

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11343 OF 2025

Shree Nasik Panchavati Panjrapole & Ors.

...Petitioners

Vs

The District Collector, Nashik & Ors.

...Respondents

Mr. Anil Ahuja with Ms. Bhavna Khemani for Petitioners.

Ms. Pooja Patil, AGP for State.

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

DATE: 01 OCTOBER 2025.

P.C.

1. This petition under Article 226 of the Constitution of India is filed primarily praying that the award dated 16 June 2025 passed by respondent nos.1 and 2 in LAQ Case in question be quashed and set aside on the ground that the appropriate principles in determination of the compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, "the 2013 Act") and more particularly under Section 26(1)(a) have not been followed. It is the petitioners' contention that the petitioners have become entitled to the market value and the determination of the compensation which according to the petitioners is not as per the ready reckoner rate, needs to be interfered by this Court and the award on such count is required to be set aside.

2. At the outset, we note the substantive prayers as made in the writ petition which read thus:-

"a) Issue a writ of certiorari or any other appropriate writ, order or direction in the nature thereof, calling for the records and proceedings

pertaining to the award dated 16th June 2025 passed by Respondents No.1 and 2 in LAQ case no. 5/2022 pertaining to land Survey No. 288/3 of Nashik admeasuring an area of 17955 sq. Mtrs., and after examining the legality, validity, and propriety thereof, be pleased to quash and set aside the said award;

b) Issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondents No.1 and 2 to re-determine the compensation payable to the Petitioner in accordance with Section 26(1) (a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, by excluding the application of valuation guidelines 16A and 20E, and pay the same to the petitioner within a period of 2 weeks from the date of orders that may be passed by this Hon'ble Court.

c) Declare that the valuation guidelines issued under the Maharashtra Stamp Act, 1958 and the Maharashtra (Determination of True Market Value of Property) Rules, 1995, including guideline numbers 16A and 20E, cannot override or dilute the statutory criteria prescribed under Section 26(1) of the RFCTLARR Act, 2013, for determining the market value of acquired land.”

3. Mr. Ahuja, learned counsel for the petitioners in support of his contention, has placed reliance on the decision of the Supreme Court in **Kolkata Municipal Corporation & Anr. v. Bimal Kumar Shah & Ors.**¹ as also the decision of Division Bench of this Court in **Bhagwat Tukaram Shelke (died) through L.Rs. Dhondubai w/o. Bhagwat Shelke & Ors.**². The petitioners have also contended that considering the principles of law as laid down by the Supreme Court in **Radha Krishan Industries vs. State of H.P. and others**³ although an alternate remedy is available to the petitioners under Section 64 of the 2013 Act, this petition needs to be entertained.

4. We have heard learned counsel for the petitioners and learned AGP for the State. We have perused the averments as made in the petition. We are not persuaded to accept the petitioners' contentions as urged before us. We find that the grievance of the petitioners is primarily in regard to the enhancement of the

1 (2024) 10 SCC 533

2 2025(1) Mh.L.J. 294

3 (2021) 6 SCC 771

compensation and the manner in which it is required to be re-determined in accordance with Section 26(1)(a) of the 2013 Act. All these issues, in our opinion, would squarely fall for consideration in the appropriate proceedings the petitioners would be required to take recourse, under the provisions of Section 64 of the 2013 Act, by approaching the Authority by a reference under Section 64 of the 2013 Act which reads thus:-

“Section 64 - Reference to Authority

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made--

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collectors award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collectors award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.”

5. It is the settled principle of law that the Land Acquisition Act including the 2013 Act is a Code by itself. There are statutory remedies which are provided which would entitle the petitioners to raise all the issues in regard to the enhancement of the compensation and the manner in which the compensation is

required to be arrived at and on issues on enhancement of the compensation. The petitioners accordingly need to take recourse to the provisions of Section 64 of the 2013 Act. The contentions of the petitioners relying on the aforesaid decisions that the High Court needs to exercise jurisdiction under Article 226 of the Constitution of India and entertain a writ petition so as to undertake determination of compensation by interfering with the awards as passed, if accepted, would not only defeat the statutory scheme, but also would be contrary to the principles of law, as laid down in several decisions that the powers of the High Court to entertain petitions is discretionary and ultimately, it would depend on the facts and circumstances of each case as to whether such power needs to be exercised or not. In our opinion, we cannot exercise such powers under Section 226 so as to defeat the statutory mandate as ordained by Section 64 of the 2013 Act.

6. At this stage, we are informed that the possession of the land is taken over in the year 2003 and the petitioners have already taken recourse to Section 64 of the 2013 Act. It is one more ground not to entertain this petition.

7. We accordingly dismiss the petition, however, with liberty to the petitioners to approach the Authority, seeking enhancement of compensation. All contentions of the parties in that regard are expressly kept open.

8. Disposed of. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)