



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

WRIT PETITION NO. 3229 OF 2025

1. Charan Prakashchand Kankariya, Aged about 48 years,
Occ: Business, R/o Alankaran, Near Police Station,
Main Road, Deoli, Tah. Deoli, Dist. Wardha.
2. Anand Prakashchand Kankariya, Aged about 46 years,
Occ: Business, R/o Alankaran, Near Police Station,
Main Road, Deoli, Tah. Deoli, Dist. Wardha.

PETITIONERS

VERSUS

1. The National Highway Authority of India, Ministry of
Shipping, Road Transport and Highway, Through Project
Director NHAI, PIU, Yavatmal, Tah.& Dist. Yavatmal.
2. Union of India, Ministry of Shipping, Road Transport and
Highway, Department of Road Transport and Highway
Transport, Bhawan No.1, Parliament Street, New Delhi.
3. Deputy Collector and Land Acquisition Officer (General),
Wardha, Competent Authority for Land Acquisition for
NHI-361, Civil Lines, Wardha, Tah.& Dist. Wardha.

RESPONDENTS

Ms Shilpa O. Tapadiya, counsel for the petitioners.
Shri A.A. Kathane, counsel for the respondent no.1.
Shri C.J. Dhumane, counsel for the respondent no.2.
Ms P.T. Joshi, Assistant Government Pleader for the respondent no.3.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE ON WHICH ARGUMENTS WERE HEARD : OCTOBER 15, 2025

DATE ON WHICH JUDGMENT IS PRONOUNCED : DECEMBER 17, 2025

JUDGMENT

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

2. By this petition under Article 227 of the Constitution of India, the petitioners have raised a challenge to the order dated 22.11.2024 passed by the Additional Commissioner, Nagpur Division, Nagpur under the National Highways Act, 1956 to the extent of imposing a condition of waiver of interest while allowing the application for amendment.

3. The petitioners are the original land owners whose land came to be acquired and therefore they filed reference under Section 3-G(5) of the Land Acquisition Act, 1956 (for short, 'the Act of 1956') before the Additional Commissioner, Nagpur Division, Nagpur challenging the award dated 22.12.2017. The arbitration Case No.14 of 2018 was filed on 06.08.2018 and during pendency of the said case, the petitioners filed an application for amendment dated 10.01.2024 alleging that certain typographical errors in the petition were required to be corrected. The respondents opposed the said application by their reply dated 27.02.2024 by categorically raising a preliminary objection about delay of more than five years in seeking the amendment, amongst other contentions. By order dated 22.11.2024, the application for amendment filed by the petitioners was allowed subject to the condition that from the date of application filed under Section 3-G(5) of the Act of 1956 till the date of amendment application, there should be waiver of interest. By the impugned order, it is directed that the claim for amendment of paragraphs (e) and (f) of the amendment application related to particulars of claim and the amendment to prayer clause would be decided on final hearing on merit basis. The petitioners have challenged this condition of waiver of interest by way of instant petition.

4. The learned counsel for the petitioners vehemently submitted that the petitioners are entitled to raise claim for compensation and they cannot be deprived on account of technicalities. She submitted that the imposition of condition of waiver of interest is arbitrary and takes away the valuable right of the petitioners to claim interest on amount of compensation.

In support of her submissions, she placed reliance on the judgment of the Hon'ble Supreme Court in *Ambya Kalya Mhatre (Dead) Through LR's & Others Versus State of Maharashtra* [(2011) 9 SCC 325] and submitted that the Hon'ble Supreme Court has held that while considering the amendment of reference application in land acquisition proceedings, if the land owner seeks amendment of his claim, he should be permitted to amend the claim as and when he comes to know about the true market value. She submitted that the position of law is clarified that in such matters imposition of condition to the detriment of innocent and ignorant land owner who has lost their land is unjust.

5. Shri A.A. Kathane, learned counsel for the respondent no.1 vehemently opposed the petition and submitted that the petitioners have been negligent in filing the amendment application and raising the claim for compensation by initiating appropriate proceedings in time. He submitted that although the application for amendment is filed seeking to correct typographical errors however, by way of proposed amendment, the petitioners have sought to raise claims for the first time with respect to their land. He submitted that the petitioners have proposed to amend the arbitration case by changing the L.A.C. number, survey number of the land and area of the land and it thus becomes clear that the petitioners are in fact raising the claim for the first time after more than five years of filing the arbitration case. He submitted that though the amendment is allowed, however, in view of negligence on the part of the petitioners the imposition of condition of waiver of interest is just and proper.

In support of his submissions, he placed reliance on the judgments of the Hon'ble Supreme Court in *Ningappa Thotappa Angadi (Dead) Through Legal Representatives Versus Special Land Acquisition Officer & Another* [(2020) 19 SCC 599] and *Executive Engineer (R and B) & Others Versus Gokul Chandra Kanungo (Dead) Thr. His Lrs* [2022 SCC OnLine SC 1336] and by pointing out the position of law laid down in the above judgments submitted that in view of negligence on the part of the petitioners and delay in raising the claims, the Hon'ble Supreme Court has imposed similar conditions about waiver of interest for the period of delay. He submitted that the impugned order is passed in the interest of justice and the imposition of condition of waiver cannot be considered as arbitrary.

6. Rival contentions thus fall for my consideration.

7. It has to be noted that by way of proposed amendment, the petitioners have sought for amendment stating that they want to correct the details in the application and amend the proceedings number, the dates mentioned in the title and the introductory paragraphs, survey number of the land in several paragraphs and the area of land mentioned in several paragraphs in the arbitration case. Thus, it is clear that by way of proposed amendment, the petitioners have attempted to raise a claim with respect to new proceedings related to different lands of which no claim was earlier raised. Thus, although the amendment application is styled as application for correction of typographical errors, it clearly appears to be an application for raising a claim for the first time.

8. There is no dispute that the application for amendment is filed after a period of more than five years. It has also to be noted that the lands belonging to the petitioners came to be acquired and they are entitled for grant of compensation and they cannot be deprived from raising their claims for award of compensation. However, at the same time, it has to be noted that the petitioners have although filed the arbitration case on 06.08.2018, they have applied for amendment on 10.01.2024.

9. The position of law in dealing with similar situation has been laid down by the Hon'ble Supreme Court in *Ningappa Thotappa Angadi (Dead) through Legal Representatives* and *Gokul Chandra Kanungo (Dead) Thr. His Lrs.* (supra) and while balancing the interest of both the parties, the condition of waiver of interest for the delayed period has been imposed.

10. It is profitable to make a reference to the recent judgment of the Hon'ble Supreme Court in *Suresh Kumar Versus State of Haryana & Others* [2025 SCC OnLine SC 896] in which it is held that considering the poverty and illiteracy of the land losers while condoning the delay, equities have to be balanced by ensuring that no prejudice is caused to the acquiring authorities so also no undue advantage is gained by the land losers. Pertinently, after considering similar fact situation, while considering the application for condonation of delay, the Hon'ble Supreme Court has observed that the appellants who approached the Court with delay would not be entitled for interest for the period of delay. This approach in balancing the interest has to be taken note of.

11. Applying the same analogy to the case in hand, the application for amendment filed after the delay of more than five years raising claim for compensation with respect to the new land, it has to be seen that there is no perversity in imposition of the condition of waiver of interest. The learned Arbitrator has balanced the interest of the parties by allowing the application for amendment in the interest of justice however, at the same time by imposing the condition about waiver of interest. The impugned order thus appears to be in tune with the legal position in that regard. The order does not appear to be perverse.

12. In view of the above mentioned factual and legal aspects, no indulgence under Article 227 of the Constitution of India is warranted. The writ petition deserves to be dismissed and the same is dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)