



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

WRIT PETITION NO. 8834 OF 2013

1. Sharda w/o Rajendra Gaikwad,
Age : 43 years, Occu. : Agriculture and Household.
2. Sachin s/o Rajendra Gaikwad,
Age : 34 years, Occu. : Agriculture.
3. Nitin s/o Rajendra Gaikwad,
Age : 32 years, Occu. : Agriculture.
4. Umesh s/o Rajendra Gaikwad,
Age : 30 years, Occu. : Agriculture.
5. Arun s/o Narayanrao Gaikwad (Died)
Through L.Rs.
- 5A. Meeratai Arun Gaikwad,
Age : 42 years, Occu. : Agriculture.
- 5B. Avinash Arun Gaikwad,
Age : 30 years, Occu. : Agriculture.
- 5C. Abhijeet Arun Gaikwad,
Age : 28 years, Occu. : Agriculture.
6. Ganesh s/o Ramesh Gaikwad,
Age : 34 years, Occu. : Agriculture.

All R/o. Punam Galli, Raviwar Peth, Beed,
Tq. & Dist. Beed.

.. Petitioners

Versus

1. The State of Maharashtra
Through its Secretary, Village Development Department,
Mantralaya, Mumbai-32.
2. The Collector, Beed
Dist. Beed.
3. The Deputy Collector/The Special Land Acquisition Officer,
Jayakwadi, Beed.

4. The Chief Executive Officer,
Zilla Parishad, Beed.
5. The Executive Engineer,
Public Works Division No. 1,
Zilla Parishad, Beed. .. Respondents

**WITH
WRIT PETITION NO. 1477 OF 2017**

Anil s/o Punjaji Jorwekar
Age : 53 years, Occu. : Service,
Dy. Engineer, Zilla Parishad (Works),
Sub-Division, Beed. .. Petitioner

Versus

1. Sharda Rajendra Gaikwad,
Age : 56 years, Occu. : Agriculture.
2. Sachin Rajendra Gaikwad,
Age : 37 years, Occu. : Agriculture.
3. Nitin Rajendra Gaikwad,
Age : 35 years, Occu. : Agriculture.
4. Umesh Rajendra Gaikwad,
Age : 34 years, Occu. : Agriculture.
5. Arun s/o Narayanrao Gaikwad (Died)
Through L.Rs.
- 5A. Meeratai w/o Arun Gaikwad,
Age : 45 years, Occu. : Agriculture.
- 5B. Ashish s/o Arun Gaikwad,
Age : 34 years, Occu. : Agriculture.
- 5C. Abhijeet s/o Arun Gaikwad,
Age : 31 years, Occu. : Agriculture.
6. Ganesh s/o Ramesh Gaikwad,
Age : 37 years, Occu. : Agriculture.
All R/o. Punam Galli, Raviwar Peth, Beed,

Tq. & Dist. Beed.

7. The State of Maharashtra
Through its Secretary, Village Development Department,
Mantralaya, Mumbai-32.
8. The Collector, Beed
Dist. Beed.
9. The Deputy Collector/
The Special Land Acquisition Officer,
Jayakwadi, Beed. .. Respondents

Mr. A. B. Kale, Advocate for the Petitioners in W. P. No.8834/2013.
Mr. S. J. Salgare, AGP for Respondents-State.
Mr. P. D. Suryawanshi, Advocate for Petitioner in W. P. No.
1477/2017 and for Respondent Nos. 4 &5 in W. P. No. 8834/2013.

**CORAM : KISHORE C. SANT AND
SUSHIL M. GHODESWAR, JJ.**

Date on which reserved for order : 15th April, 2026.

Date on which order pronounced : 07th May, 2026.

FINAL ORDER (*PER KISHORE C. SANT, J.*) :-

1. Since both these petitions are in respect of land Gat No. 209 of the village Taraf Pingle, Taluka and District Beed, both are taken up together for final disposal by consent of the parties and are being decided by common order.
2. Writ Petition No. 8834/2013 is filed by the petitioners seeking compensation for acquisition of land to the extent of 36 R from the Gat No. 209 of village Taraf Pingle. The respondents in

the said petition are the State and its authorities. Respondent Nos. 4 and 5 are the Zilla Parishad and the Executive Engineer, P.W.D., Zilla Parishad, Beed.

3. Writ Petition No. 1477/2017 is filed by a person who claims to be owner of the land and has challenged the award dated 30.08.2013 passed by the respondents. The petitioners in Writ Petition No. 8834/2013 are the respondent Nos. 1 to 6 in Writ Petition No. 1477/2017. It is alleged that they are trying to get the benefits under award dated 30.08.2013 passed by respondent No. 9 i.e. Deputy Collector and Special Land Acquisition Officer, Jaikwadi, Beed. Respondent Nos. 7 and 8 are the State and the Collector.

4. It is the case of the petitioners in Writ Petition No. 8834/2013 that the land to the extent of 36 R is acquired by the respondents for construction of road namely Beed-Charata-Nagar road in the year 1991. However, no proceeding for acquisition of the said land was undertaken. Therefore, a representation was made in the year 2006 to undertake acquisition proceeding. On the representation and on pursuation of the petitioners an award came to be passed on 30.08.2013.

However, till no amount is paid to the petitioners. No notice is issued under section 12 (2) of the Land Acquisition Act. It is thus prayed that the authorities be directed to pay the amount of compensation within a period of two weeks.

5. As stated, Writ Petition No. 1477/2017 is for quashing and setting aside the award dated 30.08.2013.

6. Learned advocate Mr. Kale for the petitioners in Writ Petition No. 8834/2013 vehemently argued that, the Zilla Parishad, for the construction of road has taken possession of land in the year 1991. However, no proceedings under the Land Acquisition Act were initiated. It is only on representations by the petitioners steps were taken and the award was passed. He submits that, now the respondent No. 3 – Collector has filed an affidavit on 30.11.2013 wherein, the claim of the petitioners is accepted. It is clearly stated that, notification under section 4 and declaration under section 6 of the Land Acquisition Act were published on 29.12.2012 and 22.03.2012 respectively and the award was passed. He thus submits that the amount is also determined to be Rs. 1,22,83,603/-. He submits that in the affidavit it has clearly come that the Zilla Parishad has not deposited the said amount

and therefore, the amount could not be distributed. The learned advocate further submits that, the respondents changed their stand by filing another reply and have now come out with a case that the said award itself is cancelled. He submits that, therefore, inquiry needs to be held as to why the stand is changed. He further submits that when the petitioners are entitled to receive the compensation, no compensation is paid. Award once made cannot be cancelled without giving notices to the interested persons. The petitioners also filed rejoinder stating that, in joint measurement dated 15.12.2011 it was found that land to the extent of 16 R from Gat No. 209 is affected because of the road. They have given the names of other owners whose land was also acquired. It is stated in the rejoinder that the subsequent affidavits filed by the respondents are against record when in the first affidavit in reply the liability was accepted. There was no question of retracting from the said stand. The learned advocate invites attention of this Court to an order dated 18.11.2014 wherein, it was recorded that the respondent Nos. 2 and 3 had played fraud upon respondent No. 1 in the matter and directed respondent No. 2 – Collector to look into the matter and to file his personal affidavit. He thus submits that, when fraud is noticed by this

Court, it is clear that, only to refuse to pay the compensation now the Government has adopted different stand and this needs to be taken serious note of.

7. The learned A.G.P. on the other hand submits that, there was no proposal of acquisition initiated. Earlier reply was filed in hurry and even before issuance of notice in this petition. The reply dated 11.02.2015 is rightly filed by considering all the facts. He submits that, this Court had directed the inquiry. In the report it has come that the land from Gat No. 209 was acquired in the year 1970. The award was passed in the name of Narayan Hiranman Gaikwad who was owner of the land who happens to be ancestor of the petitioners. This report was filed by taking measurements in the inquiry. It was found that by way of sale deed no. 5773 dated 15.01.1970 area of 5 Acre 15 R was sold by Suryabhan Devaji Wagh in favour of one Pandurang Sahebrao Gaikwad. By way of sale deed no. 5768 area of 5 Acre 15 R was sold by Suryabhan to Narayan Hiranman Gaikwad. In both the sale deeds on the south side road is shown which is allegedly taken by the Zilla Parishad from land Gat no. 209. The land of the petitioners is thus came to their share by heirship. The conclusion

was drawn that the land of the petitioners is not affected by the acquisition and as it was not required. One more affidavit was filed by the Government. In the said affidavit, it is stated that the acquisition proceeding initiated for Beed-Charata-Nagar road is cancelled by order dated 19.03.2015. Thus, the land of the petitioners is never acquired. The learned A.G.P. thus submits that, from this it is clear that the land of the petitioners is never acquired. On noticing that the award was wrongly passed, the same came to be cancelled. The construction of the road was made on the already existing Government cart road and thus there was no question of acquiring any land. He reiterates that earlier affidavit was filed even before issuance of notice and accepting the contentions of the petitioners in haphazard manner.

8. Learned advocate for respondent Nos. 4 and 5 vehemently opposes the petition. He submits that the construction of the road is very old. Even no record is found as the work was done under Employment Guarantee Scheme. There was a cart road of 33 ft. width. He submits that, T.I.L.R., Beed on 27.01.1999 had inspected survey Nos. 205, 209 and 210 and other survey numbers. In the said report itself it was mentioned that there is a

cart road of 33 ft. width passing through survey no. 209. He thus prays that the petition be dismissed.

9. Learned advocate Mr. Suryawanshi for the petitioner in Writ Petition No. 1477/2017 at the outset submits that the petition suffers from delay and laches and deserves to be dismissed. He further submits that, the land of respondent Nos. 1 to 6 i.e. petitioners in other petition is not affected by construction of Beed-Charata-Nagar road. Merely, on request, the acquisition proceeding was started. They are trying to grab the compensation under the false pretext that their land is acquired long back. He also invites attention to the certificate issued by the Deputy Executive Engineer, Zilla Parishad, Public Works Department, Zilla Parishad, Beed wherein, it is shown that the said road was made of 600 meters and for that land was taken in possession on 27.03.1991. The learned advocate thus submits that by misleading this Court and the authorities the petitioners in Writ Petition No. 8834/2013 are trying to get the amount. He thus submits that the alleged award deserves to be quashed and set aside.

10. Learned advocate Mr. Suryawanshi for the petitioner in Writ Petition No. 1477/2017 relies upon the judgment in the case of

State of Maharashtra Vs. Digambar, 1995 AIR (SC) 1991. The Court considered the question of delay and laches. In that case, the land was taken by the Government without paying compensation. The petition was filed after lapse of 20 years. There was no any explanation for not filing the petition within reasonable time. Considering that, it was held that the petition was not maintainable.

11. On going through the submissions and the petition paper book it is seen that, on realizing that the land is not acquired, the award came to be cancelled. There is no challenge to the letter of cancellation. The petitioners' claim is only that, now the award is passed and they should be paid the compensation. In the petition itself, there is averment that the possession was taken on 27.03.1991. There is nothing on record to show as to what made the petitioners not to prefer any representation in proceeding at that time itself. It is a matter of record that, for the first time, in the year 2006 a representation was made. Further representations were made in the year 2013. As rightly pointed out that, the earlier affidavit by respondent No. 3 was filed even prior to issuance of notice by this Court. From the subsequent

affidavit it is clear that, when it was realized that the construction is made on the already existing Government cart road, the award was rightly cancelled as there was no need to acquire the land. From the sale deeds in the year 1970 it is clear that, the existence of road is already shown on the southern side of Gat No. 209. It is thus clearly seen that, when road is already in existence there was no question of acquiring land for construction of the road. It appears that, under wrong impression that the land is taken from the possession of the petitioners, the acquisition was necessary. From the affidavit in reply of respondent Nos. 4 and 5 it is seen that, on 04.12.2006 for the first time Narayan Gaikwad had made representation after 25 years of the construction of the road. Under the wrong impression the authorities also started the proceedings. It does appear that, this Court by order dated 18.11.2014 had directed the inquiry. Now the inquiry is completed and thereafter two affidavits are filed. In the rejoinder we do not find that the affidavits filed by respondent subsequently are not correct or against record. While cancelling the award the Government has consciously taken a decision by considering all the factors, the joint measurement report etc. It is specifically found that the land is already under existing road and there was

no question of requiring new land for the purpose of construction of road.

12. Considering all above, this Court finds that, there is no satisfactory reason coming as to why no action was taken by the petitioners though there is allegation that the land was taken in possession in the year 1991 itself. This Court finds substance in the submissions of learned A.G.P and learned advocate for respondent Nos. 4 and 5 that there is no question of acquiring of the land of the petitioners now by passing fresh award. This Court finds that, in the present case there is no satisfactory explanation given by the petitioners for delay and laches. In any case, the award is already cancelled and there is no challenge to the said letter of cancellation.

13. Thus, this Court finds that, the petitioners are not entitled to get any relief from this Court. The writ petitions deserve to be dismissed and the same are hereby dismissed. No order as to costs.

(SUSHIL M. GHODESWAR, J.)

(KISHORE C. SANT, J.)

P.S.B.