

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6350 OF 2026

Dilip Baburao Kothawale and others	...	Petitioners
Vs.		
State of Maharashtra and others	...	Respondents

Mr. Vilas B. Tapkir for Petitioners.

Ms. P. M. J. Deshpande, AGP for Respondents-State.

**CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.**
DATE : JUNE 18, 2026

P.C. :

1. Mr. Tapkir, learned counsel for the petitioners submits that this writ petition was being listed with a group of petitions i.e. **Writ Petition No.10293 of 2019** (*Pralhad Pandurang Nevase and others Vs. State of Maharashtra and others*) along with connected writ petitions. But, it appears to have been segregated subsequently.

2. The learned counsel for the petitioners relies upon order dated 09.03.2026 passed in the said group of petitions, granting relief to similarly situated petitioners. By the said order, after taking into consideration the facts pertaining to the said writ petitions, particularly the fact that lands of the petitioners were taken over by way of advance possession by the State in the year 1990, the process of acquisition was also undertaken and yet, eventually, the land acquisition award was not passed in the context of the said lands, this Court proceeded to allow the writ petition by directing that the State shall take steps under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013) for acquisition

of the lands of the petitioners and to pass an appropriate award within a period of nine months from the date of the order. In the said order, this Court particularly took into consideration the stand taken by the respondent State authorities.

3. The relevant portion of the order dated 09.03.2026 reads as follows:-

“15. We considered the rival submissions.

16. It is undisputed that the lands of the Petitioners are located in 48 Gat Numbers in respect of which no final award was ever passed by the Land Acquisition Authority.

17. This is evident from the contents of the affidavit dated 17/12/2019 filed by the Deputy Collector, Land Acquisition No.22, Pune in Writ Petition No. 10293 of 2019. It is also undisputed that the contents of the said affidavit apply to the facts of all the remaining Writ Petitions. It is necessary to refer to the relevant portion of the said reply affidavit.

18. Paragraphs Nos. 5, 6 and 7 which reads as under:

‘5. I say that, thereafter this Respondent No.3 prepared a Draft Award to acquire the lands from 82 Gat Numbers. In the meanwhile, the Resettlement Officer, Chaskaman Project Khed, sent a report wherein he reported that Project Affected Persons have given preference to only 34 out of total 82 Gats. Nobody was ready to accept rest of the Gat Nos. Therefore, the Special Land Acquisition Office No. 22, Pune prepared a Final Award for 34 Gat numbers only. Total 48 Gat Numbers were excluded from the Final Award. Also Gat No. 548 was excluded from the Award. Thereafter no Award was passed to acquire the land from Gat No. 548.

6. I say that, the record indicates that, out of 82 Gat Nos. only 34 Gat Numbers were acquired. However, then Special Land Acquisition Officer No. 22 issued letters to District Resettlement Officer, Pune for further instructions in respect of declaration of award of rest of the Gat Nos. Hereto annexed and marked as 'Exhibit - 3' is the copy of the relevant record.

7. Further I say that, if there is fresh proposal by the District Resettlement Officer to acquire the above mentioned land in Gat No. 548 admeasuring 1 Hectare 02 Ares, this Respondent No. 2 is ready to acquire the said land.'

19. The above-quoted contents of the reply affidavit clearly show that insofar as the land of the Petitioners are concerned, no land acquisition award was passed under the provisions of the Act of 1894, and the possession was taken way back in the year 1990-1991. Section 11(A) of the Act of 1894 mandates that if an award is not passed within two years of the declaration issued under Section 6 of the said Act, the entire land acquisition proceeding lapses.

20. There can be no doubt about the land acquisition proceeding in the context of the Petitioners having lapsed in view of the stand taken on behalf of the State in the above quoted portion of the reply affidavit, particularly the last line of Paragraph 5, wherein it is stated that no award was passed.

21. Two Division Benches of this Court in Writ Petition Nos. 13450 of 2018 and Writ Petition No. 4985 of 2014 pertaining to the same acquisition process concerning Shikrapur, Taluka-Shirur, District-Pune, in identical situations and taking note of the reply affidavit filed on behalf of the Land Acquisition Officer therein, held that the acquisition had lapsed. Further that the Respondents were required to take necessary steps for payment of compensation to the landowners in accordance with law, specifically referring to the Act of 2013.

22. We do not find any reason to take a different view, considering that the facts in these Petitions are also identical to those in Writ Petition No.13450 of 2018 and Writ Petition No. 4985 of 2014.

23. As regards delay on the part of the Petitioners in approaching this Court, even the aforesaid Writ Petitions which were allowed by the said orders by this Court were filed in the years 2014 and 2018. These Writ Petitions were filed in the year 2019.

24. Even on the judgment, upon which the learned AGPs have placed much reliance i.e. 'Sumitra Shridhar Khane Vs. Deputy Collector and Ors.' (supra), the Division Bench of this Court has elaborately discussed the aspect of delay and laches. In the said judgment reliance has been placed on various judgments of the Supreme Court on the said aspect of the matter, including in the cases of 'Vidyadevi Vs. The State of

Himachal Pradesh'², 'Sukh Datt Ratra and Anr. Vs. The State of Himachal Pradesh and Ors'³ and Kolkata Municipal Corporation and Anr. V/s Bimal Kumar Shah and Ors⁴., amongst other judgments.

25. After relying upon the law laid down by the Supreme Court in the said judgments, in the context of the right to property as a constitutional right and a facet of human rights and Article 300-A of the Constitution of India, the argument pertaining to delay and laches has been rejected.

26. It is settled law that the State cannot take the shelter of delay and laches when it is demonstrated that land of the claimant has been taken over and no compensation has been paid. Such a situation clearly violates Article 300-A of the Constitution of India and, therefore, arguments made on delay and laches on behalf of the State are rejected.

27. As regards reliance placed on the judgment of this Court in the case of 'Sumitra Shridhar Khane Vs. Deputy Collector and Ors.'^(supra), we find that in the said judgment the Division Bench of this Court elaborately relied on "Voluntary affidavits" of the land owners therein.

28. In Paragraph 33 of the said judgment, the Division Bench of this Court also referred to mutual/consensual/arrangement between the landowners and the Projected Affected Persons, under which possession of lands was taken over of the claimants/land owners.

29. We do not find any such facts in these writ Petitions, and hence the instant Petitions are distinguishable on facts from the said judgment of this Court in the case of 'Sumitra Shridhar Khane Vs. Deputy Collector and Ors.'^(supra).

30. In any case, in the said judgment of this Court there is absolutely no reference to Section 11A of the Act of 1894, pertaining to lapsing of acquisition, as opposed to specific observations made in the orders passed by the Division Benches of this Court in Writ Petition No. 13450 of 2018 and Writ Petition No. 4985 of 2014. This is not even a case of lapsing of acquisition claimed by the Petitioners under Section 24(2) of the Act of 2013, simply for the reason that in the present case, as per the admissions given on behalf of the State in the above-quoted portion of the reply affidavit, no award was ever passed in respect of the taking over of lands of the Petitioners.

31. On this count also we find these Writ Petitions to be

distinguishable from the facts considered by the Division Bench of this Court in the case of 'Sumitra Shridhar Khane Vs. Deputy Collector and Ors.' (supra).

32. In view of the above, we do not find any reason to take a view different from what the two Division Benches of this Court have taken and granted relief to similarly situated Petitioners.

33. We find that the Petitioners in the said petitions were identically situated like the Petitioners herein. In fact, in Paragraph 5 of the order of this Court dated 11/09/2017 passed in Writ Petition No. 4985 of 2014, the Division Bench of this Court specifically referred to the manner in which only 34 Gat Numbers were subject matter of the land acquisition award out of the 84 Gat Numbers in respect of which proceedings were undertaken. There is no reason for us to take a different view in the matter.

34. We also find that in such cases, the writ Court is not expected to be restrained by technicalities and the constitutional right of the Petitioners under Section 300-A has to be given its due.

35. In view of the above, the Writ Petitions are allowed.

36. It is held that in the light of the specific admission given on behalf of the Respondent- State that no award was ever passed in respect of the Gat Numbers in which the land of the Petitioners is located, the acquisition proceedings had clearly lapsed.

37. It is also admitted position that the possession of the lands was taken ever without due process of law and, hence, the Respondent-State is obliged to undertake necessary steps for acquisition of the land and payment of compensation to the Petitioners in terms of the only statute now available for the said purpose i.e. the Act of 2013.

38. Accordingly, the Respondent-State is directed to take necessary steps under the Act of 2013 and pass an award within a period of nine months from today.

39. In view of the above, Writ Petitions are allowed in the aforesaid manner. We are of the opinion that no further orders are necessary in the pending Interim Applications or in the context of the project affected persons. Hence, all the Interim Applications are also disposed of.”

4. In the present case also, it is conceded that land acquisition award was not passed despite the subject land being covered under notification under Section 4 of the Land Acquisition Act, 1894 and declaration under Section 6 thereof. The acquisition proceeding had clearly lapsed. The contents of the reply affidavit in this petition also show that the State authorities have indicated that if fresh proposal is moved, acquisition of the subject land can be undertaken. There is no factual distinction between this petition and the petitions that were disposed of by the order dated 09.03.2026.

5. In view of the above, we allow the present writ petition and direct the respondent State to take necessary steps for acquisition of the subject land under the provisions of the Act of 2013 and to pass an award within a period of nine months from today.

6. Pending applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)

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