



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1018 of 2017

ESCO Limited.

...Petitioner

Vs

1. State of Maharashtra
 2. Deputy Collector (Encroachment & Removal) and Competent Authority
 3. Additional Collector (ENC) & Controller of Slum
 4. Chief Executive Officer, S.R.A.
 5. N. Rose Developer
 6. Shivshardha Co-op. Housing Society (Proposed)
- ...Respondents

Mr. Aspi Chinoy, Senior Advocate with Mr. Chirag Balsara with Mr. Yogesh Patil with Ms. Leena Shah, Mr. Dipen Furia i/b. Shah & Furia Associates, for Petitioner.
Mr. Mohit Jadhav, Addl. Govt. Pleader, for State.
Smt. P. H. Kantharia, for Respondent Nos.2 to 4 – SRA.
Mr. Shrey Phatarpekar with A. Anand i/b. H.S. Anand & Associates, for Respondent No.6.

CORAM: G. S. KULKARNI &
AARTI A. SATHE, JJ.

RESERVED ON : 16 SEPTEMBER 2025.
PRONOUNCED ON : 14 OCTOBER 2025

JUDGMENT (PER G. S. KULKARNI, J.)

1. Rule returnable forthwith. Respondents waive service. Heard finally by consent of the parties.
2. This petition under Article 226 of the Constitution of India essentially challenges the acquisition of the petitioner's land being property bearing CTS No.176(part) and CTS No.184 admeasuring 721.1 sq.meters and 791.7 sq.meters respectively situated at Village Goregaon (East), Mumbai (for short '**the said land**') under the provisions of Section 14(1) of the the Maharashtra Slum. Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short '**the Slum Act**'), being arbitrary, illegal and unconstitutional.

3. The primary challenge as urged on behalf of the petitioner is that the land is admittedly private land on which there were hutments and which came to be declared as 'Slum Rehabilitation Area' under the provisions of Section 3C(1) of the Slum Act. The petitioner contends that the same could not have been acquired without recognizing the preferential rights of the petitioner as owner of the said land, to undertake redevelopment and rehabilitation of the slum tenements. In such context, it is the petitioner's case that merely because the society formed by the slum dwellers would intend to make a proposal, the State Government could not have discarded the petitioner's right and proceeded to acquire the land under Section 14 of the Slum Act. The petitioner has supported their contention relying on the decision of this Court in **Indian Cork Mills Pvt. Ltd. vs. State of Maharashtra & Ors.**¹ and **Bishop John Rodrigues Vs. State of Maharashtra**², and the same being upheld by the recent decision of the Supreme Court in **Tarabai Nagar Co-op.Hsg.Society (proposed) vs. State of Maharashtra & Ors.**³ and in **Saldanha Real Estate Pvt. Ltd. Vs. Bishop John Rodrigues & Ors.**⁴. Before we proceed to discuss and set out the facts, we note the substantive prayers as made in the petition which read thus:

a) This Hon'ble Court be pleased to issue Writ in the nature of Writ of Certiorari in the nature of Certiorari or any other appropriate Order or Direction thereby directing the Respondent Nos. 1 to 4 to produce all records of proceedings of the acquisition of the said property being plot of land bearing C.T.S. No. 176 (part) Village Goregaon, Taluka Borivali admeasuring 721.1 sq. mtrs. and C.T.S. No. 184 Village Goregaon, Taluka Borivali admeasuring 791.7 sq.

1 2018 SCC Online Bom 1214

2 2004 SCC Online Bom 1632

3 2025 SCC OnLine 1795

4 2025 SCC OnLine SC 1794

mts., situated at Ram Nagar Goregaon (East), Mumbai 400 063 and after going through the legality, validity and proprietary of the same to quash and set aside the Impugned Notification dated 21st April, 2016 being Exhibit "J" hereto bearing Ref. No. Busampa/2012/C.R. 357/Zopani-2 Published in Government Gazette by Housing Department in Part 4/B, dated 29th April, 2016;

b) This Hon'ble Court be pleased to issue Writ of Certiorari or any other appropriate Order or Direction thereby directing the Respondent No. 1 to 4 to produce all records of proceedings of the acquisition of the said property C.T.S. No. 176 (part) Village Goregaon, Taluka Borivali admeasuring 721.1 sq. mtrs. and C.T.S. No. 184 Village Goregaon, Taluka Borivali admeasuring 791.7 sq. mtrs., situated at Ram Nagar Goregaon (East), Mumbai 400 063 and after going into legality, validity and proprietary of the same to set aside the same;

c) That this Hon'ble Court be pleased to declare provision of section 14 of the Maharashtra Slum Area (Improvement, Clearance and Redevelopment) Act 1971 as ultra-virus and unconstitutional and violative of Article 14 of the Constitution of India.

d) This Hon'ble Court be pleased to issue Writ of Mandamus or Writ in the nature of Mandamus or any other order or Direction directing the Respondent No. 1 to 4 or such or any of them to forthwith release the said property being C.T.S. No. 176 (part) Village Goregaon, Taluka Borivali admeasuring 721.1 sq. mtrs. and C.T.S. No. 184 Village Goregaon, Taluka Borivali admeasuring 791.7 sq. mtrs. situated at Ram Nagar Goregaon (East), Mumbai 400 063 from acquisition under sub Section 1 of Section 14 of the said Act;

e) This Hon'ble Court be pleased to issue Writ of Mandamus or Writ in the nature of Mandamus or any other order or Direction thereby directing the Respondent No. 1 to 4 or such or any of them to forthwith reject the proposal submitted by the Respondent No. 5 for the development of the plot bearing C.T.S. No. 176 (part) Village Goregaon, Taluka Borivali admeasuring 721.1 sq. mtrs. and C.T.S. No. 184 Village Goregaon, Taluka Borivali admeasuring 791.7 sq. mtrs, situated at Ram Nagar Goregaon (East), Mumbai-400 063;

e-1) This Hon'ble Court by its order and direction be pleased to declare so called order dated 3rd May 2017 being 'Exhibit-Z' hereto passed by CEO-SRA, being Respondent No.4 herein as null and void and the same to be quashed and set aside;

e-2) This Hon'ble Court by its order and direction be pleased to declare the so called Notice 23rd August, 2017 being 'Exhibit-BB' as bad and illegal in law and not binding the Petitioner and the same to be quashed and set aside."

4. Mr. Chinoy, learned Senior Counsel for the petitioner at the outset has

submitted that relief in terms of prayer clause (c) has not been pressed by the petitioner.

5. Briefly the facts are:

Respondent No.6 is a society formed by the slum dwellers addressed a letter to respondent No.2/Deputy Collector requesting him to initiate acquisition of the land in question under Section 14(1) of the Slum Act as the petitioner - land owner was not providing any facilities. On such proposal on 18 July 2009 a show cause notice was issued by the Additional Collector under Section 14(1) of the Slum Act, as to why the land shall not be acquired. The petitioner contends that such show cause notice was never served on the petitioner. It is also the petitioner's case that there was a publication of the show cause notice in the regional newspaper which was not widely circulated. The petitioner contends that on 12 January 2010 a report was submitted by the Additional Collector (Encroachment / Removal) of Western Suburban to the Housing Secretary, Mantralay, Government of Maharashtra, for acquisition of the subject land. In pursuance thereto on 22 October 2013, a fresh a show cause notice was issued by the Chief Executive Officer, Slum Rehabilitation Authority (**CEO SRA**) under Section 14(1) of the Slum Act, as to why the subject property shall not be acquired. On such show cause notice, hearing was held on 22 November 2013 before the Chief Executive Officer, SRA, when the petitioner sought time to file objections, however, such time was not granted.

6. It is the petitioner's case that the CEO SRA submitted its report to the

Principal Secretary, Housing Department dated 16 July 2014. On such backdrop, after one year on 26 August 2015 the CEO SRA declared the land in question as slum area under Section 3C(1) of the Slum Act. On 21 April 2016 the Housing Department issued the impugned notification whereby the land in question was notified to be acquired by the State Government under Section 14(1) of the Slum Act.

7. The petitioner on 15 July 2016 addressed a letter to the CEO SRA raising an objection to the land being declared as slum also an objection was raised to the notification on acquisition of the land. The CEO SRA by its letter dated 8 December 2016 called upon the petitioner to answer whether the compensation decided by the Competent Authority is acceptable to the petitioner or not. Further in the CEO SRA passed an Award dated 3 May 2017 declaring the compensation being awarded to the petitioner which was of a meager amount of Rs.12 lakhs. On 23 August 2017, the Deputy Collector directed the petitioner to hand over the possession of the land in question to the State Government.

8. On such backdrop the petitioner filed this writ petition on 16 March 2017. The petition was moved before the Court on 12 October 2017 when a co-ordinate Bench of this Court while adjourning the proceeding to 15 November 2017 ordered a status quo to be maintained by the parties, as it existed on the said day. The said order has continued to operate till date. Accordingly, the proceedings are before the Court.

9. Reply affidavits on behalf of respondent No.1, as also the reply affidavits

on behalf of the other respondents are placed on record.

10. On behalf of the petitioner, we have heard Mr. Chinoy, Mr. Mohit Jadhav, learned AGP for the State, Ms. Kantharia, for respondent Nos.2 to 4 (SRA) and Mr. Phatarpekar, learned Counsel for respondent No.6 – Society. Insofar as respondent No.5-developer is concerned, the development agreement has already been terminated by respondent No.6-society. In any event respondent No.5 has throughout not appeared in the present proceedings despite service.

11. At the outset, we may observe that it is not in dispute that the land in question is a private land in respect of which the petitioner enjoys valuable rights under Article 300A of the Constitution. It is Mr. Chinoy's submission that merely for the reasons there exists slum structures on the petitioner's land, the slum dwellers without recognition of the petitioner's preferential right in respect of the land and more particularly in respect of any redevelopment, could not have made a proposal to the CEO SRA for acquisition of the said land. It is Mr. Chinoy's submission that the legal position in this regard stands well settled in the decision of this Court in the **Indian Cork Mills Pvt. Ltd.** (supra) in which the co-ordinate Bench of this Court, in regard to such preferential rights, made the following observations:

“62. That a preferential right for redevelopment is so vested in the owners/landholders and/or occupants is further clear in view of a conditional power/authority created with the SRA to undertake redevelopment of the slum rehabilitation area in a two-fold manner firstly by exercising power under sub-section (1) or (2) of Section 13 which is to re-develop the land by entrusting it to any agency on a failure of the landholder or the occupant in not coming forward within a reasonable time with a scheme for re-development; and when application of Section 13(1) and (2) do not fetch any result by

re-developing or carrying out development under the slum rehabilitation scheme in any slum rehabilitation area by resorting to acquisition of the land under section 14 as applicable with modification under Chapter I-A. It is thus clear that the object and purpose which the provisions of Section 3B(4)(e), Section 13(1) and (2), Section 12(10) and Section 14 (as modified by under Chapter IA) is to achieve and bring about an effective redevelopment of slum rehabilitation area.

63. Thus, from the legislative scheme of the amended provisions it can be clearly inferred that the rights so conferred under these provisions on the owner/landholder/occupant cannot be usurped directly by putting into operation the acquisition machinery, simply because such power exist on the statute book. The exercise of such power within the scheme of Chapter I-A is required to be resorted by due adherence to the said provisions which have created and recognized the legitimate rights in the owners, landholders and occupants to undertake re-development. The power to acquire land is also required to be exercised in a fair manner and certainly in the context of the present statutory scheme, when the object and purpose for which acquisition is to be undertaken can be achieved by other methods and for which the statute has made the requisite provision for achievement of such purpose.

.....

100. We also cannot accept the submission as urged on behalf of the society that since the society has submitted a scheme prior to the petitioner's scheme, the preferential right in favour of the petitioner does not survive. This submission pre-supposes that there is a preferential right in the petitioners to redevelop the said land.....”

12. Mr. Chinoy has also drawn the Court’s attention to the decision of the Division Bench of this Court in **Bishop John Rodrigues** (supra) in which referring to the decision in **Indian Cork Mills Pvt. Ltd.** (supra) in the similar context the Court made the following observations:

“101. In these circumstances, when valuable private rights as guaranteed under Article 300A of the Constitution to an owner of the land are being deprived under the garb of slum rehabilitation, there has to be an insurmountable situation on record of the SRA or for any reasonable body of persons to come to an unimpeachable conclusion that the only and only remedy and/or avenue in a given case is to acquire the private land and not permit the owner of the land to undertake the development. The CEOSRA has an onerous obligation to reasonably, non-arbitrarily, and objectively deal with

the valuable property rights of private citizens who are dragged in such situation that the monsters of encroachment and persons supporting them take the rule of law in their hands in depriving the land owner of his right to property. They forget that there is a rule of law and there are Courts and any such attempt to dent the rule of law can be dealt with iron hands. We may also add that if the official machinery was to act as per law, today we would not have been confronted with the situation of an international city like Mumbai being also known for its slums on private and public lands [See the observation of the Court in High Court on its own motion (In the matter of) Jilani Building at Bhiwandi v. Bhiwandi Nizampur Municipal Corporation.

102. Be it so, in our opinion, a cumulative reading of the provisions under Chapter-I-A does not, in any manner, depict a legislative intent that the moment the private land is declared as a slum and a cooperative society of slum dwellers is formed, no opportunity whatsoever is required to be granted to the owner of the land to undertake development of the land. In fact, primary obligation on the CEO-SRA as also for the slum rehabilitation society is to issue a notice to the owners of the land specifying the period/a time bound schedule i.e. 120 days as contemplated under Section 13(1) of the Slum Act. This would be the basic necessity before a owner could be deprived of its constitutional rights under Article 300A before applying the statutory 120 days as contemplated under Section 13(1) of the Slum Act either from the declaration of the slums as the slum rehabilitation area or any insistence on the part of the society and which may not be to the knowledge of the owner. In our opinion, the petitioner would be correct in its contention that Section 13(1) would be required to be read in the context of what has been observed by the Division Bench of this Court in *Indian Cork Mills Pvt. Ltd. v. State of Maharashtra* (supra), in as much as, for a valid acquisition under Section 14, the pre-requisite would be an opportunity to call upon the owner of the land to come forward with a scheme to undertake the redevelopment by putting him to a notice that a rehabilitation scheme if not submitted by him, would be a circumstance which would be taken against him so as to take steps to acquire the land. The Division Bench had held that such notice to the land owners was imperative, considering the plain reading of Section 14(1) of the Slum Act. The observations of the Division Bench in that regard are already noted by us hereinabove.

.....

111. We may also observe that such contention of the society that the moment the land in question, which is of private ownership, is declared as a slum and after coming into force of Regulation 33(10) of the DCR would mandate steps to be taken to develop the land, would also be required to be held to be fallacious. As stated hereinabove, it cannot be expected that the owner of the land would

instantly possess the necessary wherewithal, or would have no opportunity to mobilise/organise himself to undertake a redevelopment. Thus, it is ill-conceivable that an instant development of such land from the resources of a private person can automatically be foisted. Such an argument also lacks discernment to any ground realities in which the owner of the land in a given situation may find himself, under the scheme of the things.

118. If this be the position, then certainly, the slum dwellers merely by forming a society cannot assert that their rights are higher than the rights of the owners of the land and as successive Division Benches of this Court has held that the rights of the slum dwellers cannot be elevated (as if they are the owners of the property), so as to control the rights of the owners of the land under the garb of rehabilitation and through the resources of a developer, foist/dictate compulsory acquisition of land against the owner. The acquisition of the land for rehabilitation of slum dwellers can also never be on a pedestal and/or of a status of an acquisition of the land for public purposes in relation to public project to be undertaken by the State in exercise of its powers of eminent domain. This for two reasons firstly, it is a private group of persons (slum developers) who would be the beneficiary of such land acquisition and the second beneficiary would be the developer who would reap bonanza of a huge Floor Space Index (FSI) in undertaking construction of commercial/saleable premises. Thus, the only beneficiaries of such acquisition of private persons, the Government would spend a meager amount of compensation to be paid as per Section 17 of the Slum Act. Despite this clear position, quite unfortunately, the experience in relation to acquisition under the Slum Act is quite different. It is completely misunderstood, misapplied, misinterpreted or abused by the authorities; this considering the proliferation of litigation in this regard, concerning private lands as encroached, and what is happening to public lands is a mystery which can never be resolved.

.....

121. Thus, a conclusion can be reached that the process of acquisition of private land under the Slum Act is quite draconian with minimal say to the owners of the land coupled with enormous discretion conferred on the CEO, SRA, leaving an enormous scope and window, for large scale arbitrariness and illegality. Considering such parameters, there is an onerous obligation on the State Government not to have a mechanical approach in processing proposals from the CEO SRA and to very minutely examine each and every proposal and reach to a subjective satisfaction for reasons to be recorded in writing as to whether the proposal for acquisition as being put up by the CEO, SRA is fair, reasonable and non-arbitrary. In the present case, valuable land of the petitioner situated at Bandra is being acquired for merely 35 slum dwellers. It is quite astonishing as to why in such a situation, the SRA would not grant an opportunity to the petitioner to undertake redevelopment of its

own land and rehabilitate the slum dwellers and in fact, resort to a compulsory acquisition of the petitioner's land under Section 14 of the Slum Act.”

(emphasis supplied)

13. Mr. Chinoy has brought to our notice a recent decision of the Supreme Court in **Tarabai Nagar Co-op.Hsg.Society (proposed)** (supra) wherein the Supreme Court was considering a challenge to the decision of the Division Bench of this Court in **Indian Cork Mills Pvt. Ltd.** (supra). In upholding the said decision of this Court, the Supreme Court recognized the position in law that the land owner would have preferential right to undertake development, and if any acquisition of the land declared as slum rehabilitation area is sought to be undertaken without recognition of the preferential right of the owners of the land, such acquisition would be required to be held to be illegal. The relevant observations are required to be noted which read thus:

“77. In this context, we deem it appropriate to clarify at this stage that Section 14 empowers the State Government to acquire land if necessary to enable the SRA to carry out development under the SR Scheme. It is writ large on the text of Section 14 that the State can invoke its power to acquire the land, if it is necessitated, as per the SRA, for the implementation of a Scheme.

83. Rather, any process to acquire the land shall have to be kept in abeyance till such time as the owner's preferential right to develop it stands extinguished. Since it is open to the owner to file its own SR Scheme within a reasonable time and the proposal of the owner, if valid and complete, would take primacy, it cannot be said that there is any legal necessity to acquire the land. If acquisition is allowed to take place at this stage, it will jeopardise the preferential right of the landowner. It is only when the owner declines to undertake development or to support any third-party development, thereby foregoing its preferential right, that such a necessity would actually arise. There can thus be no doubt that, as long as the owner is willing to undertake development in exercise of its preferential

right, the acquisition cannot proceed.

84. This can also be harmoniously read in conjunction with the requirement for a notice-cum-invitation to the owner, as set out in Section 13. Until the SRA has invited the owner to submit an SR Scheme, the owner's right to develop the land cannot be said to have closed. In such a case, the subsisting preferential right cannot be frustrated or undermined by initiating the acquisition process.”

14. Also in a further decision of the Supreme Court in **Saldanha Real Estate Pvt. Ltd. Vs. Bishop John Rodrigues & Ors.**⁵ the decision of this Court in **Bishop John Rodrigues** (supra) has been upheld. In a context similar to the present case, the following are the questions which had arisen for consideration of the Supreme Court.:

“D. Issues

16. Having regard to the issues already adjudicated upon in Tarabai (supra), we deem it appropriate to confine our analysis to the following three questions:

I. Whether the High Court has rightly rejected Kadeshwari Society's preliminary objection?

II. Whether the 2018 Amendment impacts the law laid down in Indian Cork Mills (supra) and as reiterated in Tarabai (supra)?

III. Whether, in the facts of the instant case, the High Court rightly set aside the notice dated 29.10.2021 and the order dated 29.03.2022?”

15. In answering the aforesaid issues on the validity of the acquisition, the Supreme Court recognized the preferential rights of the owners of the land (Bishop Rodrigues). The relevant observations as made by the Supreme Court are required to be noted which read thus:

E.3 Issue III: Validity of Acquisition

26. This Court in Tarabai (supra) has unequivocally established that: (i) the private owner of an SR Area has a preferential right to develop it; (ii) the SRA must invite the landowner to come forward with a redevelopment proposal and give them reasonable time to do so before the said preferential right extinguishes; and (iii) the State or the SRA cannot move to acquire the land before the preferential right of the owner is extinguished. These principles will also apply mutatis mutandis to the case in hand.

27. Consequently, there vests a preferential right in favour of the Church Trust, over and above the SRA, occupants, or other stakeholders, to develop the Subject Land. The Trust ought to have been invited by the SRA to submit a proposal and undertake such redevelopment after the declaration dated 29.12.2020 was issued. Thus, the SRA cannot proceed for acquisition of the Subject Land unless (i) such a notice-cum-invitation is extended, and (ii) thereafter, the right of the Church Trust is extinguished if it fails to submit a redevelopment scheme within the prescribed period of 120 days.

28. The High Court has held that there was no compliance of these preconditions by the SRA before initiating the acquisition, and the entire process was liable to be invalidated. The High Court has further found from the conduct of the Appellants that the acquisition proceedings arose from an exercise of power in bad faith. We, therefore, now proceed to examine whether the High Court was right in drawing such a conclusion.

... ..

32. The inevitable consequence of the SRA's omission to issue a separate notice under Section 1329 is that the Church Trust's preferential right to redevelop the Subject Land remains intact. In the absence of a valid notice or opportunity, there existed no legal basis to extinguish this right. The acquisition was, therefore, vitiated in law, falling afoul of the prescribed procedure."

16. On the aforesaid backdrop, we may also note the submissions as made on behalf of respondent No.6-Slum society. Learned Counsel for respondent No.6 has placed on record an affidavit of Rajesh Subhash Pawaskar, Chief Promoter, *inter alia* contending that during the pendency of the writ petition, respondent No.5 -developer has totally misled respondent No.6 society and caused respondent No.6 society to file an application for acquisition of the petitioner's land. It is stated that considering the decision of this Court in **Bishop John**

Rodrigues (supra), respondent No. 6 ascertained that the present acquisition proceedings would be unsustainable. It is thus submitted that respondent No.6 has now approached the petitioner so as to support the petitioner in the redevelopment of the plot of land which is subject matter of the present petition. It is also stated that respondent No.6 had lost confidence in respondent No.5 who was not implementing the scheme, also a decision to that effect was taken in a resolution of the General Body Meeting of the slum dwellers held on 20 April 2025, wherein it was decided to terminate the appointment of respondent No.5 and to support the petitioner. The relevant contents of the said affidavit are required to be noted, which read thus:

“3. I say that during the pendency of the present writ petition, Respondent No.6 society ascertained that Respondent No.5 had totally misled Respondent No.6 Society and had caused Respondent No.,6 society to file an application for acquisition of the Nesco Land.

4. I say that after the judgment of this Hon’ble Court in the case of **Bishop’s case** in Writ Petition No.1212 of 2022, it was ascertained that the present acquisition proceedings would be unsustainable. I further say that in any event, Respondent No.6 society approached the Petitioner, who expressed a desire to support Respondent No.6 Society to rehabilitate the slum dwellers by submitting a proposal with the SRA for implementing a Slum Rehabilitation Scheme on the plots which are subject matter of the present writ petition. Hereto annexed and marked as Exhibit F is a copy of the judgment of this Hon’ble Court in Bishop’s case.

5. I say that Respondent No.6 Society has lost confidence in Respondent No.5 and is convinced that Respondent No.5 is not in a position to implement a Slum Rehabilitation Scheme. I say that the Slum Declaration under Section 4(1) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (**Slum Act**) has been passed way back and the SRA has also declared the property as Slum Rehabilitation Area under Section 3C of the Slum Act.

6. I say that the slum dwellers have been lingering without rehabilitation for the past eight years. I say that in order to break the aforesaid impasse, Respondent No.6 Society had a general body

meeting of slum dwellers held on 20th April, 2025, wherein it was decided to terminate the appointment of Respondent No.5's associate company and to support the Petitioner for the purpose of speedy implementation of the present Slum Rehabilitation Scheme through Gyan Buildtech Pvt. Ltd. I say that Respondent No.6 Society is willing to submit a proposal for implementation of the Scheme by the Petitioner, who will implement the same through Gyan Buildtech Pvt. Ltd., who has already been approved by Respondent No.6 Society. Hereto annexed and marked as Exhibit "G" is a copy of the Minutes of the general body meeting held on 20th April 2025.

7. In view of the aforesaid circumstances, I respectfully submit that the petition be made absolute in terms of prayer clause (a) of the Interim Order dated 12 October 2017 to the extent which is owned by the Petitioner. I say that the impugned Notification dated 27 June 2016 may be allowed to continue insofar the same pertains to the balance land which is subject matter of the present writ petition."

17. Thus, the respondent No.6 has wholly conceded to the case of the petitioner and submitted that the petition be allowed in terms of prayer clause (a).

18. Ms. Kantharia, learned Counsel for SRA and Mr. Jadhav, learned AGP for the State would not dispute the clear position as noted hereinabove that none of the essential requirements as held by the Courts in the aforesaid decisions were complied, before the petitioner's land could be acquired, inasmuch as no opportunity whatsoever at the relevant time was made available to the petitioner to undertake redevelopment of the land in recognition of the petitioner's preferential rights. They also do not dispute that the position in law in this regard is well settled in the recent decision of the Supreme Court in **Tarabai Nagar Co-op.Hsg.Society (proposed)** (supra) upholding the decision of this Court in **Indian Cork Mills Pvt. Ltd.** (supra) and in **Saldanha Real Estate Pvt. Ltd.**

(supra) which confirms the decision of this Court in **Bishop John Rodrigues** (supra).

19. In the light of the above discussion, in our opinion, the petition certainly needs to succeed.

20. Before parting we would be failing in our duty if we do not remind the Slum Authority as also the appropriate officer of the State Government as to the responsibility the law would cast on the Chief Executive Officer as also the officials of the State Government before the draconian powers under Section 14 of the Slum Act, are exercised. Such powers can never be undertaken at the behest of unscrupulous elements and discarding the legal rights of private landlords when the land inundated by slums is of private ownership. The significant observations as to what happens in reality is echoed by this Court in **Bishop John Rodrigues** (supra) when the Court made the following observations:-

“119. It also cannot be overlooked that the acquisition of private land under the Slum Act has a large element of discretion being made available to the CEO, SRA as also to the State Government, object of which as stated herein above, is not of some acquisition for a public purpose, much less of a monumental nature, but for a private purpose that is rehabilitation of a limited number of slum dwellers accompanied with a private benefit which the developer would reap. The nature of the compulsory acquisition under the Slum Act, hence, is not to achieve a public purpose but purely private. Thus, the rudimentary principles on which a decision to acquire land for a public purpose are premised, is certainly not the consideration when it comes to acquisition of private land under the Slum Act. We may observe that the method of acquisition under the Slum Act is also quite draconian in as much as after the objections are raised by the person interested against the acquisition, it is completely the discretion of the competent authority (CEO, SRA) to inform the Government of the inclination towards acquisition and the Government forming an opinion that the land is required to be

acquired and accordingly the land would be acquired by publishing a notice to that effect in the Official Gazette.”

21. In the aforesaid context, the Supreme Court in **Saldanha (supra)** has made the following significant observations which need to be borne in mind by the officials of the SRA:-

“48.Nevertheless, for some inexplicable reason and with a sense of uncharacteristic urgency, which again speaks to the invisible but pervading influence of the powerful private developer, the SRA has forsaken the basic tenets of equity and recommended the acquisition.

49. Throughout this case, the SRA and its CEO appear to have abandoned their public duty to uphold the Rule of Law and protect the rights of the landowner. On the contrary, the facts reveal a prejudiced attempt by the SRA to undermine legislative and judicial efforts and hand over the Subject Land and the benefits of its rehabilitation to Saldanha. Such actions of a public authority, marred by collusion and connivance and motivated by extraneous profit interests of private builders, are highly depreciable and underline the possibility of bureaucratic misuse of statutory provisions.

50. The facts of the instant case compel us to infer that Saldanha's overreaching influence went beyond the slum-dwellers' proposed society. In its attempt to take over the Subject Land, the developer appears to have gotten the typically slow-moving bureaucratic wheels of the SRA to run at full speed. Moreover, Saldanha was able to achieve this manoeuvre at a time when the entire country was under lockdown and the machinery of governance was overwhelmed by the unprecedented challenges of the COVID-19 pandemic.

51. These circumstances underpin the need for practical and actionable safeguards in a legal system involving competing interests among private parties. The Slums Act, while providing wholesome protection to slum dwellers and their homes and livelihood, does not give such express protection to the interests of the owner of the land. The ensuing vacuum, as we have seen in these appeals, allows opportunistic developers to swoop in, exploit the circumstances of the poor slum dwellers, manipulate the hand-in-glove authorities, and enrich themselves off the helpless owner's land.

52. Keeping the facts of this case and the obviously colourable conduct of the Appellants in mind, the acquisition proceedings

cannot be allowed to sustain. As such, the High Court has rightly nipped these proceedings in the bud, protecting the statutory rights and interests of the Church Trust over the Subject Land and preventing the Appellants from illegally grabbing it.”

22. Resultantly, the petition needs to succeed. It is accordingly allowed in terms of prayer clauses (a), (d), (e), (e-1), (e-2).

23. Rule is made absolute in the aforesaid terms. No costs.

(AARTI A. SATHE, J.)

(G. S. KULKARNI, J.)