondents

AND

WRIT PETITION NO. 11201 OF 2025

Eknath Madhav Londhe & Ors. ...Petitioners
Versus
The State of Maharashtra & Ors. ...Respondents

Mr. Nilesh Wable, for the Petitioners.

Mr. R. S. Pawar, AGP for the State in WP 11199/25.

Smt. M. S. Bane, AGP for the State in WP 8924/25.

Smt. M. P. Thakur, AGP for the State in WP 11200/25.

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

DATE: 3 NOVEMBER 2025

P.C.

1. This batch of petitions is filed under Article 226 of the Constitution of India praying for the similar reliefs. The facts are also quite similar, hence, these proceedings are being disposed of by this common order.

2. At the outset we may observe that the grievance of the petitioners is in regard to the actions being resorted by respondent No.1 threatening to acquire the petitioners' land under the Maharashtra National Highways Act, 1955, without following due procedure in law. For convenience, we note the substantive prayers as made in the lead Writ Petition being No.8924 of 2025 which read thus:

"a) This Hon'ble Court be please to call for record in respect of work Order dated 31.10.2024 for improvement of State Highway 123 passing through Gopal Wadi State Highway-60 Lingali Khorodi to State Highway 68 road State Highway-134 Km. 2/700 to 12/00 and 15/00 to 18/00 at Daund, Tal. Daund, Dist. Pune as mentioned in the Work Order;

b) This Hon'ble Court be pleased to hold and declare that the action of Respondents for taking forceful possession from the Petitioners for construction of said road as per the Work Order dated 31.10.2024 is bad in law and violation of Article 300A of the Constitution of India;

c) This Hon'ble Court be please to issue appropriate writ, order or direction, thereby direct the Respondents to follow the due procedure stated in Maharashtra Highway Act and further directed to acquire the Petitioners land, if they intent to construct a road from the Petitioner's land as per the work Order and further directed to pay compensation as per the land acquisition land.

d) This Hon'ble Court be please to issue appropriate writ, order or direction, thereby restrained the Respondents from taking forceful possession of Petitioners land to construct the said road as per the work order dated 31.10.2024."

3. A reply affidavit is filed in these petitions by Shri. Harishchandra Namdeo Malshikare, working as Deputy Engineer, Public Works Sub Division Daund, District Pune, in which the contention is urged that the petition itself is

misconceived and vague inasmuch as respondent No.1 is not taking any action to acquire the petitioners' private land and the land which is sought to be used, is the land under the Right of Way (ROW) as described in the reply affidavit. In such context the following averments as made in the reply affidavit are required to be noted:

"8. I say that the claim made by the Petitioners is completely misconceived. I say that the Respondent State Government had Right of Way (ROW) or Road Land Width (RLW) of on an average 45 meters in the existing Highway which is presently numbered as State Highway No.134. The concept of ROW is as under:-

a) The entire concept of ROW is very well explained in the publication of Indian Road Congress like Village Road Manual and other manuals, to which this Respondent craves leave to refer to and rely upon as and when produced.

b) The concept of ROW is a larger concept and it includes carriage way on which vehicles ply. I say that, ROW includes Carriage Way/ Motorable Road, Side Shoulders, Slope, Berm, Gutter, Arboriculture and Tree Plantation.

c) ROW is clearly shown in the Village Map in continuous line and such road is of Type 1 as described in Government Resolution dtd. 04.11.1987. Hereto annexed and marked as Exhibit R1 is a copy of the Government Resolution dtd. 04.11.1987.

d) It is the case of the Respondent – State Government that the present State Highway No.134 has total Road Land Width or Right of Way of average 45 meters, the said road is passing through the Village therefore, the recommended width is considered in open area which comes to 45 meters. Hereto annexed and marked as Exhibit- R-2 is the copy of Table 3 of Indian Road Congress (IRC) 73 – 1980.

e) The said ROW includes present Carriage Way of 7 meter + Side shoulder + Slope + Berm + Gutter + Arboriculture & tree plantation total 13 meters (3.28 ft X 3.89 ft = 48.64 ft.) which is Bituminous type / Tar Road.

9. I say that the existence of the said row can also be seen through the Village Form No.1, which is regularly maintained in every village as a part of the Land Revenue Records. I say that, the Village Form No.1 shows the total Land Area in a particular village. I say that the said Form further shows the land utilised for various purposes including roads. I further say that the said existing road is existing since long which can be seen from the Village Map. Hereto annexed and marked as Exhibit R-3 & Exhibit R-6 is a copy o Village map.

10. I say that the said Village Map is maintained by the Land Revenue Authorities. I say that the same shows a varying width of the concerend Road (now, named as SH No.134) from year 1961. I say that the said width can be actually measured in the above Map with the help of scale. The scale of measurement given is 1 mm in Map – 10.000 mm on Actual Ground. I say that bare perusal of Village Map, the Petitioners land situated at Gat No.42/1/1/1 and 42/1/1/2 and the opposite Gat Number 60 and 61 and there is existing road in between two Gat numbers which width is 4.5 mm on Map which comes to 45.000 mm. The said mm is converted into meters which comes to the 45 meters on Actual Ground, therefore, the said road is existing since long in Village Map.

11. I say that the said Village Map has been maintained since British times and has never been disputed by the ancestors of the Petitioners. I say that the said Village Map has been prepared through the original survey conducted during British Times and has been confirmed from time to time. I say that, all the private lands in Village Lingali are beyond the said ROW shown in the said Village Map. I say that, therefore, the Petitioners and other villagers of the said village are not entitled to claim any portion of the said ROW which exclusively belongs to the State Government.

12. I say that, the State Highway Authority of PWD conducts the work of expansion of carriage way of the SH-134. I say that, the said Department has superimposed the existing Carriage Way of SH-134 on the aforesaid Village Map with chainage markings.

13. I say that with the help of aforesaid Village Maps it can be seen that the Road Width available in Village Lingali is minimum 35 meters to maximum 45 meters. As far as the road adjacent to Survey Nos.42/1/1/1 and 42/1/1/2 and 60.61 is concerned, the ROW width is 35 to 45 meters.

14. I say that this clearly goes to show that the petitioners are making false claim that Respondents have encroached on Petitioners' lands. I say that in fact by making such claim, the Petitioners want to encroach upon the existing ROW of the State Government."

4. Mr. Pawar, learned AGP has made a submission that the contention of the petitioners that the petitioners' private lands are acquired, is not the correct position. It is also his contention that in the event the petitioners' private lands are sought to be acquired, due procedure of law would be followed and appropriate notice would be issued. We accept the statement as made by learned AGP Mr. Pawar.

5. In this view of the matter, we keep open all contention of the parties, for due procedure in law to be followed in the event the petitioners' private lands are to be acquired.

6. In the event of any dispute on measurement and/or dispute on title occurs, the parties are at liberty to resort to the appropriate remedies as may be available in law. All contentions of the parties in that regard are expressly kept open.

7. We make it clear that we have not delved on any other contentions as raised by the parties. All such contentions of the parties in regard to utilization and acquisition of the land, are expressly kept open.

8. The petitions are disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)