



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12510 OF 2025

Balasaheb Sopan Dorge

...Petitioner

Versus

State Of Maharashtra & Ors.

...Respondents

Mr. Sumit Khaire for Petitioner.

Ms. Tanu Bhatia, AGP for State - Respondent Nos.1 to 7.

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

DATE: 18 DECEMBER 2025

Oral Judgment (Per:- G. S. Kulkarni, J.)

1. Rule. Rule made returnable forthwith. By consent of the parties, heard finally.

2. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

“a) This Hon'ble Court be pleased to issue an appropriate Writ, Order or direction to Respondents to decide the application dated 21/4/2025 filed by the Petitioner.

b) This Hon'ble Court be pleased to issue an appropriate Writ, Order or direction to Respondents to quash & set aside the allotment order dated 30/5/2016 passed by District Resettlement Officer, Pune in favor of the Respondent No 8 to 13, 14 to 18 respectively in respect of the Old Gat no 210 New Gat No 531 situated at Village Yawat Station, Tal- Daund, Dist-Pune.

c) This Hon'ble Court be pleased to issue an appropriate Writ, Order or direction to Respondents to quash & set aside the allotment order dated 3/9/2019 passed by District Resettlement Officer, Pune in favor of the Respondent No 19 to 21 in respect of the Old Gat no 215 New Gat No.504/2 situated at Villate Yawat Station, Tal-Daund, Dist-Pune.”

3. The case of the petitioner is that in the present case no notification under Section 6 was issued declaring the intention of the respondents to acquire the land.

However, the petitioner's land bearing old Gat No.210, New Gat No.531 and 215 and New Gat No.504/2 without following the due procedure in law was utilised by taking over the possession of land without payment of compensation.

4. In the aforesaid circumstances, we need to accept the petitioners contention that in so far as the entitlement of the petitioner to receive compensation by an award to be declared in the present case would be covered by the decisions of the Supreme Court which are considered by this Court in its decision in **Mrs. Sumitra Shridhar Khane Vs. Deputy Collector of Special Land Acquisition No.12, Kolhapur.**¹ which was a case wherein the Court in similar circumstances directed the State to award compensation to the petitioner. The Court also considered as to why, in the said case, the provisions of the Land Acquisition Act, 1894 would become applicable. The reason being, in such case, the procedure under the Land Acquisition Act except for passing an award was completed. However, the position in this case is different. The observations as made by the Court in such context are required to be noted which read thus:

36. The learned Additional Government Pleader has also placed reliance on the decision of the Supreme Court in *Chairman, State Bank of India vs M J James* (supra). Reliance on this decision is also not well founded. In this decision, the Supreme Court was dealing with a case where the respondent, a dismissed employee, challenged his termination following an Inquiry Officer's report. The dismissal order dated 18 April 1985 remained unchallenged for over four years, and the absence of a limitation period was argued during the appeal. In such context, the Supreme Court in such facts, held that what is a reasonable time cannot be put in a straight jacket formula or judicially codified. It was also held that in the facts of the case, a satisfactory explanation justifying the delay was required to be furnished, without which the Court held that it was difficult to hold that the appeal was preferred within a reasonable time. We are at a loss to understand as to how this decision which is on the principles of service law would apply to the facts of the present case and more particularly, when there are catena of decisions as noted above, directly on the propositions that the State cannot

1 Writ Petition No.4987 of 2022 along with other petitions decided on 2 May 2025

shield itself on the ground of delay and laches in not paying compensation in such cases.

37. Thus, viewed holistically, it becomes evident that the State's actions or inactions have exacerbated the injustice suffered by the petitioner, ultimately forcing her to approach this Court, albeit belatedly. This lackadaisical approach is highlighted by the State's initiation of acquisition proceedings in respect of the petitioner's land, however, in not including the petitioner's land in the award, that too after dispossession of the petitioner without payment of compensation to the petitioner. It is quite astonishing that the State would intend to evade its obligatory duty of paying compensation to the petitioner whose land has been utilised for a public purpose to rehabilitate the project affected persons of Dudhganga Irrigation project. This is certainly not permissible. State cannot deny payment of compensation having dispossessed the petitioner as also taking away petitioner's ownership. The obligation to pay compensation is firmly rooted within the purview of the Constitutional guarantee conferred under Article 300A of the Constitution. It is implied that acquisition of private property can be recognized only on payment of fair compensation as the law would mandate unless the circumstances are otherwise. Failure to provide compensation is negation of Article 300A. Hence, any act by the State to acquire land and property without complying with these principles would be manifestly illegal and unconstitutional. This apart, such breach of the legal and constitutional rights is held to give rise to cause of action which a continuing cause of action. It thus cannot be countenanced that the land of the petitioner when acquired for public purpose, the petitioner can be deprived of the compensation. This is also not a case where the respondents are in a position to point out any material that it is the petitioner who had given up receiving compensation. It is hence a unilateral act on the part of the respondents not to pay the compensation. In this view of the matter, in our opinion, the petitioner has certainly become entitled for payment of the land acquisition compensation.

38. Now coming to the relief as prayed by the petitioner, in our opinion, reliefs would be required to be moulded, inasmuch as, considering the provisions of Section 114 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "2013 Act"), it would be required to be held that the provisions of the 1894 Act would apply to the case in hand. Section 114 of the 2013 Act reads thus:

"114. Repeal and saving. –

(1) The Land Acquisition Act, 1894 (1 of 1894) is hereby repealed.

(2) Save as otherwise provided in this Act the repeal under sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals"

39. Insofar as the facts of the present case, it is clear that initially the land of the petitioner was identified for acquisition under the 1894 Act. The possession of the land was also handed over on 19 September 1990 before the notifications were issued under Section 4 and 6 dated 20 December 1990 and 8 March 1991 respectively. In respect of certain lands notified for acquisition, the Special Land Acquisition Officer declared an award, however, an award was not declared qua the petitioner's land. It is in these circumstances, applying the provisions of Section 6 of the General Clauses Act, 1897 read with Section 114 of the 2013

Act, the provisions of the 1894 Act would continue to apply. Hence, the relief which would be required to be granted to the petitioner would attract the applicability of the 1894 Act and the rights of the petitioner recognized thereunder. Accordingly, the petition would be required to be allowed in terms of the following order:

ORDER

(i) The respondents are directed to treat the land of the petitioner as a deemed acquisition. It is declared that the petitioner is entitled for disbursement of the compensation for acquisition of her land i.e. Gat No.156, admeasuring 1 H. 12 R. situated at village Vhanur, Tal. Kagal, District-Kolhapur.

(ii) The Respondents/Collector (Land Acquisition) is directed to compute the compensation as payable to the petitioner on the date the possession of the land was taken over i.e. 19 September 1990 and disburse to the petitioner, the amount of compensation within a period of four months from today, with all consequential benefits of solatium, interest and/or all the sums payable under the Land Acquisition Act, 1894. Interest to be calculated till the date of actual payment of all the amounts.”

5. Thus, considering the aforesaid observations, in a case where the Section 6 notification under the Land Acquisition Act (repeal) was not issued would stand on a different footing, as such case would fall under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “**2013 Act**”), for the reason that it would amount to a situation that the land although stands utilised (deemed to have been acquired), however, without any procedure in law being followed by the respondents, attracting a situation clearly falling under the provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Section 24 reads thus:

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,—

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

(emphasis supplied)

6. Thus, in view of the aforesaid legal position, in our opinion, for award of the compensation in the facts of the present case, the provisions of 2013 Act would apply.

7. We may observe that this Court, after considering the decision of this Court in **Sumitra Shridhar Khane (supra)** and in the case of **Rashid Tukadu Bagwan & Ors. Vs. The State of Maharashtra & Ors.**² in similar circumstances, this Court held that the provisions of the 2013 Act would become applicable. The relevant observations as made by the Court, which are required to be noted read thus:

“12. As stated aforesaid, Respondents in their affidavits which have been recently filed have taken the position that the State Government way back in 2016 had taken steps to acquire the subject property by issuing a notification under section 4 of the Act of 2013, however on account of inaction on the part of Collector/Sub Divisional Officer/SLAO, they were unable to make the said acquisition. To our mind such blame game between departments is unacceptable, to deviate from the rigours and mandate the law prescribes qua acquisition of private lands. Even though we may accept that a notification under section 4 of

² Writ Petition No.8716 of 2024 decided on 6 October 2025

the Act of 2013 was issued, yet no further steps were taken in furtherance to carry out the acquisition to its logical end. Also under the 2013 Act in the absence of publication of notification under section 11 within 12 months from the date of appraisal of the Social Impact Assessment Report submitted by the expert group under Section 7, such report shall be deemed to have lapsed and a fresh social impact assessment shall be required to be undertaken. Therefore, the mere issuance of a notification even under section 4 of the Act of 2013 that too in the year 2016 by the State Government for a land whose possession was taken in 1968 is of no consequence as no action in pursuance thereof has been taken causing grave prejudice to the Petitioners.

13. In the facts of the present case, there is a 'continuing cause of action' which enures to the benefit of Petitioners, inasmuch as notifications for acquisition were issued from time to time and representations were made by the Petitioner before the authorities for the acquisition of the subject property and the compensation in lieu thereof.

14. Thus looking at the entirety of the facts of the case and the position in law we have no hesitation in holding that in the present case that the Petitioners have been deprived of their property without the authority of law in violation of the principles of Article 300-A of the Constitution of India.

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17. In the light of the aforesaid discussion, in our clear opinion, the Petitioners are entitled to land acquisition compensation; as the law mandates under the 2013 Act. Applying the above principles as espoused in Sukh Datt Ratra (supra) & Sumitra Sudhir Khane (supra), the facts of the present case are squarely covered by the findings of the aforesaid decisions. Hence, the following order:

ORDER

- (i) The land of the Petitioners is deemed to have been acquired. The Petitioners are entitled for disbursement of the compensation for acquisition of their subject property under the 2013 Act;
- (ii) The Respondent Collector (Land Acquisition) is directed to compute the compensation as payable to the Petitioners under the 2013 Act and disburse to the Petitioners, the amount of compensation within a period of four months from today, with all consequential benefits;
- (iii) Writ Petition stands allowed in the aforesaid terms. No costs."

8. In the light of the aforesaid discussion, this petition would be required to be allowed in terms of the following order:

ORDER

- (i) The land of the Petitioners situated at Village Yawat Station, Tal-Daund, Dist-Pune bearing old Gat No.210 New Gat No.531 and 215 and New Gat No.504/2 is deemed to have been acquired for which the Petitioners

are entitled for payment of compensation for acquisition of their subject land under the 2013 Act;

- (ii) The Respondent Collector (Land Acquisition) is directed to publish an award in accordance with law to determine the compensation as payable to the Petitioners under the 2013 Act and disburse the same to the Petitioner within a period of four months from today, with all consequential benefits;

9. Disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)