



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

WRIT PETITION NO. 3260 OF 2021

1. Keshav S/o Rajaram Khairnar
Age : 64 years, Occ : Business,
R/o At post Kalmadu, Tq. Chalisgaon,
Dist. Jalgaon.
2. Sandesh S/o Suresh Khairnar
Age : 28 years, Occ : Business,
R/o At present flat no.9,
Sunflower building,
Garden Estate, Near K.G. Mehta High School,
Nashik Road, Nashik.
3. Rahul S/o Kishor Agrawal,
Age : 43 years, Occ : Business,
4. Sou. Seema W/o Rahul Agrawal,
Age : 42 years, Occ : Household,
5. Rohit S/o Kishor Agrawal
Age : 43 years, Occ : Business,
6. Kuntal S/o Rohit Agrawal
Age : 39 years, Occ : Business,

All Ro "Sanskar", Plot No.109,
Agrawal Nagar, Malegaon Road,
Dhule.

... PETITIONERS

...VERSUS...

1. The State of Maharashtra
Through Collector, Dhule
2. National Highway Authority of India/
Project Director
(Ministry of Road Transport and Highway
Government of India)
Address : Near Circuit House, Opp. Jawahar

Shetkari Sahakari Soot Girni Ltd.,
Sakri Road, Dhule.

3. Competent Authority,
National Highway no.211 and
Deputy Collector Land Acquisition no.1,
Dhule.

... RESPONDENTS

- Mr. A.B. Kale, Advocate for the petitioner.
- Mr.A.V. Lavte, A.G.P. for respondent no.1.
- Mr. D.S. Manorkar, Advocate for respondent no.2.
- Mr. U.B. Bondar, Advocate for respondent no.3.

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CORAM

: ARUN R. PEDNEKER AND
VAISHALI PATIL – JADHAV, JJ.

DATED

: FEBRUARY 09, 2026

JUDGMENT [Per Vaishali Patil – Jadhav, J.] :

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. By this petition filed under Article 226 of the Constitution of India, the petitioners have prayed for a writ of mandamus directing the respondent no.2 to pay to the petitioners the amount of Rs.18,34,221/- as per the modified/additional award passed on 14.08.2017 by respondent no.3 - Competent Authority for acquisition of petitioners' land for National Highway.

3. Some of the relevant facts for the purpose of deciding this petition are as under :-

Land block no.188/1 admeasuring 00 H 41 R is owned by petitioner nos.1 and 2, block no.188/2 admeasuring 00 H 42 R is owned by petitioner nos.3 and 4 and block no.188/3 admeasuring 00 H 41 R is owned by petitioner nos.5 and 6 at village Narval, Tq. & Dist. Dhule. The land is acquired for the purpose of broadening (4-laning) of the National Highway no.211. The notification under Section 3A of the National Highways Act, 1956 was published on 04.09.2013. The petitioners filed objection that area of block nos.188/1, 188/2, 188/3 is shown as one piece of land of 8800 Sq. Mtrs, which should be measured and area of each land holders should be shown separately.

4. Respondent No.3 declared an award under Section 3-G(1) of the National Highways Act on 04.08.2016 and granted compensation of Rs.69,39,240/-. The petitioners have received the compensation amount and have also challenged the award by invoking Section 3-G(5) of the National Highways Act and filed Arbitration Petition before the Collector, Dhule, who is appointed as Arbitrator by the Central Government for this acquisition. The petitioners had again filed objection before the Competent Authority on 31.07.2017 stating that the authority should not have applied belting system while awarding

the compensation instead, separate areas of each block holders should have been taken into consideration and fixed price should have been applied to the area owned by each holder. Respondent no.3 after considering the representations issued Corrigendum dated 14.08.2017 and has modified the award and granted compensation of Rs.18,34,221/- as a difference between the already granted compensation and gave compensation at the rate of Rs.250/- per Sq. Mtrs. and belting system was removed as applied earlier. The petitioners are seeking enforcement of this modified award under Section 3-H of National Highways Act, 1956 by way of this petition.

5. Learned Advocate for the petitioners Mr. A.B. Kale would submit that after passing the award under Section 3-G of the National Highways Act, the petitioners had pointed out the respondent no.3 - Competent Authority the mistake made in treating the land block no.188 as one piece of land, though it has been owned by different persons and the land is comprised in three separate blocks as 188/1, 188/2 and 188/3. It is submitted that though the representations were made by the petitioners still the award dated 04.08.2016 was passed by applying the belting system and by treating the block no.188 as one piece of land. He would submit that earlier award dated 04.08.2016 is only modified by way of Corrigendum dated 14.08.2017 and no fresh

award is being passed. It is titled as "Corrigendum", hence it cannot be said that a fresh award is being passed but it has only corrected the earlier award. He would submit that respondent no.2 should have immediately deposited the amount as required by Section 3-H wherein it is expected that as soon as the competent authority determines the amount the same should be deposited immediately thereafter. Since, respondent no.2 has failed to comply with the provisions of the Act, respondent no.2 be directed to make payment of compensation.

6. Per contra, learned Advocate for respondent no.2 Mr.D.S. Manorkar submitted that Section 3-G(5) of the National Highways Act provides that if either of the party is dissatisfied with the determination of amount determined by the competent authority, it may approach the Arbitrator appointed by the Central Government. He also submitted that the Hon'ble High Court in the case of *Bhupendrasingh Sardarsingh Parmar Vs Competent Authority for National Highway and others* reported in *2020(2) Bom. C.R. 296* has held that once the award is passed, the Competent Authority becomes *functus officio*, and thereafter there is no jurisdiction vested with him to pass any further award in respect of the same land and hence, the modified award is passed without jurisdiction.

7. Heard the learned counsel for the parties.

8. We have perused Section 3-G(5) of the National Highways Act. A perusal of the said provision clearly indicates that the complete mechanism is provided under Section 3-G of the National Highways Act including the remedy for redressal of the grievance arising out of erroneous determination of the amount by the Competent Authority under sub-section 3-G(1) by filing an application under Section 3-G(2) of the National Highways Act, 1956 before the learned Arbitrator appointed by the Central Government. Herein, the petitioners have approached the learned Arbitrator by way of filing Arbitration Petition and have already challenged the award dated 04.08.2016.

9. A Division Bench of this Court in case of **Bhupendrasingh (supra)** has held that the provisions of Section 33 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “Fair Compensation Act, 2013”) are not available to the Competent Authority constituted under Section 3-A of the National Highways Act, 1956 in the process of acquisition of the land under the National Highways Act, 1956 and thus it is impermissible for the Competent Authority to make any correction or for that matter to pass any order in the nature of correction of an award

or for that matter an amended award. Once the award has been passed by the Competent Authority, the Competent Authority loses any authority to tinker with it in any manner whatsoever. This Court accordingly held that the provisions of section 33 of the Act of 2013 would not be applicable to acquisition proceedings under the National Highways Act, 1956, in absence of which, it cannot be held that the Competent Authority under the National Highways Act, 1956, would have any power or authority to either correct the award for any reason whatsoever or for that matter, to pass an additional award or to review the same.

10. To counter the above arguments, learned counsel for the petitioners relied on the judgment of this Court in the case of ***Hemant Brijraj Lalwani Vs. The Government of India and others in Writ Petition No.15562 of 2019, dated 15.02.2023***, in which the Co-Ordinate Bench has observed that when admittedly, as mentioned in the award, the compensation for a particularly Gut Number was not determined, the Competent Authority can be directed to pass a suitable supplementary award to that extent, which will not run a foul to the decision in the matter of ***Bhupendrasingh (supra)***.

Thus from the judgment of ***Hemant Lalwani (supra)***, it can be safely inferred that unless the competent authority determines the

amount of compensation for the entire acquired land, he does not discharge his statutory duty under Section 3-G of the National Highways Act and does not become *functus officio* to the extent of the land for which compensation remains to be determined. Under Section 3-G(5) only after the competent authority determines the compensation, the aggrieved party can challenge same before Arbitrator and not before that. The supplementary award is passed where the original award has not dealt with determination of compensation in respect of a part of land and the competent authority has excluded the said portion while passing the award. The supplementary award in the case of *Hemant Lalwani (supra)* is not in respect of land for which the competent authority has already passed an award and thus does not get foul of *Bhupendrasingh (supra)*.

11. Now coming to the facts of the present case, the earlier award dated 04.08.2016 deals with entire land and the subsequent award dated 14.08.2017 computes the compensation for the same land in a different manner. Once an award is passed for a particular portion of land the competent authority becomes *functus officio*, to further deal with the same land. The Competent Authority has passed the modified award for the same land after becoming *functus officio*, which makes the award illegal and passed without jurisdiction. In our view, the

principles laid down by the Division Bench of this Court in case of *Bhupendrasingh (supra)* squarely apply to the facts of this case.

12. This Court understands the concern of the land owners to get rightful compensation and if an error is committed by the competent authority while determining the market value the same can only be corrected in accordance with law. The petitioner is not remediless and has already challenged the earlier award dated 04.08.2016 before the arbitrator. Thus, although we have sympathy with the land owners that they should get lawful compensation, the powers of this Court under Article 226 of the Constitution of India could not be invoked seeking direction to implement the modified award as the same is passed without jurisdiction and is treated as nullity. We, therefore, declined to exercise our jurisdiction under Article 226 of the Constitution of India.

13. In the result, the petition is dismissed.

14. Rule stands discharged accordingly.

[VAISHALI PATIL – JADHAV, J.]

[ARUN R. PEDNEKER, J.]