



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

21 WRIT PETITION NO. 1122 OF 2026

Mallappa Mahalappa Irkar

....Petitioner

VERSUS

The State of Maharashtra & others

.....Respondents

Mr. T. M. Venjane, Advocate for the Petitioner.

Ms. N. B. Kamble, AGP for the State.

**CORAM : SMT VIBHA KANKANWADI
& HITEN S VENEGAVKAR, JJ.**

DATE : 4th MARCH, 2026.

PER COURT :

1. Present petition has been filed for directing Respondent Nos. 3 to 5 to return the land admeasuring 8 R in Gat No. 225/237 situated at village Deoni Bk. Tq. Deoni, Dist. Latur. In the alternate, the Petitioner prays for direction to the Respondents to complete the acquisition proceeding and to pass award under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and to grant other benefits in respect of the acquired land admeasuring 8 R from Gat No. 225/237 situated at village Deoni Bk. Tq. Deoni, Dist. Latur.

2. Heard learned Advocate for the Petitioner. He submits that Petitioner's land Gat No. 225/237 admeasuring 2 H 61 R situated at Deoni Bk. Tq. Deoni, Dist. Latur, was acquired to the extent of 32 R by the Special Land Acquisition Officer on 22.12.1993. In the said land, 8 R land owned by one Trymbak Deshmukh was also acquired. The Petitioner was not satisfied with the compensation amount and therefore, he filed Land Acquisition Reference No. 252/2012 in respect of 32 R land. The Reference Court partly allowed the reference on 16.02.2024. According to the Petitioner, said Trymbak Deshmukh had not preferred any land acquisition proceeding in respect of 8 R land. It is further submitted that the Sub Divisional Engineer had sent a letter to the Sub-Divisional Officer requesting for effecting mutation entry of the acquired land total admeasuring 40 R on 13.01.2025 and thereafter mutation entry No. 5944 came to be sanctioned for acquired land admeasuring 32 R owned by the Petitioner only. Even mutation entry in respect of 8 R land owned by Trymbak Deshmukh was not sanctioned. According to the Petitioner, then the Superintendent Engineer has passed order on 01.06.2023 granting technical sanction for construction of building of Public Works Sub-Division Deoni Bk. on acquired land of the Petitioner. The construction of the said building has started. Though the acquisition

of land admeasuring 32 R is made yet Respondent Nos. 3 and 4, on the basis of award, obtained possession of 40R land of the Petitioner from Gat No. 225/237. The Petitioner states that he had made applications/representations on 13.02.2024, 08.05.2024, 10.06.2024 and 30.08.2024 for return of land admeasuring 8 R taken in possession by Respondent Nos. 3 and 5. Those representations have not been addressed. Hence, this petition.

3. After hearing learned Advocate for the Petitioner as well as going through the entire documents, it is absolutely not clear from the pleadings as to when the possession of 8 R land of the Petitioner was taken. Infact, earlier also there would have been measurement when 32 R land was acquired in respect of which now there is no dispute for the Petitioner regarding compensation also because his Land Acquisition Reference has been partly allowed. As per the pleadings itself, the mutation in respect of Trymbak Deshmukh has not been sanctioned. In the petition, the Petitioner has not even demonstrated by giving boundaries of the said 8 R land which according to the Petitioner, has been taken in possession by the Respondents. Without there being documents to support the contention that extra 8 R land of the Petitioner has been taken in

possession illegally, we cannot exercise powers under Article 226 of the Constitution of India.

4. It will not be out of place to mention here that upon query, the learned Advocate for the Petitioner had sought time to file documents. According to us, that exercise ought to have been made earlier than filing petition. In respect of the main prayer i.e. return of land, it would be a disputed question of fact because in any communication, especially letter dated 21.05.2025, the Sub-Divisional Officer cum SLAO, Nilanga is not accepting taking up of possession of 8 R land. Thus, this Court, will not be in a position to exercise constitutional powers. Even in alternate, unless it is demonstrated that 8 R land apart from 32 R land belonging to the Petitioner was acquired, there cannot be direction to the Respondents to complete acquisition proceeding.

5. Hence, we dismiss the writ petition.

(HITEN S. VENEGAVKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

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