

JYOTI
RAJESH
MANE

Digitally signed by
JYOTI RAJESH
MANE
Date: 2025.11.28
12:28:50 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15937 OF 2025

Padmakar Pandurang Bhoir

And Anr

Petitioners

Versus

The National Highway

Authority Of India And Ors

Respondents

Mr. Vishwajeet S.Kapse, for Petitioner.

Mr. Rakesh L. Singh i/b. M.V.Kini & CO. for Respondent No.1/NHAI.

Mr. Rajan S.Pawar, AGP for State.

Mr. Sandeep Sharma, Dy.Manager NHAI present.

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

DATE: 26th NOVEMBER 2025

P.C.

1. This Petition under Article 226 of the Constitution of India is filed
praying for following substantive reliefs:

a. Rule be issued and further call for the records and proceedings for the proposed demolition of the affected structure mentioned Exh. "C";

b. That this Hon'ble Court may be pleased to issue writ of mandamus or writ in the nature mandamus or any other writ, directions to the Respondents thereby declare the proposed action as against the affected Structure (described under Exh. "C"), is illegal, bad in law in respect of the affected structure situated at Village Bhoirgaon and Village Kukse, Tal. Bhiwandi, Dist. Thane (described in Exh. "C");

c. That this Hon'ble Court may be pleased to issue appropriate writ, directions and orders thereby declaring the action of the Respondents is illegal and without following the provisions of National Highways Act, 1956 and thereby further declare that the action of proposed demolition would violate the rights of the Petitioners to the property under Article 330-A of the Constitution of India;

d. That this Hon'ble Court may be pleased to issue appropriate writ, directions and orders thereby declaring the Report of IIT Bombay dated 22.9.2025 (Exh. "K") is illegal, bad in law and requires to be set aside forthwith;

e. Pending the hearing and final disposal of the present Writ Petition, this Hon'ble Court may be pleased to restrain the Respondents, their officers, agents, contractors or any other third parties claiming through them from demolishing the portions of the affected structure situated at Village Bhoirgaon and Village Kukse, Tal. Bhiwandi, Dist. Thane (described under Exh. "K");

f. Pending the hearing and final disposal of the present Writ Petition, this Hon'ble Court may be pleased to restrain the Respondents, their officers, agents, contractors or any other third parties from interfering the peaceful possession of the Petitioners until the Respondents follow due process of acquisition of the said land and affected structure situated at Village Bhoirgaon and Village Kukse, Tal. Bhiwandi, Dist. Thane;

g. Pending the hearing and final disposal of the present Writ Petition, this Hon'ble Court may be pleased to stay the effect and implementation of the Report of IIT Mumbai dated 22.9.2025;

2. Insofar as grievance of the Petitioner more particularly in the light of the report of the IIT Bombay, we would not be in a position to interfere in the present proceedings filed under Article 226 of the Constitution of India and more particularly as the land acquisition Award has already been made, under the Land Acquisition Proceedings in the year 2023. It appears that part of the godown premises of the Petitioner appear to have been affected by such acquisition. In regard to the structural stability of the part godown, there is already a report dated 22nd September 2025, placed on record by the Petitioner, of the Indian Institute Technology, Bombay as obtained by the National Highway Authority. The report has made substantive suggestions.

3. Learned counsel for Respondent No.1 Mr. Singh, on instructions, submits that all such precautions and more particularly concerning the strengthening measures to be undertaken for the partially dismantled godown shall be adhered and complied by the National Highway Authority of India (NHAI).

4. The grievance of the Petitioner is also in regard to the access not being available to the Petitioner's remaining land because of the acquisition of the Petitioner's land and a compound wall. Responding to such contentions Mr. Singh on instructions informs that in fact the National Highway Authority intended to provide access to the Petitioner, however Petitioner has not permitted the representatives of the National Highway Authority to undertake the work in that regard. If this be so, the access shall be appropriately demarcated before any further action of demolition is undertaken. The report obtained from IIT Bombay shall also be implemented. The demarcation of the access shall be carried out within 15 days from today. All contentions of the parties in that regard are expressly kept open.

5. Insofar as the loss/damage etc. alleged to have been incurred by the Petitioner is concerned, over and above the award amount as awarded, being claimed by the Petitioner, in our opinion such issues are required to be raised before the Arbitrator as per the provisions of 3G(5) and (7) of the National Highways Act 1956. Thus, keeping open all such contentions and accepting the aforesaid statement made on behalf of the National Highways Authority, in our opinion further adjudication of this Petition is not called for.

6. In the event if the Petitioner intends to pursue the proceedings before the Arbitrator, if the same are filed within a period of 4 weeks from today, let the same be considered without an objection as to the Limitation.

7. Needless to observe that the Arbitrator shall adjudicate on the application which may be filed by the Petitioner in accordance with law. All contentions on such proposed proceedings are also expressly kept open.

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

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)