



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

WRIT PETITION NO. 626 OF 2025

Sham Sheshrao Mate, Aged about 62 years, R/o Bhirad
Mangal Karyalay, Jogalekar Plot, Dabki Road, Old City Akola.

PETITIONER

VERSUS

1. State of Maharashtra, Through Collector, Buldana.
2. Sub-Divisional Officer & Land Acquisition Officer,
Jalgaon Jamod, District Buldana.
3. Pandurang Shrihari Dethe, Aged about 70 years,
R/o Hingna, Kavathal, Tq. Sangrampur, Dist. Buldana.

RESPONDENTS

Shri H.R. Gadhia, Counsel for the petitioner.
Mrs. M.S. Naik, Assistant Government Pleader for the respondent nos.1 and 2.
Shri S.K. Wankhede, Counsel for the respondent no.3.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE ON WHICH ARGUMENTS WERE HEARD : SEPTEMBER 22, 2025

DATE ON WHICH JUDGMENT IS PRONOUNCED : NOVEMBER 03, 2025

JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the counsel for the parties.

2. By way of instant writ petition, the petitioner takes exception to the order dated 30.12.2024 passed by the respondent no.2 thereby rejecting the application filed by the petitioner for reference of dispute under Section 76 of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act of 2013') and directing payment compensation to the respondent no.3.

3. The primary contention of Shri H.R. Gadhia, learned counsel for the petitioner is that in the wake of a dispute raised by the petitioner with respect to title of land, based on sufficient documentary evidence

depicting a *bona fide* dispute, the reference under Section 76 of the Act of 2013 was necessitated. In order to point out existence of a dispute, the learned counsel for the petitioner has adverted attention to the following factual aspects:

(i) Land bearing Gat No.51 admeasuring 5 Hectare 26 Are was initially owned by one Shardabai Morkhade and by a registered sale-deed dated 31.03.1996, the land was sold to the petitioner. Thereafter, Shardabai executed another registered sale-deed dated 08.05.2000 and sold 1 Hectare 62 Are of land from Gat No.51 to the respondent no.3. On 28.01.2002, said Shardabai wrote a communication to the Tahsildar that she has no objection for mutating the name of the petitioner over land bearing Gat No.51 admeasuring 5 Hectare 26 Are.

(ii) Upon getting knowledge of sale-deed dated 08.05.2000 executed in favour of the respondent no.3, the petitioner lodged a complaint dated 13.07.2002 against Shardabai and her husband with Police Station Sangrampur. In view of this controversy between the parties, an unregistered compromise deed was executed on 17.08.2002 and accordingly Shardabai had given a cheque of Rupees One Lakh to the petitioner, however the said cheque was dishonoured and the petitioner thereafter filed a criminal case bearing S.C.C. No.1500 of 2003 against Dwarkadas (husband of Shardabai) for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. After death of Dwarkadas, said criminal case came to be withdrawn.

(iii) Regular Civil Suit No.58 of 2009 came to be filed by Shardabai seeking declaration and perpetual injunction against the petitioner which ultimately came to be withdrawn on 29.07.2022.

(iv) Further, a separate suit bearing Regular Civil Suit No.49 of 2021 was filed by Dwarkadas against Shardabai and the petitioner herein seeking declaration, possession and perpetual injunction before the Civil Court, Sangrampur which came to be withdrawn on 29.07.2022.

(v) Pertinently, a third suit bearing Regular Civil Suit No.49 of 2021 came to be filed by the petitioner against Shardabai and the respondent no.3 in Civil Court, Sangrampur for possession of Gat No.51, which is pending as on today. Similarly, Regular Civil Suit No.47 of 2022 came to be filed by the petitioner against the Collector, Buldana and the respondent no.3 herein, seeking declaration that the respondent no.3 had no right over Gat No.51. However, the said suit came to be rejected under Order VII Rule 11 of the Code of Civil Procedure, 1908 by order dated 04.02.2023 in view of the bar under Section 63 of the Act of 2013.

(vi) A portion of land from Gat No.51 admeasuring 1 Hectare 62 Are came to be acquired vide land acquisition award dated 27.12.2023. The petitioner raised an objection before the land acquisition officer about disbursal of the amount of compensation to the respondent no.3 vide objection dated 08.02.2023. Apart from this, the petitioner filed a separate application on 08.07.2024 seeking reference of dispute under Section 76 of the Act of 2013.

(vii) On 30.12.2024, the respondent no.2 passed the order rejecting the application for reference which is subjected to challenge by way of instant writ petition.

4. After narrating the sequence of events, the learned counsel for the petitioner submitted that in view of the rival sale-deeds on record and in view of the existence of a *bona fide* dispute with respect to title of the land, it was obligatory on the part of the respondent no.2 to refer the dispute under Section 76 of the Act of 2013. He submitted that despite there being a dispute, the respondent no.2 has himself adjudicated the dispute by wrongly observing that there does not exist any dispute. As such, it is submitted that the impugned order is without jurisdiction.

5. As against this, the learned Assistant Government Pleader appearing for the respondent nos.1 and 2 and the learned counsel for the respondent no.3 opposed the writ petition and justified the impugned order. By pointing out the observations of the respondent no.2 as recorded in the impugned order, it is submitted that all the relevant documents and sequence of events have been given due consideration and the respondent no.2 has rightly inferred that there was no need to refer the dispute to the reference authority. It is submitted by the learned counsel for the respondent no.3 that the order of disbursal of compensation in favour of the respondent no.3 is rightly passed in view of the mutation entries in the 7/12 extract as well as Form 8A standing in favour of the respondent no.3 and having regard to the fact that the possession of the land in question is with the respondent no.3. It is therefore submitted by the learned counsel for the respondents that the respondent no.2 has acted in accordance with the procedure of disbursal of compensation and there is no perversity in the impugned order.

In support of their submissions, the learned counsel for the respondents heavily relied on the judgment of Single Bench of this Court

in Writ Petition No.5181 of 2022 [*Mahadev Sukhdeo Rokade Versus The Collector/Land Acquisition Officer, Buldana*] and submitted that the competent authority has a discretion to refer the dispute in case the dispute is a genuine one. It is primarily contended that the petitioner has failed to demonstrate his ownership over any portion of land as on today based on any mutation entry standing in his name or any possession of land in his name. As such, it is submitted that the dispute sought to be raised is not a bona fide dispute. It is therefore submitted that the impugned order needs no interference of any kind.

6. The controversy involved in the instant writ petition is of a narrow compass. The issue is whether despite petitioner having raised a *bona fide* dispute, which *prima facie* appears to be a genuine dispute considering pendency of a civil suit, the respondent no.2 has committed any illegality in rejecting the objection and application for reference of the dispute to the Land Acquisition Tribunal.

7. It has to be noted that the petitioner has submitted his objection dated 08.02.2023 to the respondent no.2 with respect to disbursal of the amount of compensation by raising the triable issue pointing out that there is a dispute about the title with respect to the land acquired and in view of pendency of Regular Civil Suit no.49 of 2021, the amount of compensation may not be disbursed. Apart from this, the petitioner had also filed a separate application dated 08.07.2024 for referring the matter under Section 76 of the Act of 2013 to the Land Acquisition Tribunal constituted under the Act of 2013 by pointing out that the petitioner is also owner of a portion of the land and amount of compensation may not

be disbursed only by considering the entries in 7/12 extract or possession of the land which is under challenge. It is thus clear that the respondent no.2 was made aware about the pendency of a dispute in between the parties related to title to the land and thus in view of the controversy involved, it became clear that a *bona fide* dispute existed.

8. A bare perusal of provisions of the Act of 2013 clearly show that for the purpose of resolving disputes related to the apportionment of compensation or any part thereof or as to the person to whom the same or any part thereof is payable, in accordance with Section 76 of the Act of 2013, the Collector may refer the dispute to the Authority, constituted under the Act of 2013. Pertinent to note that the Authority constituted under the Act is the Tribunal which is presided over by a person who is or has been a District Judge or a qualified legal practitioner for not less than seven years, as provided under Section 53 of the Act of 2013. Thus, it is clear that an Authority is specifically provided for deciding the disputes with respect to apportionment of compensation or the entitlement of the persons in case of dispute related to title. Further, Section 64 of the Act of 2013 also deals with reference to the Authority and it provides that in case of an objection about the person to whom the amount of compensation is payable, the matter is to be referred by the Collector for the determination of the Authority constituted under the Act. As such, in view of these provisions, in case a dispute is raised by any person claiming to be interested in the amount of compensation or part thereof, the Collector is required to refer the matter to the Tribunal which is authorised to decide the dispute. It is also clear that the Collector is not required to adjudicate the dispute on its own and refuse to refer the matter to the Tribunal. In

the instant case, it is clear that although a dispute was raised by the petitioner by his objection and even demonstrated in the application for reference, thereby categorically raising the controversial issues about title to the property and about legality of the mutation entries based on possession, it was incumbent upon the respondent no.2 to refer the dispute to the Tribunal in accordance with Section 76 of the Act of 2013.

9. A perusal of the impugned order shows that the respondent no.2 has taken upon itself the task of adjudication of the controversy and by only considering the entries in 7/12 extract and the possession of the land, has concluded that the respondent no.3 is the only person entitled for disbursal of the amount of compensation. It is surprising to see that the respondent no.2 has observed that in absence of any challenge to certain orders passed by the revenue authorities, the petitioner does not have any triable dispute. However, the respondent no.2 has not at all given due consideration to the fact that Regular Civil Suit No.49 of 2021 is pending before the civil Court and a separate Regular Civil Appeal no.6 of 2023 is also pending before the Court of District Judge, Khamgaon as pointed out by the petitioner in his application dated 08.07.2024 seeking reference of the dispute. While passing the order, the respondent no.2 has completely lost sight of this crucial aspect, which demonstrated that there is a *bona fide* dispute with respect to title of the land in question and therefore the order passed by the respondent no.2 does not stand to the scrutiny of law.

10. Pertinent to note that after the impugned order was passed on 30.12.2024, the petitioner had filed the instant petition on 16.01.2025, raising challenge to the said order. By letter dated 16.01.2025, the

petitioner gave an intimation to the respondent no.2 about filing of the instant petition and requested to stop the disbursement of the amount of compensation to the respondent no.3. Pertinently, this Court has passed order on 04.02.2025, issuing notice in the petition and granting an interim relief to restrain the disbursal of the amount of compensation, if not disbursed. It is submitted that despite receiving intimation about filing of the instant petition, the amount of compensation came to be disbursed in favour of respondent no.3. Thus, even though there was no interim relief at the time of disbursal of the amount, it is surprising to see that the respondent no.2 had disbursed the amount of compensation, probably to frustrate the purpose of filing of the instant petition. It is to be noted that there is no plausible explanation by the respondent no.2 about the necessity to disburse the amount and haste in disbursal of the amount despite getting knowledge about filing of the instant petition. This conduct of the respondent no.2 is surprising and it is deprecated.

11. The controversy involved in the petition shows that there exists rival sale-deeds for the same piece of land from Gat no.51 and in view of sale-deed in favour of the petitioner, the subsequent sale-deed executed by the same vendor has clearly culminated into a dispute, which requires adjudication. In view of the issues raised by the petitioner by his objection and the application, the inference of the respondent no.2 in the impugned order that there exists no dispute, is apparently perverse.

12. While advancing his submissions, learned counsel for the petitioner has relied upon judgement of the Hon'ble Supreme Court in ***Vinod Kumar & Others Versus District Magistrate, Mau & Others*** [(2023) 19 SCC 126]

which lays down the position of law that in case any dispute arises as to entitlement of any person to claim the amount the compensation, the concerned authority shall refer the dispute for the decision of the Principal Civil Court of original jurisdiction as provided under the National Highways Act, 1956. By relying on this position of law, the learned counsel for petitioner submitted that, in the instant case, the dispute raised by the petitioner was required to be referred under Section 76 of the Act of 2013. Further, the learned counsel for petitioner has rightly relied upon the judgment of the Division Bench of this Court in ***Shrikrushna Shivshankar Chambhare (Patil) & Another Versus The State of Maharashtra & Others*** [Writ petition No.6218 of 2022] highlighting the legal position that the authority constituted under Section 76 of the Act of 2013 is entitled to decide the dispute about entitlement to receive the compensation. Relevant paragraph from the said judgement is reproduced below:-

“6. Having considered rival submissions, we are of the view that the dispute as to apportionment of the compensation should be resolved by the authority, as provided under sections 76 and 77 of the Act of 2013. The question of title to receive the compensation can also be agitated and decided by the authority. The grievance made by the Respondents that civil suit is pending and unless the rights of the parties are crystalized, the Petitioners will not be entitled to seek apportionment can be raised before the authority. The Respondent No.2 ought to have considered the provisions of the Act of 2013 and ought to have referred the dispute to the authority. However, he has rejected the objection raised by the Petitioners and passed the order dated 3rd October, 2022. The same will have to be set aside to give effect to present order and, accordingly, stands set aside.”

By considering the position of law, as laid down in the above mentioned judgements, I am of the considered opinion that in the wake of the dispute

being raised by the petitioner, *prima-facie* showing a genuine dispute, the same was required to be referred under Section 76 of the Act of 2013.

13. The contentions canvassed by the respondents that the respondent no.3 was entitled for the amount of compensation in view of the 7/12 extract standing in his name are not at all convincing in view of the pendency of disputes before the civil Court. It is pertinent to note that the petitioner has categorically pointed out the controversy by his application for reference and demonstrated that the entitlement of the respondent no.3 to have the possession of the land is itself under challenge. In view of these issues being pointed out the respondent no.2 ought to have seen that the entitlement of the respondent no.3 was not free from cloud.

14. As regards, the reliance placed by the counsel for respondent on the judgment in ***Mahadev Sukhdeo Rokade*** (Supra), it has to be seen that their existed no dispute and while considering the factual aspects, this Court has specifically observed that an attempt was made by the parties to create a dispute after a period of about twenty years. As such, since their existed no genuine dispute, this Court refused to make reference under Section 76 of the Act of 2013. As such, the facts of this case are clearly distinguishable and the aforesaid judgement is of no assistance to the respondents.

15. In view of the above mentioned factual and legal aspects, I am of the considered view that the petitioner has raised a *bona fide* dispute which was required to be referred under Section 76 of the Act of 2013. The order passed by the respondent no.2 rejecting the application for reference is unsustainable in law and deserves to be quashed and set

aside. Even though it is pointed out that the amount of compensation is already disbursed during pendency of the instant petition, interest of justice demands that the rights of the parties needs to be adjudicated by reference of dispute under Section 76 of the Act of 2013 to the competent Authority. The respondent no.2 is therefore authorised to take steps to ensure that the amount of compensation is secured and retained by it during the pendency of the reference, even by issuing necessary directions to the respondent no.3 to deposit the amount. The entitlement of the parties to the amount of compensation or part thereof would become clear only after the reference is decided by the competent authority. Hence, the following order is passed :-

- I. The writ petition is allowed.
 - II. The order dated 30.12.2024 passed by the respondent no.2, the Sub-Divisional Officer/Land Acquisition Officer, Jalgaon Jamod District Buldana is quashed and set aside.
 - III. The application dated 08.07.2024 filed by the petitioner seeking reference of the dispute to the Land Acquisition Tribunal, Nagpur stands allowed and the dispute stands referred accordingly.
16. Rule is made absolute in above terms. No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)