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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14709 OF 2025

1. Bhagwan Laxmanrao Parde,
Age: 44 YEARS, Occu.: Agriculture
2. Goroba Laxmanrao Parde,
Age: 41 years, Occu.: Agriculture
3. Prakash Laxmanrao Parde,
Age: 39 years, Occu.: Agriculture
4. Vishnupant Laxmanrao Parde
Age: 46 years, Occu.: Service,

All R/o. At Kalgaon Post Mau. Parbhani,
Tq. Purna, Dist. Parbhani – 4314020

... Petitioners.

VERSUS

1. The State OF Maharashtra
Through Secretary,
Irrigation Department, Madam Kama
Road, Mantralaya, Mumbai – 32.
2. District Collector, Parbhani.
3. Sub Divisional Officer / Special Land
Acquisition Officer, Gangakhed.
4. Godawari Marathwada Patbandhare
Mahamandal, through its Superintendent
Engineer, Sinchan Bhavan, Work Shop
Road, Nanded, Tq. & Dist. Nanded
5. Executive Engineer, Vishnupuri Project,
Division -2, Nanded, (Jangamwadi).
6. Sub Divisional Engineer,
Vishnupuri Project Division No.7,
Loha, Tq. Loha, Dist. Nanded.

... Respondents

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Mr. A.B.Kale, Advocate for Petitioners, Advocate for Applicant
Mr. R.S. Wani, AGP for Respondents/ State
.....

CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

RESERVED ON : 27 JANUARY, 2026

PRONOUNCED ON : 12 MARCH, 2026

JUDGMENT [Per Hiten S. Venegavkar, J.] :-

1. Rule. Rule is made returnable forthwith. With the consent of the parties, the petition is taken up for final hearing.

2. This writ petition under Article 226 of the Constitution of India assails the order dated 19.03.2025 passed by Respondent No.2 – District Collector, Parbhani, whereby the Petitioners’ representation seeking recalculation and payment of compensation and allied claims came to be rejected. The Petitioners seek, *inter alia*, directions to the authorities to calculate and pay compensation for the acquired portion of their land by treating it as “Bhagayat” (irrigated) land; to pay interest from the year 2010, being the alleged date of taking possession / commencement of submergence; to award compensation for trees including 307 trees with interest by relying upon the valuation report dated 16.05.2019; to award compensation for borewells and pipelines with interest from 2010; to grant all statutory benefits from the date of possession; and further to declare the sale deed dated 17.11.2021 to be invalid.

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3. Heard the learned Advocate appearing for the Petitioners and the learned Assistant Government Pleader for the State and its officers.

4. The Petitioners state that they are siblings and residents of Village Kalgaon, Taluka Purna, District Parbhani, and that they are owners and cultivators of land bearing Gut No.5 admeasuring 3 Hectares 41 R, situated on the western bank of River Godavari. According to them, the land was irrigated and developed with six borewells, water pipelines, lift irrigation facility and sprinklers. They assert that in 2006 they obtained permissions from the Jayakwadi Patbandhare Department for installing 5 HP motor, which was operated since 2006, and regularly paid electricity bills and statutory dues. They contend that the existence of borewells is reflected in mutation entry No.1599 and that they received agricultural subsidy for three consecutive years from 2007. They further claim that in 2006 they planted several fruit-bearing trees (approximately 790 trees) and were cultivating crops such as wheat, turmeric and sugarcane. It is their further case that in the year 2010 the authorities constructed the Digras High Level Barrage at a distance of about 7 kilometers from their land and, due to the said project, water entered and accumulated in their land, thereby causing damage to the land and trees. They claim that repeated oral and written requests were ignored and that in 2013 a joint letter was addressed along with other

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farmers and Gram Panchayat members regarding damage to the land and fruit-bearing trees due to water accumulation. Thereafter, according to the Petitioners, Joint Measurement No.4 of 2014 was conducted and it was recorded that 1 Hectare 38 R land is under water but omitted the mention of existence of fruit-bearing trees, borewells and pipelines irrigation schemes and wrongly described their land as “Jirayat” though it was “Bhagayat”. Petitioners claim to have objected by letters dated 11.04.2014 and 29.04.2015. A second joint measurement was conducted on 03.10.2015 in which it was stated to have increased the affected land to 1 Hectare 94 R but again no mention of trees and irrigation infrastructure, leading to another representation dated 23.10.2017. The Petitioners assert that on 30.01.2018 they wrote to the District Collector, the Land Acquisition Officer and the Executive Engineer seeking compensation according to law by treating the land as “Bhagayat” and in accordance with the valuation report/circle rate given by the Sub-Registrar. They refer to a public notice dated 12.02.2018 about acquisition of lands and to a meeting dated 01.03.2018 under the Chairmanship of the District Collector, Parbhani, where it was decided to acquire lands by “direct purchase” and finalize an “award”. They allege that the proposed acquisition of their land to the extent of 1 Hectare 94 R was shown as “Jirayat” notwithstanding the existence of fruit-bearing trees and irrigation facilities and that no

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lawful compensation was paid at that stage, due to which they did not give consent.

4. It is then the Petitioners' case that due to multiple representations, a further joint measurement dated 04.06.2018 was conducted and it was recorded that there are 188 fruit-bearing trees, 4 borewells and one pipeline. The Petitioners claim about 307 additional trees which had died due to water stagnation since 2010 and that the authorities refused to record dead trees, though they allegedly assured that a separate panchnama would be prepared. The Petitioners refer to subsequent proceedings culminating in a valuation report communicated on 07.03.2019 and submitted on 16.05.2019 valuing the recorded 188 trees at Rs.1,31,63,968/-. They contend that by then most trees were already destroyed and that the 307 dead trees were not included. They further assert that without notice another joint measurement dated 21.09.2019 reduced the affected/acquired area from 1 Hectare 94 R to 1 Hectare 17 R purportedly on the basis of reference points and that only their land was remeasured out of about 400 persons, allegedly with an intention to harass them. They rely upon subsequent panchnamas and meetings, including that a committee visited on 09.05.2019 and recorded 188 trees, 4 borewells and pipelines and that later panchnamas in 2019 and 2020 noted that several trees

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died due to water storage and floods. They then assert that the authorities relied upon satellite images in meeting dated 23.12.2019 and communicated the same through a letter dated 10.01.2020 to suggest that there were no trees and according to petitioners meeting dated 23.12.2019 referred therein never took place as per RTI information. They also rely upon a subsequent committee exercise culminating in a report dated 16.06.2021, which, according to them, confirmed visibility of trees and supported their entitlement, and contend that even thereafter compensation was not paid in accordance with the report.

5. The Petitioners state that in meetings dated 27.09.2021 and 25.10.2021, the authorities decided to grant compensation only in a limited manner and relied upon a High Court judgment in *Special Land Acquisition Officer vs. Chindha Fakira Patil*, 2007 (2) MhLJ 130, which according to the Petitioners stood set aside by the Supreme Court. They further allege discriminatory treatment in the matter of “excess amount” under the consent award, contending that others were paid 25%, whereas the Petitioners were offered only 10%. They claim that they were threatened that if they do not execute agreement for consent award and then compensation would be returned to the Government and they would not get compensation for decades, and therefore

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petitioners due to financial distress succumbed to pressure and executed a sale deed dated 17.11.2021. They refer to an order dated 02.11.2021 granting compensation of Rs. 2,89,60,731/- for 188 trees, along with 100% “dilasa” and 10% excess amount under the consent award. Thereafter, they contend that upon legal advice they filed a civil suit which came to be dismissed for default owing to inability to bear court fees and that they filed writ petitions in 2023 and 2024 seeking directions to decide representations; the petition in 2024 resulted in directions to decide their representation. According to them, the Land Acquisition Officer submitted a report dated 12.03.2025 supporting their case and placing reliance upon decisions including *Chindha Fakira Patil (Deceased) through LRs vs The Special Land Acquisition Officer, Jalgaon*, (2011) 10 SCC 787 and *Gayabai Digambar Puri (Died) Through LR vs. The Executive Engineer & Ors.*, [Civil Appeal (Diary No.17566 of 2020), decided on 03.01.2022], but Respondent No.2 rejected their representation by the impugned order dated 19.03.2025 without considering the report and binding precedents. They also cite *Union of India vs. Tarsem Singh*, (2019) 9 SCC 304 and rely upon the doctrine of prospective overruling, citing *Directorate of Revenue Intelligence vs. Raj Kumar Arora*, 2025 SCC OnLine 235.

6. On these pleadings, learned Advocate for the Petitioners submitted that since 2010 the State has deprived the Petitioners of use of fertile irrigated land without paying lawful compensation for land, trees, and irrigation infrastructure and without granting statutory benefits and interest. He urged that misclassification of the land as “Jirayat” instead of “Bhagayat”, and failure to record and value the full number of trees including those destroyed due to submergence, has resulted in grave under-compensation. He contended that the consent award and sale deed were not the product of free consent but were executed under coercion and unequal bargaining power and therefore cannot operate as a bar; that the decision-making culminating in the impugned order is vitiated by non-application of mind, reliance on incorrect satellite-based assumptions contrary to on-site committee reports, and disregard of binding precedent on interest/entitlement from the date of possession is taken; and that since the petitioners have persistently pursued representations and earlier writ remedies, the petition cannot be non-suited on delay.

7. Per contra, the learned AGP opposed the petition and the State’s submissions are: that the petitioners participated in a negotiated/direct purchase process; accepted compensation on the terms offered; a consent award was passed; and a registered sale deed dated 17.11.2021

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was executed, thereby transferring title; that the transaction has attained contractual finality and the Petitioners are estopped from re-agitating sufficiency of compensation in writ jurisdiction; that the allegations of coercion, threats, discrimination, incorrect measurements, existence and number of trees (alive/dead), classification of land, and alleged false satellite-based reports raise serious disputed questions of fact requiring oral and documentary evidence and cross-examination, which cannot be adjudicated in proceedings under Article 226 of the Constitution of India; that the Petitioners have efficacious alternate remedies including a properly framed civil suit for cancellation/declaration and consequential reliefs and/or such statutory remedies as may be available; that the relief of declaring the registered sale deed invalid is quintessentially a civil remedy and cannot be granted in writ proceedings especially where vitiating factors are matters to be proved; and that the impugned order is an administrative decision on representation and does not suffer from jurisdictional error warranting writ interference.

7. Having considered the rival submissions, the issues which arise for our determination are: first, whether the writ petition ought to be entertained when the dispute involves disputed questions of fact; second, whether the Petitioners can seek to reopen compensation after a

consent award/negotiated settlement has culminated in a registered sale deed; and third, whether the impugned order dated 19.03.2025 warrants interference by this Court in its writ jurisdiction.

8. It is a settled principle governing writ jurisdiction under Article 226 of the Constitution of India that, though the High Court's power is wide, the exercise thereof is discretionary and ordinarily not invoked where adjudication necessitates a full trial, particularly in cases involving allegations of coercion, fraud, *mala fides*, disputed measurements offer area of land, valuation disputes, and competing versions of events that can be resolved only by leading evidence. Equally, well settled is the proposition that where an efficacious alternate remedy is available, and where the controversy is primarily factual, the writ court ordinarily declines to entertain a petition.

9. In the present matter, the Petitioners' own pleadings demonstrate that the controversy is not a pure question of law or to any violation of statutory or constitutional rights. The Petitioners' case turns upon multiple layers of contested fact; except the admitted fact of acquisition of the Petitioners' land, all other aspects such as whether the alleged water ingress and submergence since 2010 can be treated as "possession" in the legal sense for purposes of interest and statutory benefits; whether the successive joint measurements were correctly

conducted and accurately recorded; whether the reduction of affected area in September 2019 was justified; the precise nature of the land whether Bhagayat or Jirayat and the factual basis for such classification; the number of fruit-bearing trees originally planted; how many were alive as on the relevant date; how many died due to water stagnation; how many were washed away in floods; and whether dead trees were required to be counted and valued in the manner claimed by the Petitioners. The Petitioners also assert existence and value of borewells, pipelines, lift irrigation and sprinklers and seek compensation for the same, which itself entails technical assessment. Most significantly, the Petitioners challenge the very foundation of the consent settlement by asserting coercion, pressure, threats, unequal bargaining position, and discriminatory treatment as regards the “excess amount” 10% as against 25% allegedly paid to others.

10. In our considered view, none of these issues can be conclusively adjudicated merely on affidavits and oral submissions. Resolution would require leading of evidence, including examination of the officers who allegedly conducted measurements and panchnamas, negotiated the settlement, issued communications, held meetings, and dealt with the Petitioners’ case, as also expert/technical evidence where valuation and agricultural impact are concerned.

11. There is an additional and substantial legal obstacle to entertaining the petition in writ jurisdiction in the form of the admitted execution of a registered sale deed dated 17.11.2021 pursuant to a consent award/negotiated settlement and acceptance of compensation. A registered conveyance, executed after receipt of consideration, carries legal consequences and presumptions under general law. Once such a transaction is completed, the relationship between the parties is governed by the contract embodied in the sale deed and the settlement terms, and the transaction attains contractual finality, subject only to the recognized grounds on which a contract/instrument may be impeached. The petitioners' own case is that their consent was not free, and was vitiated by coercion, undue influence and threats. Whether that assertion is true is itself a matter of proof. The consequence, however, is that the petitioners must first successfully impeach the sale deed/settlement on legally recognized grounds such as coercion, undue influence, fraud or misrepresentation before a competent civil court or forum empowered to undertake such adjudication. This Court, in exercise of writ jurisdiction, is not equipped to conduct such a fact-finding trial and to grant relief in the nature of cancellation of a registered instrument on contested allegations. The petitioners' prayer

seeking a declaration that the sale deed is invalid is, in substance and form, a civil relief which ordinarily falls within the domain of civil jurisdiction, where issues can be framed and evidence recorded.

12. The petitioners sought to invoke land acquisition jurisprudence on fair compensation and interest and relied upon decisions such as *Chindha Fakira Patil* (supra), *Gayabai Digambar Puri* (supra) and *Union of India vs. Tarsem Singh* (supra). These authorities undoubtedly reiterate important principles governing compensation, statutory benefits and interest in compulsory acquisition contexts. However, in the posture of the present case, they do not by themselves negate the legal effect of a concluded negotiated settlement culminating in a registered sale deed, nor do they lay down that such a settlement can be reopened in writ proceedings merely on an assertion that compensation was insufficient. *Chindha Fakira Patil* (supra) concerns determination of market value and compensation principles in the context of acquisition litigation; *Gayabai Digambar Puri* (supra) concerns commencement of interest in land acquisition cases; and *Tarsem Singh* (supra) arose in a specific statutory setting relating to exclusion of solatium and interest under the National Highways Act. None of these decisions dispenses with the requirement of proving vitiating factors when the petitioner seeks to avoid a registered instrument or to reopen a concluded

contractual settlement. The petitioners' reliance on *Directorate of Revenue Intelligence vs. Raj Kumar Arora* is, on the face of it, inapposite, as the decision pertains to NDPS law; even assuming it is cited for general propositions regarding prospective overruling, such doctrine does not assist the petitioners in surmounting the twin obstacles in the present matter, namely, the need for proof of coercion/fraud and the existence of a concluded conveyance.

13. We also note that the impugned order dated 19.03.2025 is an order passed on a representation. The petitioners' challenge, in substance, seeks re-determination of compensation for land and multiple categories of immovable assets, interest from 2010, and invalidation of a registered sale deed, all of which would require this Court to enter upon a detailed evidentiary adjudication. Even if certain observations in the impugned administrative order are alleged to be erroneous, that by itself does not compel this Court to undertake a fact-trial in writ jurisdiction. To entertain the petition would require pronouncement on multiple disputed factual issues and grant of civil-type declaratory reliefs. This is precisely what the writ court ordinarily refrains from doing.

14. The petitioners urged that their civil suit was dismissed for default owing to inability to bear court fees and that there has been no

adjudication on merits; hence the writ petition should be entertained. We are unable to accept this submission. Practical difficulty in prosecuting a civil remedy cannot enlarge writ jurisdiction. Where the issues necessarily require proof, this Court cannot undertake a trial under Article 226 of the Constitution of India, nor can it issue declarations in the nature of cancellation of registered instruments between the parties on the basis of disputed factual assertions.

15. For all the aforesaid reasons, we are not inclined to entertain the writ petition. The appropriate course available to the Petitioners, if so advised, is to pursue remedies before the competent civil court and/or such statutory forum as may be available in law, which would be competent to frame issues, permit both parties to lead evidence, and adjudicate disputes including (i) the allegation of coercion/undue influence and the validity/enforceability of the sale deed and consent/settlement, (ii) alleged discrimination in grant of excess compensation, (iii) nature of the land and classification as Bhagayat/Jirayat, (iv) existence and valuation of trees including the controversy regarding dead trees and trees washed away, (v) existence and valuation of borewells, pipelines and irrigation infrastructure, and (vi) all consequential monetary and declaratory reliefs.

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16. Accordingly, the writ petition stands dismissed. Rule discharged.

No order as to costs.

17. Liberty is reserved to the Petitioners to avail such remedies as are permissible in law before the appropriate forum. All contentions of both sides are kept open.

HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane