

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2531 OF 2025

1. Prakash s/o Baburao Kharpade,
Age 62 years, Occu. Agril.,
2. Baban s/o Baburao Kharpade
Died through his L.Rs. Pradip
s/o Baban Kharpade,
Age 44 years, Occu. Agril.,
3. Parubai Ganesh Naikwade,
Age 62 years, Occu. Agril. & Household,
4. Ganpati Maruti Kharpade,
Age 32 years, Occu. Agril.,
5. Kalabai Maruti Kharpade,
Age 63 years, Occu. Agril. & Household,
6. Ramrao Bajirao Panchal,
Age 75 years, Occu. Agril.,
7. Chhagabai Laxman Kharpade,
Age 60 years, Occu. Agril. & Household,
8. Rajendra Laxman Kharpade,
Age 42 years, Occu. Agril.,
9. Narayan Laxman Kharpade,
Age 36 years, Occu. Agril.,
10. Sharad Bhagwan Parjane,
Age 48 years, Occu. Agril.,
11. Kundalik Tukaram Kharpade,
Age 52 years, Occu. Agril.,
12. Ramesh Tukaram Kharpade,
Age 56 years, Occu. Agril.,
13. Narayan Laxman Kharpade,
Age 36 years, Occu. Agril.,
14. Anil Kanhu Kharpade,
Age 44 years, Occu. Agril.,
15. Nana Baburao Kharpade,
Age 65 years, Occu. Agril.,

16. Kanhu Dadarao Kharpade,
Age 62 years, Occu. Agril.,
All R/o Khalapuri, Tq. Shirur Kasar,
District Beed.

..Petitioners

VERSUS

1. The Competent Authority
(Land Acquisition) /Dy. Collector
(Land Acquisition)
Minor Irrigation Division,
Beed, District Beed.
2. The Collector, Beed,
District Beed.
3. Dy. Superintendent of Land Records,
Shirur Kasar, Taluka Shirur Kasar,
District Beed.
4. The Executive Engineer,
National Highway Division,
Jayabhawani Chowk, N-4,
Cidco, Chh. Sanbhaji Nagar.
5. Tanaji Dagadu Kharpade,
Age 60 years, Occu. Agril.,
6. Ramnath Bhanudas Kharpade,
Age 62 years, Occu. Agril.,
7. Mahesh Sudhir Dahale,
Age 64 years, Occu. Agril.,
8. Ramesh Vasant Dahale,
Age 55 years, Occu. Agril.,
9. Sunil Vasant Dahale,
Age 45 years, Occu. Agril.,
10. Sharad Mahadev Dahale,
Age 42 years, Occu. Agril.,
11. Shivraj Mahadev Dahale,
Age 44 years, Occu. Agril.,
12. Bhivraj Mahadev Dahale,
Age 55 years, Occu. Agril.,
13. Bapurao Nanasaheb Dahale,
Age 44 years, Occu. Agril.,
14. Sominath Nagesh Dahale,

- Age 46 years, Occu. Agril.,
15. Sachin Tukaram Kulkarni,
Age 47 years, Occu. Agril.,
 16. Muktabai Narayan Parjane,
Age 52 years, Occu. Agril. & Household,
All R/o Khalapuri, Tq. Shirur Kasar, District Beed.
 17. The Union of India
Through Secretary,
Ministry of Road Transport & Highways
Transport Bhavan, 1, Parliament Street,
New Delhi-110001.
 18. Narayan Kanhu Parjane
Age: 40 years, Occu. Agri.,
R/o Khalapuri, Tq. Shirur (Kasar),
District: Beed.

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Mr. S.D. Jayabhar, Advocate for Petitioners
Mr. R.R. Bangar, Advocate for Respondent No.1
Mr. S.A. Gaikwad, AGP for Respondent/State.
Mr. H.V. Tungar, Advocate for Respondent Nos.5, 6, 10 & 16

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : JANUARY 13, 2026

PRONOUNCED ON : FEBRUARY 24, 2026

JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally with consent of parties.
2. Present petition takes exception to order dated 19.12.2024 passed by Competent Authority (Land Acquisition)/Deputy Collector (Land Acquisition), Beed/respondent no.1, whereby petitioner's application/objection has been rejected.

3. The petitioners contend that they are owners of land out of Gat No.861 at Village Khalapuri. Respondent no.1 had issued notification for acquisition of land from Gat No.861 for purpose of construction of National Highway No.361/F. Paper publication notice issued under Section 3A clearly depicts that petitioners land is proposed to be acquired. However in final award passed by respondent no.2 under Section 3-D of National Highways Act, petitioners names have been omitted. Petitioners made representation dated 01.03.2023 to respondent no.1 pointing out that land of petitioners is affected by acquisition for National Highway but their names are not included in final award or they are not given notice of acquisition or for payment of compensation. Petitioners requested for re-measurement on spot and for payment of compensation.

4. In pursuance to aforesaid representation, respondent no.1 issued communication dated 11.07.2024 to respondent no.3/DSLIR and called particulars of acquired land out of Gat No.860 and 861. However, without waiting for such report, respondent no.1/competent authority rejected the objection filed by petitioners.

5. Mr. Jayabhar, learned advocate appearing for petitioners would submit that notification dated 05.03.2020 issued under Section 3A of National Highways Act, 1956 depicts that petitioners land was acquired. Later on, final award is passed wherein petitioners names have been deleted. Petitioners objection dated 01.03.2023 was not

taken to logical end. Although, communication was made to respondent no.3 to cause re-measurement showing particulars of lands acquired and affected shareholders from Gat No.860 and 861 without waiting for report, final award is passed.

6. Per contra, Mr. Tungar, learned advocate appearing for respondent nos.5, 6, 10 and 16 and Mr. Bangar, learned advocate appearing for respondent no.1 supports impugned order. They would submit that land of petitioners is not affected by acquisition. Prior to passing of award, there were four measurements. The final report of measurement was submitted on 08.02.2022 which shows that petitioners land is not affected.

7. The scheme of National Highways Act, 1956 shows that Section 3A provides for power to acquire land for public purpose particularly for National Highway. Sub-clause (2) of Section 3A prescribes for publication of notification in two local newspapers regarding intention to acquire land containing brief description of land. Section 3C contemplates that any person interested in land may, within twenty-one days from the date of publication of the notification under sub-section (1) of section 3A, object to use of land for purpose or purposes mentioned in sub-section. Such objection needs to be decided by competent authority. Sub-clause (3) of Section 3C states that any order made by the competent authority under sub-section (2) shall be final. Section 3D prescribes for

declaration of notification in official gazette that land should be acquired for the purpose or purposes mentioned in sub-section (1) of section 3A. Once such notification is published, the land vests with the government free from all encumbrances. Section 3G deals with determination of amount payable as compensation towards acquired land by an order of competent authority.

8. Sub-clause (3) and (4) of Section 3G contemplates that the competent authority shall publish notice in two local newspapers inviting claims from persons interested in the land to be acquired. The notice requires to state particulars of the land calling upon all persons interested in such land to appear in person before the authority and state the nature of their respective interest in such land. Section 3H contemplates that the amount determined under section 3G shall be deposited with the competent authority before taking possession of the land.

9. Sub-clause (3) of Section 3H provides that where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them. Sub-clause (4) provides that if any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil

court of original jurisdiction within the limits of whose jurisdiction the land is situated.

10. Close look to aforesaid provisions depicts that the dispute under Section 3H (3) amongst the interested persons in the amount deposited needs to be decided by competent authority. However, if the dispute is pertaining to apportionment of amount in terms of sub-clause (4) of Section 3H, same requires to be referred for decision of Principal Civil Court of original jurisdiction.

11. In present case, petitioners are the persons who claim that their lands have been affected by acquisition. However, they are not shown to be persons affected by acquisition in final award. There is nothing on record to show that petitioners had raised any objection in terms of Section 3C. However, after finalization of award, they raised objection dated 23.01.2024 alleging that their land is affected by acquisition. At this stage, reference can be made to observations of this Court in case of Khairunbi Kashimsab Momin Vs. The State of Maharashtra and Others in Writ Petition No. 1730 of 2024 decided on 04.04.2025, wherein in similar set of facts, this Court observed in para 5 as under :

“5. Though it is sought to be argued before this Court that the issue raised before Competent Authority under the Act, was for raising objection to the apportionment, but as it can be seen from prayer in the application as recorded above the prayer made before the Competent Court was not raising objection to the apportionment but for reinquiry and remeasurement. At this

stage it would be relevant to take note of the provision of Section 3H of the Act. This provision indicates that when the amount is determined under Section 3G of the Act and it is deposited with the authority, the authority is required to disburse the said amount to the persons who are entitled to receive the same. In this context if any dispute arises as to the apportionment of the amount or any party thereof or any person to whom the same or any parties payable, the Competent Authority is required to refer the dispute to the Competent Civil Court. Perusal of the application filed by the petitioner does not indicate that about any issue being raised as contemplated by Section 3H(4) of the Act. The issue raised is with regard to the correctness of the measurement, the said issue could have been dealt with by the Competent Authority itself and has been rightly dealt with.”

12. In present case also, if objection of petitioners dated 23.01.2024 is seen, objection is not pertaining to entitlement of respondents to receive compensation but it takes exception to the award wherein petitioners land is not shown under acquisition. The competent authority while rejecting petitioners application made reference to four measurements including joint measurement and observed that joint measurement did not depict that land of petitioners was affected by acquisition.

13. Mr. Jayabhar, learned advocate appearing for petitioners seeks to rely upon observations of Hon’ble Supreme Court in the case of ***Vinod Kumar and Ors Vs. District Magistrate Mau and Ors*** reported in ***AIR 2023 SC 3337*** to contend that apportionment under Section

3H(4) is regarding distribution of value of compensation fixed among several persons interested in land acquired in accordance with nature and quantum of respective interests and to ensure equal distribution of compensation amongst persons interested in land. He relies upon observations in para 28, which reads thus :

“28. Thus, the only general principle one could state is that apportionment under subclause (4) of Section 3H of the Act 1956 is not a revaluation but a distribution of the value already fixed among the several persons interested in the land acquired in accordance with the nature and quantum of the respective interests. In ascertainment of those interests, the determination of their relative importance and the manner in which they can be said to have contributed to the total value fixed are questions to be decided in the light of the circumstances of each case and the relevant provisions of law governing the rights of the parties. The actual rule for apportionment has to be formulated in each case so as to ensure a just and equitable distribution of the total value or compensation among the persons interested in the land.”

14. In light of aforesaid observations, one can definitely conclude that sub-clause (4) of Section 3H is not about revaluation. It merely deals with apportionment of compensation amongst persons who are found to be interested in land acquired. In present case, petitioners could not place on record any material to show that their land from Gat No.861 was affected by acquisition. Although, petitioners names appear in earlier notification, however, during

subsequent measurement undertaken before passing final award, petitioners were not found interested persons in affected lands.

15. In light of aforesaid factual and legal aspects, no case is made out to cause interference in impugned order. In result, writ petition stands rejected. Needless to state that petitioners shall be at liberty to establish their claim by taking resort to any alternate remedy, as available in law.

16. Rule is discharged.

(S.G. CHAPALGAONKAR, J.)