



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

11 WRIT PETITION NO. 1821 OF 2026

The Agricultural Produce Market CommitteePetitioner

VERSUS

The State of Maharashtra & anotherRespondents

Mr. Gulam Dastagir Shaikh, Advocate for the Petitioner.
Mr. S. B. Narwade, AGP for the State.

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

DATE : 23rd MARCH, 2026.

PER COURT :

1. Present petition has been filed for following relief :-

A) The Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ in the nature of Mandamus, Order and direction, under Article 226 of Constitution of India, directing the Respondent No. 2 to fix a date of hearing on the objections filed in the measurement application (Exhibits-O and P) including other objections if any and decide the same at earliest and also to cause measurement of the said property according to the urgent measurement application dated 13.01.2025 (Exhibit -L) and dispose of, the same at earliest.

2. Heard learned Advocate for the Petitioner and learned AGP for the State.

3. Learned Advocate for the Petitioner submits that the Special Land Acquisition Officer has acquired area admeasuring 2 H 1 R from Gat No. 10 of Jadhavwadi, Tq. & Dist. Aurangabad. Award came to be passed on 26.06.1987. Various persons then approached the Minister, Revenue and Forest Department to delete their respective properties which include Gat No. 10. One of such applications was filed by the then Mutawalli of Dargah Peer Bahauddin Shah Saheb Bhandari requesting for deletion of property being the Wakf property. Initially, stay was granted but subsequently, the Hon'ble Minister had ordered deletion of the said property from the award. That order came to be challenged before this Court by way of Writ Petition No. 477/1988. This Court, by judgment and order dated 9/13/14.08.2001, set aside the said order passed by the Hon'ble Minister and directions were issued to remove encroachment from Gat No. 10 within two months. Name of the Petitioner-Market Committee was got mutated to the 7/12 extract as the owner. Further, the order was subjected to challenge before the Hon'ble Supreme Court by filing Civil Appeal Nos. 3510-3513/2002. The

Hon'ble Supreme Court disposed of the Civil Appeals with directions on 23.01.2014. Another Respondent had challenged order of this Court in Civil Appeal Nos. 6729-6730/2001 before the Hon'ble Supreme Court. It was dismissed on 21.08.2014 confirming the order passed by this Court. However, liberty was granted to the Appellants to agitate their grievance about lapsing of acquisition under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Pursuant to the said liberty, an application was filed before the Collector, Aurangabad, stating that the said award is lapsed. The subject matter was before this Court once again in Writ Petition No. 9298/2014 wherein the statement of learned Additional Government Pleader was recorded on behalf of the Collector that he would decide the application within two weeks. The Collector then allowed the application on 26.06.2025 stating that the award dated 26.06.1987 deems to have been lapsed. The Petitioner challenged the said order in Writ Petition No. 8552/2015 before the Court. Said petition was dismissed thereby confirming the order passed by the Collector. Thereafter the Petitioner filed Special Leave Petition No. 21997-21998/2016 before the Hon'ble Supreme Court. The Hon'ble Supreme Court by its common judgment dated 28.02.2018 granted

relief and allowed the petitions by quashing and setting aside the impugned judgment and order passed by this Court. The effect of the same is that the award passed by the Special Land Acquisition Officer dated 26.06.1987 stood confirmed by the Hon'ble Supreme Court. The Petitioner submits that due to inadvertence the property was neither measure nor demarcated. There was no separate 7/12 extracts got prepared by subdividing the number. It is then stated that one Zainuddin and his sister are setting adverse claim against the ownership of the Petitioner. Now, the suits have been filed before the Wakf tribunal in respect of the title. The property is not demarcated. Therefore, an application was moved on 13.01.2025 before Respondent No. 2 seeking measurement of the said property. The Petitioner has deposited requisite amount for measurement fees on 06.02.2025 and 07.08.2025. The office of Respondent No. 2 had issued notice on 07.03.2025 fixing the date for measurement as 22.03.2025. However, objection was received from one Zainuddin @ Pashu Syed. According to the Petitioner, said action is unjustified. Though the Petitioner had approached Respondent No. 2 time and again to measure the land expeditiously, yet it has not been measured. Hence, the petition.

4. Learned Advocate for the Petitioner has taken us through the documents and submits that now the fact of acquisition of property i.e. portion of Gat No. 10 is confirmed by the Hon'ble Supreme Court. Due to litigation the measurement cannot be done and the land has not been demarcated. Objection has been raised but then it is not decided by Respondent No. 2. The only prayer the Petitioner is seeking that Respondent No. 2 should decide the objection and the representation dated 13.01.2025.

5. Learned AGP waives notice for both Respondents and submits that the issue is pending before the Wakf tribunal where all these points can be raised.

6. Here it is to be noted that Wakf Suit No. 80/2022 appears to be pending against the present Petitioner before the Wakf tribunal. It appears that the Plaintiff therein has filed an application below Exhibit 46 and from the copy of the same, it can be seen that the Plaintiff was praying for calling measurement map of 1983 by the Land Acquisition Officer, on which, say of Defendant i.e. present Petitioner was taken that details have not been given and therefore, direction be given to give all the details and then only copy of the

map be called. After hearing both the sides, it has been noted in Paragraph No. 3 that Defendant Nos. 1 and 2 have no objection to call such map from the concerned authority. that means, the present Petitioner had given no objection. It has been further observed that the final award has been passed on 26.06.1987 and in the said award it is shown that land admeasuring 2.01 HR from Gat No. 10 of Jadhavwadi has been acquired. The demarcated area of land which is shown as acquired from Survey No. 10 must have been shown in the map and therefore, the application was partly allowed. It has been directed "map showing area of acquired land to the extent of 2.01 HR in Survey No. 10 of Jadhavwadi, Aurangabad be called from Special Land Acquisition Officer, Jaikwadi Project, Aurangabad in File No. 84/SLAO/JP/AR/12/83.

7. It appears that the present Petitioner had made communication to Respondent No. 2 on 13.01.2025 thereby contending that the Wakf tribunal has asked the measurement to be done and map be produced. The Petitioner showed readiness to deposit the measurement fees.

8. We are not here to interpret the order passed below Exhibit 46 by the tribunal or what has been literally written in the application dated 13.01.2025. When the matter is subjudice, it cannot be the subject matter before this Court under Articles 226 and 227 of the Constitution of India. It also appears that measurement has been done and the map is ready. Communication dated 01.04.2023 has been made by Respondent No. 2 to the Petitioner in that respect. Now, if at all the objections are there, then they will have to be raised before the appropriate authority and then the appropriate authority would take decision thereon. When such suit is pending before the tribunal, then the tribunal has every jurisdiction to decide the application filed before it. We may not even make a statement on the point as to whether Respondent No. 2 would be the appropriate authority to decide the objection. When it was questioned to the learned Advocate for the Petitioner that under which provisions of law Respondent No. 2 should affix the date of hearing on the objections filed in the measurement application, he was unable to answer. Under such circumstances, we do not take this to be a fit case where we should exercise powers under Article 226 of the Constitution of India. We make it clear that since the suit is already filed, we are

staying away from giving any direction in respect of land Survey No.
10.

9. In view of above, the petition stands disposed of.

(HITEN S. VENEGAVKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

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