

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.15913 OF 2024

Balkrishna Lalji Metha since deceased through
LRs and others ... Petitioners

Vs.

Chief Engineer, National Highways PWD, Kokan
Bhawan and others ... Respondents

Mr. Anil Y. Sakhare, Senior Advocate i/b. Mr. Vivek V. Salunke for Petitioners.

Mr. Rakesh L. Singh i/b. M. V. Kini & Co. for Respondent Nos.1 and 2.

Mr. A. I. Patel, Additional GP a/w. Mrs. G. R. Raghuwanshi, AGP for Respondent
Nos.3 and 4 - State.

**CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.**

DATE : MARCH 10, 2026

P.C. :

. Heard Mr. Sakhare, learned Senior Counsel appearing for the petitioners, Mr. Patel, learned Additional Government Pleader for respondent No.3 i.e. Competent Authority Land Acquisition and Sub-Divisional Officer, Mangaon and respondent No.4 i.e. State of Maharashtra, as also Mr. Singh, learned Counsel appearing for respondent No.1 i.e. Chief Engineer, National Highways PWD, Navi Mumbai and respondent No.2 i.e. National Highway Authority of India (NHAI).

2. The petitioners have approached this Court seeking a direction to the respondents to disburse the amount of compensation in favour of the petitioners, as determined under the award dated 08.04.2024 passed by the respondent No.3 - Competent Authority Land Acquisition and Sub-Divisional Officer (for short 'Competent Authority') under the provisions of the National Highways Act, 1956 (for short the 'said Act').

3. The petitioners are concerned with their land bearing Survey No.67/3 situated at Village Utekhol, Taluka Mangaon, District Raigad, out of which, land admeasuring 10200 sq.mtrs. was acquired for the purpose of construction of National Highway No.66.

4. It is the case of the petitioners that despite monetary compensation being determined as payable to them under the award dated 08.04.2024, the respondents failed to disburse the amount of compensation.

5. Upon notice being issued, the respondent No.3 - Competent Authority filed reply affidavit stating that although the subject land was, at a point in time, recorded in the revenue record as being a private forest, upon an appeal filed by the petitioners being allowed by the appellate authority i.e. the Sub-Divisional Officer, Mangaon on 26.04.2021, the names of the petitioners were again entered in the revenue record as owners of the said land. Consequently, by the said award dated 08.04.2024, monetary compensation was determined for 10200 sq.mtrs. of the land and communications were addressed to the respondent - National Highways Authority of India (NHAI) for making funds available for disbursal of the compensation to the petitioners. It was submitted that since the respondent No.2 as the acquiring body did not make the funds available, the compensation amount could not be paid to the petitioners.

6. In pursuance of the specific order passed by this Court, directing respondent No.1 to file its reply affidavit, the said respondent e-filed the reply affidavit. It appears that the Registry was unable to share the said e-filed reply affidavit. Hence, the learned counsel appearing for respondent No.1 made available photocopies of the reply affidavit along with documents for the perusal of this Court.

7. A perusal of the reply affidavit shows that according to the respondent No.1, it is aggrieved by the manner in which the award dated 08.04.2024 is passed by the respondent No.3 - Competent Authority, and therefore, as recently as on 04.03.2026 i.e. the date on which the reply affidavit was sworn, an 'arbitration application' has been filed by the said respondent i.e. National Highway Division Pen before the Additional Collector of Raigad (Statutory Arbitrator) challenging the very award dated 08.04.2024. The challenge is raised purportedly under Section 3G(5) of the said Act.

8. The learned senior counsel appearing for the petitioners submits that the defence taken by the respondent - NHAI is wholly unsustainable for more than one reason. Attention of this Court is invited to the order dated 26.04.2021 passed by the Sub-Divisional Officer of Mangaon, partly allowing the appeal of the petitioners and specifically holding that the land of the petitioners located in Survey No.67/3 was not a piece of land to which the description of private forest could be applied. Accordingly, it was held that the names of the petitioners shall be recorded as owners in the revenue record.

9. It is submitted that in this backdrop, the respondent No.3 - Competent Authority proceeded to pass the award dated 08.04.2024 determining monetary compensation payable to the petitioners for acquisition of 10200 sq.mtrs. of land in Survey No.67/3. Despite the said order of the concerned authority and communication dated 16.04.2021 issued by the Deputy Conservator of Forest to the Competent Authority about the fact that the subject land was no longer a private forest, the respondent NHAI was refusing to part with funds on the specious plea that the subject land was Government land / forest land handed over on 14.11.2022 to the respondent - NHAI and hence there was no question of payment of compensation. It is submitted that the said stand is wholly

unsustainable. It is specifically submitted that the said arbitration application filed by the respondent NHAI before the Additional Collector of Raigad (Statutory Arbitrator) under Section 3G(5) of the said Act further demonstrates the malicious conduct of the said respondent. It is also submitted that in the light of the clear stand taken by the respondent No.3 - Competent Authority, this Court may allow the writ petition and appropriate directions may be issued to the respondents.

10. Mr. Patel, learned Additional Government Pleader relied upon the contents of the reply affidavit filed on behalf of the respondent No.3 - Competent Authority, particularly paragraphs 2 to 7 thereof, to impress upon this Court that the respondents - NHAI should take appropriate steps in the matter.

11. Mr. Singh, learned counsel appearing for respondent Nos.1 and 2 i.e. the authorities of the NHAI relied upon the reply affidavit dated 04.03.2026 recently filed along with a plethora of documents in this writ petition. Reliance was placed on the assertion of the respondent NHAI that when possession of the subject land was handed over and part of the National Highway No.66 was constructed thereon, it was Government land and hence, the award dated 08.04.2024 is unsustainable. It was submitted that therefore, the said award has been challenged before the Statutory Arbitrator. In these circumstances, it was submitted that this Court may not grant any relief to the petitioners in this petition.

12. Rejoinder affidavit is tendered by the learned senior counsel appearing for the petitioners. The same is taken on record.

13. We have considered the rival submissions in the light of the documents and material placed on record. It appears that the names of the petitioners were indeed recorded in the revenue record as owners of

the said land located in Survey No.67/3. This becomes evident from the contents of the order dated 26.04.2021 passed by the appellate authority i.e. the Sub-Divisional Officer, Mangaon in an appeal filed on behalf of the petitioners challenging the recording of the subject land as 'private forest' in the revenue record. The contents of the said order show that the petitioners as tenants subsequently became owners of the said land under the provisions of the Khoti Abolition Act, 1949 and that their names were recorded in the revenue record as such. It appears that in between the revenue record showed the said land to be private forest and the names of the petitioners were shifted to the 'Other Rights' column. The detailed and reasoned order dated 26.04.2021 passed by the Sub-Divisional Officer, Mangaon traces the said course of events and eventually concludes that the subject land in Survey No.67/3 cannot be treated as 'private forest' and that the provisions leading to the land being treated as 'private forest' under the Maharashtra Private Forest Acquisition Act, 1975, do not apply to the subject land. Accordingly, it was specifically held that the names of the petitioners shall be recorded in the revenue record again as owners of the land in Survey No.67/3.

14. The aforesaid communication dated 16.04.2021 issued by the Deputy Conservator of Forest to the Sub-Divisional Officer, Mangaon also confirms the fact that the subject land could not be treated as 'private forest'.

15. Thus, it is abundantly clear that the competent authorities of the respondent State, not only came to the considered conclusion that the petitioners continued to be the owners of the said land in Survey No.67/3 but their names were again recorded in the revenue record as owners of the said land.

16. In this backdrop, we find substance in the contentions of the learned Additional Government Pleader that in the award initially passed

on 17.04.2017, under the provisions of the said Act, monetary compensation for the land located in Survey No.67/3 was not determined as at that point in time, it was recorded as a private forest land. Upon the order dated 26.04.2021 passed by the appellate authority i.e. Sub-Divisional Officer, Mangaon, the petitioners were held to be the owners of the said land and it is in this context that the said award dated 08.04.2024 was passed by the respondent No.3 - Competent Authority. These facts have been specifically recorded in the reply affidavit filed on behalf of the respondent No.3 - Competent Authority. Relevant portion of the said affidavit reads as follows:-

“2. I say that the landed property Survey No. 67/3 at Village Utekhhol, Tal. Mangaon, Dist. Raigad was in the name of Private Forest and 1.02.00 H.R.P. was acquired for National Highway No. 66. As per Revenue Record the Petitioners were the tenants in said property.

3. I say that, it is seen that as per order dated 26.04.2021 in Appeal No. 1/2019 filed as per provisions of Maharashtra Private Forest (Acquisition) Act 1975 section 3(2) by SDO Mangaon, name of Private Forest as kabjedar was deleted and property was entered in the names of Petitioners. It is seen that office of Principal Chief Conservator of Forest submitted their report dated 08.10.2021 & it was clearly mentioned that as there were tenants in said property so provisions of Private Forest Act were not applicable to Survey No. 67/3 at Utekhhol, Tal. Mangaon. As per said report of C.C. of Forest and order of SDO Mangaon dated 26.04.2021 names of present Petitioners were entered to the said property.

4. I say that, on 08.04.2024, the Award with respect to the area 1.02.00 H.R.P acquired from Survey No. 67/3 at Utekhhol, Tal. Mangaon, Dist. Raigad. was passed as per provisions of National Highways Act by CALA. The Award was sent to National Highway Authority on 08.04.2024 for disbursing payment as per Award to the petitioners. Till today the National Highway Authority has not paid the compensation amount to the Petitioners. Hereto annexed and marked as Exhibit R-1 is copy of the letter dated 08.04.2024. I crave leave to refer to and rely upon the said record as and when produced.

5. I say that, to carry forward work of highway, said 1.02.00 H.R.P area in Survey No. 67/3 is already acquired. The office of CALA took possession & handed over to National

Highway Authority.

6. I say that the Petitioners have applied for the compensation amount to CALA as per Award but National Highway Authority has not paid to the petitioners. Hence Petitioners filed this Petition.

7. I say that the Order of SDO Mangaon in Appeal No. 1/2019 is not challenged by Forest Department nor cancelled by superior authority.”

17. Thus, it is abundantly clear that the onus was upon the respondents - NHAI to explain as to why funds were not made available for disbursal of compensation to the petitioners in terms of the award dated 08.04.2024. In the light of the reply dated 04.03.2026 recently filed on behalf of the respondent - NHAI and the oral submissions made by the learned counsel representing the said respondent, we find that that the only defence raised by the respondent - NHAI is that the award dated 08.04.2024, itself, is non-est and bad in law. The aforesaid assertion is made on the basis that when possession of land was handed over on 14.11.2022 to the respondent - NHAI, it was Government land and therefore, there is no question of payment of any monetary compensation to the petitioners.

18. The said stand is wholly unsustainable in the face of the chronology of events recorded hereinabove. The order dated 26.04.2021 passed by the appellate authority - Sub-Divisional Officer, Mangaon clearly holds that the provisions of the Statute pertaining to private forest do not apply to the land of the petitioners located in Survey No.67/3 and that, the petitioners are indeed owners of the said land. It is undisputed that land to the extent of 10200 sq.mtrs. was acquired from Survey No.67/3 and it has been utilized in construction of National Highway No.66.

19. It is undisputed that monetary compensation payable to the

petitioners has been determined by the said award dated 08.04.2024 passed by the respondent No.3 - Competent Authority. In the face of the aforesaid position on facts, there is no reason why the respondent - NHAI should refuse to make funds available to the respondent No.3 - Competent Authority for disbursement of compensation to the petitioners in terms of the award dated 08.04.2024. The approach of the respondent - NHAI is not only in the teeth of facts and law but also appears to be *mala fide*.

20. This is manifested by the recent turn of events, as demonstrated in the reply affidavit filed on behalf of the respondent NHAI. In the reply affidavit, it is claimed that the award dated 08.04.2024 is unsustainable and that the said respondent has challenged the same before the Statutory Arbitrator / Additional Collector, Raigad. Despite making such a statement, curiously a copy of the application challenging the award has not been placed on record along with the reply affidavit. A copy of the same was made available by the learned senior counsel appearing on behalf of the petitioners. A perusal of the same shows that on 04.03.2026, the said respondent - NHAI has approached the Statutory Arbitrator / Additional Collector, Raigad under Section 3G(5) of the said Act, with a prayer for 'quashing and setting aside the award dated 08.04.2024'.

21. It is to be noted that the challenge to be raised under Section 3G(5) of the said Act to an award of the Competent Authority before the arbitrator appointed by the Central Government is limited to the aspect of quantum of the amount of compensation as determined in the award, with specific reference to factors enumerated in Section 3G(7) of the said Act. There is no question of the award itself being declared non-est or quashed and set aside by the statutory arbitrator under Section 3G of the said Act. On the face of it, the aforesaid challenge raised by the

respondent - NHAI before the Statutory Arbitrator is in the teeth of the said provisions and beyond the jurisdiction of the statutory arbitrator, apart from the fact that it appears to be *mala fide*.

22. We have come to this conclusion for the reason that when this Court found recalcitrance on the part of the respondent - NHAI in filing reply affidavit in the present writ petition and time was granted as a matter of last chance on 21.01.2026 to file the reply affidavit, the same was still not placed on record. As a consequence, this Court was constrained to pass an order on 12.02.2026, directing the Executive Engineer of respondent - NHAI to remain personally present in this Court on the next date of listing. On 05.03.2026, the Executive Engineer was indeed present in Court and it was stated before this Court that the reply affidavit on behalf of the respondent - NHAI shall be filed during the course of the said date with advance copies being given to the learned counsel for the petitioners and the learned AGP. This Court had recorded the said statement and it was also directed that the aforesaid officer i.e. the Executive Engineer need not remain present on the future dates, unless otherwise directed by this Court.

23. Even on the said date, the concerned officer did not bring it to the notice of this Court that a day prior i.e. on 04.03.2026, the said respondent - NHAI had filed the application challenging the award dated 08.04.2024 before the Statutory Arbitrator. The aforesaid chronology of events gives an impression to this Court that the respondent -NHAI has taken the aforesaid step of 'challenging the award itself', as an after-thought and in a *mala fide* manner to somehow raise defence in the present writ petition. We find the said defence to be wholly unsustainable and hence, we reject the stand taken by the respondent - NHAI.

24. We find that the petitioners are clearly entitled to compensation as

determined in the award dated 08.04.2024 and that such compensation ought to be paid at the earliest.

25. In view of the above, the writ petition is allowed. The respondent - NHAI is directed to transfer funds to the respondent No.3 - Competent Authority and Sub-Divisional Officer, Mangaon, within three weeks from today for payment of compensation to the petitioners in terms of the award dated 08.04.2024 along with all consequential benefits. The respondent No.3 - Competent Authority and Sub-Divisional Officer shall disburse the said amount received from the respondent - NHAI within two weeks thereafter.

26. The writ petition is disposed in above terms. Pending applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)