
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 4097 OF 2025
IN
FIRST APPEAL NO.300 OF 2015**

**WITH
INTERIM APPLICATION (ST) NO.20390 OF 2025
IN
FIRST APPEAL NO. 300 OF 2015**

Shri Shankar Vitthal Patil (Deceased)
through LRS Smt Parvati S. Patil & Ors .. Applicants

In the Matter Between

The State of Maharashtra .. Appellant
(Orig.Opponent)

Versus

Shankar Vitthal Patil & Ors ..Respondents
(Ori.Claimants)

ANJALI TUSHAR ASWALE
Digitally signed
by ANJALI
TUSHAR
ASWALE
Date: 2025.07.14
17:00:19 +0530

Mr. Shriram Kulkarni, Advocates for the Applicants.

Mr. A. R. Patil, Addl.G.P., Advocates for the State / Original Appellant.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE: JULY 11, 2025

P. C.

1. Both the above Interim Applications [i.e. I.A. No.4097 of 2025

and I. A. (St.) No. 20390 of 2025] are filed by the Applicants who are Respondents in the above Appeal. They were the Original Claimants in Land Acquisition Reference, being LAR No. 691 of 2000 and which was partly allowed by the Civil Judge, Senior Division, Alibag by a Judgment and Order dated 13th May 2013. For the sake of convenience, the Applicants herein shall be referred to as the Original Claimants.

2. Initially, the land of the Original Claimants admeasuring approximately 21300 Sq.Mtrs. situated at village Bokadvira, Tal. Uran, was the subject matter of acquisition proceedings. This land of the Original Claimants was acquired by the Appellant – State for the New Bombay project. For this acquisition, an Award was passed on 25th September 1989 and compensation was awarded to the Original Claimants at Rs. 50,000/- per acre. The Original Claimants accepted the said amount under protest, and after getting a certified copy of the Award, filed LAR No. 691 of 2000. The other branch of the Original Claimants' family, also, filed LAR No.730 of 2000.

3. On 13th May 2013, LAR No.691 of 2000 filed by the Original Claimants and LAR No.730 of 2000 filed by other branch, were disposed of by a common judgment and order passed by the CJSD Alibag. Being

aggrieved by this judgment, the State Government, through the SLAO metro centre-3, Uran, filed the above Appeal challenging the said judgment passed by the CJSD, Alibag in LAR No.690 of 2000 along with Civil Application No. 670 of 2014.

4. On 13th February 2015, while admitting the above Appeal, a stay was granted to the execution of judgment passed by the CJSD, Alibag (in LAR No. 690 of 2000], on the condition that the Appellant shall deposit the entire decretal amount within a period of 12 weeks, and permitted the Original Claimants to withdraw their share of the said amount on furnishing a Bank Guarantee to the satisfaction of the Trial Court, and which was to be kept alive till the decision of this Appeal. On 14th September 2015, the Appellant–State deposited an amount of Rs.8,59,25,324/-.

5. After all this, on 21st April 2018, the Trial Court permitted the Original Claimants to withdraw their share of the said amount along with interest by furnishing a 100% Bank Guarantee, and after verifying the identity of the Claimants.

6. Initially, the Org. Claimants filed I. A. No.4097 of 2025 for withdrawal of the compensation to the extent of their 50% share, on

furnishing an Indemnity Bond and undertaking. Inadvertently, the Respondents did not seek modification of the order dated 13th February 2015 for modifying the condition of furnishing a Bank Guarantee. Therefore, the Org. Claimants have filed I. A. (ST) No.20390 of 2025 seeking modification of the order dated 13th February 2015, so as to allow them to withdraw the decretal amount by furnishing an Indemnity Bond and Undertaking, on such terms and conditions as this Court thinks fit. This is how both the above Interim Applications have come up before us today.

7. The learned Additional G.P. appearing on behalf fo the Original Appellant vehemently opposed the grant of any reliefs in the above Interim Applications. He submitted that no case whatsoever is made out for seeking a modification of the Order dated 13th February 2015, which imposed a condition on the Respondents / Original Claimants to furnish a Bank Guarantee, as a condition precedent for withdrawing any amount deposited with the Trial Court. He, therefore, submitted that the above Interim Applications ought not to be entertained and the same be dismissed with costs.

8. We have heard the learned Advocate appearing on behalf of the Original Claimants as well as the learned Additional G.P. appearing on behalf

of the Original Appellant. It is not in dispute that the land of the Original Claimants has been acquired by the State. It is also not in dispute that being aggrieved by the compensation awarded by the Land Acquisition Officer, the Original Claimants preferred LAR No.691 of 2000. This Reference was answered in favour of the Original Claimants and the compensation payable to them was enhanced by the Judgment and Order passed by the CJSD, Alibag, dated 13th May 2015. When we look at these facts, and finding that the Original Claimants till date have not been able to enjoy the fruits of the decree passed in their favour, we are of the view that in the peculiar facts and circumstances of this case, the Order dated 13th February 2015 putting a condition on the Original Claimants to permit the withdrawal of the decretal amount on furnishing a Bank Guarantee would be too onerous. We are of the view that the interest of the Appellant–State would be adequately protected by permitting the Original Claimants to withdraw 60% of their 50% share in the compensation amount deposited by the Appellant–State in the Trial Court. The balance 40% of their 50% share would continue to be kept in Fixed Deposits in a Nationalized Bank. We are inclined to modify the condition of furnishing a Bank Guarantee because it is common knowledge that most banks ask their constituents to maintain a 100% margin of the amount of the Bank Guarantee. It is for this reason that we are inclined to modify the Order dated 13th February 2015.

9. As mentioned earlier, on 14th September 2015, the Original Appellant deposited with the Trial Court the sum of Rs. 8,59,25,354/-. The Original Claimants' 50% share in this compensation would come to Rs. 4,29,62,662/-. Since we have held earlier that the Original Claimants would be entitled to withdraw 60% of their 50% share, they are permitted to withdraw a sum of Rs.2,57,77,598/- from the Trial Court upon furnishing an Indemnity Bond and Undertaking to the Trial Court stating that in the event the above Appeal succeeds, the Original Claimants shall bring back the amounts withdrawn by them, or any part thereof, as this Court may direct, together with interest at such rate as this Court may decide at the hearing and final disposal of the above Appeal.

10. Interim Application No.4097 of 2025 and Interim Application (st) No.20390 of 2025 both are disposed of in the aforesaid terms. No order as to costs.

11. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]