

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1993 OF 2025

Kailash Kamlakar Shivale

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

.....

- Mr. Sumit V. Khaire, Advocate for Petitioner
- Ms. Snehal S. Jadhav, AGP for Respondents

.....

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 29, 2026

P. C.:

1. Heard Mr. Khaire, learned Advocate for Petitioner and Ms. Jadhav, learned AGP for Respondents.

2. On 12.11.2025, the following order was passed by this Court:-

"1. Not on Board. Mentioned by way of filing praecipe dated 12.12.2025. Perused the praecipe.

2. Heard Mr. Khaire, learned Advocate for Petitioner.

3. Mr. Khaire would refer to rely upon order dated 24.11.2025 passed in identical Writ Petition bearing No.1994 of 2025.

4. He would submit that District Resettlement Officer in the present case has also passed a similar order without giving an opportunity of hearing to Petitioner. He would submit that considering that the lis emanates from a substantive right of Petitioner under the Maharashtra Project Affected Persons Rehabilitation Act, 1999, opportunity of hearing ought to have been granted to the Petitioner by the DRO.

5. He would persuade the Court to pass a similar order and direct the District Resettlement Officer to hear the Petitioner.

6. After perusing the order dated 24.11.2025, it is seen that an arguable case is made out by Mr. Khaire in the present Writ Petition.

7. Immediate cognizance is directed to be taken thereof. Copy of this order and Writ Petition be served forthwith on Chief Government Pleader. She is directed to nominate a responsible Pleader to appear in the matter

who shall consider the order dated 24.11.2025 and appear after taking instructions on the next adjourned date.

8. *Considering the aforesaid, I propose to dispose the Petition on **16th December, 2025**. To be placed under the caption '**First on Board**'.*

3. Ms. Jadhav, learned AGP after taking instructions from the office of the District Resettlement Officer informs the Court across the bar, in the present case no notices were issued to Petitioner before passing the impugned order. Fairness of the learned AGP is appreciated by the Court. She has placed on record a communication dated 29.01.2026 addressed by the Collector's office Rehabilitation Branch, Pune to the Government Pleader in the present Writ Petition. In the said communication, it is stated that the District Resettlement Officer has not passed any final award in respect of 48 entities / Gat numbers which are the subject matter of Chasakman Project Khed. It is stated therein that since the पसंती अहवाल, *inter alia*, pertaining to 48 entities / Gat numbers was not received by the District Resettlement Officer, the final award relating to rehabilitation and resettlement could not be passed. It is admitted in the said letter that despite the aforesaid position, Government proceeded further by mutating the name of the Government in the revenue records to the detriment of the Petitioner.

4. Be that as it may, it is *prima facie* seen that the impugned order has been passed without issuing any notice whatsoever to the

Petitioner before me neither the Petitioner has been heard. Whenever land belonging to the owner is required to be taken under the power of eminent domain by the State, State is required to follow the due process of law which has not been done in the present case. Whatever may be the reason either in passing of the final award or non receipt of the पसंती अहवाल be that as it may the rule of law is required to be followed by the District Resettlement Officer.

5. In view of the above, the impugned order dated 20.08.2024 is not sustainable and is set aside forthwith. Needless to state that if the District Resettlement Officer desires to pass any order against the Petitioner in respect of any issue, *inter alia*, pertaining to acquisition or resettlement of land pertaining to Petitioner, he shall give an appropriate notice to Petitioner and delineate the cause of action in the said notice. If the District Resettlement Officer refers to and relies upon any material, he shall furnish a copy of the same to the Petitioner.

6. Pursuant to the notice, Petitioner shall be entitled to file Affidavit-in-Reply / Affidavit to the notice which shall be taken on record by the District Resettlement Officer and an opportunity of hearing is given to Petitioner or his pleader on an appointed date. Only thereafter a reasoned and speaking order shall be passed. In the event if the reasoned and speaking order passed is adverse to the

Petitioner, he may file Application / Appeal against the said order within a period of 15 days from the date of passing of order before the Appellate Authority in accordance with law, though Mr. Khaire, learned Advocate for Petitioner informs the Court that the action by the District Resettlement Officer is *suo motu* initiated by him.

7. All questions of Petitioner are expressly kept open without giving any imprimatur on the action of the Statutory Officer.

8. With the above directions and the impugned order having been set aside, Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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