

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13194 OF 2025

M/s. Space Up Ventures Pvt. Ltd. and another ... Petitioners

Vs.

The National Highways Authority of India & others ... Respondents

Mr. V. S. Kapse for Petitioners.

Mr. N. C. Walimbe, Additional GP a/w. Mr. R. S. Pawar, AGP for Respondents-State.

Mr. Anil Singh, ASG a/w. Mr. Rakesh Singh Krishnakant i/b. M. V. Kini & Co. for Respondent-NHAI.

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

DATE : APRIL 21, 2026

P.C. :

. The petitioners filed this writ petition initially for declaring that the action undertaken by the respondent No.1 - National Highways Authority of India (NHAI) for marking portion of a warehouse belonging to the petitioners situated at Survey No.21/5, Village Bhoirgaon, Taluka Bhiwandi, District Thane, for proposed demolition, as illegal and bad in law. A further prayer was made for a direction to the respondents to acquire the entire structure, as only part of it was being acquired for the purposes of right of way, concerning Mumbai Vadodara National Highway. In the reply affidavit, the respondents placed on record the fact that on 04.09.2025, the land acquisition award itself was passed by respondent No.4 - Special Land Acquisition Officer / Competent Authority (for short 'Competent Authority') and reference was also made to a report of the Indian Institute of Technology, Bombay (IIT) about the structural stability of the remaining portion of the subject warehouse. In that light, the petitioners amended the writ petition to

challenge the said award as well as the report of the IIT.

2. In this petition, by an order dated 12.09.2025, an ad-interim direction was issued to the respondents not to take any coercive step of demolition. The said ad-interim order has continued to operate till date. In the light of the ad-interim order operating against the respondents, particularly respondent No.1 NHAI, the respondents were pressing for final disposal of the writ petition. The pleadings were completed.

3. On earlier occasions, this petition was heard for some time and reference was made to a recent **judgement and order dated 24.02.2026** passed by this Court in **Writ Petition No.16191 of 2025** (*Anirudha Manohar Khopade and others Vs. Union of India and others*). It was stated that some of the issues that came up for consideration in the said case could be said to be common to the issues being raised by the petitioners in this writ petition.

4. It is pertinent to note that in the said case of **Anirudha Manohar Khopade and others Vs. Union of India and others** (*supra*), the petitioners therein had specifically invoked Section 94 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013') to contend that they were entitled to invoke the said provision to call upon the Competent Authority to acquire the entire structure, if a part of it was being acquired and demolished.

5. This Court, upon analyzing the provisions of the Act of 2013 read with the provisions of the National Highways Act, 1956 (for short 'Highways Act'), came to the conclusion that in such cases where the acquisition has not been undertaken with reference to the provisions of the Highways Act, Section 94 of the Act of 2013 was not available to the landowners / claimants.

6. Despite the said finding, this Court found that the petitioners therein could not be left without consideration of their grievance in respect of the alleged detrimental effect on the remaining part of the structure and for appropriate compensation in that regard. After taking into consideration the provisions of the Act of 2013 and the Highways Act, this Court disposed of the said writ petition and made the following observations:-

“49. Yet, as a Writ Court, we find that if the petitioners can be said to be ‘persons interested’, although their property has not been acquired, their grievance cannot be completely ignored, even though belatedly raised, of being reasonably compensated in the event they are able to demonstrate that their rights have been affected. In this context, the definition of ‘affected family’ under Section 3(c) of the Act of 2013 and particularly clause (vi) thereof is relevant, which reads as follows:-

‘3(c) ‘affected family’ includes-

(i) to (v) ...

(vi) a family residing on any land in the urban areas for preceding three years or more prior to the acquisition of the land or whose primary source of livelihood for three years prior to the acquisition of the land is affected by the acquisition of such land;’

50. The definition of ‘person interested’ as per Section 3(x) of the Act of 2013, has already been quoted hereinabove. Clause (v) thereof includes any person whose primary source of livelihood is likely to be adversely affected. It is relevant to note that Section 28 of the Act of 2013, pertaining to parameters to be considered by the Collector in determination of award (quoted hereinabove), refers to various situations in respect of damage sustained by a person interested by the act of taking possession of the land and clause 7 thereof refers to any other ground, which may be in the interest of equity, justice and beneficial to affected families. The same is a ground for consideration while determining the amount of compensation. Section 3-G(2) of the Highways Act, also quoted hereinabove, specifically refers to the right of user or any right in the nature of an easement being affected and it provides for payment of an amount to the person whose enjoyment of such right is affected by the acquisition. Considering the aforementioned provisions of the Act of 2013

and the Highways Act, particularly because they are relevant for determining the quantum of compensation, we are of the opinion that the right of the petitioners to that limited extent can be considered and examined by the Competent Authority. Consideration of such right of the petitioners and thereupon determination of quantum of compensation, if any, can be undertaken without, in any manner, restraining the respondent No.2 - NHAI from proceeding to take possession of the acquired lands and buildings and facilitating speedy construction of the national highway.

51. In this context, reference to the report submitted by IIT, Bombay, dated 22.09.2025, pertaining to the subject building i.e. Godown L1 shows that while it is opined that the structural stability of the remaining portion of the building with which the petitioners are concerned would not be adversely affected, at the same time, there is reference to integrity of the building requiring certain degree of rework. We cannot sit in appeal over the findings given by an expert body like the IIT. But, at the same time, when the Competent Authority considers the claim of the petitioners for being reasonably compensated for their rights, if any, with regard to their business being adversely affected, the report of IIT can be taken into consideration and opportunity can also be granted to the petitioners to place their own material on record while raising their claims for compensation payable, if any, due to the alleged adverse effect on their right to user of their respective *galas*. We are not expressing any opinion, either way, on that aspect of the matter.

52. In view of the discussion hereinabove, although we find that the reliefs claimed by the petitioners in this petition by relying upon Section 94 of the Act of 2013 cannot be granted and that the respondent authorities proceeded in accordance with law while undertaking the process of acquisition, to the limited extent indicated hereinabove, the petitioners can be granted relief of consideration of their claim of adverse effect on their right of user of their respective *galas* due to acquisition and demolition of part of the building i.e. Godown L1.

53. Accordingly, the writ petition is disposed of in the following terms:-

- A. The contention of the petitioners seeking relief by relying upon Section 94 of the Act of 2013 is rejected as it is held that the said provision is not applicable to the case of the petitioners;

- B. The petitioners are permitted to approach the competent authority for consideration of their claim of adverse effect on their business and right of user, if any, due to acquisition and demolition of the acquired part of the building i.e. Godown L1;
- C. The respondent No.4 - Competent Authority is directed to consider the claim of the petitioners limited to the extent indicated hereinabove in accordance with law. Accordingly, the respondent No.4 - Competent Authority shall complete the exercise within a period of six months from today. This Court is not expressing any opinion on the merits of the claim of the petitioners;
- D. It is made clear that the aforesaid exercise, to be carried out by the respondent No.4 - Competent Authority, shall not be an impediment or come in the way of the respondent No.2 - NHAI to proceed with taking physical possession and demolishing the acquired part of building i.e. Godown L1 for speedy construction of Vadodara Mumbai Expressway;
- E. The respondent No.2 - NHAI is relieved of the statement made on its behalf, as recorded in the order dated 11.12.2025;”

7. The learned counsel for the petitioners in the present petition, on instructions, submits that the petitioners are ready to approach the respondent No.4 Competent Authority for directions in line with the above-quoted directions issued in the case of **Anirudha Manohar Khopade and others Vs. Union of India and others** (*supra*). In addition, it is submitted that the Competent Authority ought to consider the entitlement of the petitioners for being appropriately compensated for the damage suffered due to the part acquisition of the said warehouse, thereby injuriously affecting the remaining portion of the said warehouse (immovable property). In this regard, reliance was specifically placed on Section 3G(7)(c) of the Highways Act.

8. The learned ASG submitted that the grievance of the petitioners could be considered in an appropriate manner by the Competent Authority, but the present petition needs to be disposed of as major portion of the said highway has been already completed and due to the interim order in the present writ petition, the development work of NHAI in respect of the said project is hampered.

9. The learned AGP appearing for the State authorities, including respondent No.4 Competent Authority, submitted that if the petitioners approach the Competent Authority with the aforesaid grievances, they could be considered in accordance with law.

10. In view of the above, the writ petition is disposed of in the following manner:-

A. The petitioners are permitted to approach the respondent No.4 Competent Authority for consideration of their grievance with regard to the adverse effect on their business and right of user of their property in the light of the part acquisition and demolition of the said warehouse;

B. In addition, the petitioners are entitled to raise their grievance by relying upon Section 3G(7)(c) of the Highways Act and other factors for determination of compensation in accordance with law. All contentions in that regard are kept open;

C. The petitioners shall move an appropriate application raising the aforesaid grievances before the respondent No.4 Competent Authority within four weeks from today;

D. The respondent No.4 Competent Authority is directed to consider the claims of the petitioners to the

extent indicated hereinabove and also in the light of observations made by this Court in its judgement in the case of **Anirudha Manohar Khopade and others Vs. Union of India and others** (*supra*);

E. The aforesaid exercise shall be completed within a period of six months of the petitioner approaching the respondent No.4 Competent Authority. Consequently, if necessary, the said Competent Authority shall issue a supplementary award in that regard;

F. This Court is not expressing any opinion on the merits of the claims of the petitioner, which shall be decided in accordance with law by the respondent No.4 Competent Authority taking into consideration the relevant provisions of the law and the observations made by this Court;

G. This Court is also not expressing any opinion about the report of the IIT and the Competent Authority shall give appropriate opportunity to the petitioners to deal with the same in accordance with law;

H. The interim order dated 12.09.2025 is vacated.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)

Minal Parab