

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.440/2014

Hanumanrao Morbaji Gudadhe and others

...Versus...

State of Maharashtra, Through its Secretary, Urban Development Deptt.
Mantralaya, Mumbai – 32 and others

WITH

WRIT PETITION NO.6928/2014

Nagpur University Cooperative Housing Society Ltd., Nagpur through is
Authorised Member

...Versus...

Deputy District Collector and Special Land Acquisition Officer (Pench Project),
Office of District Collector, Nagpur and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.V. Vaidya, Adv. with Mrs. Ketki Jaltare, Adv. for petitioners in W.P. No.440/2014
Shri N.S. Rao, AGP for respondent nos.1 to 3 in W.P. No.440/2014
Shri R.M. Bhangde, Advocate for respondent no.4 in W.P. No.440/2014
Shri Rahul Tajne, Advocate for petitioner in W.P. No.6928/14
Shri N.S. Rao, AGP for respondent no.1 in W.P. No.6928/14
Shri R.M. Bhangde, Advocate for respondent no.2 in W.P. No.6928/14

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : 06.05.2015

Whether the provisions of Section 24 (2) of the
Right to Fair Compensation and Transparency in Land
Acquisition, Rehabilitation and Resettlement Act, 2013
(hereinafter referred to as 'the RFCTLARR Act' for the sake of
brevity) would apply to the acquisition of the lands under the

provisions of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as 'the MRTP Act') is the question that falls for consideration in these writ petitions.

2. The facts giving rise to the question are stated thus--

The land of the petitioners in Writ Petition No.440 of 2014 was acquired under the provisions of the MRTP Act by an Award dated 18.09.2013. According to the petitioners, though the Award was passed by the Special Land Acquisition Officer on 18.09.2013, the majority landholders have not received the compensation and, hence, in view of the provisions of the proviso to Section 24 of the RFCTLARR Act, the petitioners would be entitled to compensation as per the provisions of the RFCTLARR Act.

The land of the petitioner-Society in Writ Petition No.6928 of 2014 was acquired under the provisions of the MRTP Act by the Award dated 29.01.2008 and since the petitioner-Society is still in possession of the acquired land, the petitioner-society has sought a declaration that the land acquisition proceedings have lapsed under the provisions of Section 24(2) of the RFCTLARR Act.

3. It is submitted on behalf of the petitioners in Writ Petition No.440 of 2014 that all the provisions of the RFCTLARR Act would apply to the acquisitions under the MRTP Act. According to the petitioners, since none of the land holders were paid compensation in terms of the Award dated 08.09.2013, in view of the provisions of the proviso to Section 24 of the RFCTLARR Act, the petitioners would be entitled to compensation as per the provisions of the RFCTLARR

Act. The learned counsel for the petitioners in Writ Petition No.440 of 2014 has relied on paragraph 191 of the judgment of the Hon'ble Supreme Court, reported in **(2011)3 SCC 1** (*Girnar Traders(3) ...Versus... State of Maharashtra and others*) to canvass that the provisions in regard to acquisition of land and payment of compensation under the RFCTLARR Act could be read into the acquisitions controlled by the provisions of the MRTTP Act.

4. Whereas, it is submitted on behalf of the petitioner-Society in Writ Petition No.6928 of 2014 that though the land of the petitioner was acquired by the Award dated 29.01.2008, passed more than five years prior to the coming into force of the RFCTLARR Act, the petitioner-Society is in possession of the land and, hence, the acquisition proceedings in respect of the land of the petitioner-Society would lapse in view of the provisions of Section 24(2) of the RFCTLARR Act. It is stated that the State Government has framed the Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra) Rules, 2014 and Rule 19 of the Rules provides for compensation under the RFCTLARR Act, if no Award is passed in the land acquisition proceedings under the MRTTP Act before the coming into force of the RFCTLARR Act on 01.01.2014. It is stated that in view of the provisions of Section 107 of the RFCTLARR Act, the State is competent to enact any law to enhance or add to the entitlements enumerated under the RFCTLARR Act and confer higher compensation, than payable under the RFCTLARR Act. It is stated that in view of the law laid down by the Hon'ble

Supreme Court in the judgment reported in **2011(3) SCC 1**, specially in paragraph 191 thereof, the provisions pertaining to the payment of compensation in the RFCTLARR Act could be read into the acquisitions controlled by the MRTP Act. It is stated that the provisions of Section 24 of the RFCTLARR Act have the element of providing higher compensation to the landholders after lapsing under section 24(2) of the Act and, hence, the provisions of Section 24(2) of the RFCTLARR Act should be read into the acquisitions controlled by the MRTP Act.

5. Per Contra, it is submitted on behalf of the State Government that the provisions of Section 24 of the RFCTLARR Act would not apply to the land acquisition proceedings under the MRTP Act. The learned Assistant Government Pleader also relied on paragraph 191 of the judgment reported in **2011(3) SCC 1** to submit that the provisions of Section 24 of the RFCTLARR Act cannot be read into the acquisitions controlled by the MRTP Act as they provide different time frames and consequences of default, including lapsing of acquisition proceedings.

6. Shri R.M. Bhangde, the learned Counsel for the acquiring body, submitted that the provisions of Section 24 of the RFCTLARR Act cannot be applied to the acquisition proceedings under the MRTP Act. It is stated that though the Land Acquisition Act, 1894 has been repealed, the MRTP Act is not repealed and, therefore, there was no occasion for the Parliament to deal with the provisions of the MRTP Act while enacting the RFCTLARR Act. It is stated that Section 24 of the

RFCTLARR Act relates to lapsing of acquisition proceedings and in view of the settled position of law, as enunciated in paragraph 191 of the judgment reported in **2011(3) SCC 1**, the provisions of Section 24 of the RFCTLARR Act cannot be read into the acquisitions controlled by the MRTP Act. It is stated that in Schedule-IV to the RFCTLARR Act, the State enactments like the MRTP Act could not have been mentioned as the RFCTLARR Act and the MRTP Act are legislated by the Parliament and the Legislature under different entries in different lists of Schedule-VII of the Constitution. It is stated that the language of Section 24 of the RFCTLARR Act is clear and unambiguous and by applying the literal rule of construction, the provisions of Section 24 could be made applicable only to the acquisitions under the Land Acquisition Act, 1894. It is stated that in Section 24, the Legislature has clearly referred to the land acquisition proceedings “initiated” under the Land Acquisition Act, 1894 and only proceedings under the Land Acquisition Act are initiated by the Section 4 notification. It is stated that the proviso on which the petitioner in Writ Petition No.440 of 2014 has placed heavy reliance for seeking compensation under the RFCTLARR Act cannot govern the provisions of Section 24(1)(b) of the RFCTLARR Act and the proviso is referable to the provisions of Section 24(2) of the RFCTLARR Act. It is stated that the 'full stop' after the provisions of Section 24(1)(b) and a 'colon' after the provisions of Section 24(2) of the RFCTLARR Act clearly shows that the proviso is referable to the lapsing provisions under Section 24(2) of the RFCTLARR Act. It is stated that

compensation was paid for the majority landholdings and hence the proviso would not be, in any way, applicable. It is submitted that in any case, since the provisions of RFCTLARR Act cannot be read into the acquisitions under the MRTP Act, the petitioners in Writ Petition No.440 of 2014 cannot claim the benefit of the provisions of Section 24 of the RFCTLARR Act to seek higher compensation under the RFCTLARR Act.

7. Apart from the assistance of the learned Counsel for the parties, we have had the able assistance of Advocate Shri R.B. Deo and Advocate Shri S.P. Bhandarkar, during the hearing. Both the learned Counsel not only referred to the relevant provisions of the three enactments but also cited several landmark judgments rendered by the Hon'ble Supreme Court in connection with the issue. After taking us through the judgments reported in (2011)3 SCC 1 (Girnar Traders (3) ...Versus... State of Maharashtra and others), (2010) 7 SCC 129 (Bondu Ramaswamy and others ...Versus... Bangalore Development Authority and others), (2011) 3 SCC 139 (Offshore Holdings Private Limited ...Versus... Bangalore Development Authority and others), (2015) 3 SCC 541 (Rajiv Chowdhrie Huf...Versus...Union of India and others), (1973) 1 SCC 500 (Nagpur Improvement Trust and another ...Versus... Vithal Rao and others), 1995 Supp (2) SCC 475 (State of Maharashtra and another...Versus...Sant Joginder Singh Kishan Singh and others), (1998) 2 SCC 467 (U.P. Avas Evam Vikas Parishad...Versus...Jainul Islam and another), (2002) 7 SCC 657 (Nagpur Improvement Trust ...Versus...Vasantrao and others), (2014) 3 SCC 183 (Pune

Municipal Corporation and another ...Versus... Harakchand Misirimal Solanki and others) and several others, it was urged that the Seven Judges judgment of the Hon'ble Supreme Court in the case of *Nagpur Improvement Trust and another ...Versus... Vithal Rao and others*, reported in *(1973) 1 SCC 500* and the judgment popularly known as *Girnar (3)* and reported in *(2011) 3 SCC 1* clinch the issue.

8. For considering the question that falls for determination in the writ petitions, it would be necessary to consider the Scheme of both the enactments i.e. the MRTP Act and the RFCTLARR Act. The Scheme of MRTP Act was considered in a number of judgments including the judgment in *Girnar (3)* reported in *(2011) 3 SCC 1*. On a reading of the Statement of Objects of the MRTP Act, it appears that the MRTP Act was enacted by the legislature of the State of Maharashtra to provide for planned development and use of the land in the regions established for the purpose of MRTP Act, for the constitution of Regional Planning Boards for the said purposes and to make better provisions for the preparation of development plans with a view to ensure that the town planning scheme is made in a proper manner and its execution is made effective. The primary object of the MRTP Act, as it appears from its provisions, is planned development. The acquisition of land is made only where the land is reserved, designated or acquired for complete development by the planning, development or appropriate authority. The MRTP Act provides a complete mechanism for planning and development. The MRTP Act is hardly dependent on the Land Acquisition Act, 1894 to

which a reference is made in the provisions of the MRTTP Act by incorporation, except to the limited extent of completing the process of determining compensation. A reference to the provisions of the Land Acquisition Act, 1894 in some of the provisions of the MRTTP Act by incorporation would only imply that they have solely been made for the purpose of completing the process of acquisition. The Land Acquisition Act, 1894 was a Central Legislation relatable to Entry - 42 of List - III while the MRTTP Act is enacted by the State Legislation with reference to Entries - 5 and 18 of List - II of Schedule VII to the Constitution. Section 126 of the MRTTP Act, which makes a reference to the Land Acquisition Act by incorporation and Section 127 of the MRTTP Act, which deals with lapsing of reservation read thus :-

“Section 126. Acquisition of land required for public purposes specified in plans.

(1) When after the publication of a draft Regional Plan, a Development or any other plan or town planning scheme, any land is required or reserved for any of the public purposes specified in any plan or scheme under this Act at any time the Planning Authority, Development Authority, or as the case may, any Appropriate Authority may, except as otherwise provided in section 113A acquire the land, -

(a) by agreement by paying an amount agreed to , or

(b) in lieu of any such amount, by granting the land-owner or the lessee, subject,

however, to the lessee paying the lessor or depositing with the Planning Authority, Development Authority or Appropriate Authority, as the case may be, for payment to the lessor, an amount equivalent to the value of the lessor's interest to be determined by any of the said Authorities concerned on the basis of the principles laid down in the Land Acquisition Act, 1894, Floor Space Index (FSI) or Transferable Development Rights (TDR) against the area of land surrendered free of cost and free from all encumbrances, and also further additional Floor Space Index or Transferable Development Rights against the development or construction of the amenity on the surrendered land at his cost, as the Final Development Control Regulations prepared in this behalf provide, or

(c) by making in application to the State Government for acquiring such land under the Land Acquisition Act, 1894, and the land (together with the amenity, if any, so developed or constructed) so acquired by agreement or by grant of Floor Space Index or additional Floor Space Index or Transferable Development Rights under this sections or under the Land Acquisition Act, 1894, as the case may be, shall vest absolutely free from all encumbrances in the Planning Authority, Development Authority, or as the case may be, any Appropriate Authority.

(2) On receipt of such application, if the State Government is satisfied that the land specified in the application is needed for the public purpose therein specified, or if the State Government (except in cases falling under section 49 and except as provided in section 113A) itself is of opinion that any land included in any such plan is needed for any public purpose, it may make a declaration to that effect in the Official Gazette, in the manner provided in section 6 of the Land Acquisition Act, 1894, in respect of the said land. The declaration so published shall, notwithstanding anything contained in the said Act, be deemed to be a declaration duly made under the said section :

***Provided that,** subject to the provisions of sub-section (4), no such declaration shall be made after the expiry of one year from the date of publication of the draft Regional Plan, Development Plan or any other Plan, or Scheme, as the case may be.*

(3) On publication of a declaration under the said section 6, the Collector shall proceed to take order for the acquisition of the land under the said Act; and the provisions of that Act shall apply to the acquisition of the said land, with the modification that the market value of the land shall be,-

(i) where the land is to be acquired for the purposes of a new town, the market value

prevailing on the date of publication of the notification constituting or declaring the Development Authority for such town;

(ii) where the land is acquired for the purposes of a Specified Planning Authority, the market value prevailing on the date of publication of the notification of the area as an undeveloped area; and

(iii) in any other case the market value of the date of publication of the interim development plan, the draft development plan or the plan for the area or areas for comprehensive development, whichever is earlier, or as the case may be, the date or publication of the draft town planning scheme :

Provided that, nothing in this sub-section shall affect the date for the purpose of determining the market value of land in respect of which proceedings for acquisition commenced before the commencement of the Maharashtra Regional and Town Planning (Second Amendment) Act, 1972 :

Provided further that, for the purpose of clause (ii) of this sub-section, the market value in respect of land included in any undeveloped area notified under sub-section (1) of section 40 prior to the commencement of the Maharashtra Regional and Town Planning (Second Amendment) Act, 1972,

shall be the market value prevailing on the date of such commencement.

(4) Notwithstanding anything contained in the proviso to sub-section (2) and sub-section (3), if a declaration is not made within the period referred to in sub-section (2) or having been made, the aforesaid period expired on the commencement of the Maharashtra Regional and Town Planning (Amendment) Act, 1993, the State Government may make a fresh declaration for acquiring the land under the Land Acquisition Act, 1894, in the manner provided by sub-sections (2) and (3) of this section, subject to the modification that the market value of the land shall be the market value at the date of declaration in the Official Gazette made for acquiring the land afresh.

Section 127. Lapsing of reservations.

(1) If any land reserved, allotted or designated for any purpose specified in any plan under this Act is not acquired by agreement within ten years from the date on which a final Regional plan, or final Development plan comes into force or, if a declaration under sub-section (2) or (4) of section 126 is not published in the Official Gazette within such period, the owner or any person interested in the land may serve notice, alongwith the documents showing his title or interest in the said

land, on the Planning Authority, the Development Authority or, as the case may be, the Appropriate Authority to that effect; and if within twelve months from the date of the service of such notice, the land is not acquired or no steps as aforesaid are commenced for its acquisition, the reservation, allotment or designation shall be deemed to have lapsed, and thereupon the land shall be deemed to be released from such reservation, allotment or designation and shall become available to the owner for the purpose of development as otherwise, permissible in the case of adjacent land under the relevant plan.

(2) On lapsing of reservation, allocation or designation of any land under sub-section (1), the Government shall notify the same, by an order published in the Official Gazette.”

The provisions of the MRTP Act in general and the provisions of Sections 126 and 127 of the MRTP Act in particular clearly enunciate the intention of the legislature that the substantive provisions of the Land Acquisition Act, 1894 are not applicable to the MRTP Act which is a self-contained code providing procedure for all matters contained therein except for the limited purpose of acquiring land. The MRTP Act is a legislation which has a paramount purpose of planning and acquisition of land is merely incidental, that too for a very limited purpose. The object of the MRTP Act and the object of the Land Acquisition Act, 1894 to which a reference is made by

incorporation, in some of the provisions of the MRTP Act is wholly dissimilar. It is held in several judgments of the Hon'ble Supreme Court including the judgment reported in **(2011) 3 SCC 1** (Supra) that the Land Acquisition Act, 1894 is a self-contained code within the framework of its limited purpose i.e. acquisition of the land, whereas the MRTP Act is a self-contained code which has the paramount object of planning and development and acquisition of land is merely incidental. It is, thus, clear that the MRTP Act, under the provisions of which the land of the petitioners was acquired is an Act relating to planned development and the purpose and object of the Act is quite different from the object of the Land Acquisition Act, 1894, which has the object of achieving a public purpose. Also, the MRTP Act was reserved for the consideration of the assent of the President and the same was published in the Maharashtra Government Gazette Part - IV on 20.12.1966 after receiving the assent of the President on 13.12.1966.

9. The Land Acquisition Act, 1894 was repealed and replaced by the RFCTLARR Act, with which we are concerned. The RFCTLARR Act is a legislation mainly dealing with the acquisition of land. It aims at providing just and fair compensation and also a mechanism for rehabilitation and resettlement. The RFCTLARR Act is enacted with an object of ensuring an informed and transparent process for land acquisition with least disturbance to the owners of the land and the other affected families. It aims to provide just and fair compensation to the owners of the land and the other affected families. The RFCTLARR Act also provides for the rehabilitation

and resettlement of the affected. By the provisions of Section 114 of the RFCTLARR Act, the provisions of the Land Acquisition Act, 1894 have been repealed, as the Land Acquisition Act, 1894 was found to be inadequate in addressing certain issues pertaining to acquisition and had failed to address the issues of rehabilitation and resettlement. The provisions of the RFCTLARR Act relating to land acquisition, compensation rehabilitation and resettlement are stated to apply when the appropriate Government acquires the land for the purposes enumerated in Section 2 of the said Act. The provisions of RFCTLARR Act relating to land acquisition, compensation rehabilitation and resettlement would apply when the appropriate Government acquires land for its own use, hold and control, for public sector undertakings and for public purpose. The provisions of the RFCTLARR Act would apply where the land is required for strategic purposes relating to Navy, Military, Air Force, Armed Forces, for infrastructure projects, projects involving agro-processing, projects for industrial corridors or mining activities, projects for water harvesting and water conservation, projects for Government administered, Government aided educational and research schemes, projects for sports, health care etc. The RFCTLARR Act is enacted by the Parliament in exercise of its legislative powers under Entry - 42 of List - III of the VIIth Schedule for ensuring a transparent process of land acquisition for industrialization, development of essential infrastructural facilities, providing adequate compensation to the affected and also ensuring their rehabilitation and resettlement. There are marked differences

between the provisions of the MRTP and the RFCTLARR Act, inasmuch as the RFCTLARR Act is enacted for a limited purpose i.e. acquisition of land and providing adequate compensation to the affected, whereas the primary object of the MRTP Act is planned development and acquisition of land is incidental to the primary object. The development under the RFCTLARR Act could be planned or otherwise.

10. After considering the provisions of the MRTP Act and the RFCTLARR Act and the true intent and object of enacting the same, it appears that both the enactments are self-contained codes and the provisions of Section 24 of the RFCTLARR Act would not be applicable to the acquisitions under the provisions of the MRTP Act for varied reasons_____

The MRTP Act is a self-contained code. The State Legislation has enacted the MRTP Act in exercise of its powers under Entries - 5 and 18 of List - II of Schedule VII, whereas the RFCTLARR Act is enacted by the Parliament in exercise of its legislative powers under Entry - 42 of List - III of the VIIth Schedule. A complete scheme has been provided under the MRTP Act for attaining the object of planned development. The paramount object of MRTP Act is planning and acquisition of land is incidental, that too for a very limited purpose. A reference to the provisions of Land Acquisition Act, 1894 in some of the provisions of the MRTP Act is made only for determining the compensation and completing the process of acquisition. The MRTP Act and RFCTLARR Act are wholly dissimilar and have different objects.

The reference to the provisions of the Land Acquisition Act, 1894 in the MRTP Act, having been held to be a reference by incorporation, the provisions of Section 24 of RFCTLARR Act, which is enacted after the repeal of the Land Acquisition Act, 1894 cannot be read into the provisions of MRTP Act, specially when the MRTP Act is not yet amended and its provisions do not make a reference to the RFCTLARR Act.

By applying the doctrine of 'pith and substance', it could be seen that the true intent of both the enactments is different. It would be worthwhile to refer to the judgments reported in **AIR 1970 SC 1771 (Shri Ramtanu Co-operative Housing Society Ltd. and another...Versus...State of Maharashtra and others)** and **(2011) 3 SCC 1** (Supra) in this regard. The MRTP Act deals with planning and development, the acquisition of land being incidental for achieving the object of the Act, whereas the Land Acquisition Act and the RFCTLARR Act are enacted with an object of acquiring the land for public purposes and companies, for determination of the compensation and for the rehabilitation and resettlement of the affected. Both the Laws i.e. the MRTP Act and the RFCTLARR Act are wholly dissimilar, they operate in different fields and have different objects.

The MRTP Act is a self-contained code and the provisions of Section 127 of the MRTP Act deal with lapsing. The constitution Bench of the Hon'ble Supreme Court has held in the judgment reported in **(2011) 3 SCC 1** (Supra) that the provisions of the Land Acquisition Act relating to lapsing and providing different time-frames and consequences of default

thereof, cannot be read into the MRTP Act. If the provisions of the Land Acquisition Act, 1894 insofar as they provide different time-frames and consequences of default thereof including lapsing of acquisition proceedings cannot be read into the MRTP Act, how could the provisions of RFCTLARR Act be read into the MRTP Act, more so, when the provisions of Sections 125, 126 and 127 of the MRTP Act continue to make a reference to the provisions of the Land Acquisition Act, 1894 and not to the RFCTLARR Act.

After considering the scheme of the two enactments, even if a fractional overlapping is accepted between the two Statutes i.e. the MRTP Act and the RFCTLARR Act, the same is saved by the doctrine of 'incidental overlapping', specially when the Centre and the State have enacted the Laws i.e. the RFCTLARR Act and the MRTP Act respectively, within the legislative competence and both the Acts can coexist and operate with compatibility.

It is held by the Hon'ble Supreme Court in para 191 of the judgment reported in **(2011) 3 SCC 1** (Supra) that the provisions of the Land Acquisition Act, 1894 limited to the extent of acquisition of land, payment of compensation and recourse to legal remedies could be read into the acquisitions controlled by the provisions of the MRTP Act but the provisions of the Land Acquisition Act, 1894 insofar as they provide different time-frames and consequences of default thereof, including lapsing of acquisition proceedings cannot be read into the MRTP Act. It is, thus, clear from the aforesaid judgment, which is the last word of the Hon'ble Supreme Court on the issue

involved, that the provisions limited to acquisition and compensation would only apply to the proceedings for acquisition under the MRTP Act and the provisions like Section 24 of the RFCTLARR Act which provide different time-frames and consequences of default thereof including lapsing of acquisition proceedings cannot be read into the MRTP Act. The reliance placed by the petitioners on paragraph no.191 of the judgment in *Girnar (3)* (Supra) is not well founded as the said pronouncement of the Hon'ble Supreme Court lends support to the submission made on behalf of the acquiring body.

11. Even assuming that the other provisions of the RFCTLARR Act were to apply to the acquisitions under the MRTP Act, it could be gathered from the clear and unambiguous provisions of Section 24 of the RFCTLARR Act, by applying the salutary principles of interpretation that the provisions of Section 24 of the RFCTLARR Act would apply only to the acquisitions 'initiated' under the Land Acquisition Act, 1894. The word 'initiated' has been defined in the Oxford English Dictionary to mean 'cause, process or action to begin'. The proceedings for acquisition under the Land Acquisition Act, 1894 commence or begin with the issuance of the Section 4 notification. A useful reference could be made at this stage, to the judgment reported in *(2011) 3 SCC 1* (Supra). A reference is also made to the Section 4 notification in the proviso to Section 24 (2) which goes to show that the provisions of Section 24 of the RFCTLARR Act would be applicable only to the acquisitions under the Land Acquisition Act. The heading of the Section which is one of the internal aids of interpretation also

shows that the provisions of Section 24 of the RFCTLARR Act would apply only to the proceedings 'initiated' under the Land Acquisition Act, 1894. The State of Maharashtra has, however, framed the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra) Rules, 2014 in exercise of the powers conferred under Sub Sections 1 and 2 of Section 109 of the RFCTLARR Act and the other powers enabling the State Government in that behalf and Rule 19 thereof provides for payment of compensation under the RFCTLARR Act in respect of the proceedings initiated under the Land Acquisition Act, 1894, MRTP Act and the MIDC Act, 1962 if an award is not passed on or before 31.12.2013. It appears that provisions similar to the provisions of Section 24 (1) (b) of the RFCTLARR Act have been made in Rule 19 of the Rules, for providing similar benefit to the landholders affected by the acquisitions under the MRTP Act and the MIDC Act.

12. Although the provisions of RFCTLARR Act would not *per se* apply to the MRTP Act specially when the MRTP Act is not yet amended and continues to make a reference to the Land Acquisition Act, 1894 by incorporation, in our view, the provisions of RFCTLARR Act insofar as they relate to determination of compensation will have to be read into the MRTP Act in view of the judicial pronouncement in the cases of ***Nagpur Improvement Trust and another...Versus...Vithal Rao and others*** reported in (1973) 1 SCC 500, (2011) 3 SCC 1 and several other judgments, so as to save some of the provisions of the MRTP Act from the vice of discrimination.

13. Since we hold that the provisions of Section 24 of the RFCTLARR Act would not apply to the acquisition of the lands under the provisions of the MRTP Act, it would not be necessary to decide the other ancillary issues involved in the petitions. Consequently, we dismiss the writ petitions with no order as to costs. While parting with the judgment, we again express our gratitude to Advocate Shri R.B. Deo and Advocate Shri S.P. Bhandarkar for their valuable assistance.

JUDGE

JUDGE

APTE/Wadkar