

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8001 OF 2012
WITH
WRIT PETITION NO.3064 OF 2013

WP NO.8001 OF 2012

Ramakant S. Bhattad and Others. .. Petitioners
Vs
State of Maharashtra and Others. .. Respondents
—
Shri Vishwajeet Mohite for the Petitioners.
Shri S.N. Patil, AGP for Respondent Nos.1 and 2.
Shri N.J. Patil for Respondent No.3.

WP NO.3064 OF 2013

Shri Rajesh Dattatraya Phalsamkar & Others. .. Petitioners
Vs
The State of Maharashtra and Others. .. Respondents
—
Shri Suresh M. Sabrad for the Petitioners.
Shri S.N. Patil, AGP for Respondent Nos.1 to 4.
Shri Sachindra B. Shetye for the Respondent No.6.
—

CORAM : A.S. OKA & A.K.MENON, JJ

DATE ON WHICH SUBMISSIONS WERE HEARD : 25TH FEBRUARY 2015

DATE ON WHICH JUDGMENT IS PRONOUNCED: 22ND APRIL 2015

JUDGMENT (PER A.S. OKA, J)

1. These two Petitions can be conveniently disposed of together as the legal issue involved in these Petitions is identical.

FACTS IN WRIT PETITION NO.8001 OF 2012

2. The Karad Municipal Council is the Planning Authority within the meaning of Clause (19) of Section 2 of the Maharashtra Regional and Town Planning Act, 1966 (for short “the MRTP Act”). The Karad Municipal Council (for short “the said Municipal Council”) passed a Resolution dated 24th January 2000 declaring its intention under Sub-section (1) of Section 23 read with Section 38 of the MRTP Act of preparing a Revised Draft Development Plan for the municipal limits of the said Municipal Council. A notice of such declaration was published in the Government Gazette dated 27th April 2000. A notice under Sub-section (1) of Section 26 of the MRTP Act was published in the Government Gazette dated 8th July 2004 inviting objections and suggestions to the Revised Draft Development Plan (for short “the Draft Development Plan”) for the area of Karad.

3. After considering the suggestions and objections received , the Planning Committee submitted a report to the said Municipal

Council. The Planning Authority made certain modifications in the Revised Development Plan. The Revised Development Plan as modified was published in the Government Gazette dated 7th September 2006 in accordance with Sub-section (4) of Section 28 of the MRTP Act. Ultimately, the Draft Development Plan was submitted by the said Municipal Council to the State Government on 20th October 2006 in accordance with Section 30 of the MRTP Act. The Draft Development Plan was sanctioned by the State Government on 4th April 2012 in exercise of powers under Sub-section (1) of Section 31 of the MRTP Act. The Notification dated 4th April 2012 records that a part of the Revised Development Plan with modifications specified in Schedule-A was sanctioned on 4th April 2012 which came into force on 21st May 2012.

4. The challenge in Writ Petition No.8001 of 2012 is to the sanctioned Revised Development Plan dated 4th April 2012(for short “the sanctioned Development Plan”). The case of the Petitioners in the said Petition is that they are claiming right, title and interest in respect of the Plot No.370/2 Datta Chowk, Karad, which is known as “Bhattad Complex”. The said plot has been shown in the sanctioned Revised Development Plan as reserved for parking.

FACTS IN WRIT PETITION NO.3064 OF 2013

5. As far as the Petitioners in Writ Petition No.3064 of 2013 is concerned, the Petitioners are residents of Uran within the limits of the Uran Municipal Council in the District – Raigad. The Uran Municipal Council is the Planning Authority in accordance with Clause (19) of Section 2 of the MRTP Act. The challenge in the said Petition is to the Notification dated 25th February 2013 issued by the Uran Municipal Council in accordance with Sub-Section (1) of Section 26 of the MRTP Act in the Government Gazette of March 7-16, 2013 .

6. The Uran Municipal Council passed a Resolution dated 18th August 2009 declaring its intention to revise the Development Plan for Uran Municipal Council. The said notice was under Sub-section (1) of Section 28 of the MRTP Act for inviting objections and suggestions of the Draft Development Plan. On 3rd April 2012, the General Body of Uran Municipal Council passed a Resolution by which it was resolved to publish a Draft Development Plan with modification. On the basis of the said said Resolution, the notice dated 25th February 2013 under challenge in this Petition was published. The case made out in the Petition is that the property held by the Petitioner is affected by the proposed reservation.

THE SUBMISSIONS OF THE LEARNED COUNSEL

7. The submissions have been made in both these Petitions. The detailed submissions have been made in Writ Petition No.8001 of 2012. The submissions revolve around the various amendments made to the provisions of the MRTP Act. The learned counsel appearing for the Petitioners in support of the Writ Petition No.8001 of 2012 pointed out that the Draft Development Plan was submitted by the Karad Municipal Council to the State Government on 20th October 2006. Sub-section (1) of Section 31 of the MRTP Act, as on 20th October 2006, provided that a Draft Development Plan shall be sanctioned within a period of one year from the date on which it was submitted to the State Government by the Planning Authority in accordance with Section 30 of the MRTP Act. The Maharashtra Act No.X of 2011 amended Sub-section (1) of Section 31 by which the period of one year was reduced to six months. He pointed out that prior to the said amendment, time provided in Sub-section (1) of Section 30 could be extended from time to time without any outer limit, but by the Maharashtra Act No.X of 2011, the power to extend the period fixed by the Sub-section (1) of Section 31 of the MRTP Act was limited to six months in aggregate. He pointed out that the Notification dated 4th April 2012 relies upon a deeming fiction which is unknown to law. He pointed out that the recitals in the Notification dated 4th April 2012 record that the Revised Development Plan shall be deemed to have been submitted on 4th April

2011 which is the date on which the Maharashtra Act No.X of 2011 came into force. He urged that as there is no such legal provision providing for such a deeming fiction, on the date on which the Revised Development Plan was sanctioned, the period before which the Revised Development Plan could be sanctioned was already over. He urged that even assuming without admitting that by a deeming fiction, the date of submission of the Draft Development Plan could be treated as 5th April 2011, the period of six months expired on 4th October 2011 and there was no Notification issued by the State Government by extending the said period by a further period of six months. Therefore, it was contended that the impugned notification dated 4th April 2012 is illegal.

8. The learned AGP relied upon Section 13 of the Maharashtra Act No.X of 2011. He submitted that under Section 13 of the MRTP Act, the State Government has power to issue such directions which are not inconsistent with the provisions of the MRTP Act but which will be necessary or expedient for the purposes of removing the difficulty in the implementation of the amended Act.. He pointed out that the power under Section 13 of the MRTP Act was exercised by the State Government by passing a specific order on 1st April 2013. He submitted that by the said direction, the State Government directed that the Draft Development Plans which were pending before the State

Government on the date on which the Act No.X of 2011 came into force(i.e 5th April 2011) shall be deemed to have been submitted on 5th April 2011. He pointed out that from 5th April 2011, the time of six months was available to sanction the Development Plan which could have been extended by a further period of six months. He urged that by the impugned Notification in Writ Petition No.8001 of 2012, the period was extended by six months. He, therefore, submitted that in view of the directions issued under Section 13 of the MRTP Act, the action of the State Government is perfectly legal and valid.

9. The learned counsel appearing for the Petitioners addressed us on the interpretation on “Removal of Difficulties Clause” in various statutes.

10. The learned counsel appearing for the Petitioners in Writ Petition No.3064 of 2013 urged that from declaration dated 7th July 2010 of the intention to publish a Draft Development Plan under Section 23 of the MRTP Act, the notice under Sub-section (1) of Section 26 of the MRTP Act ought to have been published on or before 6th July 2012 (within two years from 7th July 2010). His submission is that the impugned Notification dated 25th February 2013 is illegal. Even in this Petition, the learned AGP relied upon Section 13 of the Maharashtra Act No.X of 2011 and the same order made in exercise of the said power.

**CONSIDERATION OF SUBMISSIONS IN WRIT PETITION
NO.8001 OF 2012**

11. We have carefully considered the submissions. It will be necessary to make a reference to the provisions of the MRTP Act dealing with the Development Plan and the modifications made from time to time to the said provisions.

12. Prior to the Maharashtra Act No.X of 2011 coming into force on 5th April 2011, the Sub-section (1) of Section 31 of the MRTP Act provided for a period of one year to the State Government to sanction the Draft Development Plan from the date of the receipt of such Plan from the Planning Authority. The first Proviso to Sub-section (1) of Section 31 provided that the period of one year could be extended by the State Government by issuing a Notification from time to time. There was no outer limit for the exercise of the said power. By the Maharashtra Act No.X of 2011, the Sub-section (1) of Section 31 was amended with effect from 5th April 2011 by providing for the time of six months to the State Government instead of one year. By the same Act, the first Proviso was amended for providing that the period provided in Sub-section (1) of Section 31 can be extended for a period not exceeding six months in the aggregate. The impugned Notification in the Writ Petition No.8001 of 2012 is dated 4th April 2012 by which

the Draft Development Plan was sanctioned in part. Therefore, as on 4th April 2012, the MRTP Act as amended by the Maharashtra Act No.X of 2011 was applicable. The Planning Authority submitted a Draft Development Plan to the State Government on 20th October 2006 in accordance with Section 30 of the MRTP Act. Before the 5th April 2011, though the time available to the State Government to sanction the Draft Development Plan was of one year from the date of its submission by the Planning Authority, the unamended first Proviso to Sub-section (1) of Section 31 permitted extension to be granted for an unlimited period. The Notification dated 4th April 2012 which is impugned in the Writ Petition No.8001 of 2012 provides that the Draft Development Plan which was in fact submitted to the State Government on 20th October 2006 shall be deemed to have been submitted on 5th April 2011. The submission of the learned counsel appearing for the Petitioners was that the law does not provide for such a deeming fiction and, therefore, the Draft Development Plan cannot be treated as submitted to the State Government on 5th April 2011. Without prejudice to the aforesaid contention, he urged that at highest, the time of six months was available from 5th April 2011 to the State Government to sanction the Development Plan. He urged that assuming that the power under the amended first Proviso to Sub-section (1) of Section 31 could have been exercised, even the said power can be exercised only by issuing a Notification in the Official Gazette and that also for a maximum period

of six months. He submitted that in fact there is no such power exercised.

13. For countering the aforesaid submissions, the learned AGP relied upon Section 13 of the Maharashtra Act No.X of 2011 which reads thus:

“13(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, give such direction, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty.

Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.”

14. The learned AGP has placed on record a compilation which includes an order dated 1st April 2013 issued by the State Government which was published in the Maharashtra Government Gazette dated 2nd April 2013. The said order has been passed in the purported exercise of powers under Section 13 of the Maharashtra Act No.X of 2011. The said order has been passed with retrospective effect from 5th April 2011. Another document in the compilation shows that the said order was laid before the Vidhan Sabha on 18th April 2013. The said order was also

laid before the Vidhan Parishad on 18th April 2013. Clause (2) of the said order is applicable to all the Draft Development Plans pending as of 5th April 2011 at different stages before the Planning Authority or the State Government. It is provided in the said order that the time schedule applicable to such pending plans under the various provisions of the MRTP Act shall be deemed to have been extended till 5th April 2011. It also provides that wherever action under Sections 26, 30, 31 or other Sections of the MRTP Act is in progress, irrespective of the fact whether on 5th April 2011, the time provided under the various provisions of the unamended MRTP Act had expired or not, the computation of the time prescribed under the MRTP Act as amended by the Maharashtra Act No.X of 2011 shall be made from 5th April 2011. This order has been made retrospectively applicable from 5th April 2011. It is by virtue of this order that the Development Plan submitted by the Planning Authority (Karad Municipal Council) on 20th October 2006 to the State Government will have to be treated as submitted on 5th April 2011. Thus, as per the Sub-section (1) of Section 31 of the MRTP Act as amended, the time was available to the State Government to sanction the Draft Development Plan till 4th October 2011. Under the proviso to Sub-section (1) of Section 31 of the MRTP Act as amended by the Maharashtra Act No.X of 2011, the time could be extended by a further period not exceeding six months. Therefore, time for sanction of the Draft Development Plan could have been extended upto 4th April 2012.

The impugned Notification dated 4th April 2012 specifically provides that the State Government by exercising the power under the first Proviso to Sub-section (1) of Section 31 has extended the period for sanctioning the Draft Development Plan upto and inclusive of 4th April 2012. That is how by the impugned Notification dated 4th April 2012, the Draft Development Plan submitted by the Karad Municipal Council has been sanctioned by the State Government. If the order dated 1st April 2013 issued in exercise of the powers under Section 13 of the Maharashtra Act No.X of 2011 is valid and if exercise of the powers under the first Proviso to Sub-section (1) of Section 31 made by the impugned Notification dated 4th April 2012 itself is valid, no illegality can be attached to the impugned Notification dated 4th April 2012.

15. The submission of the learned counsel appearing for the Petitioners in Writ Petition No.8001 of 2012 is that Section 13 of the Maharashtra Act No.X of 2011 provides that the State Government may pass an order in the event there any difficulty arises in giving effect to the provisions of the said Amending Act. He pointed out that the said power can be exercised by passing an order which is not inconsistent with the provisions of the Amending Act. He urged that such power can be exercised only for the purposes of removing the difficulties in giving effect to the provisions of the Amending Act. He urged that the power under Section 13 is not a power to legislate. His submission is that in

the present case, the power under Section 13 of the Amending Act has been purportedly exercised to amend the provisions of the MRTP Act by providing that all the pending Draft Development Plans with the State Government submitted by the Planning Authorities prior to 5th April 2011 shall be deemed to have been submitted on 5th April 2011.

16. The learned counsel appearing for the Petitioners in Writ Petition No.8001 of 2012 relied upon a decision of the Apex Court in the case of *Lachmi Narain and Others v. Union of India and Others*¹ In the said decision, the Apex Court was dealing with the power under Section 2 of the Union Territories (Laws) Act, 1950. He relied upon what is held in Paragraphs 59 to 61 and Paragraph 64 onwards. In Paragraph 64, the Apex Court has dealt with the Legislative practice of inserting a “Removal of Difficulty Clause” in the Acts of British Parliament, empowering the Executive to modify the Act itself so far as necessary for bringing it into operation. He also relied upon a decision of the Apex Court in the case of *Straw Products Ltd. v. Income Tax Officer, Bhopal & Others*². In the said decision, the Apex Court considered a clause added in the legislation for removal of difficulties. His submission is that the power under Section 13 of the Maharashtra Act No.X of 2011 can be exercised only if a difficulty exists in giving effect to the provisions of the said Amending Act. The Apex Court held

1 (1996)2 SCC 953

2 AIR 1968 SC 579

that such a power can be exercised in the manner consistent with the scheme and essential provisions for the enactment and also for the purpose for which it was conferred. He relied upon another decision of the Apex Court in the case of *Nathpa Jhakri Joint Venture v. State of H.P. And Others*³. He also relied upon a decision of the Apex Court in the case of *Madeva Upendra Sinai and Others v. Union of India and Others*⁴. In Paragraph 39, the Apex Court held thus:

“39. To keep pace with the rapidly increasing responsibilities of a Welfare democratic State, the legislature has to turn out a plethora of hurried legislation, the volume of which is often matched with its complexity. Under conditions of extreme pressure, with heavy demands on the time of the legislature and the endurance and skill of the draftsman, it is well nigh impossible to foresee all the circumstances to deal with which a statute is enacted or to anticipate all the difficulties that might arise in its working due to peculiar local conditions or even a local law. This is particularly true when Parliament undertakes legislation which gives a new dimension to socio-economic activities of the State or extends the existing Indian laws to new territories or areas freshly merged in the Union of India. In order to obviate the necessity of approaching the legislature for removal of every difficulty, howsoever trivial, encountered in the enforcement of a statute, by going through the time-consuming amendatory process, the legislature sometimes thinks it expedient to invest the Executive with a very limited power to make minor adaptations and peripheral adjustments in the statute, for making its implementation effective, without touching its substance. That is why the "removal of difficulty clause", once frowned upon and nick-named as "Henry VIII Clause" in scornful commemoration of the absolutist ways in which that English King got the

3 (2000)3 SCC 319

4 (1975)3 SCC 765

“difficulties” in enforcing his autocratic will removed through the instrumentality of a servile Parliament, now finds acceptance as a practical necessity, in several Indian statutes of post independence era”.

(Underlines added)

In Paragraph 41, the Apex Court made a distinction between a difficulty which falls within the purview of Removal of Difficulty Clause and one which falls outside it.

17. Coming back to the provisions of the MRTTP Act, we find that the entire process of publication of Development Plan starts from Section 23. Right from Sections 26 to 31, a time schedule is laid down for taking steps towards making of draft plan, publication of draft Plan, submission of draft Plan to the State Government and sanction of the Development Plan. The object appears to be to ensure that a Development Plan is prepared and sanctioned in a time bound schedule. This has to be considered in the light of Section 38 of the MRTTP Act, which reads thus:

“38. Revision of Development Plan

At least once in twenty years from the date on which a Development Plan has come into operation, and where a Development Plan is sanctioned in parts, then at least once in twenty years from the date on which the last part has come into operation, a Planning Authority may and shall at any time when so directed by the State Government, revise the Development Plan either wholly, or the parts separately after carrying out, if necessary, a fresh

survey and preparing an existing land use map of the area within its jurisdiction, and the provisions of sections 22, 23, 24, 25, 26, 27, 28, [*], 30 and 31 shall, so far as they can be made applicable, apply in respect of such revision of the Development Plan”.

18. After a Development Plan is sanctioned, Section 38 contemplates a Revision once in 20 years from the date on which a Development Plan comes into operation. With the passage of time, the situation in a City or an Urban area undergone a drastic change. With the passage of time and with the growth of urban population, there may be a necessity of providing additional infrastructural facilities and for that purpose, additional reservations or designations may be necessary. The period of 20 years changes the entire complexion of a particular city. The cities cannot remain static and, therefore, a mandate is provided under Section 38 to revise sanctioned Development Plan once in 20 years.

19. As stated earlier, right from Section 23 upto Section 31, there is an elaborate process which is required to be followed for taking steps which are preliminary to the preparation of a Draft Development Plan, for finalization of the Draft Development Plan by the Planning Authority, the submission of the Development Plan for sanction to the State Government and ultimately, the action of sanctioning or rejecting the Development Plan under Sub-Section (1) of Section 31. A Draft Development Plan is prepared after taking into consideration the

situation which prevails when a declaration of intention to prepare a Draft Development Plan is made in accordance with Section 23. Section 25 contemplates survey and preparation of the existing land-use map. On the basis of such survey and existing land-use map, the actual work of preparation of Draft Development Plan commences. If the process starting from Section 23 which culminates into sanction under Section 31 is not completed within the time bound period, the very object of providing for a Revision of the Sanctioned Development Plan once in 20 years will be frustrated. Sub-section (1) of Section 31 of the MRTP Act as it stood before its amendment by the Act No.X of 2011 provided for a time of one year from the date of the submission of a Development Plan by the Planning Authority within which the State Government was under an obligation to take appropriate decision on the Draft Development Plan. The Proviso as it existed then permitted the State Government to extend the time. There was no embargo on the power of extension of time and the time could be extended for an indefinitely long period. Section 26 of the MRTP Act before amendment by the Act No.X of 2011 provided the time limit for preparation of a Draft Development Plan from the date of the notice of intention published under Section 23. Similarly, time limit was provided in Section 30 to submit a Draft Development Plan for sanction of the State Government from the date of publication of the notice under Section 26 in the Official Gazette. By the Maharashtra Act No.X

of 2011, Section 26 was amended by providing that extension of time can be granted which shall not exceed six months in aggregate. Even Proviso to Sub-section (1) of Section 30 was amended for providing an outer limit for grant of extension of time.

20. The Maharashtra Act No.X of 2011 came into force with effect from 5th April 2011 as the same was published in the Official Gazette on that date. As there was no embargo of outer limit on the exercise of the power of extending the time provided under the Sub-section (1) of Section 31, as on 5th April 2011, various Draft Development Plans were pending before the State Government for sanction for a considerably long time. The amended Section 31 provides for the time of six months to the State Government to take a decision on the Draft Development Plan from the date of submission of a Draft Development Plan by the Planning Authority and the period can be extended by a maximum period of six months. The Draft Development Plans which were pending with the State Government as on 5th April 2011 for a period of more than one year from the date of its submission would have been affected by the applicability of the amended Section 31. Perhaps, the such plans could not have been considered for sanction after the Act No.X of 2011 came into force. As stated earlier, the exercise of the preparation of the Draft Development Plan involves an elaborate and a detailed exercise in which several

Departments of the Planning Authorities are involved at various stages. To ensure that the entire exercise should not go waste, it appears that the State Government exercised the power under Section 13 of the Maharashtra Act No.X of 2011 by directing that in case of the pending Draft Development Plans with the State Government as on the the date when the said Act came into force, the date of submission of the Draft Development Plans in accordance with Sub-section (1) of Section 30 of the MRTTP Act shall be treated as 5th April 2011. This was done to ensure that full effect is given to the provisions of the Amending Act by ensuring that the appropriate decision is taken by the State Government even on the pending Draft Development Plans within a maximum period of twelve months from the date of submission of the Draft Development Plans by the Planning Authority as provided in Sub-section (1) of Section 31 read with its first Proviso as amended by the Maharashtra Act No.X of 2011. Therefore, the power under Section 13 appears to have been exercised by the State Government with a view to ensure that Section 31 as amended is implemented in its true spirit thereby achieving the purpose for which the amendment was carried out. Thus, the power was exercised by passing the order dated 31st April 2013 to remove difficulties in the way of proper implementation of the provisions of the Maharashtra Act No.X of 2011. By the said order, minor adaption and peripheral adjustments were made in the for making the implementation of the Act No.X of 2011 effective

without touching its substance. The said order is not at all inconsistent with the amended MRTP Act. Therefore, we see no illegality associated with the exercise of power under Section 30 by the State Government by which it was directed that all the pending Draft Development Plans with the State Government submitted in accordance with Section 30 shall be deemed to have been submitted on 5th April 2011 when the Maharashtra Act No.X of 2011 came into force. The said order dated 1st April 2013 has retrospective operation with effect from 5th April 2011. The retrospective operation is given to ensure that the validity of the action of the State Government of sanctioning Draft Development Plans within the period of one year from 5th April 2011 is saved. The Sub-Section (1) of Section 13 of the said Act No.X of 2011 itself permits the power under the said provision to be exercised within a period of two years from 5th April 2011. Therefore, we find no infirmity in the order dated 1st April 2013.

21. In Writ Petition No.8001 of 2012, the time to sanction the Plan was to expire on 5th October 2011. As far as the power conferred by the first Proviso to Sub-section (1) of Section 31 to extend the time by a period of six months is concerned, the same has been exercised within a period of one year from 5th April 2011 by the impugned Notification dated 4th April 2012. The impugned Notification dated 4th April 2012 has been published in the Official Gazette. Therefore, no

illegality is associated with the exercise of powers by the State Government under the first Proviso to Sub-section (1) of Section 31 by extending the period from 5th October 2011 till 4th April 2012. The said power could be validly exercised even after expiry of the initial period of six months, but not later than the expiry of the period for which the time could be extended. The power to extend the time could be validly exercised till 4th April 2012. Therefore, we find no merit in the challenge in the Writ Petition No.8001 of 2012.

**CONSIDERATION OF SUBMISSIONS IN WRIT PETITION
NO.3064 OF 2013**

22. Now we turn to the Writ Petition No.3064 of 2013. In Writ Petition No.3064 of 2013, the substantive challenge is to the Notification dated 25th February 2013 published by the Uran Municipal Council. The said Notification dated 25th February 2013 has been issued in exercise of powers under Sub-section (1) of Section 26 of the MRTP Act. On 18th August 2009, the Uran Municipal Council passed a Resolution declaring its intention to revise the sanctioned Development Plan. Accordingly, a declaration under Sub-section (1) of Section 23 read with Section 38 of the MRTP Act was issued on 7th July 2010. The Town Planning Officer appointed under Section 25 of the MRTP Act handed over the Revised Draft Development Plan to the Uran Municipal Council. A Resolution was passed on 3rd April 2012 by the Uran Municipal Council resolving to make certain changes in the Draft

Development Plan submitted by the Town Planning Officer. Therefore, by the said Notification dated 25th February 2013, the Revised Draft Development Plan was notified and objections and suggestions were invited.

23. The challenge is made also to the Resolution passed by the General Body of the Uran Municipal Council on 3rd April 2012. The submission of the learned counsel appearing for the Petitioners is that the Respondent No.4-the Town Planning Officer did not submit the Revised Draft Development Plan to the Uran Municipal Council within the time specified in Sub-section (1) of Section 26 of the MRTP Act. It is pointed out that the notice under Sub-section (1) of Section 23 was published on 7th July 2010 and the impugned Notification was issued on 25th February 2013, which is beyond the period of two years provided in Sub-section (1) of Section 26 thereof.

24. It will be necessary to go back to the provisions of the Maharashtra Act No.X of 2011. As in case of Sub-section (1) of Section 31, there was a power to extend the period of two years provided in Sub-section (1) of Section 26 of the MRTP Act. However, the unamended Proviso did not put any restriction on the power of extension of time. The restriction came for the first time by the Maharashtra Act No.X of 2011 and in particular Sub-section (2) of

Section 5 thereof by incorporating a Proviso that the period so extended shall not in any case exceed six months in the aggregate. While dealing with the merits of the Writ Petition No.8001 of 2012, we have already referred to the order dated 1st April 2013 passed under Section 13 of the Maharashtra Act No.X of 2011. In view of clause (2) of the said order dated 1st April 2013, the period provided under Sub-section (1) of Section 26 for notifying the Draft Development Plan will have to be computed from 5th April 2011. Therefore, within a period of two years from that date, i.e. 5th April 2011, the notice under Sub-section (1) of Section 26 could have been published. Hence, the notification was validly published on 25th February 2013. A specific stand to that effect has been taken by the State Government in the affidavit of Shri Sanjay V. Kurve, the Joint Director of Town Planning, Konkan Division, Navi Mumbai. Therefore, we find no illegality in the Notification dated 25th February 2013.

25. As of today, no final decision has been taken on the Draft Development Plan and, therefore, it is not necessary for us to go into the merits of the Draft Development Plan which is notified. We are also keeping the issue regarding the legality of the Resolution expressly open. Hence, there is no merit in this Petition as well.

26. Accordingly, we pass the following order.

ORDER :

(a) The Writ Petition No.8001 of 2012 and the Writ Petition No.3064 of 2013 are rejected;

(b) No order as to costs.

(A.K.MENON, J)

(A.S. OKA, J)

After the Judgment is pronounced, the learned counsel appearing for the Petitioners in Writ Petition No.8001 of 2012 seeks continuation of ad-interim relief. Accordingly, we direct that the ad-interim relief operative in the said Writ Petition shall continue to operate for a period of twelve weeks from today.

(A.K.MENON, J)

(A.S. OKA, J)