



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.795 OF 2021

PETITIONER :- Sanjay S/o Madhukar Joshi,
Aged : 55 yr, Occup : Agriculturist, R/o :
At Post Saykheda, Tal and Dist. Washim.

..VERSUS..

RESPONDENTS :- 1) The State of Maharashtra, Through its
Secretary, Department of Revenue and
Forests, Mantralaya, Mumbai.
2) The District Collector, Collector office,
Washim.
3) The Competent Authority & Sub-
Divisional Officer, Land Acquisition,
Washim, Tal : and Dist: Washim.
4) The Project Director, National Highway
Authority of India, Amrawati Division,
Amrawati.

Mr V.B. Patil, Adv. h/f Mr. V.P. Kadam, Adv. for petitioner.
Mr N.R. Patil, A.G.P. for respondents/State.
Mr. A.A. Kathane, Advocate for respondent No.4.

CORAM : ANIL S. KILOR AND
VRUSHALI V. JOSHI, JJ.

DATE : 05/08/2025

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.

2. **Rule.** The Rule is made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.

3. A small issue is involved, which is no longer *res-integra* in view of the judgments of this Court. The issue is whether, after an award is passed, the authority can issue second award revising the first award.

4. The brief facts of the present case are as under :-

The petitioner land was acquired by the respondent No.3. The award was passed on 19.07.2019 determining the compensation amount to the tune of Rs.3,66,51,520/-. The said award was approved by the Competent Authority of National Highways Authority of India (hereinafter referred to as "NHAI") i.e. the regional office NHAI, Nagpur. Thereafter, the said amount was deposited with the Competent Authority Land Acquisition (hereinafter referred to as "CALA") and S.D.O., Washim, on 07.11.2019, in compliance of Section 3(H)2 of the National Highways Act, 1956.

5. Subsequently, on 21.11.2019, the award came to be modified and the amount of compensation was reduced to Rs.1,66,85,258/-.

6. The Aurangabad Bench of this Court, in Writ Petition No.1883 of 2018 and in connected matters, passed judgment on 08.11.2019, in similar facts and circumstances as the present case, it has held thus :-

“20. It is trite that if any statute requires a particular thing to be done in a particular manner it has to be done in that manner only otherwise not to be done at all. Respondent no.3, while preparing the second award has not only corrected the first award but has passed a different award altogether. It was also not a case of clerical or arithmetical corrections but the market value has been reduced by respondent no.3 while passing the second award. Respondent no.3 assumed the authority not vested with him.

21. One thing that needs to be considered is that the award passed by respondent no.3 can be challenged before the Arbitrator by any party, even by the acquiring body. But under the Act-2013 that right is not given to the acquiring body or the State. That is the marked difference in both the statutes. In view of that, if there is some mistake committed in the award, the acquiring body or any such person has a right to challenge the said award and probably for the said reasons the provision for correction of award is not incorporated under the National Highways Act, 1956.

23. In normal course, we would certainly not have entertained the petitions and would have relegated the petitioners to the remedy available under the provisions of the National Highways Act, 1956. However, in the present matter, after the final award was passed respondent no. 3 ventured to pass the second award in respect of the same lands and reduced the valuation of the lands and that too after respondent no. 4 had accepted the final award and also deposited the amount of compensation. No material is placed on record to suggest as to what prevailed upon respondent no. 3 to reduce the valuation and pass second award after the final award was passed. The act of respondent no. 3 in passing the second award without the first award being rescinded is arbitrary, illegal and does not stand to reason.”

7. In another judgment of the Aurangabad Bench in the case of *Bhupendrasingh S/o Sardarsingh Parmar ..vs.. Competent Authority for National High and others*, reported in **2019 Legal Eagle (BOM) 1883**, it has observed thus :-

"28.The net result of the discussion, as made above, is that the provisions of section 33 of the Act of 2013, are not available to the Competent Authority constituted u/s. 3(a) of the NH Act, 1956, in the process of acquisition of land under the NH Act, 1956 and 15 thus, it is impermissible for the Competent Authority to make any correction or for that matter to pass any order in the nature of correction of an award or for that matter an amended award. Once the award has been passed by the Competent Authority, the Competent Authority loses any authority to tinker with it in any manner whatsoever."

8. The above referred both the judgments have categorically held that, it is not permissible for SDO and CALA to revise first award. This course of action is not available to SDO and CALA, Washim. Accordingly, we pass the following order:

- i) The writ petition is **allowed**.
- ii) The order dated 21.11.2019 issued by the respondent No.3 – CALA, modifying the order dated 19.07.2019, is hereby quashed and set aside.

- iii) In view of this order, the respondent No.3 shall take steps to disburse the amount to the persons entitled to receive the compensation, at the earliest.

Rule is made absolute in above terms. No costs.

(VRUSHALI V. JOSHI, J.)

(ANIL S. KILOR, J.)

C.L. Dhakate