



Darshan Patil

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5109 OF 2017

Dnyaneshwar Lingappa Bhosale	]	
since deceased through legal heir	]	
son – Narendra Dnyaneshwar Bhosale	]	
Age – 24, Occupation, Worker, Residing at 2718,	]	
Ravivar Peth, Joshi Galli,	]	
Solapur – 413 002	]	Petitioner.

Versus

- | | | | |
|----|---------------------------------------|---|--|
| 1] | The State of Maharashtra |] | |
| | through the Secretary, |] | |
| | Housing Department & Special |] | |
| | Assistance Department, |] | |
| | Govt. of Maharashtra, Mantralaya, |] | |
| | Mumbai – 400 032 |] | |
| | |] | |
| 2] | The Secretary, |] | |
| | Revenue Department, |] | |
| | Govt. of Maharashtra, Mantralaya |] | |
| | Mumbai – 400 032 |] | |
| | |] | |
| 3] | The Collector of Solapur, |] | |
| | Solapur – 413 001 |] | |
| | |] | |
| 4] | The Chief Officer, |] | |
| | Pune Housing & Area Development Board |] | |
| | Agarkar Nagar, Pune – 1 |] | |
| | |] | |
| 5] | The Chief Executive Officer & |] | |
| | Vice-President, Maharashtra Housing & |] | |
| | Area Development Authority, |] | |

- | | | |
|----|-----------------------------------|-------------------|
| | Grihanirman Bhavan, Bandra (East) |] |
| | Mumbai – 400051 |] |
| | |] |
| 6] | The Solapur Municipal Corporation |] |
| | Solapur – 413 001. |].....Respondents |

**ALONG WITH
WRIT PETITION NO.5262 OF 2017**

- | | | |
|--|--|-------------------|
| | Mr. Tukaram Subhana Bhosale |] |
| | Age – 66, Occupation – Worker, Residing at |] |
| | 27/5, Ravivar Peth, Joshi Galli, |] |
| | Solapur – 413 002 |].....Petitioner. |

Versus

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|----|---------------------------------------|---|
| 1] | The State of Maharashtra |] |
| | through the Secretary, |] |
| | Housing Department & Special |] |
| | Assistance Department, |] |
| | Govt. of Maharashtra, Mantralaya, |] |
| | Mumbai – 400 032 |] |
| | |] |
| 2] | The Secretary, |] |
| | Revenue Department, |] |
| | Govt. of Maharashtra, Mantralaya |] |
| | Mumbai – 400 032 |] |
| | |] |
| 3] | The Collector of Solapur, |] |
| | Solapur – 413 001 |] |
| | |] |
| 4] | The Chief Officer, |] |
| | Pune Housing & Area Development Board |] |
| | Agarkar Nagar, Pune – 1 |] |
| | |] |
| 5] | The Chief Executive Officer & |] |

- | | | |
|----|---------------------------------------|-------------------|
| | Vice-President, Maharashtra Housing & |] |
| | Area Development Authority, |] |
| | Grihanirman Bhavan, Bandra (East) |] |
| | Mumbai – 400051 |] |
| | |] |
| 6] | The Solapur Municipal Corporation |] |
| | Solapur – 413 001. |].....Respondents |

**ALONG WITH
WRIT PETITION NO.5265 OF 2017**

- | | | |
|--|--|------------------|
| | Vithal Siddhu Bhosale |] |
| | since deceased through legal heir |] |
| | Son Mr. Namdeo Vithal Bhosale |] |
| | Age – 62, Occupation Worker, Residing at |] |
| | 27/7, Ravivar Peth, Joshi Galli, |] |
| | Solapur – 413 002 |].....Petitioner |

Versus

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|----|---------------------------------------|---|
| 1] | The State of Maharashtra |] |
| | through the Secretary, |] |
| | Housing Department & Special |] |
| | Assistance Department, |] |
| | Govt. of Maharashtra, Mantralaya, |] |
| | Mumbai – 400 032 |] |
| | |] |
| 2] | The Secretary, |] |
| | Revenue Department, |] |
| | Govt. of Maharashtra, Mantralaya |] |
| | Mumbai – 400 032 |] |
| | |] |
| 3] | The Collector of Solapur, |] |
| | Solapur – 413 001 |] |
| | |] |
| 4] | The Chief Officer, |] |
| | Pune Housing & Area Development Board |] |

- | | | |
|----|---|----------------------------|
| | Agarkar Nagar, Pune – 1 |] |
| | |] |
| 5] | The Chief Executive Officer &
Vice-President, Maharashtra Housing &
Area Development Authority,
Grihanirman Bhavan, Bandra (East)
Mumbai – 400051 |]
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]
]
] |
| 6] | The Solapur Municipal Corporation
Solapur – 413 001. |]
].....Respondents |

Mr Chandrakant Chavan, a/w Mr. Pravin Sabban i/by Mr. Amarnath Boddul and Mr. Zahir Mulla for the Petitioners in all Petitions.

Mr Nitin Deshpande (Through V.C.), a/w Ms. Kanchan Phatak for Respondent Nos. 4 and 5 in all Petitions.

Mr. R. S. Pawar, AGP, for the Respondent Nos. 1 to 3 – State in all Petitions.

Mr. Sameer Kumbhakoni, for Respondent No.6 in WP No.5109/2017

Mr. I M Khairdi for Respondent No.6 in WP Nos.5262/2017 and 5265/2017.

**CORAM M.S. Sonak &
Jitendra Jain, JJ.**

**Reserved on :- 03 January 2025
Pronounced on :- 06 January 2025**

JUDGMENT : (Per M. S. Sonak, J.)

1. Heard learned counsel for the parties.
2. These petitions were admitted on 14 August 2018 and, upon completion of the pleadings, finally heard on 03 January 2025.
3. Learned counsel for the parties agree that common issues of law and fact arise in these three petitions, and therefore, they

could be disposed of by common order. Learned counsel for the parties submit that Writ Petition No. 5109 of 2017 may be treated as the “lead petition”.

4. In the lead Writ Petition No. 5109 of 2017, the petitioner has sought the following substantive reliefs.

“A) This Hon’ble court may be pleased to issue the Writ of Mandamus or any other appropriate Writ, order or direction directing the respondent authorities to restore back the vacant and peaceful possession of the petitioner’s said land admeasuring 1,700 sq.mtrs. situated at Survey No.115/3 of village & Taluka Solapur, Dist.-Solapur, earlier requisitioned for construction of 20 Mere wide road under the said impugned Collector land requisition Order dt. 09-07-1987, within a particular time limit;

B) This Hon’ble court may be pleased to issue the Writ of Mandamus or any other appropriate Writ, order or direction directing the respondent authorities to acquire in accordance with law, the petitioner’s said land admeasuring 1,700 sq.mtrs. Situated at Survey No.115/3 of village & Taluka Solapur, Dist. Solapur, earlier requisitioned for construction of 20 Metre wide road under the said impugned Collector land requisition Order dt. 09-07-1987, and pay the compensation to the landholders within a particular time limit;

C) This Hon’ble court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction directing the Respondent No.1 to consider and pass a speaking order in accordance with law within a particular time limit, on the said application of the petitioner made for restoring back the lands, within a particular time limit;

D) This Hon’ble Court may be pleased to grant appropriate compensation/rental compensation/ interest/ damages etc, in the matter for the respondents illegal continuance of said requisitioned land after 19 years statutory fixed period i.e. for the period from 09-07-2006 till the period the said land is restored back to the petitioners;”

5. The lead, Writ Petition No. 5109 of 2017, is concerned with property measuring 0.17 Ares, which was surveyed under number 115/3 at Solapur and requisitioned for constructing a 20-meter wide road. Writ Petition No. 5262 of 2017 is concerned with property admeasuring 0.18 Ares surveyed under number 115/1C at Solapur requisitioned for constructing a 20-meter-wide road. Writ Petition No. 5265 of 2017 is concerned with properties at Solapur admeasuring 0.30 Ares surveyed under numbers 115/5 requisitioned for a Nalla and admeasuring 0.11 Ares surveyed under number 115/5 requisition for a 20-meter-wide road. These properties shall hereafter be referred to as the “said properties”. Learned counsel for the parties assured this Court that apart from these minor distinguishing features, there is no significant difference in the facts involved in these three petitions. Learned counsel for the parties submitted that substantially common issues of law and fact arise in these petitions.

6. By an order dated 09 July 1987 issued under Section 5 of the Bombay Land Requisition Act, 1948, [Requisition Act], the Collector of Solapur requisitioned the said properties for the construction of the 20-meter-wide road as required by the Maharashtra Housing and Area Development Authority (“MHADA”), which was then designated as the Special Planning Authority-II for Solapur. This order is Exhibit “A” (pages 13 to 16 of the paper book) of the lead petition.

7. The petitioners have pleaded that a meeting was held by the Collector of Solapur on 20 July 1987, in which the Collector negotiated with the petitioners. At the meeting, the petitioners agreed to accept compensation at a rate of Rs.1,00,000/- per hectare towards the *requisition* of their above-referred properties. Shri Vinod Ranaware, Tahasildar, North Solapur, has filed an

affidavit, to which he has enclosed a communication dated 5 January 1988 addressed by the Collector of Solapur to the Administrator of MHADA. This letter speaks about negotiations with the landowners and records that all the landowners agreed to the rate of Rs.1,00,000/- per hectare towards the requisition of their properties.

8. While the requisition under the order dated 09 July 1987 was continuing, the Government of Maharashtra published a notice dated 24 August 1987 under the proviso to Section 41 of the Maharashtra Housing and Area Development Act, 1976 (the “MHADA Act”), proposing to acquire the petitioners’ above-referred properties for the construction of a 20-meter-wide road and Nalla. However, there is no record of the State Government issuing any notification as contemplated by Section 41(1) of the MHADA Act to complete the acquisition commenced by the notice dated 24 August 1987. As such, the Government/ MHADA/ Solapur Municipal Corporation [SMC] continued to hold on to the possession of the said properties based upon the requisition order dated 9 July 1987.

9. Mr Chavan, the learned Counsel for the Petitioners, submitted that the requisition is essentially a temporary measure and cannot be continued beyond a reasonable period. He submitted that, in any event, the requisition period could never exceed the statutorily prescribed maximum in Section 9 or 9A of the Requisition Act. He submitted that there was no completed acquisition under the MHADA Act, and therefore the decision in **Balu Siddhu Bhosale since deceased by his legal heir wife, Smt. Chudabai Balu Bhosale since deceased through her legal heirs 1 to**

7 Vs. The State of Maharashtra & Ors.¹ was inapplicable. He submitted that the issues raised in these petitions were fully covered by the decision in **Dr. Mohammad Ali Nawabsaheb Wadwan (since deceased) through L.Rs. Vs. State of Maharashtra**². Based on these submissions, Mr Chavan urged that these Petitions be allowed and the reliefs, as prayed for, be granted to the Petitioners.

10. Mr Pawar, Mr Deshpande, Mr Kumbhakoni and Mr Khairadi, the learned Counsel for the Respondents, opposed the grant of any reliefs in these Petitions. They contended that the acquisition under Section 41(1) of the MHADA Act was complete with the issuance of notice dated 24 August 1987, and the said properties stood vested absolutely in the respondents under Section 41(3) of the MHADA Act. They submitted that since possession of the said properties was already taken over under the Requisition Order dated 9 July 1987, there was no necessity to issue any further notification under section 41(1) of the MHADA Act. They submitted that the notice dated 24 August 1987 should be construed as a notification under Section 41(1) of the MHADA Act and, in any event, based on a technicality, no relief should be granted to the Petitioners. They submitted that the Petitioners had already accepted compensation for the acquisition and not merely for the requisition of the said properties.

11. Without prejudice, the learned Counsel for the Respondents submitted that the Requisition Order dated 9 July 1987 was never quashed or set aside by any competent Court of law. Therefore, there was no illegality with the respondents continuing to possess

¹ Writ Petition No.4198 of 1997 decided on 31 January 2012

² 2016 (1) Mh.,L.J.883

the said properties based on the Requisition Order dated 9 July 1987. They submitted that the challenge to the Requisition Order dated 9 July 1987 was barred by delay and laches. They submitted that the decision in *Balu Bhosle (Supra)* covered the issues in these Petitions. For all these reasons, they urged the dismissal of these Petitions.

12. The rival contentions now fall for our determination.

13. Broadly, the following issues arise for determination in these Petitions:

[A] Whether the Petitioners' said properties stand acquired under Section 41(1) of the MHADA Act?

[B] If the answer to the above question is negative, whether the continued requisition of the Petitioners' said properties beyond the statutorily prescribed maximum in Section 9 or 9A of the Requisition Act is legal and valid?

14. As noted earlier, the Petitioners' said properties were requisitioned under section 5 of the Requisition Act by an order dated 09 July 1987. While the requisition under the order dated 09 July 1987 was continuing, the Government of Maharashtra published a notice dated 24 August 1987 under the proviso to Section 41 of the Maharashtra Housing and Area Development Act, 1976 (the "MHADA Act"), proposing to acquire the petitioners' said properties for the construction of a 20-meter-wide road and Nalla. However, there is no record of the State Government issuing any notification as contemplated by Section 41(1) of the MHADA Act to complete the acquisition commenced by the notice dated 24 August 1987.

15. The Respondents now contend that the acquisition of the Petitioners' said properties under Section 41(1) of the MHADA Act is complete with the publication of notice dated 24 August 1987, and there was no further necessity to issue any further or final notification under Section 41 (1) of the MHADA Act.

16. To test the correctness of the above defence, reference must essentially be made to the provisions of Section 41 of the MHADA Act, which read as follows: -

“41. Power of State Government to acquire land.

(1) Where, on any representation from the Authority or any Board it appears to the State Government that, in order to enable the Authority to discharge any of its functions or to exercise any of its powers or to carry out any of its proposals plans, or projects, it is necessary that any land should be acquired, the State Government may acquire the land by publishing in the Official Gazette, a notification to the effect that the State Government has decided to acquire the land in pursuance of this section:

Provided that, before publishing such notification, the State Government shall by notice published in the Official Gazette, and served in the prescribed manner, call upon the owner of, or any other person who, in the opinion of that Government, may be interested in, such land to show cause, why it should not be acquired and after considering the cause, if any, shown by the owner or any other person interested in the land, the State Government may pass such order as it thinks fit.

Provided further that, if the land proposed to be acquired falls within the Scheduled Areas then the State Government shall before such acquisition and before resettling or rehabilitating of person affected consult,—

(i) the Gram Sabha and the Panchayat concerned, if the land falls within the area of one Panchayat;

(ii) concerned Gram Sabhas and the Panchayat Samiti, if the land falls within the area of more than one village in the Block concerned;

(iii) the concerned Gram Sabhas and the Zilla Parishad concerned, if the land falls within the jurisdiction of more than one Blocks in the district concerned;

such consultation shall be done in the manner as may be laid down by the State Government by issuing general or special order issued in this behalf;

Provided that, the decision taken by the majority of the Gram Sabhas concerned by passing a resolution in the above matter shall be binding on the concerned Panchayat Samiti or the Zilla Parishad, as the case may be.

Explanation.- For the purpose of these provisons,—

(i) the expressions "Gram Sabha", "Panchayat" and "Scheduled Areas" shall have the meaning respectively assigned to them in the Bombay Village Panchayat Act, 1958;

(i) the expressions "Panchayat Samiti" and "Zilla Parishad" shall have the meanings respectively assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.

(2) The acquisition of land for any purpose mentioned in subsection (1) shall be deemed to be a public purpose.

(3) Where notification aforesaid is published in the Official Gazette, the land shall, on and from the date on which the notification is so published, vest absolutely in the State Government free from all encumbrances.”

17. Section 41(1) of the MHADA Act, as quoted above, empowers the State Government of order to acquire land where, on any representation from the authority or any board, it appears to the State Government that, in order to enable the authority to discharge any of its functions or to exercise any of its powers or to carry out any of its proposals, plans or projects it is necessary that any land should be acquired, the State Government may acquire the land by publishing in the official gazette a notification to that effect “*that the State Government has decided to acquire the land in pursuance of this Section*”.

18. The first proviso to Section 41(1) of the MHADA Act, however, provides that before publishing the notification to the effect that the State Government has decided to acquire the land under Section 41(1), the State Government shall by notice published in the official gazette, and serve in the prescribed manner, call upon the owner of, or any other person who, in the opinion of that Government, may be interested in, such land to show cause, why it should not be acquired and after considering the cause, if any, shown by the owner or any other person interested in the land, the State Government may pass such order as it thinks fit.

19. The second and third provisos to Section 41(1) deal with a situation where the proposed land falls within scheduled areas. No contention was raised about the petitioners' land falling within scheduled areas. Therefore, the second and third provisos are irrelevant for the adjudication of issues which arise in these petitions.

20. Thus, Section 41(1) contemplates a notification to the effect that the State Government has decided to acquire the land under Section 41. However, the first proviso to Section 41(1) provides and contemplates publication of a notice in the official gazette and service of such notice in the prescribed manner upon the owner or the person interested in such land to show cause why it should not be acquired. It is only after considering the cause, if any, shown by the owner or the person interested that the State Government may pass such order as it may think fit, including the issue and publication of a notification in the official gazette to the effect that the State Government has decided to acquire the land under Section 41 of the MHADA Act. Section 41(3) provides that *where a notification is published in the official gazette, the land shall, on*

and from the date on which the notification is so published, vest absolutely in the State Government free from all encumbrances.

21. From the plain construction of the above provisions, it is apparent that the acquisition is complete only upon publication of a notification as contemplated by Section 41(1) in the official gazette. Mere publication of a notice under proviso to Section 41(1) requiring the owners or the persons interested to show cause as to why their land should not be acquired does not complete the acquisition proceedings or vest the land in the Government free from all encumbrances. Therefore, based on the notice dated 24 August 1987, the respondents' contention about the petitioners' properties being acquired by the State Government and handed over to MHADA cannot be accepted.

22. The contention that since the possession of the acquired lands was already taken over from the petitioners under the order dated 09 July 1987 made under Section 5 of the Requisition Act, there was no necessity to issue any notification, final notification, or award under Section 41(1) of the MHADA Act does not appeal to us given the explicit and unambiguous provisions in Section 41 of the MHADA Act and for several reasons discussed hereafter. The attempt to equate or rather pass off the notice dated 24 August 1987 as a notification under Section 41 of the MHADA Act also cannot pass muster, again given the explicit and unambiguous provisions in Section 41 of the MHADA Act and for several reasons discussed hereafter.

23. Since much argument revolved around the notice dated 24 August 1987, it is transcribed below for the convenience of reference: -

“HOUSING AND SPECIAL ASSISTANCE DEPARTMENT

Mantralaya, Bombay 400 032, dated 24th August 1987

Notice

MAHARASHTRA HOUSING AND AREA DEVELOPMENT ACT, 1976

268

No. ADL. 2387/1948(i)/D-X.—Whereas on a representation from the Maharashtra Housing and Area Development Authority, it appears to the Government of Maharashtra that in order to enable the said Authority to discharge its functions, it is necessary that the lands specified in Part-II thereof (hereinafter referred to as "the said land") should be acquired.

And whereas the Government of Maharashtra, in exercise of the powers conferred by sub-section (I) of section 41 of Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977) proposes to acquire the said lands.

Now, therefore, as required by the proviso to sub-section (1) of section 41 of the said Act, notice is hereby given to persons mentioned in column (3) of Part-II of the schedule hereto who are the owners of, or who in the opinion of the Government of Maharashtra are interested in the said land respectively mentioned in column (1) of the said Part-II against them to show cause, if any, within a period of thirty days from the date of publication of this Notice in the Maharashtra Government Gazette why they should not be acquired. Any objection which may be received by the Administrator, Maharashtra Housing and Area Development Authority, and Ex-Officio Secretary to Government, Housing and Special Assistance Department, Maharashtra Housing and Area Development Authority, Griha Nirman Bhavan, Bandra (East), Bombay 400 051 from any of the aforesaid persons with respect to the said proposal before the expiry of the aforesaid period shall be considered by the Government.

Schedule

PART-I

For the purpose of construction of 20 m. wide road for giving access to block 'J' in Special Planning Authority-II area at Solapur for land in possession of Maharashtra Housing and Area Development Authority.

PART-II

Proposal No. 1

District Solapur, taluka Solapur, village Solapur

Survey No.	Approximate area proposed to be acquired	Name of the owners/persons interested
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(1)	(2)	therein (3)
116/1 (Part)	H 0	Ares 38.0 Shri Santram Babu Sarode.
115/6 (Part)	0	1.0 Shir Babu Sidhu Bhosle.
115/5 (Part)	0	11.0 Shri Vitthal Sidhu Bhosle
115/4 (Part)	0	20.0 Shri Vithal Sattu Bhosle. Shri Siddheshwar Sattu Bhosle.
115/3 (Part)	0	17.0 Shri Lingappa Sidhu Bhosle.
115/1-C (Part)	0	18.0 Shri Tukaram Subhana Bhosle
31 (Part)	0	12.4 Shri Narayan Tukaram Sarvade

By order and in the name of the Governor of Maharashtra,

P. G. Koranne,
Joint Secretary to Government.
”

24. Similar notices concerning the petitioners' lands in Writ Petitions Nos.5262 of 2017 and 5265 of 2017 have also been placed on record. Apart from the differences in the area and survey numbers, the contents of all three notices are identical.

25. Firstly, Section 41(1) contemplates issuing and publishing “*a notification*”. The document in Exhibit “D” (pages 17 and 18) is not “*a notification*”, but it is only a “*notice*” as is contemplated by the proviso to Section 41(1) of the MHADA Act. The Legislature has advisedly employed the distinct expressions “*Notification*” and “*Notice*” in Section 41 and its first proviso. This conscious distinction cannot be lightly obfuscated. The choice and use of such distinct expressions by the legislature cannot be ignored by any cannon of interpretation.

26. Secondly, a notification under Section 41(1) must be to the effect that the State Government “*has decided to acquire the land in pursuance of this section*”. The notice dated 24 August 1987 merely declares that the State Government “*proposes to acquire the said lands*”. Thus, there is no declaration or publication of a notification to the effect that the State Government *has decided* to acquire the said lands in Exhibit D. Therefore, even if we ignore the title or form and go by the substance. Still, the document in Exhibit D does not meet the requirement of a notification under Section 41 of the MHADA Act.

27. Thirdly, the notice dated 24 August 1987 makes specific reference to the proviso to sub-section (1) of Section 41 of the MHADA Act and states that as required by the said proviso, notices hereby given to the owners or persons interested to show cause, if any, within a period of thirty days from the date of publication of this notice why they should not be acquired. Thus, the notice dated 24 August 1987 can be regarded as a precursor to the notification contemplated by Section 41(1) of the MHADA Act. However, it can never be regarded as the notification contemplated by Section 41(1) of the MHADA Act. Any other interpretation would suggest that the notice dated 24 August 1987 [if construed as a final notification under Section 41(1)] was issued without complying with the mandate of issuing a show cause notice under the first proviso to Section 41(1) of the MHADA Act. Such a notification would then be illegal, null and void.

28. Section 41(3) of the MHADA Act, as noted above, provides “*where notification aforesaid is published in Official Gazette, the land shall, on and from the date on which the notification is so published, vest absolutely in the State Government free from all encumbrances*”. This indicates that the acquisition is complete only

after a notification is published and the land so acquired vests absolutely in the State Government free from all encumbrances on and from the date on which the notification is so published. Conversely, there can be no acquisition unless a notification, as contemplated by Section 41(1) is made and published. Therefore, the land in question will not vest in the State Government until and unless the notification as contemplated by Section 41(1) of the MHADA Act is made and published in the Official Gazette.

29. For all the above reasons, the attempt to pass of the notice dated 24 August 1987, which is clearly issued under the proviso to Section 41(1), and which merely required the petitioners to show as to why their land should not be acquired, cannot pass muster. Based on the notice dated 24 August 1987 and in the absence of any notification as contemplated by Section 41(1) of the MHADA Act, we cannot hold that the petitioners' lands stood acquired by the State Government and validly handed over to MHADA under Section 41 of the MHADA Act.

30. Though the learned counsel for the respondents did make a valiant attempt to pass of the notice dated 24 August 1987 as a notification under Section 41(1) of the MHADA Act, the affidavits filed on behalf of the respondents tacitly accept the necessity of issuing a final notification for acquisition of the petitioners' lands. For instance, Vinod Subhash Ranaware, Tahsildar, North Solapur, who filed the affidavit on behalf of the third respondent has stated thus in paragraph 2 of his affidavit filed on 14 February 2018:-

“2. I say that by letter dated 17.2.1989, a proposal was forwarded by the Collector, Solapur to the State Government for issuing final notification for acquisition of the said lands. However, the State Government, vide its letter dated 06/09/1989 informed that since the possession of the land is already with Mhada and the

compensation has been paid to the land holders, there is no need for issuance of final notification. Therefore, in view of this final notification for acquisition of the land of the Petitioner was not issued. However, the possession of the land in question is handed over to Mhada on 05.01.1987.”

31. From the above affidavit, it is apparent that the Collector Solapur forwarded a proposal to the State Government for “*issuing final notification for acquisition of the said lands*”. Admittedly, no such final notification as contemplated by Section 41(1) of the MHADA Act has been issued in these matters. Without such notification, we cannot accept the respondents’ contention about petitioners’ properties being acquired under Section 41(1) of the MHADA Act and vesting absolutely in the State Government or in the MHADA.

32. The half-hearted contention that since the possession of the petitioners’ properties was already taken over by the State Government under the cover of the order dated 9 July 1987 made under Section 5(1) of the Requisition Act, there was no further necessity of issuing any final notification under Section 41(1) of the MHADA Act is entirely misconceived. None of the learned counsel for the respondents could make good this contention. On a plain reading of the provisions of Section 41 of the MHADA Act or the provisions of the Requisition Act, it is apparent that such a contention is quite untenable. The fact that the Government may have taken over the possession of the petitioners’ properties under the cover of a requisition order dated 9 July 1987 does not dispense with the requirement of issuing a final notification under Section 41(1) of the MHADA Act.

33. The Requisition Act and the MHADA Act are two independent legislations. There is nothing in either of the

legislations which exempts the State Government from following the provisions of Section 41(1) of the MHADA Act and publishing a notification as contemplated by Section 41(1) of the MHADA Act merely because the possession of the petitioners' land may have been taken over by resort to a requisition order dated 9 July 1987 made under Section 5(1) of the Requisition Act.

34. Thus, we are satisfied that the respondents did not acquire the petitioners' said properties under Section 41 of the MHADA Act. Therefore, the petitioners' said properties do not stand vested in any of the respondents under the provisions of Section 41 of the MHADA Act. The first issue for determination in these Petitions is answered accordingly.

35. Regarding the second issue for determination, we note that since the said properties have not been acquired under Section 41 of the MHADA Act, the respondents continue to hold the possession of the said properties based upon the requisition order dated 09 July 1987 made under Section 5(1) of the Requisition Act. This requisition is essentially a temporary measure and cannot be continued indefinitely or beyond a reasonable period. In any event, the same can never exceed the statutorily prescribed maximum in Section 9 or 9(1A) of the Requisition Act. period specified under Section 9 or 9(1A) of the Requisition Act. In terms of Section 9(1A) of the Requisition Act, introduced by the 1995 amendment, such a period cannot exceed 24 years.

36. Incidentally, the affidavit filed by Vinod Subhash Ranaware on 25 July 2017 adopts the stance that since the requisition order 09 July 1987 has never been quashed or set aside by any Competent Court at any time, the question of lapse of requisition proceedings does not arise. In effect, this stance accepts the

position that the Respondents are holding on to the Petitioners' said properties under the cover of the requisition order dated 09 July 1987 made under Section 5(1) of the Requisition Act.

37. The relevant extract from paragraph 7 of the affidavit filed by Vinod Subhash Ranaware, Tahsildar, North Solapur, Dist. Solapur is transcribed below for the convenience of reference:-

“I say that the requisition order passed by the office of Respondent No.3 on 09/07/1987 has been never quashed and set aside by any competent court at any time. Therefore, the question of lapse of requisition proceeding does not arise. I say that in the present matter the possession of land in question is already taken by this office in the year 1987 and the compensation in respect of above land has been already received by the Petitioner voluntarily and as per his own wish. Therefore, question of returning back the impugned land to the Petitioner does not arise.”

38. Section 5(1) of the Requisition Act undoubtedly empowers the State Government to requisition land for public purposes. Section 9(1) of the same Act provides that the State Government may, at any time, release from requisition any land requisitioned or continue to be subject to requisition under the said Act. However, Section 9(1A) of the Requisition Act, which begins with a non-obstante clause, prescribes the maximum time limit for holding on to requisitioned properties. Section 9(1A) is transcribed below for the convenience reference: -

“9(1A) Notwithstanding anything contained in sub-section (1), the State Government shall release from requisition,--

(a) any land requisitioned or continued to be subject to requisition under this Act before the commencement of the Bombay Land Requisition (Amendment) Act, 1973, on or before the expiry of a

period of twenty-four years from such commencement;

(b) any land requisitioned under this Act after such commencement, on or before the expiry of a period of twenty-four years from the date on which possession of such land was surrendered or delivered to, or taken by, the State Government or any officer authorised or empowered by the State Government.”

39. In terms of Section 9(1A) of the Requisition Act quoted above, it is apparent that the State Government is obliged to release from requisition any land requisitioned by it or continued to be requisitioned by it on or before the expiry of the period of twenty-four years from such commencement. This period of twenty-four years, in the case of Petitioners' said properties, expired on or about 08 July 2011. Thus, the Respondents could not hold on to the Petitioners' said properties beyond 08 July 2011 based upon the requisition order dated 09 July 1987. Accordingly, a case is made out to order the restoration of the Petitioners' requisitioned properties to the Petitioners.

40. However, the proceedings under Articles 226 and 227 of the Constitution are discretionary. The powers conferred upon the Constitutional Courts in matters of exercise of their extraordinary jurisdiction are to be exercised for promoting justice. The private interest of the Petitioners, though significant, now that the property right is accepted as a Constitutional right or even a human right, the same has to be balanced against the public interest which is equally vital. Therefore, for the reasons to be discussed hereafter, we are not inclined to directly order the restoration of the Petitioners' said properties to the Petitioners without granting the Respondents some reasonable time to acquire the Petitioners' said properties and paying the Petitioners compensation following the law.

41. But before doing so, we propose to discuss the decision in **Dr. Mohammad Ali (Supra)**, which was relied upon the learned counsel for the Petitioners and the decision of the Division Bench of this Court in **Balu Siddhu Bhosale (Supra)**, which was relied upon by Mr Deshpande, the learned counsel for Respondent Nos. 4 and 5.

42. In **Dr Mohammad Ali (supra)**, the Collector, by exercising powers under Section 5(1) of the Bombay Land Requisition Act, 1948, requisitioned the Petitioner property for the construction of a water reservoir in Solapur as part of twin Solapur Project No.1 proposed by the MHADA. Section 9 of the Bombay Land Requisition Act, 1948, as it then stood, had provided that such requisition could continue for a maximum period of seventeen years and not beyond. Despite the expiry of this seventeen-year period, the State Government refused to release the Petitioner's land to the Petitioner. Instead, as in the present case, the State Government and the MHADA relied upon the notice dated 18 October 2007 issued under the Proviso to Section 41(1) of the MHADA Act, requiring the Petitioner to show cause why the Petitioner's land should not be acquired. Thus, the facts in the case of **Dr Mohammad Ali (supra)** were quite similar to the facts involved in the present Petitions.

43. The Division Bench of this Court, comprising A. S. Oka, as His Lordship then was, and Revati Mohite-Dere, relied upon the decisions of the Hon'ble Supreme Court in the case of **H. D. Vora Vs. State of Maharashtra and others**³ and **Grahak Sanstha Manch and others vs. State of Maharashtra**⁴, and held that requisition

³ (1984) 2 SCC 337

⁴ (1994) 4 SCC 192

could be continued only for a reasonable period and in any event not beyond the maximum period prescribed under the Bombay Land Requisition Act, 1948. The Court held that the continuance of requisition for over 29 years and 4 months was illegal and ultra-vires. The Court held that such requisition stands vitiated, and an order can be made for restoration of the Petitioner's requisitioned land to the Petitioner.

44. After considering the provisions of Section 41 of the MHADA Act, the Court further held that the mere issuance of a notice regarding the proposed acquisition of the Petitioner's land was not a substitute for issuing a final notification contemplated under Section 41(1) of the MHADA Act. Therefore, based upon the notice dated 18 October 2007 issued under the 1st Proviso to Section 41(1) of the MHADA Act, it could not be held that the acquisition of the Petitioner's property was complete and that the Petitioner's property vested in the State Government free from all encumbrances.

45. The above conclusions are evident from paragraphs 8 to 14 of this Court's order in **Dr Mohammad Ali (supra)**, which are transcribed below for convenience reference: -

"8. Admittedly, the process of the compulsory acquisition of the said land is not yet completed and, therefore, from 28th May, 1986 till today i.e. for a period of more than 29 years and 4 months, the said land continues to be under requisition. It ought to have been released from requisition on or before 28th May, 2005 in terms of clause (b) of sub-section (1A) of section 9. On this aspect, it will be necessary to make a reference to the decision of the Constitution Bench of the Apex Court in the case of Grahak Sanstha Manch and others. We must note here that in the case of Grahak Sanstha Manch and others, the Apex Court considered its earlier decision in the case of H. D. Vora vs. State of Maharashtra and others. In paragraph No.

6 of the decision in the case of H. D. Vora, the Apex Court held thus:

“But we find that there is also another ground of challenge urged on behalf of Respondent 3 and that is a very formidable ground to which there is no answer. The argument urged under this ground of challenge was that an order of requisition is by its very nature temporary in character and it cannot endure for an indefinite period of time and the order of requisition in the present case therefore ceased to be valid and effective after the expiration of a reasonable period of time and that it could not, under any circumstances, continue for a period of about 30 years and hence it was liable to be quashed and set aside or in any event the State Government was bound to revoke the same and to derequisition the flat. This contention has, in our opinion, great force and must be sustained. There is a basic and fundamental distinction recognized by law between requisition and acquisition. The Constitution itself in Entry 42 of List III of the Seventh Schedule makes a distinction between acquisition and requisitioning of property. The original Article 31 clause (2) of the Constitution also recognized this distinction between compulsory acquisition and requisitioning of property. The two concepts, one of requisition and the other of acquisition are totally distinct and independent. Acquisition means the acquiring of the entire title of the expropriated owner whatever the nature and extent of that title may be. The entire bundle of rights which was vested in the original holder passes on acquisition to the acquirer leaving nothing to the former. Vide: Observations of Mukherjee, J., in Chiranjit Lal case [Chiranjit Lal vs. Union of India, AIR 1951 SC 41 : 1950 SCR 869]. The concept of acquisition has an air of permanence and finality in that there is transference of the title of the original holder to the acquiring authority. But the concept of requisition involves merely taking of “domain or control over property without acquiring rights of ownership” and must by its very nature be of temporary duration. If requisitioning of property could legitimately continue for an indefinite period of time, the distinction between requisition and acquisition would tend to become blurred, because in that event for all practical purposes the right to possession and enjoyment of the property which constitutes a major constituent element of the right of ownership would be

vested indefinitely without any limitation of time in the requisitioning authority and it would be possible for the authority to substantially take over the property without acquiring it and paying full market value as compensation under the Land Acquisition Act, 1894. We do not think that the Government can under the guise of requisition continued for an indefinite period of time, in substance acquire the property, because that would be a fraud on the power conferred the Government. If the Government wants to take over the property for an indefinite period of time, the Government must acquire the property but it cannot use the power of requisition for achieving that object. The power of requisition is exercisable by the Government only for a public purpose which is of a transitory character. If the public purpose for which the premises are required is of a perennial or permanent character from the very inception, no order can be passed requisitioning the premises and in such a case the order of requisition, if passed, would be a fraud upon the statute, for the Government would be requisitioning the premises when really speaking they want the premises for acquisition, the object of taking the premises being not transitory but permanent in character. Where the purpose for which the premises are required is of such a character that from the very inception it can never be served by requisitioning the premises but can be achieved only by acquiring the property which would be the case where the purpose is of a permanent character or likely to subsist for an indefinite period of time, the Government may acquire the premises but it certainly cannot requisition the premises and continue the requisitioning indefinitely. Here in the present case the order of requisition was made as far back as April 9, 1951 and even if it was made for housing a homeless person and the appellant at that time fell within the category of homeless person, it cannot be allowed to continue for such an inordinately long period as thirty years. We must therefore hold that the order of requisition even if it was valid when made, ceased to be valid and effective after the expiration of a reasonable period of time. It is not necessary for us to decide what period of time may be regarded as reasonable for the continuance of an order of requisition in a given case, because ultimately the answer to this question must depend on the facts and circumstances of each case but there can be no doubt that whatever be the public purpose for which an order

of requisition is made, the period of time for which the order of requisition may be continued cannot be an unreasonably long period such as thirty years. The High Court was, therefore, in any view of the matter, right in holding that in the circumstances the order of requisition could not survive any longer and the State Government was bound to revoke the order of requisition and derequisition the flat and to take steps to evict the appellant from the flat and to hand over vacant possession of it to Respondent 3.” (emphasis added)

9. In paragraphs 16 and 17 of the decision in the case of *Grahak Sanstha Manch*, the Apex Court held thus :

“16. We find ourselves in agreement with the view taken in the cases of Collector of Akola [(1968) 1 SCR 401 : AIR 1968 SC 244] and Jiwani Kumar Paraki [Jiwani Kumar Paraki vs. First Land Acquisition Collector, (1984) 4 SCC 612] that the purpose of a requisition order may be permanent. But that is not to say that an order of requisitioning can be continued indefinitely or for a period of time longer than that which is, in the facts and circumstances of the particular case, reasonable. We note and approve in this regard, as did this Court in Jiwani Kumar Paraki case [Jiwani Kumar Paraki vs. First Land Acquisition Collector, (1984) 4 SCC 612], the observations of the Nagpur High Court in the case of Mangilal Karwa vs. State of M.P. [ILR 1955 Nag 34 : AIR 1955 Nag 153] which have been reproduced above. That the concept of requisitioning is temporary is also indicated by the Law Commission in its Tenth Report and, as pointed out earlier, by the terms of the said Act itself, as it originally stood and as amended from time to time. There is no contradiction in concluding that while a requisition order can be issued for a permanent public purpose, it cannot be continued indefinitely. Requisitioning might have to be resorted to for a permanent public purpose, to give an example, to tide over the period of time required for making permanent premises available for it. The concepts of acquisition and requisition are altogether different as are the consequences that flow therefrom. A landlord cannot, in effect and substance, be deprived of his rights and title to property without being paid due compensation, and this is the effect of prolonged requisitioning. Requisitioning may be

continued only for a reasonable period; what that period should be would depend upon the facts and circumstances of each case and it would ordinarily, be for the Government to decide.

17. For the aforesaid reasons, we hold that the decision in H. D. Vora case [(1984) 2 SCC 337] does not require reconsideration. We, however, do not approve the observations therein that requisition orders under the said Act cannot be made for a permanent purpose. We make it clear that the said decision does not lay down, as has been argued, a period of 30 years as the outer limit for which a requisition order may continue. The period of 30 years was mentioned in the decision only in the context of the date of the requisition order there concerned. An order of requisition can continue for a reasonable period of time and it was held, as we hold, that the continuance of an order of requisition for as long as 30 years was unreasonable. (emphasis added)

10. Thus, the law laid down by the Apex Court is that the requisition can be continued only for a reasonable period.

11. In the present case, the State was aware of this position and, therefore, by a notice dated 18th October, 2007, an attempt was made to initiate acquisition proceedings under the section 41 of the MHADA Act for compulsory acquisition. However, the acquisition proceedings were not taken to its logical conclusion. Thus, the order of acquisition has continued for a period of 29 years and 4 months. Looking at the facts of the case, from any angle, the said period of 29 years and 4 months will have to be held as unreasonable especially in view of the fact that an attempt was made to initiate acquisition proceedings in the year 2007. Therefore, the continuation of requisition under the Requisition Act stands vitiated.

12. The second issue is regarding the legality and validity of the action initiated under sub-section (1) of section 41 of the MHADA Act. It is not in dispute that the said land was a part of the land notified on 29th September, 1981 by the State Government by which the MHADA was constituted as the Special Planning Authority. By the notification dated 24th February, 2005, the MHADA ceased to be the Special Planning Authority for the said area from the date of the said notification. It is not in dispute that the MHADA has constructed a water reservoir

on the said land and that the water reservoir has been handed over to the Solapur Municipal Corporation (7th respondent). The affidavit of Shri Milind filed on behalf of the MHADA discloses that from 1st January, 1993, the water reservoir is being maintained by the Solapur Municipal Corporation.

13. Now the question is whether the acquisition initiated under sub-section (1) of section 41 of the MHADA Act can continue. Under sub-section (1) of section 41, on an application made by the MHADA, if it appears to the State Government that in order to enable the MHADA to discharge any of its functions or to exercise any of its power or to carry out any of its proposals, plans or projects, it is necessary that any land should be acquired, the State Government may acquire such land by publishing a notification. Sub-section (2) provides that acquisition of any land for any purpose mentioned in sub-section (1) shall be deemed to be a public purpose. Sub-section (1) provides that before publishing a notification contemplated by sub-section (1) of section 41, the owner or person interested is required to be served with the show cause notice calling upon him to show cause as to why the land should not be acquired. After considering the reply to the show cause notice, the State Government is required to pass such order as it deems fit. The vesting is complete only when a notification contemplated by sub-section (1) of section 41 is published in the Official Gazette.

14. We have carefully perused the notice dated 18th October, 2007. It records that there is a proposal to acquire the said land and by the said notice, objections to the proposal were called for. Thus, it is a notice of the proposed acquisition calling upon the owners to submit objections within thirty days. From the affidavit in reply of the fifth and sixth respondents, we find that it is not even the case made out that a notification as contemplated by sub-section (1) of section 41 was published in Official Gazette after the State Government passed an order after taking into consideration the objections received. Thus, almost for a period of 8 years, no further steps have been taken on the basis of the said notification dated 18th October, 2007. Though the affidavit of the fifth and sixth respondents is filed on 25th February, 2009, even thereafter, no further steps have been taken. The only interim order passed by this Court on 16th April, 2009 is for restraining the respondents from developing the said

land, from putting up any structure thereon and from creating any third party rights in the said land. However, a liberty was granted to the respondents to acquire the said land if needed for the public purpose under the Land Acquisition Act, 1894. As of today, since the MHADA has ceased to be the Special Planning Authority for the area in which the said land is situated and as the water tank/reservoir constructed by the MHADA on the said land has been handed over to the Solapur Municipal Corporation, it cannot be said that the MHADA requires the said land for discharge of any of its functions or to exercise any of its powers or to carry out any of its proposals, plans or projects. The MHADA ceased to be the Special Planning Authority for the area concerned on the basis of the notification dated 24th November, 2005. Before issuing the notice dated 18th October, 2007, this aspect ought to have been considered. Perhaps, the said notice was issued on the basis of the direction issued by the Secretary of the Housing Department in the meeting held on 11th March, 2005. Hence, the acquisition of the said land cannot be made now on the basis of the notice dated 18th October, 2007.”

46. Finally, in **Dr Mohammad Ali (supra)**, this Court declared that the continuation of the requisition of the Petitioner's land was vitiated and stands set aside. The Court also restrained the Respondents from initiating further proceedings based on the notice dated 18 October 2007 issued under the 1st Proviso to Section 41(1) of the MHADA Act. This Court, however, clarified that its order will not preclude Solapur Municipal Corporation from initiating proceedings for acquisition of the Petitioner's property under the relevant law relating to the compulsory acquisition. To enable the Corporation to do so, two years were granted to the Corporation to restore the possession of the Petitioner's property to the Petitioner. If the acquisition was not completed in accordance with law within two years, the Solapur Municipal Corporation was directed to forthwith put the Petitioner in possession of their land after restoring it to the original condition.

47. Thus, the decision in **Dr Mohammad Ali (supra)** fully supports the Petitioners' case in the present Petitions. The facts are almost identical, and the contentions now raised by the Respondents stand squarely rejected. Therefore, by following the ratio in **Dr Mohammad Ali (supra)**, the Petitioners have made a case for granting relief on terms like those in the said matter.

48. In contrast, the factual position or the legal issues involved **Balu Bhosale (supra)** cannot be said to be comparable to the facts or legal issues involved in the present Petitions. Besides, **Balu Bhosale (supra)** was a matter where the Petitioner had suppressed material facts, and the Petition was barred by inordinate and unexplained delay. Besides, **Balu Bhosale (supra)** was a matter where a final notification was issued under Section 41(1) of the MHADA Act in 1986, and the Petition was instituted only in 1997. In the present Petitions, there is no final notification under section 41(1) of the MHADA Act. Thus, based upon the decision in **Balu Bhosale (supra)** no case is made out to dismiss these Petitions or to deny the Petitioners any relief.

49. As noted earlier, the Petitioners have made a case to restore their properties because the requisition could not have continued beyond 08 July 2011. Still, because the Petitioners' said properties are now used as a road and for the widening of Nalla, the interests of justice would require that the Respondents be granted one year to initiate and complete the acquisition proceedings and acquire the Petitioners' said properties if they do not wish to restore the said properties to the Petitioners. However, if within one year, the Respondents fail to initiate and complete such acquisition proceedings by paying compensation following the law to the Petitioners, the Respondents will be obliged to restore the possession of the Petitioners' properties to the Petitioners by taking

such steps as may be necessary to ensure that the properties are restored to their original condition as far as possible. This is, in fact, a requirement under the Bombay Land Requisition Act 1948.

50. The contention that compensation was paid to the Petitioners for the acquisition of the said properties cannot be accepted. The compensation paid was only for the requisition, not the acquisition. Nothing much depends on the wording of the receipt. In this context, the Marathi word “Sampadan” means requisition, not acquisition. Without a notification under Section 41(1) of the MHADA Act, there was no acquisition. Therefore, there was no question of paying or receiving compensation for acquisition. Neither the pleadings nor the documents support this contention.

51. The argument that the Requisition Order dated 9 July 1987 has not been challenged is untenable. The petitioners have squarely questioned the continued requisition of the said properties beyond a reasonable period or even beyond the statutorily prescribed maximum period. The Respondents have used and continue to use the Petitioners’ properties since 1987, based on the Requisition order dated 9 July 1987. Even by adopting the most liberal interpretation of Section 9 or 9(1A) of the Requisition Act, the maximum prescribed limitation period for continuing the requisition expired on 8 July 2011.

52. The Petitioners have demanded restoration or urged acquisition by paying compensation according to the law. The Respondents ignored such pleas for untenable reasons that leave much to be desired. The argument based on any alleged delay or laches is without merit. Laches is not mere physical running of time. Still, considering the public interest involved, we are inclined

to mould the relief so that the petitioners get their dues and the public interest does not suffer disproportionately. The Respondents must pay some costs to the Petitioners.

53. The MHADA has now ceased to be the special planning authority, and though no document was shown to us, it was urged that the SMC is now the planning authority. In such circumstances and following the dictum in **Dr Mohammad Ali (supra)**, the respondents cannot proceed with their show-cause notice dated 24 August 1987. Besides, the inordinate delay in disposing of this show-cause notice would violate the principles of natural justice and fair play. Though the right to property may no longer be a fundamental right, it is a constitutional and a human right. Therefore, the State or its instrumentalities cannot deprive the petitioners of their properties save by the authority of the law and by following all legal procedures.

54. Accordingly, we dispose of these Petitions by making the following order: -

(a) We declare that continuing the requisition of the Petitioners' said properties under orders dated 09 July 1987 made under section 5(1) of the Requisition Act is illegal, ultra-vires and stands quashed and set aside.

(b) We restrain the Respondents from initiating any further proceedings based upon the notice dated 24 August 1987 issued under the Proviso to Section 41(1) of the MHADA Act.

(c) However, we clarify that this judgment and order will not preclude any of the authorised Respondents from initiating proceedings to acquire the Petitioners' said properties under the relevant law relating to compulsory acquisition.

(d) To enable the authorised Respondents to initiate proceedings to acquire the Petitioners' said properties, we grant the Respondents one year to restore the possession of the Petitioners' said properties to the Petitioners. If the acquisition is completed within the stipulated period of one year, the Petitioners will not be entitled to the restoration of the possession of the said properties, even though we have declared that continuance of requisition of the said properties is vitiated and stands set aside.

(e) If the MHADA or the Solapur Municipal Corporation initiate a proposal for acquisition, the State Government shall ensure that such proceedings are initiated immediately and concluded within one year from today, provided the Solapur Municipal Corporation/MHADA comply with all necessary formalities and deposit the requisite amounts towards such acquisition.

(f) Nothing in the above directions will entitle the MHADA to initiate acquisition proceedings if, in law, MHADA is no longer entitled to initiate such proceedings for any reason, including because the MHADA has ceased to be the Special Planning Authority for the area in question.

(g) If the acquisition proceedings are not completed and the petitioners are not paid compensation following the law within one year from today, the Respondents shall put the Petitioners in possession of the said properties after restoring the said properties to their original condition as far as possible.

(h) The MHADA and the Solapur Municipal Corporation shall pay costs of Rs.50,000/- to the Petitioners in these Petitions. This means that the MHADA and the Solapur Municipal Corporation should deposit an amount of Rs.1,50,000/- in this Court within four weeks from today. Upon such deposit, the Petitioners in each of these Petitions will be entitled to withdraw Rs.50,000/-.

(i) Rule is made absolute in these Petitions in the above terms.

(j) All concerned parties must act upon an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)