



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 914 OF 2026

Tukaram Kana Pawara (Deceased)
Thr Legal heirs :

1. Sumanbai Tukaram Pawara,
2. Parwatibai Tukaram Pawara,
3. Deepak Tukaram Pawara,

**...Petitioners
(Ori.DHs)**

VERSUS

1. The Project Director Project Implementation Unit,
2. The Competent Authority and Deputy Collector.

**...Respondents
(Ori.JDs.)**

...
Advocate for the Petitioner : Mr. Chandrakant P Patil
Advocate for Respondent No.1: Mr. S. J. Rahate
Advocate for Respondent No.2: Mr. Rahul Bagul
...

**AND
WRIT PETITION NO. 2231 OF 2026**

Laxmibai Babulal Pawara, (Deceased)
Thr Legal Heirs :

1. Bahadur Babulal Pawara,
2. Amarsing Babulal Pawara

**...Petitioners
(Ori.DHs)**

VERSUS

1. The Project Director Project Implementation Unit,
2. The Competent Authority and Deputy Collector.

**...Respondents
(Ori.JDs.)**

...
Advocate for the Petitioner : Mr. Chandrakant P. Patil
Advocate for Respondent/ NHA: Mr. D. P. Madkar h/f Mr. D. S. Manorkar
Advocate for Respondent No.2 : Mr. R. B. Bagul
...

**AND
WRIT PETITION NO. 2232 OF 2026**

1. Tukaram Raysing Pawara,
2. Kalabai Tukaram Pawara,
3. Dilip Tukaram Pawara,
4. Paising Tukaram Pawara,
5. Ramdilal Tukaram Pawara.

...Petitioners

(Ori.DHs)

VERSUS

1. The Project Director Project Implementation Unit,
2. The Competent Authority and Deputy Collector.

**...Respondents
(Ori.JDs.)**

...

Advocate for the Petitioner : Mr. Chandrakant P. Patil

Advocate for Respondent No.2 : Mr. Suresh Walmikrao Munde

Advocate for Respondent/ NHAI: Mr. D. P. Madkar h/f Mr. D. S. Manorkar

...

AND

WRIT PETITION NO. 2240 OF 2026

1. Mistar Chotu Pawara,
2. Dhudkibai Mistar Pawara,
3. Jaga Mistar Pawara,
4. Sunil Mistar Pawara,
5. Sanjay Mistar Pawara.

**...Petitioners
(Ori.DHs)**

VERSUS

1. The Project Director Project Implementation Unit,
2. The Competent Authority and Deputy Collector.

**...Respondents
(Ori.JDs.)**

...

Advocate for the Petitioner : Mr. Chandrakant P. Patil

Advocate for Respondent No.2 : Mr. R. B. Bagul

Advocate for Respondent/ NHAI: Mr. D. P. Madkar h/f Mr. D. S. Manorkar

...

AND

WRIT PETITION NO. 2241 OF 2026

1. Vechan Surbhan Pawara,
2. Nanibai Vechan Pawara,
3. Lalchand Vechan Pawara,
4. Suman Lalchand Pawara,
5. Bhavsa Vechan Pawara.

**...Petitioners
(Ori.DHs)**

VERSUS

1. The Project Director Project Implementation Unit,
2. The Competent Authority and Deputy Collector.

...Respondents

(Ori.JDs.)

...

Advocate for the Petitioner : Mr. Chandrakant P. Patil

Advocate for Respondent No.2 : Mr. N. T. Bhagat

Advocate for Respondent No.1: Mr. Akshay Kulkarni

...

**AND
WRIT PETITION NO. 2242 OF 2026**

1. Darsing Sakharam Bhil,
2. Shevantabai Darsing Bhil,
3. Anju,
4. Santosh,
5. Geetabai.

**...Petitioners
(Ori.DHs)**

VERSUS

1. The Project Director Project Implementation Unit,
2. The Competent Authority and Deputy Collector.

**...Respondents
(Ori.JDs.)**

...

Advocate for the Petitioner : Mr. Chandrakant P. Patil

Advocate for Respondent No.2 : Mr. U. B. Bondar

Advocate for Respondent/ NHA: Mr. D. P. Madkar h/f Mr. D. S. Manorkar

...

**AND
WRIT PETITION NO. 2243 OF 2026**

1. Champalal Najlya Pawara,
2. Islam Najlya Pawara,
3. Sayari Najlya Pawara,
4. Najlya Narasing Pawara,
5. Tulshiram Najlya Pawara (Deceased)
Thr : Legal Heirs

- A. Reena Tulshiram Pawara,
- B. Vijay Tulshiram Pawara,
- C. Ajay Tulshiram Pawara,
- D. Shevanta Tulshiram Pawara,
- E. Kavita Mahendra Pawara,
- F. Kutvani Najalya Pawara.

**...Petitioners
(Ori.DHs)**

VERSUS

1. The Project Director Project Implementation Unit,
2. The Competent Authority and Deputy Collector.

**...Respondents
(Ori.JDs.)**

...

Advocate for the Petitioner : Mr. Chandrakant P. Patil

Advocate for Respondent No.2 : Mr. R. D. Sanap

Advocate for Respondent No.1 : Mr. D. P. Madkar h/f Mr. D. S. Manorkar

...

Learned Counsel Mr. Chandak, Appointed to Assist the Court.

...

CORAM : ARUN R. PEDNEKER, J.

Dated : May 06, 2026

JUDGMENT :

1. Rule. Rule made returnable forthwith. By consent of the parties, the Writ Petitions are taken up for final hearing.

2. Heard the learned Counsel Mr. Chandrakant P. Patil for the petitioner; learned Counsel Mr. S. J. Rahate for respondent No. 1 in Writ Petition No. 914 of 2026; learned Counsel Mr. Rahul Bagul for respondent No. 2 in Writ Petition No. 914 of 2026, Writ Petition No. 2231 of 2026, Writ Petition No. 2240 of 2026, and Writ Petition No. 2242 of 2026; learned Counsel Mr. D. P. Madkar holding for Mr. D. S. Manorkar for the respondent – NHAI; learned Counsel Mr. S. W. Munde for respondent No. 2 in Writ Petition No. 2232 of 2026; learned Counsel Mr. N. T. Bhagat for respondent No. 2 in Writ Petition No. 2241 of 2026; learned Counsel Mr. Akshay Kulkarni for respondent No.1 in Writ Petition No. 2241 of 2026; and learned Counsel Mr. R. D. Sanap for

respondent No. 2 in Writ Petition No. 2243 of 2026.

Also heard learned Counsel Mr. Chandak, appointed to assist the Court.

3. By these petitions, the petitioners challenge the orders passed by the District Court in Arbitration Regular Darkhast No.109 of 2021, whereby the executing Court, while permitting withdrawal of the deposited amount, directed deduction of 10% amount towards Tax to be Deducted at Source (TDS) and further directed that the said amount be credited to the account of the Competent Authority for Land Acquisition (CALA).

4. Since all the petitions raise an identical issue regarding deduction of TDS from compensation awarded under the provisions of the **National Highways Act, 1956**, they are being disposed of by this common order. For the sake of convenience, the facts in Writ Petition No.914 of 2026 are referred to.

5. The land of the petitioners bearing Gut No.953, situated at village Hadakhed, Taluka Shirpur, came to be acquired for the purpose of widening of a National Highway under the provisions of the National Highways Act, 1956. The Competent Authority for Land Acquisition passed an award under Section 3G(1) of the said Act. Being dissatisfied, the petitioners invoked Section 3G(5) and sought arbitration. The Arbitrator, by award dated 22/04/2014, enhanced the compensation to Rs.1,719/- per square

meter and also granted compensation towards easementary rights.

6. The petitioners thereafter initiated execution proceedings by filing Arbitration Regular Darkhast No.109 of 2021 before the Principal District Judge, Dhule. The acquiring body deposited an amount of Rs.3,65,523/- before the Executing Court on 06/08/2025. The petitioners filed an application (Exhibit 48) seeking withdrawal of the said amount. The Executing Court permitted withdrawal but directed deduction of 10% TDS. The said direction, to the extent of deduction of TDS, is under challenge.

7. The learned Counsel for the petitioners **Mr. Chandrakant P. Patil** submits that TDS could not have been deducted by the Executing Court, as Section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 provides that no income tax shall be levied on any award or agreement made under the said Act. It is further submitted that the Executing Court has exceeded its jurisdiction in directing deduction of 10% TDS, as it is neither an authority nor a person responsible for deduction of tax at source under the Income-tax Act, 1961. He further submits that the decretal amount is required to be paid in its entirety and no deduction towards TDS can be made therefrom.

8. Learned Counsel **Mr. Chandak**, who is appointed to assist the Court, submits that the issue involved in the present writ petitions pertains to the

applicability of Section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 to the compensation awarded for acquisition of agricultural land under the National Highways Act, 1956, and whether such compensation, including the interest thereon, is exempt from deduction of tax at source under the Income-tax Act, 1961.

9. He submits that under the 2013 Act, the cost of acquisition includes the entire amount payable to the land loser, including enhanced compensation and interest, and that the entire amount is not liable to payment of income tax in view of Section 96 of the said Act.

10. He further submits that CBDT Circular No.36/2016 dated 25/10/2016 clarifies that compensation received under an award made in terms of the 2013 Act is exempt from income tax. He also submits that a proviso has been introduced in Section 194 LA of the Income-tax Act, 1961, with effect from 01/04/2017, which reinforces that no deduction of tax at source is to be made where the compensation is exempted under the provisions of the 2013 Act. He, therefore, submits that the compensation paid for acquisition of land under the National Highways Act, 1956 is not amenable to deduction of TDS.

11. Having heard the learned Counsel for the parties, the issue that arises for determination is whether TDS is deductible from the

compensation awarded under 3G(5) of the National Highways Act, 1956.

12. Before adverting to the said issue, it is necessary to refer to the observations made by the Executing Court in paragraph No.7 of the impugned order while directing deduction of TDS, which read thus :

“(7) In this matter, the Award is of dated 26/11/2014. Central government’s Circular bearing No.36/2016 for exclusion of deduction of TDS regulated with effect from 25/10/2016. In this circulation, there is no proviso made for the retrospective effect. Therefore, 10% TDS, in this matter, is required to be deducted. As well, Hon’ble High Court in the case of **Seema Jagdish Patil Vs. The National Hi-Speed Rail Corporation Ltd. and others, Writ Petition No.1049 of 2021**, decided by Hon’ble Bombay high Court, bench At Aurangabad, on 09/06/2022 has made exclusion of TDS amount, in view of circular. My Ld. Predecessor has not directed about deduction of 10% TDS while passing the order below Exh.19. However, in view of above circular as well as cited case, it is necessary to deduct 10% TDS amount in respect of remaining compensation amount while releasing it.”

13. In the present case, the arbitral award under Section 3G(5) of the National Highways Act, 1956 was passed on 22/04/2014, i.e., after the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the amounts are deposited in the executing Court in 2025. The beneficial provision of Section 96 of the said 2013 Act is applicable to the compensation awarded, the acquisitions made under the National Highways Act in view of Notification under Section 105 (3) of 2013 Act.

Section 96 of the 2013 Act reads as under :

“Section 96 : No income-tax or stamp duty shall be levied on any award or agreement made under this Act, except under Section 46 and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.”

14. A reference may be made to the Division Bench Judgment of the High Court of Andhra Pradesh in **C. Nanda Kumar vs. Union of India (Writ Petition No.7874 of 2016 and connected matters, decided on 13/03/2017)**, wherein it has been observed that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) is a welfare legislation which marks a significant departure from the provisions of the Land Acquisition Act, 1894. The object of the 2013 Act is not merely to provide just and fair compensation, but also to ensure rehabilitation and resettlement of affected families. The Preamble indicates that land losers are to be treated as stakeholders in the development process.

15. It has further been held that Section 96 of the 2013 Act is intended to secure these objectives and, therefore, it cannot be contended that Section 194 LA of the Income-tax Act, 1961 would override or dilute the said welfare provision. Any interpretation which requires deduction of tax at source and thereafter compels land losers to seek refund from the Income Tax Department would defeat the very purpose of the legislation. Such an approach, which forces farmers and land losers to move from one

authority to another, is clearly contrary to the objects and reasons of the 2013 Act.

16. The Division Bench of this Court in ***Seema Jagdish Patil vs. National Hi-Speed Rail Corporation Ltd. and others*** (supra) considered the issue relating to deduction of TDS from compensation paid for acquisition of land under the 2013 Act. This Court held that no deduction of tax at source can be made where the compensation is determined and paid under the provisions of the Act of 2013, whether such compensation is awarded pursuant to acquisition proceedings or by agreement.

17. This Court in ***Seema Jagdish Patil*** (Supra) also took into consideration CBDT Circular No.36/2016 dated 25/10/2016, which clarifies that the amount received under an award made under the 2013 Act is not liable to income tax.

18. In my view, TDS cannot be deducted from the compensation awarded under the arbitral award for the following reasons :

(i) Section 194LA of the Income-tax Act, 1961 does not mandate deduction of tax at source in respect of compensation paid for acquisition of agricultural land, which stands specifically excluded from its ambit. In the instant cases the acquisition is of agricultural lands with N.A. potential.

Section 194LA of the Income tax act (inserted w.e.f.

01/10/2004) reads as under :

“Section 194LA. Any person responsible for paying to a resident any sum, being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (**other than agricultural land**), shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax thereon :

Provided that no deduction shall be made under this section where the amount of such payment or, as the case maybe, the aggregate amount of such payments to a resident during the financial year does not exceed two lakh and fifty thousand rupees :

Provided further that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).“

(ii) In the present case, the arbitral award is dated 22/04/2014, i.e., after the coming into force of the Act of 2013. Section 96 of the said Act expressly provides that no income tax shall be levied on any award or agreement made under the Act. Thus, the statutory exemption operates in full force. A proviso introduced on 01/04/2017 to Section 194LA of the Income-tax Act, 1961 further clarifies that no deduction of tax at source

shall be made where the compensation is exempt from levy of income tax under any law for the time being in force. Even prior to the said clarification, CBDT Circular No.36/2016 dated 25/10/2016, it is clarified that compensation received under an award made under the 2013 Act is exempt from income tax. Though taxability and deduction at source are distinct concepts, once the income itself is exempt in view of the judgment in **C. Nanda Kumar** (supra), there remains no occasion to deduct tax at source under the beneficial legislation of the 2013 Act.

The interpretation placed by the Executing Court on the decision of this Court in **Seema Jagdish Patil vs. National Hi-Speed Rail Corporation Ltd. and others** (supra) is not correct. The said judgment recognizes the exemption flowing from the 2013 Act and the CBDT Circular. The award in the said case was after the issuance of CBDT Circular. However, the exemption from tax liability is statutory and existed from the inception of the 2013 Act. The Andhra Pradesh High Court in **C. Nanda Kumar vs. Union of India** (Supra), has held that deduction of TDS in such cases would defeat the very object of the beneficial legislation. In view of the aforesaid, and having regard to the object and purpose of the 2013 Act as a welfare legislation, there can be no direction to deduct TDS from the compensation awarded under the arbitral award passed under Section 3G(5) of the NH Act.

(iii) Another important reason why TDS cannot be deducted is that

the arbitral award is executable as a decree of a Court of law. In the present case, the amount has been deposited before the Executing Court in satisfaction of the arbitral award and, therefore, assumes the character of a decretal debt.

I draw support from the Judgment of the Hon'ble Supreme Court in **All India Reporter Ltd. vs. Ramchandra D. Datar (AIR 1961 SC 943)**, the respondent, an employee of the appellant company, had filed a civil suit claiming compensation for wrongful termination of employment, arrears of salary, and interest. The trial Court passed a decree for Rs.42,359/-, which included Rs.36,000/- towards compensation for wrongful termination, Rs.6,000/- towards salary in lieu of notice, along with interest and costs. In execution, the respondent claimed a higher amount after adjustments. The Income Tax Officer issued a notice seeking deduction of Rs.15,956-13 towards income tax, surcharge, and super-tax from the decretal amount, and the employer sought permission to deduct the said amount before satisfying the decree.

The Executing Court permitted such deduction; however, the High Court reversed the said order. The Hon'ble Supreme Court in **Ramchandra D. Datar** (Supra) upheld the decision of the High Court and held that once the claim merges into a decree, it assumes the character of a "judgment-debt". Even if a part of the original claim represented salary or compensation in lieu of salary, after the decree, the amount loses its

original character. It was further held that there is no provision under the Income-tax Act enabling a judgment debtor to deduct income tax at source from a decretal amount, in the absence of any specific direction in the decree.

In **All India Reporter Ltd. vs. Ramchandra D. Datar** (supra), it has been clearly held that the decretal amount must be paid in its entirety and no deduction towards income tax can be made therefrom by the judgment debtor. A similar view qua deduction of TDS on arbitral award considering the same as 'Judgment Debt' has been taken by the Calcutta High Court in **M/s Neo Built Corporation vs. Union of India (EC 272 of 2022)**.

19. Applying the aforesaid principle, once the compensation is crystallized in the form of an arbitral award, it partakes the character of a 'Judgment Debt' and must be paid in its entirety, without any deduction towards TDS.

20. In view of the aforesaid legal position, the impugned order, to the extent it directs deduction of TDS, cannot be sustained. The Competent Authority for Land Acquisition (CALA) is directed to redeposit the amount deducted towards TDS before the Executing Court. The Executing Court shall ensure that the entire decretal amount, along with accrued interest, is paid to the claimants.

21. In view of the foregoing discussion, the petitions succeed. The impugned orders passed by the Executing Court in Arbitration Regular Darkhast to the extent directing deduction of 10% amount towards Tax Deducted at Source (TDS), are quashed and set aside.

22. It is held that no deduction of TDS is permissible from the compensation awarded under the arbitral award passed under Section 3G(5) of the National Highways Act, 1956, having regard to the provisions of Section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

23. The Competent Authority for Land Acquisition (CALA) shall redeposit the amount, if any, already deducted towards TDS, before the Executing Court within a period of four weeks from today.

24. Upon such redeposit, the Executing Court shall disburse the entire decretal amount, along with accrued interest, to the petitioners, without any deduction, in accordance with law.

25. Rule is made absolute in the aforesaid terms.

(ARUN R. PEDNEKER, J.)

vj gawade/-.