

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16979 OF 2025

M/s. Mahavir Enterprises

...Petitioner

Versus

The Land Acquisition Officer and Dy.

Collector, General Administration, Thane & Ors.

...Respondents

Mr. Nitin Thakker, Sr. Adv. a/w Vivek Punjabi (through V. C.), Priyansh Jain and
Sahil Panjwani for Petitioner.

Ms. Savita Prabhune, AGP for Respondent No.1.

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

DATE: 16 DECEMBER 2025

P.C.

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

"a. That this Hon'ble Court be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction in the nature thereof, directing the Respondents to forthwith determine and disburse to the Petitioner the compensation payable under Section 19B(5) of the Maharashtra Highways Act, 1955, in respect of the extinguished and/or impaired easementary and appurtenant rights relating to the subject property.

b. That this Hon'ble Court be pleased to issue a writ of mandamus, or any other writ in the nature thereof, directing the Respondents to pay to the Petitioner the statutory interest contemplated under Section 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for the compensation payable towards extinguished and/or impaired easementary and appurtenant rights under Section 19B(5) of the Maharashtra Highways Act, 1955, from the date of the Consent Sale Deed/ award dated 18th July 2018, duly registered with the office of the sub registrar of Assurances at Shahapur under serial no.SHP/411 of 2018, until the date of actual payment.

c. That this Hon'ble Court be pleased to direct Respondent No. 3, Maharashtra State Road Development Corporation Limited (MSRDC), being the Implementing Agency, to deposit with Respondent No. 1 the requisite amount of compensation determined under Section 19B(5) along with interest, within such time as this Hon'ble Court may deem fit and proper;

d. Pass such further orders, directions, or reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, including costs of this petition."

2. It is not in dispute that the petitioner's land was the subject matter of acquisition for the Mumbai - Nagpur Express Highway, namely, Samruddhi Mahamarg.

3. The case of the petitioners is that although the petitioner had agreed for a consent award in terms of the agreement entered between the parties dated 18 July 2018 under Section 19B(2) of the Maharashtra Highways Act, 1955, the petitioner would nonetheless be entitled to 10% additional compensation in terms of sub-section (5) of Section 19B. Section 19B is required to be noted which reads thus:

"(1) Where any land is acquired by the State Government under this chapter there shall be paid an amount of compensation which shall be determined in accordance with the provisions of this section.

(2) Where the amount of compensation has been determined by agreement between the State Government and the person to be compensated, it shall be determined in accordance with such agreement.

(3) Where no such agreement can be reached, the State Government shall refer the case to the Land Acquisition Officer for determination of the amount of compensation to be paid for such acquisition and also the person or persons to whom such compensation shall be paid :

Provided that, no compensation exceeding such amount as the State Government may by general order specify, shall be determined by the Land Acquisition Officer without the previous approval of the State Government or such Officer as the State Government may appoint in this behalf:

[Provided further that, the State Government while issuing the general order under the preceding proviso shall adhere to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), relating to the determination of amount of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families.]

(4) Notwithstanding anything contained in sub-section (3), if, after the case is referred to the Land Acquisition Officer under the said sub-section (3) but before he finally determined the amount of compensation, such amount is determined by agreement between the State Government and the person to be compensated, the compensation shall be determined by the Land Acquisition Officer in accordance with such agreement.

(5) Where the right of user of any right in the nature of an easement on any land is acquired under this Act, there shall be paid, to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition, an amount calculated at ten per cent. of the amount determined under sub-section (2) or sub-section (3), as the case may be, for that land.

(6) Before proceeding to determine the amount under sub-section (3) or sub-section (5), the Land Acquisition Officer shall give a public notice published in two local newspapers, one of which shall be in a vernacular language, inviting claims from all persons interested in the land to be acquired.

(7) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 17 before the Land Acquisition Officer, at a time and place, and to state the nature of their respective interest in such land.

(8) If the amount determined by the Land Acquisition Officer under sub-section (3) or sub-section (5) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the State Government.

(9) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(10) The Land Acquisition Officer or the arbitrator while determining the amount under sub-section (3) or sub-section (8), as the case may be, shall take into consideration,-

(a) the market value of the land on the date of publication of the notification under section 15 ;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land ;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings ;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change:

[Provided that, the Land Acquisition Officer or the arbitrator shall consider the general order of the State Government issued under the first proviso to sub-section (3) relating to the determination of amount of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).]"

(emphasis supplied)

4. The petitioner has thus invoked the provisions of sub-section (5) of sub-section 19B on the ground that the petitioners have lost all access to the land, as on one side the access is blocked by the Samruddhi Mahamarg i.e., the purpose for which the land was acquired and on the other side there is no access due to the railway line.

5. If this be the case, and if by inadvertence the parties have not arrived at any specific agreement in regard to the application of sub-section (5) of Section 19B, in that event, in our opinion, the Competent Authority would be required to consider the petitioner's plea, which is purely based on the application of the provisions of law.

6. We however find that although a prayer for mandamus is made, the petitioner has not applied and/or made any representation to the Competent Authority demanding justice. The principles of law in this regard are well settled that unless there is a demand for justice, a prayer for a writ of mandamus would not lie or would be maintainable. In this view of the matter, we are inclined to dispose of this petition by the following order:

ORDER

(i) The petitioner is permitted to make a representation/application to the Competent Authority seeking redressal of its grievances, more particularly as observed hereinabove espousing sub-section (5) of Section 19B. If such representation is made within two weeks from today, the authority shall consider the same and pass an appropriate decision in accordance with law, on the said representation after hearing the petitioner.

7. All contentions of the parties in that regard are expressly kept open.

8. The petition stands disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)