



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

WRIT PETITION NO. 7623 OF 2023

- PETITIONERS :**
1. Sau. Anuradha w/o Dyndeo Ingle
Aged about 69 years, Occu Agriculturist,
R/o at Nimgaon, Tq. Nandura,
Dist. Buldhana.
 2. Mahendra s/o Manakchand Soni,
Aged about 65 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
 3. Vilas s/o Shaligram Chopde
Aged about 49 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
 4. Ramesh s/o Kashiram Nasurde
Aged about 49 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
 5. Shrikrishna s/o Mahadeo Kawale
Aged about 42 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
 6. Vitthal s/o Jagdeo Bore
Aged about 56 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
 7. Bhagawan s/o Samadhan Bajode
Aged about 50 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
 8. Purushottam s/o Jaideo Ingle
Aged about 31 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.

9. Sau. Bhavana Yogesh Lalwani
Aged about 42 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
10. Ashok s/o Ganpat Nasurde
Aged about 58 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
11. Bhagwan s/o Pandurang Kawle
Aged about 46 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
12. Gajanan S/o Shaligram Chopde
Aged about 61 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
13. Kishor S/o Ramdas Bore,
Aged about 50 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
14. Vijay S/o Ramdas Bore,
Aged about 50 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
15. Rambhau s/o Pundlik Kawale
Aged about 50 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
16. Ramesh s/o Ukarda Wankhede
Aged about 57 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.

17. Gopal s/o Ramrao Khode
Aged about 50 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
18. Vikas s/o Pandhari Ingle
Aged about 45 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
19. Vinod s/o Pandhari Ingle
Aged about 50 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
20. Megha w/o Gajanan Bore
Aged about 45 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
21. Amol s/o Maroti Ingle
Aged about 37 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.
22. Ananta s/o Maroti Ingle
Aged about 34 years, Occ: Agriculturist,
R/o Nimgaon, Tq. Nandura,
Dist. Buldhana.

VERSUS

RESPONDENTS :

Amended as per
Court order
dtd.8.11.2023.

Amended as per
Hon. Court's order
dt. 28/02/25.

1. State of Maharashtra
Through its Secretary,
Department of Revenue,
Mantralaya, Mumbai – 32.
2. Collector, Buldana,
Tq. and District Buldana.
3. Vidarbha Irrigation Development
Corporation, through its Executive
Engineer, Khamgaon, Dist. Buldana.

Shri S. D. Chopde, Advocate for petitioners.

Shri D. P. Thakare, Additional Government Pleader for respondent Nos.1 and 2.

Shri M. G. Bhangde, Senior Counsel a/b Shri R. M. Bhangde, Advocate for respondent No.3.

CORAM:- NITIN W. SAMBRE AND
SACHIN S. DESHMUKH, JJ.

DATED : 18/06/2025

JUDGMENT : (PER SACHIN S. DESHMUKH, J.) :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. Petitioners have put forth following prayers:

“i] quash and set aside the impugned notification dated 03/10/2023 by the respondent no.2 Collector, Buldhana under Section 11(1) of Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlements Act 2013 (Annexure-F);

ii] grant stay to the impugned notification dated 03/10/2023 by the respondent no.2 Collector, Buldhana under Section 11(1) of Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlements Act 2013 (Annexure-F);

iii] grant ad-interim relief in terms of prayer clause (ii);

iv] restrain the respondent no.2 Collector Buldhana from acquiring the land of the petitioner;

v] allow the petition with cost.

vi] Grant any other relief which this Hon’ble Court deems fit and proper in the facts and circumstances of the case, in the

interest of justice.”

3. The challenge put-forth by the petitioners is to the Notification dated 03/10/2023 passed by the authorities under Section 11(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (For short, “Act of 2013”) is raised since the lands belonging to the petitioners herein are put to acquisition. In relation to the project namely the “Jigaon Major Project”, the lands in question of the petitioners are acquired for rehabilitation of the village Yerli impacted by the aforesaid project, the process in relation to which commenced in the year 2008 by the State Government by its communication dated 29/07/2009 temporarily stayed the acquisition proceedings for the reason that the acquired land and other Government lands were available, therefore, new acquisition proceeding was temporarily halted. Thereafter, the Notification under Section 4 was issued on 02/02/2013 for acquisition of the land of the petitioners admeasuring 30.91 hectares was issued. The further case of the petitioners is that a meeting was conducted presided by the Minister of Rehabilitation and all other officers where it was agreed to drop the acquisition proceedings in relation to the land of the petitioners. In spite of the aforesaid understanding in the meeting dated 01/10/2013, acquisition

proceedings were underway. Therefore, the petitioners approached this Court by presenting Writ Petition No.6881/2013. Considering the departure from the statutory mandate in relation to Sections 6 and 7, this Court vide Judgment dated 19/01/2023 declared the award dated 02/12/2015 rendered in LAC No.10/2008-09, Mouza Nimgaon, Tq. Nandura, Dist. Buldhana as contrary to the statute. However, liberty was granted to the respondents to take appropriate steps in accordance with law, if they desire to acquire the aforesaid land afresh. Thereafter, the respondent – authorities issued a notification dated 03/10/2023 under Section 11(1) of Act of 2013 for acquisition of land of the petitioners for rehabilitation of village Yerli which is the subject matter of challenge in the present petition. The same is assailed on the ground of non-compliance on the part of respondent – authorities with Section 15 of the Act of 2013 which has vitiated the impugned notification since the objection presented by the petitioners herein is not dealt at all by the Collector as mandated by Section 15. This Court while issuing notice taking into account the report submitted by the Collector directed that the acquisition proceedings may continue, however, it was directed that the possession of the petitioners shall not be disturbed until further orders.

4. Accordingly, the respondents have caused their respective appearance and put forth respective responses. It is the contention of the respondent No.2 that there is sanction accorded by the Ministry of Environment and Forest, Government of India on 11/05/2007 sanctioning the environment assessment to the project in question. Therefore, Part-II of Section 4 to 9 of the Act of 2013 which related to social impact assessment will not be attracted as contemplated under the proviso. However, the ground raised in the petition in relation to non-compliance with statutory mandate has not been dilated, nor there is any whisper in the said affidavit in relation to the compliance of mandate of statutory provision of the Act of 2013.

5. Equally, the respondent No.3 has also presented its response countering the contentions raised in the petition, in the process, it was attempted to suggest that the magnitude of the project is huge and the Government has incurred huge costs of Rs.8,039.10 crores out of total estimated cost of Rs.34,926.32 crores. It was further submitted that the project will provide irrigation facility to 87,580 hectares of land which is a river valley project as per the environment impact assessment notification of the year 2006 failing under Item No.1(c)(ii) of the Schedule

appended to EIA Notification 2006 providing for river valley project with more than Rs.10,000 hectares of culturable command area. It was further submitted that the project has reached to the advanced stage. Therefore, if the lands of the petitioners situated at Nimgaon are not acquired, it will halt the project and it will cause loss to the public exchequer to the colossal scale, and further submitted that the attempt of the petitioners to stall the project of such huge magnitude will be detrimental to the public, resultantly prayed for dismissal of the petition.

6. Having considered the rival contentions put forth by the respective litigating sides, we have perused the material placed on record and the pleadings put forth by the respective litigating sides.

7. The bone of contention put forth by the petitioners Shri Chopde, learned counsel for the petitioners, is that the petitioners have approached this Court on successive occasions with a plea that the respondent-authorities have not adhered the statutory mandate. Although, the right to property is a constitutional right, it has migrated from Chapter-III of the Constitution of India from the purview of the Fundamental Rights pursuant to 44th

Constitutional Amendment. However, it still enjoys the status of being a constitutional and human right, in the dint of mandate of Article 300-A, land of the petitioners can be acquired save and except by the authority of law. It casts Constitutional obligation on the authorities to adhere to the statutory mandate, procedural impropriety on the part of the State is not permissible since Section 15 of the Act of 2013 is rather express and comprehensive. Therefore, wider meaning to the same will have to be given and in any eventuality, same cannot be annihilated as has been done by the respondent-authorities in an unprecedented manner while issuing the impugned notification, without dealing with objection of the petitioner. It was further brought to our notice that the petitioners were before this Court by presenting Writ Petition No.6881/2013 raising challenge to the notification dated 23/12/2023. The challenge at that juncture was confined to the departure from Sections 6 and 7 of the Act, which is upheld by this Court and the observations more particularly, in Paragraph nos. 6, 7 and 8 rendered by this Court gains significance and therefore, it was not open for the respondent-authorities to breach, contravene and defy the mandate of Section 15 in any manner. Having suffered the order of this Court in the aforesaid writ petition, it was not open for the respondent-authorities to venture into the

adventure of defying the statutory mandate of Section 15 of the Act of 2013.

8. In support of the submissions, our attention is invited to the Judgment of the Hon'ble Apex Court in the case of **Kolkata Municipal Corporation and another Vrs. Bimal Kumar Shah and others**, reported in **2024 (10) SCC 533** more particularly on Para 33.2 which reads as under:

“33.2. The Right to be heard

33.2.1. Following the right to a meaningful and effective prior notice of acquisition, is the right of the property-bearer to communicate his objections and concerns to the authority acquiring the property. This right to be heard against the proposed acquisition must be meaningful and not a sham.

33.2.2. Section 5-A of the Land Acquisition Act, 1894, Section 3(1) of the Requisitioning and Acquisition of Immovable Property Act, 1952, Section 15 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and Section 3-C of the National Highways Act, 1956, are some statutory embodiments of this right.

33.2.3. Judicial opinions recognising the importance of this right are far too many to reproduce. Suffice it to say that that the enquiry in which a landholder would raise his objection is not a mere formality [In Nandeshwar Prasad v. State of U.P., 1963 SCC OnLine SC 245 : AIR 1964 SC 1217, this Court has held the right under Section 5-A of the Land Acquisition Act, 1894 to be a substantial one and it cannot be taken away. In Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai, (2005) 7 SCC 627, this Court has held that the right of submitting objections under Section 5-A of the

Land Acquisition Act, 1894 is a valuable right and the hearing given in pursuance of exercise of this right must not be rendered to a mere formality. In Union of India v. Shiv Raj, (2014) 6 SCC 564 : (2014) 3 SCC (Civ) 607, this Court held that the rules of natural justice have been ingrained in the scheme of Section 5-A of the Land Acquisition Act, 1894. In Competent Authority v. Barangore Jute Factory, (2005) 13 SCC 477, this Court observed that in the process from the initial notification to the final declaration, objections play a vital road. In Kamal Trading (P) Ltd. v. State of W.B., (2012) 2 SCC 25 : (2012) 1 SCC (Civ) 506, this Court quashed the land acquisition proceedings when a proper hearing under Section 5-A of the Land Acquisition Act, 1894 was not accorded. In Gojer Bros. (P) Ltd. v. State of W.B., (2013) 16 SCC 660 : (2014) 5 SCC (Civ) 588, this Court quashed the land acquisition proceedings when it was observed that a mere formality was rendered in the name of a hearing under Section 5-A of the Land Acquisition Act, 1894.]”

Thus, it can be conveniently held that the Right to be heard is comprehensive and essentially has to be considered from wider perspective and cannot be truncated to the extent as is attempted by the respondent-authorities.

9. The aforesaid judgment restates that the Right to Property is although drifted from Part-III i.e. Fundamental Right to Part-XII of the Constitution, there continues to be a potent safety net against arbitrary acquisition, hasty decisions making and unfair redressal mechanism.

10. Per contra, Shri M. G. Bhangde, learned Senior Counsel appearing for respondent No.3 has submitted that the petition is silent in relation to non-compliance of Section 15, it was further submitted that although the objection is presented by the petitioners herein, however, the same is not as contemplated under Section 15(1) (a) to (c) of the said Act. However, learned Senior Counsel so also learned Government Pleader have fairly conceded that the objection at page 253 of the paper book presented by the petitioners herein is not dealt at all by the Collector, who is the competent authority. The attempt of the learned Senior Counsel for the respondent No.3 to suggest that the objection is not in accordance with Section 15(1) (a) to (c), as such, no decision thereon hardly impacts in any manner. The Additional Government Pleader also adopting the arguments advanced on behalf of respondent No.3 reiterated the same stand on behalf of the State Authorities.

11. As far as the objection of the petitioners in relation to non-compliance or breach of Section 15 is concerned, the same ought to have been decided by the respondent – authorities. Since, the acquisition proceedings are controlled by the statutory regime, aimed to protect the constitutional, so also, statutory rights of

landowner's vis a vis ensures the obligations of the authorities to strictly comply same at every juncture. Thus, the acquisition proceedings must be commenced and concluded with above-stated procedural mandatory compliance. Taking into account the scheme of the Act, in any manner it does not absolve the State Authorities from making departure from statutory provision which is express in nature. Therefore, it is not open for the respondent – authorities herein to defy the mandate of statutory provisions, which lead to procedural impropriety and it has its own impact of vitiating the issuance of the notification. Having suffered an order in Writ Petition No.6881/2013, it was not open for the respondents to defy the mandate of statutory provision at any juncture, as the Coordinate Division Bench in express terms, while reliance is placed on the Judgment in the case of Ramrao s/o Pralhadrao Deshmukh (dead) through LRs Godavari w/o Ramrao Deshmukh and others Vrs. State of Maharashtra and others, reported in 2008 (2) Mh.L.J. 534, wherein the statement of law emanating is that the State authorities are required to follow the chronology as provided under the Statute. These observations ought to have been followed in the letter and spirit. However, the Collector, who is the appropriate authority under the Statute has defied the mandate of Section 15 by not deciding the objections presented by

the petitioners herein.

12. Apart from the aforesaid observations by the Co-ordinate Bench of this Court, we are further guided by the law laid down by the Apex Court in the case of **Dinesh and others Etc. Vrs. State of Madhya Pradesh and others Etc.**, reported in **AIR 2024 SC 2795**, wherein the Apex Court has held that the interpretation attempted to put forth by the respondents is ex-facie misplaced and misconceived, as the provisions contained under Section 15 of the 2013 Act are analogous to Section 5-A of the Land Acquisition Act, 1894 (Unamended Act) which was interpreted by the Apex Court in the catena of cases including in the case of **Om Prakash and another Vrs. State of U.P. and others**, reported in **(1998) 6 SCC 1**. It would be appropriate to reproduce the relevant paragraph which is paragraph no. 16 which reads as under:

“16. We are afraid that the said interpretation which is sought to be given by the respondents is ex facie misplaced and misconceived. The provisions contained in Section 15 of the Act of 2013 are analogous to Section 5-A of the Land Acquisition Act, 1894. This Court has interpreted Section 5-A of the Land Acquisition Act, 1894 in a catena of decisions. In the case of Om Prakash v. State of U.P.¹, it was held as follows:

“21.Thus, according to the aforesaid decision of this Court, inquiry under Section 5-A is not merely statutory but also has a flavour of fundamental rights under Articles 14 and 19 of the Constitution though right

to property has now no longer remained a fundamental right, at least observation regarding Article 14, vis-à-vis, Section 5-A of the Land Acquisition Act would remain apposite.”

13. Apart from the aforesaid observations, the observations in Para 17 in **Dinesh and others Etc** (supra) are squarely applicable to the present case, while considering Section 5-A of the Unamended Act, it is held that person whose property is being or intended to be acquired should have a proper and reasonable opportunity of persuading the authorities concerned that acquisition of the property belonging to that person should not be put to acquisition. The Legislature has, therefore, provided a complete inbuilt mechanism in itself to an interested person to file objection against the proposed acquisition and for the disposal of their objection. The further observations in relation to Section 5-A is that it confers a valuable right in favour of a person whose lands are sought to be acquired.

14. So also, observations in Para 18 are significant for deciding the controversial issue raised in the present petition which is reproduced as under:

“18.....it is not in dispute that Section 5 of the Act confers a valuable important right and having regard to the provisions contained in Article 300-A of the

Constitution, it has been held to be akin to the fundamental rights.”

15. Equally, the observations in Para 19 in the aforesaid decision based on interpretation of Section 15(2) of the Act of 2013 in the case of Shiv Singh Vrs. State of Himachal Pradesh reported in (2018) 16 SCC 270, is significant to decide the issue raised in the petition which reads thus:

“19. This Court has interpreted Section 15(2) of the Act of 2013 in the case of Shiv Singh v. State of Himachal Pradesh⁴, wherein it was held as under:—

“6. Under the scheme of the Act, once the objections are filed by the affected landowners, the same are required to be decided by the Collector under Section 15(2) of the Act after affording an opportunity of being heard to the landowners, who submitted their objections and after making further inquiry, as the Collector may think necessary, he is required to submit his report to the appropriate Government for appropriate action in the acquisition in question.

7. In this case, we find that the Collector neither gave any opportunity to the appellants as contemplated under Section 15(2) of the Act and nor submitted any report as provided under Section 15(2) of the Act to the Government so as to enable the Government to take appropriate decision. In other words, we find that there is non-compliance of Section 15(2) of the Act by the Collector. In our view, it is mandatory on the part of the Collector to comply with the procedure prescribed under Section 15(2) of the Act so as to make the acquisition proceedings legal and in conformity with the provisions of the Act.”

(emphasis supplied)”

16. Under the scheme of Act of 2013, once objections are presented by the affected land owners, the same are required to be decided by the Collector under Section 15(2) of the Act after affording an opportunity of being heard to the land owners, who presented their objections and after making further enquiry, as the Collector may think necessary. The Collector is also required to submit report to the appropriate Government for appropriate action in the acquisition in question. Thus, there is no escape route for the Collector to ignore the objection presented by the petitioners. The Apex Court in an unequivocal term has held “In our view, it is mandatory on the part of the Collector to comply with the procedure prescribed under Section 15(2) of the Act so as to make acquisition proceedings legal and in conformity with the provisions of this Act.”

17. Therefore, we have no hesitation in holding that the impugned notification dated 03/10/2023 is in gross violation of mandate of Section 15(2). The attempt of the learned counsel for the respondent No.3 to justify failure on the part of Collector while not deciding the objection is contrary to the law laid down by the Apex Court in the case of Dinesh (supra). However, an attempt was made by the respondents to draw support by relying on the

Judgment rendered by the High Court of Andhra Pradesh in Pallavi Premkumari Vrs. State of Andhra Pradesh reported in 2022 SCC OnLine AP 1034. We are afraid that we cannot countenance with such submission on behalf of respondent No.3 since the law laid down by the Apex Court in the case of Dinesh (supra) unequivocally binds us since the statement of law is rendered by the Apex Court vis a vis right to be heard is constitutional as well as statutorily recognized, same ought not to be tinkered or trammled in any manner or under any eventuality. Therefore, Rule is made absolute in terms of prayer clause (i). The respondents are at liberty to take appropriate steps in accordance with law, if they desire to acquire the aforesaid lands afresh.

18. At this juncture, it is informed to us that the petitioner No.2 has tendered no objection, however, in view of the order passed by us, setting aside the notification and in the fitness of the thing the petitioner No.2 is also at liberty to raise appropriate challenge at appropriate stage, as is provided under the Act. So far as the petitioner No.12 is concerned, he has accepted the compensation amount. In the light of the said fact, since the notification is quashed and set aside, we direct the petitioner No.12 to re-deposit the amount of compensation, if already

withdrawn with the Special Land Acquisition Officer within a period of six months from today with interest @ 6 % per annum from the date of withdrawal of the said amount, failing which the Special Land Acquisition Officer would proceed to recover the same as arrears towards land revenue in accordance with law. In light of the aforesaid, there shall be no order as to costs.

[SACHIN S. DESHMUKH, J.]

[NITIN W. SAMBRE, J.]

Choulwar