

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

WRIT PETITION NO. 7910 OF 2011

Ms. Pronoti Vyas

Rio 66, Bhilar Estate, Near Hill Range

School, Bhilar, Panchgani,

Dist. Satara.

... Petitioner

v/s

1. State of Maharashtra,
through Office of the Public
Prosecutor, High Court,
Mumbai.
2. The Commissioner of
Police, Having its office at
Pune.
3. Commissioner for Persons with
Disabilities Office at Commissionerate
for Persons with Disabilities, 3 Church
Road, Pune.
4. Animal Welfare Board of India
(AWBI), Ministry of Environment &
Forest, Government of India,
Post Box No.8672, 13/1,
Third Seaward Road, Valmiki Nagar,
Thiruvaniyur, Chennai-600 041.
5. Committee to Monitor Animal
Welfare Laws appointed by Mumbai
High Court, 19th floor, New Administrative
Building, Madam Cama Road, Mumbai.

6. Sunil V. Kadam, Advocate
Office No.6, 1st flr., Kunal Complex,
Shivaji Nagar, Pune - 5.

7. Sakal Papers Pvt.Ltd .,
Polot No.27, Narveer Tanajiwadi,
Pune — 6.

... Respondents

ALONG WITH
CIVIL APPLICATION NO.2599 of 2013
IN
CIVIL WRIT PETITION NO. 7910 OF 2011

Miss Pronoti Vyas
v/s

... Applicant

State of Maharashtra, through

Office of the Public Prosecutor and ors.

... Respondents

ALONG WITH
CIVIL APPLICATION NO.2057 OF 2013
IN
CIVIL WRIT PETITION NO. 7910 OF 2011

People for Animals, through
Chairperson, Smt. Maneka Gandhi
v/s

... Applicant

Miss Pronoti Vyas

... Respondent

ALONG WITH
CIVIL APPLICATION NO.2059 OF 2013
IN
CIVIL WRIT PETITION NO. 7910 OF 2011

Animal Welfare Board of India

Miss Pronoti Vyas

v/s

... Applicant

... Respondent

ALONG WITH
CIVIL APPLICATION (ST) NO.7502 OF 2015
IN
CIVIL WRIT PETITION NO. 7910 OF 2011

People for Animals

... Applicant

In the matter between -

Ms.Pronoti Vyas

... Petitioner

v/s

State of Maharashtra & ors.

... Respondents

ALONG WITH
CIVIL APPLICATION NO.1723 OF 2015
IN
CIVIL WRIT PETITION NO. 7910 OF 2011

Claude Lila Parulekar

... Applicant

In the matter between -

Miss Pronoti Vyas

... Petitioner

v/s

State of Maharashtra & ors.

... Respondents

Mr.PM. Havnur along with Ms.Najafiya Shroff for the petitioner and for the applicant in CA No.2599 of 2012.

Mr.Aditya Gore along with Varad Deare i/by Kulkarni & Associates for the applicant in CA Nos.2057 of 2013 and CA (st) No.7502 of 2015.

Mr. Manoj Jalamchand Oswal - representative of applicant in CA No.1723 of 2015.

Ms. Mandakini D.S. Sinh for the applicant in CA No.2059 of 2013 and for Resp. No.4 in W.P. No.7910 of 2011.

Mr. Birendra Saraf along with Rohan Savant, Ms. Neha Prashant and Ms. Cheryl Fernandes i/by ALMT Legal for Resp. No.7.

Mr. Ashok B. Tajane for Resp. No.8.

Mr. V.P. Sawant along with Mr. Prabhakar M. Jadhav for Resp. No.6.

ALONG WITH

CRIMINAL WRIT PETITION NO. 3931 OF 2012

Manoj J. Oswal

Business & Animal Welfare Officer,

149, Bhawani Peth, Pune - 411 002.

... Petitioner

v/s

1. The State of Maharashtra,
through the Principal Secretary,
Department of Home,
Govt. of Maharashtra, Mumbai.
2. The Commissioner of
Police, Church Road, Pune - 411 001.
3. The Senior Police Inspector,
Koregaon Park Police Station,
Koregaon Park, Pune - 411 001.
4. Pratap Govindrao Pawar,
Chairman, Sakal Papers Pvt. L Ltd.,
595, Budhwar Peth, Pune - 411 001.
5. Abhijit Pratap Pawar,
Managing Director, Sakal Papers P. Ltd.,
595, Budhwar Peth, Pune - 411001.

6. Ex-Servicemen Multiple Services
& Consultants, Mini Commercial Complex,
MHB. Opp. Tridal Nagar,
Yerwada, Pune - 411006.
7. Sunil V. Kadam,
422/1, Kunal Complex,
Hotel Shailaja Lane, J.M. Road,
Shivaji Nagar, Pune — 411005. ... Respondents

ALONG WITH
CRIMINAL APPLICATION NO. 122 of 2015
WITH
CRIMINAL APPLICATION NO. 241 of 2014
WITH
CRIMINAL APPLICATION NO. 113 of 2015
IN
CRIMINAL WRIT PETITION NO. 3931 OF 2012

Manoj Jalamchand Oswal ... Petitioner and
applicant in all
applications.

v/s

The State of Maharashtra & ors. ... Respondents

Mr.Manoj Jalamchand Oswal - Petitioner and applicant in
person.

Mrs.PP. Shinde, A.P.P for Resp. Nos.1 to 3.

Mr.Birendra Saraf along with Mr.Rohan Savant, Ms.Neha
Prashant and Ms.Cheryl Fernandes i/by ALMT Legal for Resp.
Nos.4 and 5.

Mr.VP. Sawant along with P.M. Jadhav for Resp. No.7.

CORAM : A.S. OKA &
N.M. JAMDAR, JJ.

JUDGMENT RESERVED ON : 3 JULY 2015
JUDGMENT DELIVERED ON: 6 OCTOBER 2015

JUDGMENT (Per N.M . Jamdar, J.):

These two writ petitions, one civil and one criminal, along with the applications, are about Ms.Cluade Lila Parulekar. The petitions and applications are placed before us by an administrative direction of the learned Chief Justice. They have been heard together and are being disposed of by this common judgment.

2. Central figure in all these matters is Ms.Claude Lila Parulekar (Ms.Lila). Ms.Lila lives in her bungalow at 4-A, Queen's Garden, Pune. She is now around 80 years old and she is seriously ill. She is not able to move on her own and she is confined to bed. She is unmarried, has no siblings or legal heirs. Lila is the daughter of late Nanasaheb Bhikaji Parulekar and his french wife Shanta Geneievene Pommerete Parulekar. Late Shri Parulekar was the founder and Managing Director of Sakal Papers Limited. In the year 1933, Nanasaheb and Shanta started newspapers 'Sakal'. Nanasaheb expired in 1973. Thereafter, Shanta also passed away. Ms.Lila had substantial numbers of shares in the Sakal Group of Papers. Lila and the management of Sakal newspapers had a legal dispute regarding the shares which went on for several years. Lila also owns large number of properties at Pune and Mahabaleshwar, and resides in

a bungalow in one of the prime areas of Pune. Ms.Lila is in an unfortunate situation. She is in possession of very valuable and lucrative properties. She is in a serious medical condition. She has no relatives to take care of her. Ms.Lila has an animal shelter in the premises, and the animals need to be looked after.

3. Civil Writ Petition No.7910 of 2011, filed by Ms.Vyas first came up on board some time in September 2011 and thereafter the Criminal Writ Petition No.3931 of 2012 by Mr.Oswal some time in November 2012. Various orders have been passed in these petitions and the applications from time to time. By a detailed order passed on 17 January 2014, a Trust consisting of a retired Judge of this High Court, an eminent psychiatrist was constituted. Many of the issues pertaining to welfare of Ms. Lila, which existed at the beginning of the hearing have now been resolved. The orders and the directions issued are adverted to hereinafter so as to indicate the area of adjudication that remains, and is decided by the final order.

CIVIL WRIT PETITION NO.7910 OF 2011:

4. Civil Writ Petition No.7910 of 2011 is filed by Ms.Pronoti Vyas. She has described herself as a Food Technologist by profession. She says that she is working for welfare of animals for several years. She knows Ms.Lila, since Ms.Lila was also working in the field of animal welfare. She has filed this petition to protect the interest of Ms. Lila and the

animals in the shelter run by her. According to Miss Vyas, the medical condition of Ms.Lila is precarious and taking advantage of her helpless condition, her shares in Sakal Newspapers have been systematically usurped. Ms.Vyas contends that Ms.Lila also holds various properties in Mahabaleshwar, Satara, Wani and Pune, considerable bank balance and other investment which she has inherited. She has asserted that Ms.Lila is virtually held captive in her bungalow and no one is allowed to visit her and employees of Sakal newspaper are managing her affairs. According to Ms. Vyas, certain people in Sakal newspaper are after her property, having already deprived her of her shareholding in the said Company. She has accordingly prayed for a direction to the Commissioner to take steps to protect Ms.Lila, under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and to ensure that Ms.Lila secures her shares in Sakal Company and retains and regains her interest in the immovable properties. Ms.Vyas has also prayed that criminal proceedings be initiated against all those persons who have been acting detrimental to Lila's interest. Various other directions are also sought in respect of the Animal Shelter.

5. Civil Application No.2057 of 2013 is filed by People for Animals seeking intervention. According to the Applicant, it is an Non-Governmental Organization working for welfare of animals rights. Its Chairperson is Ms.Maneka Gandhi, who has

been a Member of Parliament and former Minister of Environment and Forest. The applicant has prayed that, it may be permitted to intervene during the hearing of the petitions and has sought directions in respect of animal shelters, about infrastructure, appointment of personnel, maintaining hygienic enclosures, etc.

6. Civil Application No.2059 of 2013 is filed by Animal Welfare Board of India. According to the Applicant, it is established under Section 4 of Prevention of Cruelty to Animals Act, 1960 and its members are nominated by the Government of India and it is their duty to ensure that the cruelty to animals is prevented. This applicant has sought permission to allow the Applicant to manage and run the Jeevraksha Animal Shelter and for that purpose permit the Applicant's officers and others to ensure the upkeep and maintenance of the animals.

7. Civil Application No.2599 of 2013 is taken out on 3 September 2012 by the petitioner Miss Pranoti Vyas for urgent ad interim reliefs, primarily in respect of the animals in the Animal Shelter.

8. Civil Application (St) No.7502 of 2015 is filed by People for Animals . It states that the application filed by Ms.Maneka Gandhi, Chairman for the People for Animals is already on file. The application states that by the order passed on 17 January 2014 the Court had directed that the question of

welfare of animals in the Shelter site be decided by the Trust and the Trust should keep in mind that if it selects any N.G.O., it should not be connected with the litigation. The applicant states that the People for Animals should be considered as an independent N.G.O. and it being a statutory authority, be permitted to take all the necessary steps in respect of the Animals Shelter.

9. Civil Application No.1723 of 2015 is filed by Mr.Manoj Oswal for seeking an appointment as a next friend of Ms.Lila to defend her as Respondent No.9 in the petition.

CRIMINAL WRIT PETITION NO.3931 OF 2012:

10. Criminal Writ Petition No .3931 of 2012 is filed by Manoj Jalamchand Oswal. Mr.Oswal has made the State of Maharashtra, Police Authorities, Mr.Pratap G. Pawar-Chairman of Sakal Papers, Abhijit P. Pawar, Managing Director of Sakal and Mr.Sunil Kadam, Advocate as party respondents. Mr.Oswal *inter-alia* has prayed: writ of habeas corpus directing the Respondents to produce Lila before the Court; Lila should be given protection under Section 25 of the Mental Health Act; and Criminal proceedings be initiated against Respondent Nos.4 and 7. Mr.Oswal has stated that he is Animal Welfare Officer of the Animal Welfare Board of India, and he also owns a well established software firm and is also a

consultant to several IT companies. He has stated that he regarded Ms.Lila as a mentor. A grievance is made that the Chairman and the Managing Directors of the Sakal newspapers are using their political clout to take over the property of Lila. According to Mr.Oswal, Ms.Lila owns immovable properties and shares worth approximately 620-650 crores. Mr.Oswal has alleged that the respondents have detained Ms.Lila and are not allowing any person to visit her, they are not taking care of her health, visitors are restrained from meeting Lila. Mr.Oswal has come to this Court complaining that the respondents are trying to force Lila to sign deeds and papers for transfer of her properties illegally. According to him, physical health of Lila is precarious . In this petition, an affidavit has been filed by the Senior Inspector of Police attached to Koregaon Park Police Station, Pune. The Inspector has stated that Lila is neither confined nor held captive. He has stated that there is no restriction of any kind from any of the office bearers of Sakal Papers Pvt. Ltd. and no one is prohibited to meet Lila. The Inspector of Police has stated that Lila does not want Mr.Oswal to represent her in any legal proceedings. Other Respondents have also filed their affidavits.

11. Mr.Oswal has prayed that writ of habeas corpus be issued directing the respondents to produce Ms.Lila in the Court. He has also prayed that order be passed giving protection to Lila under Section 25 of Mental Health Act, action be initiated

against the respondent Pawar Group and investigation be handed over to C.B.I. or C.I.D. He has also sought direction in respect of medical treatment of Ms.Lila and appointment of officer to take control of bank account of Ms.Lila.

12. Criminal Application No.122 of 2015 is taken out by Mr.Oswal for various directions regarding medical examination of Ms.Lila, implementation of orders of the Apex Court, direction to respondent Pawar Group to withdraw themselves from affairs of Ms.Lila, provision for payment to take care of Animals, provision for payment of other amounts, permission to make good the shortfall of money and a direction for investigation.

13. Criminal Application No.241 of 2014 is filed by Mr.Oswal for a direction against the guards appointed by Sakal papers that they should not obstruct the persons working for welfare of Lila and other animals.

14. Criminal Application No.113 of 2015 is also filed by Mr.Oswal seeking modifications of the earlier orders restraining respondents from disposing of the animals, properties of Lila not to be transferred, trustees to hold meetings, etc.

ORDER DATED 17 JANUARY 2014:

15. This Court, from the year 2012 to 2015, spent

substantial amount of judicial time issuing various directions. The matter was heard over various dates by our Bench which was formed especially to hear this group of matters and we have given anxious consideration to various aspects of the case. Having found that none of the parties before us could be trusted to take care of Ms.Lila and the animals, we have formulated a Trust of eminent persons and gave directions to ensure that arrangements are made for the welfare of Lila and the animals in her shelter.

16. A detailed order came to be passed on 17 January 2014 in these two writ petitions. By that order, we disposed of Writ Petition No.8617 of 2013 filed by Mr.Manoj Oswal challenging the order passed by the Civil Judge, Senior Division, Pune. We confirmed the order of the learned Civil Judge rejecting the application of Mr. Oswal to act on behalf of Ms.Lila as her next friend . We concurred with the opinion of the learned Civil Judge that Mr.Oswal was not suitable to be appointed as guardian *ad litem* of Ms.Lila. After hearing the parties at length, we formulated a Trust with following observations :

"12. Now we propose to deal with the Writ Petition Nos. 86 17 of 2013 and 3931 of 2012 and the applications. The facts in these petitions and applications have already been narrated above. The petitions and applications were heard from time to time. Various orders came to be passed. However in spite of giving opportunities to the intervenors to file

substantive petitions to espouse the cause of animals in the Shelter, none of the intervenors have chosen to file substantive petitions. There exist serious hostility amongst the parties. Each person is claiming to be acting in the best interest of Lila. Intervenors have made submissions as regards animal shelters. In this atmosphere of serious hostility and distrust it has become difficult to pass directions to ensure welfare of Lila and the Animal Shelter. In this background the suggestion to create an independent trust of eminent persons was well received by all concerned .

13. The petitions were adjourned from time to time to enable the parties to give their suggestions as regards the composition of the trust and functioning of the trust. The learned counsel for the Directors of Sakal Newspapers have placed on record a draft Trust deed . The learned counsel for Mr.Oswal in Writ Petition No.3931 of 2012 sought to contend that there was an earlier trust for the same purpose and the same trust be continued. However, there is no material placed on record to show that whether this trust continue to exist or not, and it appears to be defunct. After initial reservations about formation of a trust, Mr. Oswal and his counsel fairly agreed that creation of such an independent trust would be in the interest of Lil a and the Animal Shelter. This suggestion was accepted by the counsel appearing for Ms.Vyas as well. The names of trustees were exchanged. The learned counsel for the parties agreed upon the names of two trustees. We indicated that there should be three trustees and one of the trustees should be one as lady with a unquestionable standing in the society. unfortunately, the parties could not agree on the third trustee. They however agreed that the two trustees selected should suggest the name of such lady member trustee.

14. The parties have consented for formation of a trust with Justice J.A. Patil (Retd.) and Dr.Mohan

Agashe as members of the trust. The parties will approach these two proposed trustees to obtain their consents. The learned counsel appearing for Sakal newspaper submitted that for the time being, an amount of Rs.1 crore will be deposited for the purpose of formation of a trust. This amount will be deposited in the registry of this Court within two weeks from today. Thereafter the amount will be transferred to the account of the trust when it will be formed. The amount then will be invested in a fixed deposit and from the interest received therefrom will be utilized for the expenses of Lila and also of the the animal shelter. Dr.N.R.Icchaporia has been treating Lila and we request him to continue with her treatment. The two trustees that we appoint i.e. Justice J.A. Patil (Retd.) and Dr.Mohan Agashe will recommend the third trustee, a lady. The trustees will also scrutinize the trust deed placed on record and make their suggestions. The trustees will also make suggestions as to how they will be able to function in best possible manner to take care of Lila. The trustees will also take note of the apprehension raised by the animal activists group that the animals in the shelter are being neglected. We request the trustees to take special interest in the welfare of the animals in the shelter. We also request the Principal District Judge, Pune, to depute an officer of the Court who will act as a co-ordinator/secretary of the trust to look after routine clerical work.

15. Stand over to 13 February 2014 to enable the trustees to submit their suggestions so that the formal Trust Deed can be finalized and further modalities can be worked out. The respondent no.7 in Writ Petition No. 7910 of 2011 will supply authenticated copy of this judgment to the Trustees along with Draft Trust Deed. The Principal District Judge to act upon authenticated copy of this order.

Civil Writ Petition No.8617 of 2013 is disposed off as stated above."

* * *

ORDER OF THE APEX COURT DATED 1 AUGUST 2014:

17. Mr.Oswal challenged the order dated 17 July 2014 by way of a Special Leave Petition No. 12872 of 2014 in the Apex Court. The Apex Court, by order dated 1 August 2014 disposed of the Special Leave Petition, by the following order :

"Delay is condoned .

We have heard learned counsel for the petitioner. We have carefully perused the impugned order. We feel that the High Court has passed appropriate order. We are not inclined to interfere with it.

Learned counsel for the petitioner submits that certain directions are not yet implemented and hence he would approach the Trustees appointed by the High Court. He may do so. We are confident that the Trustees would look into the matter and take appropriate steps.

The Special Leave Petition is disposed of in the afore-stated terms."

The Apex Court not only dismissed the challenge, but also opined that the order passed on 17 January 2014 was an appropriate order. The appointment of trustees, in the facts and circumstances, was approved. Mr.Oswal is permitted to agitate his grievances before the Trustees.

18. However, the petitions were not immediately disposed of after constituting the Trust. To ensure that the Trust becomes functional, even after constitution of the Trust, we passed various orders. The directions issued from time to time are as under:

VARIOUS ORDERS FROM 13 FEBRUARY 2014 TO 8 APRIL 2015:

(a) 13 February 2014: Time to deposit the amount of ₹1,00,00,000/- for the purpose of the Trust, was extended by a period of two weeks.

(b) 30 April 2014: It was noted that the order of 17 January 2014 is communicated to Justice Shri J.A. Patil (Retired). The Principal District Judge, Pune, was directed to depute an officer of the Court to act as a co-ordinator/secretary of the Trust to co-ordinate with the Trustees. He was directed to receive responses and suggestions of Trustees on the draft trust deed. Pending finalization of trust deed and transfer of the amount deposited in this Court by respondent No.7, respondent No. 7 was directed to provide amount required for maintaining the Animals in the Shelter. The Registrar (Judicial) was directed to invest the amount deposited by respondent No. 7 in short term fixed deposit.

(c) 10 July 2014: The Court Manager was deputed by the

Principal District Judge, Pune, and was directed to visit Ms. Lila and submit a report as regard her condition and also the condition of the Animals.

(d) 17 July 2014: The Senior Court Manager, submitted a report on 15 July 2014 and the matter was taken up for consideration. It was noted that the two Trustees appointed were taking steps to appoint a third trustee. Noting that formation of Trust has made progress and actual registration is likely to take few weeks, interim arrangements were made. The Principal District Judge, Pune, was directed to nominate a senior woman staff member to work with the Court Manager. The Court Manager was directed to visit the premises of Leela regularly. These officers were directed to ascertain the names of attendants, nursing staff and other staff, and their salary. He was directed to ascertain whether salaries and other bills are being paid regularly. It was directed, if necessary, to engage services of any veterinary surgeon. Sakal Papers were directed to deposit 50,000/- for meeting the day-to day expenses incurred by the officer.

(e) 31 July 2014: The report submitted by the Senior Court Manager dated 30 July 2014 was considered. In the report, the Court Manager had stated that certain employees have not been paid remuneration and details of veterinary surgeon and Live Stock Supervisor and the Live Stock Development Officer

were placed on record. It was noted that the two Trustees had suggested the name of Dr.Sunanda Kaushik as a third trustee. After considering her bio-data it was found that Dr.Sunanda Kaushik was qualified to be appointed as a trustee and she was accordingly appointed along with Justice J.A. Patil (Retired) and Dr.Mohan Agashe. Sakal newspapers agreed to appoint four more attendants. Sakal newspapers were accordingly directed to deposit ad-hoc amount of 2,50,000/- with the District Court at Pune, to avoid any controversy regarding non-payment of remunerations. Liberty was given to the Court Manager to submit a report and move this Court if any emergent situation arose.

(f) 28 October 2014: Matters were adjourned and taken up on 13 November 2014.

g) 13 November 2014: The report of Senior Court Manager dated 4 October 2014 stating that the Trust has been registered, was noted. A copy of the registration of the Trust registered on 12 September 2014 was placed on record. The amount of ₹1,00,00,000/- deposited by Respondent No.7 in this Court was transferred to the account of the Trust. As per the trustees, a Senior Court Manager was to act as a Coordinator of the Trust. Respondent No.7 in Writ Petition No.7910 of 2011 was directed to furnish all the details regarding initial

shareholding of Ms.Lila after reconstitution of the company as well as the shares held by Ms.Lila as on today. Necessary details regarding transfer of shares in the name of Ms.Lila in in terms of directions of the Apex Court in Civil Appeal Nos.698 and 700 of 1995 were directed to be placed on record. An affidavit filed by Sunil Kadam - respondent No.6 was noted. The affidavit disclosed numbers of bank accounts held by Lila and certain particulars about chartered accountants. The Court Manager was directed to obtain statement of accounts of these saving bank accounts. He was also directed to approach the chartered accountant to obtain copies of documents such as income tax returns etc. The amount deposited by respondent No. 7 was permitted to be utilized by the Court Manager for the purpose of making payment of copying charges. He was also directed to visit Ms.Lila and take inspection of all the documents in connection with her movable and immovable properties, bank accounts, income tax and wealth tax returns. Liberty was given to Mr.Oswal to give particulars of assets of Lila available with him directly to the Court Manager.

(h) 4 December 2014: The affidavit filed by the Constituted Attorney of respondent No.7 was perused. The affidavit made reference to resolution of Board of Directors of respondent No. 7 on 20 October 1998 stating that an amount of ₹20000/- will be sent per month for a car with a driver and telephone facility at residence by the respondent No.7. Considering the

health condition of Lila, it was suggested to respondent No. 7 to consider cash amount in lieu of the perquisites. Report dated 3 December 2014 of the Court Manager was noted and the position of the saving bank accounts and fixed deposits of Leela were taken on record. Parties agreed that the interest accrued on the fixed deposits can be utilized by the Trustees for the welfare of Ms.Lila and the Animals. Accordingly, the Manager of Bank of Baroda, Pune, was directed to transfer the interest accrued on the concerned fixed deposits to the bank account of the trust. As regard the amount lying in the credit of the saving bank account, ₹60,00,000/- were directed to be invested in short term fixed deposit for a period of six months. Out of ₹1,00,00,000/- transferred to the account of the trust, ₹ 75,00,000/- were invested in fixed deposit on the suggestion of trust. The trustees were permitted to utilize the remaining amount lying in the credit of the trust for meeting the expenditure on Lila, such as, salary, remuneration, medical bills, etc.

(i) 14 January 2015: The petitions were taken up on board to monitor further progress. The affidavit of Sunil Kadam, Advocate, was taken on record with a direction to supply copies to the parties. The statement to the Counsel representing the Sakaal papers that his clients have no objection for depositing the requisite amounts in lieu of perquisites, as per order dated 4 December 2014, with the trust was noted. Trustees were to decide whether it will be in the interest of Ms.Lila to have the

facility of a car with the driver or the cash in lieu of the same. The Court Manager was directed to collect the copies of the proceedings mentioned in the affidavit of Advocate Kadam and place the same before the trustees for further action. It was also clarified that considering the object for which the Trust was created the appropriate decision in all concerned matters will be taken by the Trust. The Court Manager was directed to implement the earlier orders passed in respect of the Bank accounts. It was directed that Trustees will be entitled to honorarium of ` 5000/- for attending every meeting and for visiting house of Ms. Lila. The trustees were also empowered to fix appropriate monthly remuneration to the Court Manager.

(j) 8 April 2015: A Civil Application (St.) No.7133 of 2015 filed by Union of India for intervention was considered. Noting that the issue of the title of immovable property held by Ms. Lila was not under consideration in any of the petitions nor any of the relief sought for, if granted, would affect the Union of India, the application was rejected.

(k) On the same day the Application No.481 of 2012 taken out by Applicants therein was rejected, after observing that if Applicants have any grievance they could always apply to the trustees. On that date, report submitted by the senior Court Manager dated 12 February 2015 was perused and the parties were informed that on the next date the Petitions will be taken up for final disposal.

(1) 3 July 2015: Today the matters were listed for final disposal. We had heard the learned counsel for the parties and Mr.Oswal, who has appeared in person. Mr.Oswal has also tendered his written submissions.

DISCUSSION:

19. As the narration in the preceding paragraphs would show that for last four years various orders are passed in these petitions with an object to ensure welfare of Ms.Lila and the animals in the Animal Shelter. By continuously monitoring the position, most of the concerns raised in the petitions have already been addressed. The orders passed from time to time will be treated as part of the present final order. The parties therefore, have addressed us on the reliefs, which according to them now survive for consideration.

20. We will first take up Writ Petition No.7910 of 2011 filed by Ms.Vyas. Mr.Havnur, learned counsel for Miss Vyas has restricted the petition to prayer clauses (a) and (b), as he agrees that the other prayers stand redressed by various interim orders referred to. Mr.Havnur submitted that an appropriate writ be issued to the Commissioner under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 to protect Ms.Lila and ensure that she regains all her interest in the trust and the immovable properties. He also submitted that criminal cases may be

registered against all persons who have been acting detrimental to the interest of Lila in respect of her shares. Dr.Saraf, learned counsel for the Sakal Papers on the other hand contended that this Court in writ jurisdiction cannot issue any directions as sought for by the Petitioner and the Petitioner does not have any *locus standi*.

21. As regards the objection to *locus standi* is concerned, the Miss Vyas has stated that she is a social worker in the field of animal welfare and is member of various Animal Welfare Organizations. She has narrated her credentials. It is also stated that she is taking up the cause on behalf of Ms.Lila, as Ms.Lila is a well known Animal Welfare Activist. These pleadings, according to us, are sufficient to enable the Petitioner to bring forth a petition to draw the attention of the Court to Ms.Lila's plight. Since the year 2011, various orders are passed in the petition instituted by Miss Vyas and the directions are implemented, it is too late in the day now to raise the ground of *locus standi* and maintainability. A detailed order passed on 17 January 2014 constituting a trust, is approved by the Apex Court and, it is not open for the Respondents to take up issues which stand concluded by the order dated 17 January 2014, confirmed by the Apex Court.

22. As regards the direction to the Commissioner for Persons with Disabilities is concerned, Mr.Havnur has not been able to show any specific provision under which the Commissioner can

be directed to act as per the reliefs prayed for. However, we do not wish to conclude the issue whether the Commissioner has any power to issue the directions as sought for. It is open to the Petitioner to move the Commissioner for Persons with Disabilities and the Commissioner would take a decision as per the powers available to him in law.

23. The second relief sought for by Mr.Havnur is a direction to the police authorities to investigate in the issue of the shareholding of Miss Lila. We have considered rival contentions on this issue and examined the factual on record. The executrix of the will of Dr.Parulekar, father of Ms.Lila, had transferred 3417 and 93 shares in Sakal Newspapers to members of Sakal group. Ms.Lila had challenged this transfer and the matter reached the Apex Court in Civil Appeal No.698-700 of 1995. The Apex Court held that the transfer of shares was contrary to Lila's right of preemption and also the transfer was in contravention of Section 108 of the Companies Act, 1956. The Apex Court found substance in the contentions of Miss Lila, however, considering the facts and circumstances, directed that Compensation be paid to Lila. The Apex Court disposed of the appeal by judgment and order dated 18 March 2005. A Review Application thereafter was filed by Miss Lila bearing No.IA 23-25 of 2006 and it was dismissed as withdrawn on 9 July 2010.

24. We have adverted to the physical and mental condition of Lila in our earlier orders. It is precarious. Ms.Lila is

suffering from various ailments. She suffers from paralysis. She has a neurological disorder - Leukoencephalopathy. She has a persistent urinary track infection and a low immune system. She has various other related ailments. She is not in a position to take decisions herself or coherently express thoughts. Lila was admitted in hospital on 31 March 2010 and thereafter her condition had deteriorated over the last few years.

25. Mr.Havnur submitted that Lila was admitted in hospital in March 2010, which is a established fact and also that her condition was not stable. He submitted that various steps are taken in respect of her property and shares after that. Mr.Havnur has drawn our attention to the affidavits filed by Respondent No. 7. He submitted that the way the property and shares of Lila have been dealt with taking undue advantage of her illness and mental condition, this Court should institute a detailed probe into the matter. Though we do not wish to express any final opinion, we do find *prima facie* substance in the submission of Mr.Havnur.

26. It is an admitted fact that Lila had a legal dispute with the Respondent No.7 and others - the Pawar Group in charge of Sakal Papers from the year 1985 in respect of the shares in Sakal Papers. Decision in respect of her shares was rendered by the Apex

Court on 18 March 2005. Thereafter an interim application was filed by Lila for modification/clarification and further directions in respect of the order passed in Civil Appeal No. 698-700 of 1995. The application was withdrawn by the advocates on 9 July 2010 when the condition of Lila had deteriorated. Who gave instructions to withdraw this application is not known. Lila was already suffering from various ailments and *prima facie* it seems doubtful that she could have given any such instructions to withdraw the application.

27. A suit came to be filed by one Mr.Chandrashekhar Joshi against Sakal Papers, challenging the proposed action of the Sakal to convert its status to that of a private limited company. In this suit, in connection with Lila, Respondent No.7 filed the written statement, copy of which Mr.Havnur has drawn our attention to. In this statement, the Respondent No.7 has categorically asserted that for some time Lila is suffering from various kind of ailments, she is bedridden and is not able to take her own decision. Therefore, from around March 2010, it seems to be an established position that Lila was in such a physical and mental condition, that her capacity to take rational decisions had considerably deteriorated.

28. An additional affidavit has been filed on behalf of

Respondent No.7. In this affidavit, the details about shareholding of Lila in Sakal Papers have been placed on record. It is stated that, as on 30 September 2004 Lila had 1172 shares amounting to 4.69% of shareholding. It is stated that, after the decision of the Apex Court, some time in the year 2010, Respondent No.7 increased the share capital by conducting rights issue and despite being served with notice of rights issue and being asked if she was willing to buy more shares by Respondent No. 7, no response was received from Lila. It is then asserted that, after the rights issue was completed, the shares of Lila declined to 2.75%, however, she continued to hold 2396 shares. It is then asserted that, on 18 December 2010, Lila on her own accord transferred the shares held by her individually and jointly with her mother to one Shri Abhijit Pawar and, therefore, 2396 shares individually held by Lila and 560 shares held by Lila with her mother were transferred to the said Abhijit Pawar and in lieu thereof she received consideration of ₹1,00,00,000/-.

29. If we take the position on record that Lila's health had already deteriorated from some time around March 2010, *prima facie* to us, the transaction of transfer of shares and her refusal to buy more shares in spite of being served with an offer, is far from being without doubt. We feel, without expressing any final opinion, that there is more than in it meets the eye, the way the rights issue was supposed to have

been communicated to Lila, which she has supposed to have refused and voluntarily transferred her shares. According to us, this merits investigation and we agree with Mr.Havnur in this regard.

30. In this petition, the Petitioner has specifically sought a relief regarding registering of a criminal case and taking action against those concerned who are responsible in respect of transfer of Lila's remaining shares. It is not possible for us to direct registration of criminal cases against the concerned persons on the basis of the material available before us, and we are of the opinion that an enquiry by investigating machinery is necessary before any conclusions are drawn.

31. Now we take up Criminal Writ Petition No.3931 of 2012 and the applications filed by Mr.Oswal. Before we deal with the contentions raised by Mr.Oswal, we must record our displeasure the way Mr.Oswal has conducted himself. By our order dated 17 January 2014, we had rejected Writ Petition No.1786 of 2013 filed by Mr.Oswal in respect of his appointment as a next friend. In this order we specifically recorded that we do not find anything special about Mr.Oswal's relationship with Ms.Lila and to appoint him as a next friend to represent Ms.Lila. The petition filed by Mr.Oswal, therefore, was entertained as filed by a person interested in welfare of Ms.Lila on par with the other petitioner Miss Pronoti Vyas.

However, instead of assisting the Court in finding solutions to Ms.Lila's problem, Mr.Oswal continued to make submissions disregarding the fact that the Court had appointed a Trust to look after Ms.Lila's welfare. He persisted in his claim that he is more suited to take care of Ms.Lila's interest. Mr.Oswal was more interested in creating impediments rather than finding solutions. He was insisting that he should be given greater role rather than ensuring what is in the best interest of Ms.Lila. He filed an application making reckless allegations even against this Court, then unconditionally withdrew the same. We could have dismissed his petition after having formed the Trust and in view of the order of the Apex Court, however, since his petition was entertained for some time earlier, we did not do so.

32. Now turning to the prayers made by Ms.Oswal in his petition. The first prayer made by Mr.Oswal is that Ms.Lila should be produced in Court. Mr.Oswal, in spite of the fact that Ms.Lila is bedridden and is moved around only for treatment to the hospital, initially pressed even in this prayer, but as wiser sense prevailed, did not persist.

33. Mr.Oswal did admit that as regard the restrain on him meeting Ms.Lila has been removed since the trustees have been appointed, but he submitted that Sakal Papers should not be allowed to appoint the security guards in view of the acrimonious relationship between Lila and Sakal Papers,

Dr.Saraf, on instructions from Respondent No.7 Sakal papers, submitted that the Respondent No. 7 is not interested in continuing with the security guards and any appropriate security agency may be deployed by the Trustees. In view of this statement, which is accepted, the grievance of Mr.Oswal in this regard does not survive.

34. We have however noted that there is a considerable excess staff which is being deployed. Merely because there is large number of staff does not mean there is mere efficiency. Not only it will be in the interest of efficiency to reduce the numbers, but will also help saving money, which can be used then for other necessary expenses. It is not necessary to have so many security guards nor it is necessary to have a driver with a car. We have already indicated in our earlier order that the services of the driver, who is employed with Sakal Papers, can be dispensed with including the disposal of the car and in view of services being provided by Sakal Papers, an amount of Rs.25,000/- be deposited by them per month. If an ambulance is required, this money can be utilized. This is agreed to By Sakal. The Trustees should also take a stock of the number of employees looking after Ms.Lila and also the security guards and prune the number to optimum level.

35. As regard the prayers made by him under the Mental Health Act, 1987, Mr.Oswal submitted that he will approach the appropriate authorities and did not press the prayer in this Court.

36. Mr.Oswal contended that Ms.Lila remained unrepresented in this petition even though she has been joined as a party respondent. The argument made by Mr.Oswal is frivolous. After Ms.Lila was made party to the petition, the Principal District Judge, Pune, was directed to nominate the Registrar of the District Court by an order dated 15 June 2012 to ascertain whether Ms. Lila wants to engage any lawyer in the proceeding. Accordingly, the Principal District Judge forwarded a report dated 26 June 2012 of the Registrar who visited Ms.Lila. It was noted in the order dated 3 July 2012 that Ms.Lila did not seem to be keen to engage any lawyer or any person.

37. Mr.Oswal also submitted that criminal proceedings be initiated against respondent Nos.4 to 7 and probe be handed over to C.B.I. or C.I.D. He submitted that, as late as 24 March 2014, the bank accounts of Lila have been operated and the cheques were issued. He submitted that how the concerned bank accounts have been operated after March 2010 need to be investigated. We find merit in this request. We have noted while dealing with Civil Writ Petition No.7910 of 2011, there is a need for police investigation in respect of shares. There is

need also in respect of Bank account.

38. Mr.Oswal submitted that the properties of Lila should not be transferred without the orders of the Court. There is a merit in this request as well. We have appointed a Trust of eminent persons who are looking after the welfare of Ms.Lila and the animals. Throughout the pendency of the petition, in spite of us appointing a Trust and constant visits by the Court Manager and other staff to Ms.Lila's residence, no relative has come forward. Ms.Lila does possess various properties and has substantial amounts in bank accounts. There is every likelihood, that taking advantage of the mental and physical condition of Ms.Lila, her properties are mis-utilized.

39. As regard Criminal Application No.241 of 2014, Mr.Oswal stated that the prayers made therein do not survive. Mr.Oswal also filed Criminal Application No.113 of 2015 for modification of the order, as regard the first prayer that orders dated 17 January 2014 and 30 April 2014 with the observation that Lila is a Director in Sakal Papers and she holds shares, be deleted. It is informed that Lila is not a Director in Sakal Papers. Therefore, observations made in the orders dated 17 January 2014 and 30 April 2014 to read accordingly.

40. As regards the prayer to restrain Respondent No. 7 from collecting money from public in the name of Ms.Lila, no evidence

is placed on record that this is being done. The remaining prayers are general in nature. Merely because Mr.Oswal has sought various requests, looking at the nature of the litigation and the stage, every requests of Mr.Oswal, which are numerous, need to be entertained and considered. Ultimately this Court is concerned primarily for Ms.Lila and her welfare and animals shelter and not individual rights of Mr.Oswal, which we have already stated he does not have any special interest.

41. The Apex Court has already indicated that Mr.Oswal can approach the Trust. Having formed a Trust, we do not wish to keep issuing directions and therefore we do not feel it necessary to entertain any of the civil and criminal application made in these petitions. Having formed the Trust to look after the interest of Ms.Lila, there is no question of appointment of Mr.Oswal as next friend. All parties who are concerned with Ms.Lila's welfare can make their suggestions to the Trust, which will consider the same as required. The applications which are pending are accordingly disposed of with this direction.

42. Our entire endeavor since last four years in passing various orders is to ensure welfare of Ms.Lila and her animals shelter. Ms.Lila possesses various properties. There is a serious acrimony between the parties. None of the parties before us are trustworthy to allow them to solely deal with Ms.Lila. We have

formed a Trust of eminent persons, including a retired High Court Judge. The Trust is now vested with almost all powers to take measures for welfare of Ms.Lila and the Animals Shelter. The Apex Court also has made it clear that any further suggestions should be made to the Trust. We, therefore, do not propose to pass any further orders except to ensure that the Trust which is now registered functions smoothly. However, since we found various disturbing features of the case that is the way Lila's shares and bank accounts have been operated and the way her representation in Sakal Papers has been extinguished. We found merit in the contentions of both Mr.Havnur and Mr.Oswal that the matter needs to be investigated.

43. Accordingly, taking overall view of the matter, we dispose of the petitions by the following directions:

(A) Directions as regard the Trust:

(i) The Trust constituted pursuant to the order dated 17 January 2014, will continue during the life time of Ms. Lila.

(ii) It will be open to the Trustees to co-opt two more trustees preferably, who would be in a position to visit the residence of Ms.Lila on frequent basis. The Trustees shall be paid an amount of Rs.5,000/- or as such lesser amount as may be agreed by them, per visit to the premises of Ms.Lila and they will be entitled for reimbursement of travelling expenses from the account of the

Trust. The trustees shall be paid a sum of Rs.5000/- for attending every meeting of the Trust.

(iii) The Senior Court Manager attached to the District Court, Pune, will act as a Secretary of the Trust. The Trustees shall fix a reasonable remuneration to be paid to the Senior Court Manager. The Senior Court Manager will be entitled for reimbursement of his expenses from the account of the Trust upon furnishing such details to the Trust. It will be open to the Trustees to appoint a Part-Time or full time Secretary in the place of the Senior Court Manager on such remuneration that the Trustees find reasonable.

(B) Directions regarding staff in house:

(i) The Trustees will replace the security personnel currently employed at the residence of Ms.Lila and appoint required number of security guards. The Trustees will ensure that the staff employed inside the house consists of women employees.

(ii) The Trustees shall be entitled to review the position of number of staff and remove such staff which the Trustees find to be in excess. The trustees shall discontinue the services of the driver and return the driver and car to Sakal Papers and in lieu of the driver and car, Sakal Papers – respondent No.7, shall pay an amount of Rs.25,000/- per month to the Trust to be used for conveyance of Ms.Lila whenever required.

(iii) All the staff including the security guard, shall be under the control of the Trust and shall take all the directions and orders from the Trust and from no other person or authority.

(iv) The trustees shall lay down the timetable for persons visiting Ms.Lila and also who should be allowed to visit Ms.Lila and accordingly the trustees shall instruct the security agencies who will act as per the directions of the Trustees, and none else.

(C) Directions as regard the Animal Shelter :

(i) The animals currently housed in the premises shall be retained in the premises/compound.

(ii) The Trustees shall invite applications from Non-Governmental Organizations willing to take care of the animals. The trustees will receive such applications on the basis of experience, reputation, integrity and impartiality. The Organization so selected by the trustees will be allowed to take care of the animals. The trustees may fix such monthly remuneration to such Organizations in case such organization/s are not ready to do the work voluntarily.

(D) Directions regarding health care of Ms.Lila:

(i) Dr.N.R.Icchaporia will continue to look after the health of Ms.Lila and take appropriate decisions. However, if the Trustees find it necessary, it will be open to them to replace Dr.Icchaporia or appoint any other doctor in his place or to aid and assist him.

(ii) Trustees shall obtain reports on the health condition of Ms.Lila on regular basis through the Secretary who shall visit and ascertain the medical condition of Ms.Lila.

(iii) The trustees shall also issue appropriate instructions to the staff to immediately contact the Secretary in case any emergent situation.

(E) Directions regarding properties of Ms.Lila:

(i) It is directed that there shall be no transfer of the property belonging to Ms.Lila except the funds of Leela placed at the disposal of the Trustees, without seeking prior permission from this Court, by making necessary application, with a copy to the Trust. The Senior Court Manager will accordingly inform the appropriate authorities in respective districts where the immovable property of Ms.Lila is located not to carry any changes in the property extracts in respect of Ms.Lila, without the orders of this Court.

(ii) An officer not below the rank of Assistant Commissioner of Police to be appointed by the Commissioner of Police, Pune, will examine the transactions in the shares of Sakal Papers purportedly made by Ms.Lila after the March 2010 and the operation of the Bank accounts. If the Assistant Commissioner Police comes to the conclusion that any offence is made out, he will proceed to investigate the same. The Assistant Commissioner of Police will submit a report to the Registrar

(Judicial-I) of this Court in a sealed envelope.

(F) The various directions issued in these petitions and applications from 17 January 2014 which are in force today shall form part of this order.

(G) In the event, the Trustees need any directions of this Court, they will be entitled to submit a report to the Registrar (Judicial-I) through the Secretary. As and when such report is received, the Registrar (Judicial-I) shall immediately place it before this Court.

44. The writ petitions are accordingly disposed of with the above directions.

45. The matter shall appear on board on 30 November 2015 to consider the report of the Assistant Commissioner of Police.

(N. M. JAMDAR, J.)

(A. S. OKA, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed Judgment.