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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4790 OF 2018

Shri. Chandrakant Mahadev Patil and Ors. ... Petitioners
V/s.
State of Maharashtra and Ors. ... Respondents

Mr. A.V. Anturkar, Senior Advocate a/w Mr. Tanaji Mhatungade and Mr. Ajinkya Udane for the Petitioners.

Mr. A.A. Kumbhakoni, Advocate General a/w Mr. Akshay Shinde, Panel – B a/w Mr. A.B. Vagyani, G.P. and Mrs. Reena Salunkhe, AGP for the Respondent Nos.1 to 4.

Mr. Abhijit M. Adagule for the Respondent Nos.5 to 8.

CORAM : A.S.OKA AND RIYAZ I. CHAGLA, JJ.

DATE : 6th AUGUST 2018.

ORAL JUDGMENT (Per A.S.Oka, J.)

1 On the earlier occasion, the parties were put to notice that the petition will be disposed of finally at the stage of admission. With a view to appreciate the controversy, a brief reference to the factual aspects of the case will be necessary. The petitioners claim to be the owners of the property bearing Revision Survey No.138 admeasuring 3 Hectares and 65 Ares more particularly described in paragraph 1 of the petition. The said property is affected by the reservation for playground in respect of the area of 10,000 sq. mtrs. under the sanctioned development plan of the

Kolhapur Municipal Corporation under the provisions of the Maharashtra Regional and Town Planning Act, 1966 (for short “the MRTP Act”). On 8th March 2010, the petitioners served a notice under sub-section (1) of section 49 of the Maharashtra Regional and Town Planning Act, 1949. The first respondent – State Government confirmed the said notice by the order dated 6th September 2010. Within the time provided under sub-section (7) of section 49 of the MRTP Act, an application was made by the fifth respondent to the District Collector for initiating the acquisition proceedings in respect of the reserved land. It is pointed out that steps were taken by the State Government to initiate acquisition proceedings and as per the demand made, the fifth respondent – Municipal Corporation deposited a sum of Rs.8,51,91,480/- with the fourth respondent – the Special Land Acquisition Officer No.11, Kolhapur. It is pointed out that the fourth respondent by a letter dated 6th May 2015 called upon the fifth respondent to deposit further amount.

2 As no concrete steps were taken for the acquisition, there is a prayer made in this Writ Petition for seeking a writ of mandamus directing the first and second respondents to issue a declaration under sub-section (2) read with sub-section (4) of section 126 of the MRTP Act. There are consequential prayers made in the petition.

3 There is a reply filed of Shri Dhananjay Shivagonda Khot, Assistant Director of Town Planning on behalf of the fifth, sixth and eighth respondents. The steps taken by the fifth respondent – Municipal Corporation for acquisition have been set out in the reply. One of the

contentions raised in the reply is that considering the financial condition of the fifth respondent – Municipal Corporation, it is not in a position to pay compensation in accordance with the law of compulsory acquisition and therefore, the petitioners were called upon to submit a proposal for grant of Transferable Development Rights (TDR).

4 The learned senior counsel appearing for the petitioners at the outset submitted that the petitioners are not interested in acquiring Transferable Development Rights (TDR). However, our attention was invited to the Maharashtra Act No.XXXVII of 2018 by which the State Legislature amended the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the said Act of 2013”) in its application to the State of Maharashtra. The learned senior counsel appearing for the petitioners invited our attention to the amendment made to Sections 125 and 126 of the MRTP Act by the Maharashtra Act No.XLII of 2015. His submission was that in view of the Maharashtra Act No.XXXVII of 2018 and in particular by virtue of Section 105-A of the said Act of 2013 brought on the statute book by the said Act of XXXVII of 2018 by the Maharashtra Legislature, now all the Planning Authorities or Appropriate Authorities in the State cannot take recourse to acquisition under the said Act of 2013 by relying upon Sections 125 and 126 of the MRTP Act. His submission is that unless there is a specific notification issued under sub-section (2) of 105-A of the said Act of 2013 as amended for the State of Maharashtra, no Planning Authority will be in a position to initiate acquisition proceedings under the said Act of 2013 in respect of a land required or reserved for a public purpose in a development plan or a regional plan under the MRTP Act.

5 The learned Advocate General appearing for the State invited our attention to the fact that the subject of land acquisition being on concurrent list, the State Legislature has power to amend the said Act of 2013. The learned Advocate General accepted that Sections 125 and 126 do refer to the acquisition of a land required or reserved for public purpose by taking recourse to the provisions of the said Act of 2013. However, relying upon several decisions including the decision of the Apex Court in the case of *Girnar Traders (3) vs. State of Maharashtra and Ors.*¹, he would urge that it is a case of legislation by incorporation of certain provisions of the said Act of 2013 in the MRTP Act and it is not a case of a legislation by reference. He invited our attention to the decision of the Apex Court in the case of *State of Uttarakhand Vs. Mohan Singh and Ors.*². He also relied upon a decision of the Full Bench of this Court in the case of *Mehtab Laiq Ahmed Shaikh and Anr. Vs. State of Maharashtra and Ors.*³. He submitted that as the provisions of the said Act of 2013 are incorporated in the provisions of the MRTP Act, even if the said Act of 2013 is repealed, still a recourse can be taken by the Planning Authority/ Appropriate Authority to clause (c) of sub-section (1) of section 126 read with section 125 of MRTP Act for acquiring a land required, reserved or designated for public purposes under a development plan sanctioned under the provisions of the MRTP Act.

6 The learned senior counsel appearing for the petitioners submitted that if the interpretation sought to be put by the learned

1 2011(3) SCC 1, (2011) 2 SCC (Civ.) 578

2 (2012) 13 SCC 281

3 (2017) 6 Mh.L.J. 408

Advocate General is accepted, sub-section (1) of 105-A incorporated in the said Act of 2013 by the Maharashtra Act No.XXXVII of 2018 will become redundant or meaningless. No interpretation which makes a provision of a statute redundant or meaningless can be accepted by the Court. He would, therefore, submit that now in the light of section 105-A of the said Act of 2013 by the State Legislature, there cannot be any acquisition under the provisions of the said Act of 2013 at the instance of any Planning Authority in respect of a land which is reserved in a sanctioned development plan by taking recourse to Section 126 of the MRTP Act.

7 We have given careful consideration to the submissions. Firstly, referring to the facts of the case, there is no dispute that within a period of one year specified under sub-section (7) of section 49 of the MRTP Act, the fifth respondent which is admittedly the Appropriate Authority within the meaning of MRTP Act made an application to acquire the said land which was reserved as required by section 126 of the MRTP Act. Section 126 of the MRTP Act reads thus :-

“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 be, any Appropriate Authority may, except as otherwise provided in section 113A acquire the land,-**
 - (a) by an 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 Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, 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 an application to the State Government for acquiring such land under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, 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 Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, 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 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in respect of the said land. The declaration so published shall, notwithstanding any thing 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 19, 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 Special 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 on the date of publication of the interim development plan, the draft development plan, or the plan for area or areas for comprehensive development, whichever is earlier, or as the case may be, the date of 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 in 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 Town Planning (Amendment) Act, 1993, the State Government may make a fresh declaration for acquiring the land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, 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.”**
(emphasis added)

8 Sub-section (1) thus confers power on a Planning Authority, a Development Authority or any Appropriate Authority, as the case may be, to acquire a land reserved for public purpose in a regional or development plan or a scheme under the MRTTP Act. The acquisition can be made by three modes as provided in clauses (a) to (c) of sub-section (1). Clause (c) is one of the three modes by which a Planning Authority or an Appropriate Authority can make an application to the State Government for acquiring such land under the provisions of the said Act

of 2013. Sub-section (2) provides that on receipt of such application, if the State Government is satisfied that the land specified in the application is needed for the public purpose specified therein, it may make a declaration to that effect in the official gazette in the manner provided under Section 19 of the said Act of 2013. There is a deeming fiction that when such a declaration so published shall, notwithstanding anything contained in the provisions of the said Act of 2013, be deemed to be a declaration made under Section 19 of the said Act of 2013. Sub-section (4) is an enabling provision which permits acquisition even in a case where the declaration under section 19 of the said Act of 2013 is not made within the time stipulated under sub-section (2) of section 126. Sub-section (4) also contemplates making of a declaration under the provisions of Section 19 of the said Act of 2013.

9 On this aspect, Section 125 of the MRTP Act is also relevant which reads thus :-

“125. Compulsory acquisition of land needed for purposes of Regional Plan, Development plan or town planning scheme, etc. - Any land required, reserved or designated in a Regional plan, Development plan or town planning scheme for a public purpose or purposes including plans for any area of comprehensive development or for any new town shall be deemed to be land needed for a public purpose within the meaning of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Provided that, the procedure specified in sections 4 to 15 (both inclusive) of the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act, 2013 shall not be applicable in respect of such lands.”
(emphasis added)

10 First part of section 125 is again a legal fiction by which it is provided that any land required or reserved in a regional plan or a development plan or a town planning scheme for public purpose or for the purposes of compressive development or a new town shall be deemed to be a land needed for a public purpose within the meaning of the said Act of 2013. Thus, in case of such a reserved or designated land in any regional plan or development plan or Town Planning Scheme, when acquisition proceedings are initiated by taking recourse to clause (c) of sub-section (1) of section 126, the acquisition proceedings under the said Act of 2013 commence from the stage of a declaration under section 19 of the said Act of 2013. The reason is that in such a case no inquiry is called for regarding the existence of a public purpose in view of the reservation provided in development plan/ regional plan.

11 Now, we come to section 105A of the said Act of 2013 incorporated by the Maharashtra Act No.XXXVII of 2018. Section 105-A reads thus :-

“105-A.(1) Subject to sub-section (2), the provisions of this Act shall not apply to acquisition of land under the enactments specified in the Fifth Schedule.

(2) The State Government may, by notification, within one year from the date of commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra Amendment) Act, 2018, direct that any of the provisions of this Act, relating to the determination

of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fifth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to the compensation, rehabilitation and resettlement as may be specified in the notification, as the case may be :

Provided that, no such notification shall be issued except on a resolution passed by both Houses of the State Legislature.”

(emphasis added)

12 By Section 105-A, even the Fifth Schedule is added to the said Act of 2013 which reads thus :-

“THE FIFTH SCHEDULE

(See section 105-A)

LIST OF MAHARASHTRA ENACTMENTS REGULATING LAND ACQUISITION IN THE STATE OF MAHARASHTRA

1. The Maharashtra Highways Act (LV of 1955).
2. The Maharashtra Industrial Development Act, 1961 (Mah. III of 1962).
3. The Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966).
4. The Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977).”

13 Before we come to the interpretation sought to be put to the Section 105-A, we must make a reference to Section 125 and Section 126 of the MRTP Act as it existed before the Maharashtra Act No.XLII of 2015 came into force. We find that an amendment was carried out to Section

125 by the Maharashtra Act No.XLII of 2015 for replacing the reference to the Land Acquisition Act, 1894 by the said Act of 2013. The proviso to Section 125 was not on the statute book which is added by the Maharashtra Act No.XLII of 2015. As far as Section 126 is concerned, an amendment was made by the said Act of XLII of 2015 for replacing the Land Acquisition Act, 1894 by the said Act of 2013. Therefore, in substance, Sections 125 and 126 have not undergone any major change by the Maharashtra Act No.XLII of 2015 except for the change of name of the law regarding compulsory acquisition. Perhaps, the amendment is made in view of the repeal of the Land Acquisition Act, 1894 by Section 114 of the said Act of 2013.

14 Thus, Sections 125 and 126 as it existed before the Maharashtra Act No.XLII of 2015 came into force already provided for an acquisition of any land required, reserved or designated for public purpose in a regional plan, development plan or town planning scheme under the MRTP Act by taking recourse to the provisions of the Land Acquisition Act, 1894.

15 The main question to be decided is whether the provisions of the said Act of 1894 or the said Act of 2013 have been included in the MRTP Act by a mere reference or citation of one statute into another or by incorporation. The difference between two concepts and the consequences thereof are well-settled which are laid down in various decisions of the Apex Court. For the sake of convenience, we refer only to one decision relied upon by the learned Advocate General in the case of *the State of Uttarakhand* (supra). Paragraph 19 of the said decision reads thus :-

“19. The law is, therefore, clear that a distinction has to be drawn between a mere reference or citation of one statute into another and incorporation. In the case of mere reference of citation, a modification, repeal or re-enactment of the statute that is referred will also have effect for the statute in which it is referred; **but in the latter case any change in the incorporated statute by way of amendment or repeal has no repercussion on the incorporating statute.**”

(emphasis added)

16 As stated earlier, Section 126 of the the MRTP Act provided for acquiring the lands by taking recourse to the provisions of the said Act of 1894 and now it provides for the acquisition by taking recourse to the said Act of 2013. As regards the provisions of Sections 125 and 126 as it existed before the Maharashtra Act No.XLII of 2015 came into force, the law is very well settled. The same settled law will apply to Sections 125 and 126 after its amendment by the said Act No.XLII of 2015. All the decisions on this aspect have been considered by the Full Bench of this Court in the case of *Mehtab Laiq Ahmed Shaikh and Anr.* (supra). The Full Bench extensively referred to what is held by the Constitution Bench of the Apex Court in the case of *Girnar Traders (3)* (supra). The said decision of the Apex Court unequivocally holds that the provisions of the said Act of 1894 come in the provisions of the MRTP Act by way of incorporation and not by way of reference. In fact, that is the precise finding recorded by the Apex Court while deciding the issue of the applicability of Section 11-A to the acquisition under Section 126 of the MRTP Act which was brought on the statute book by the said Land Acquisition (Amendment) Act of 1894. The Apex Court held that the provisions of Section 11-A

cannot be read into the provisions of the MRTTP Act. The Full Bench has also referred to a well-known decision of the Apex Court in the case of *Offshore Holdings Private Limited Vs. Bangalore Development Authority*⁴ which takes similar view as regards the provisions of Bangalore Development Authority Act. The Full Bench in paragraphs 40 to 42 held thus :-

“40. The Constitution Bench dealt with the aspect as to whether section 11-A could be read into in the MRTTP Act either on the principal of legislation by Reference or legislation by Incorporation. The Constitution Bench made it clear that having once held that the MRTTP Act is a Code in itself, the application of either of the doctrines that is the legislation by Reference and legislation by Incorporation would lose its significance, particularly when two Acts exist and operate without conflict. The Constitution Bench considered this aspect as an alternate submission to that effect was made. Section 8 of the General Clauses Act was also alluded to by the Bench. The Bench observed that both, the MRTTP Act and L.A. Act are codes within themselves. The State Legislature, while enacting the MRTTP Act referred to the specific sections of the L.A. Act in the provisions of the MRTTP Act. None of the sections require application of the provisions of the L.A. Act generally. On the contrary, there is a specific reference to certain sections of the L.A. Act in the provisions of the MRTTP Act. The Bench also observed that section 126(2) of the MRTTP Act refers to section 6 only for format and the acquisition proceedings commence by issuance of declaration under section 126(2). The amendment to section 127 of the MRTTP Act indicated a legislative intent to exclude application of section 11-A. **After a detailed analysis, the Apex Court held that it was a case of legislation by Incorporation and the reference to provision of the L.A. Act is**

4 . (2011) 3 SCC 139

specific as opposed to general. The Constitution Bench observed that it would lead to irresolvable conflict if a provision like section 11-A of L.A. Act to be read with MRTP Act.

41. Having held that L.A. Act was a case of legislation by incorporation in MRTP Act, the Constitution Bench in *Girnar (3)* then proceeded to analyse the doctrine of pith and substance and harmonious construction of the statutes. After a detailed analysis on that issue, the Bench observed that if doctrine of pith and substance is applied to the case in hand, it is clear that in substance the MRTP Act was for planned development, unlike the L.A. Act whose object to acquire the land and disburse compensation. The Bench further observed thus : It is more than clear that in substance the MRTP Act is aimed at planned development, unlike the L.A. Act where the object is to acquire land and disburse compensation in accordance with law. Only those provisions of the L.A. Act which apply to acquisition of land, determination and disbursement of compensation as per law, can be read into the MRTP Act, but of the provisions of the L.A. Act relating to default and consequences thereof, including lapsing of acquisition proceedings, cannot be read into the MRTP Act. It is for this reason that neither they have been specifically incorporated into MRTP Act nor they can be absorbed objectively into that statute. The bench categorically observed that if provisions such as section 11-A are read as part of the MRTP Act, they will destroy the very essence, object and purpose of this enactment.
42. In conclusion, the Constitution Bench answered the Reference in *Girnar (3)* thus :—
“191. *Having said so, now we proceed to record our answer to the proposition referred to the larger Bench as follows:*
“For the reasons stated in this judgment, we hold that the MRTP Act is a self-contained code. Further, we

hold that provisions introduced in the Land Acquisition Act, 1894 by Central Act 68 of 1984, limited to the extent of acquisition of land, payment of compensation and recourse to legal remedies provided under the said Act, can be read into an acquisition controlled by the provisions of Chapter VII of the MRTP Act but with a specific exception that the provisions of the Land Acquisition Act in so far as they provide different time frames and consequences of default thereof including lapsing of acquisition proceedings cannot be read into the MRTP Act. Section 11-A of the Land Acquisition Act being one of such provisions cannot be applied to the acquisitions under Chapter VII of the MRTP Act.”

(emphasis added)

17 As stated earlier, there is no significant change brought about in both sections 125 and 126 of the MRTP Act by the Maharashtra Act No.XLII of 2015 except for replacing the repealed Land Acquisition Act of 1894 by the said Act of 2013. Therefore, the legal position continues to be same. Hence, we have no hesitation in holding that the provisions of the said Act of 2013 found in the provisions of Sections 125 and 126 of the MRTP Act are by way of incorporation and not by way of a reference and that is why a modification, repeal or re-enactment of the said Act of 2013 will have no repercussions on the provisions of Sections 125 and 126 of the MRTP Act. Therefore, the enactment of sub-section (1) of section 105-A by Maharashtra Act No.XXXVII of 2018 will have no impact on the applicability of the said Act of 2013 to acquisition under the MRTP Act to the extent permitted by Sections 125 and 126 of the MRTP Act.

18 Lastly, we deal with the argument of the learned senior counsel appearing for the petitioners that if the aforesaid interpretation is

accepted, sub-section (2) of Section 105-A will become redundant. We do not agree with the said submission. All the provisions of the said Act of 2013 such as Sections 4 to 15 have not been incorporated under the MRTP Act and therefore, it is possible for the State by taking recourse to sub-section (2) of Section 105-A to apply the other provisions of the said Act of 2013 to the provisions of the MRTP Act. Moreover, sub-section 105-A is applicable not only to the MRTP Act but to three other enactments listed in the Fifth Schedule. Therefore, we do not agree that by accepting the aforesaid interpretation, by any manner, sub-section (2) of Section 105-A becomes redundant.

19 Now, coming back to the facts of the case, the petitioners are not interested in accepting TDR as a condition for surrendering the reserved land. It is not the case of the fifth respondent that the reserved land is not needed. In fact, it is contended that the Municipal Corporation needs the land but due to financial constraints, it is unable to take recourse to the said Act of 2013.

20 Considering the scheme of section 49 of the MRTP Act, now, the fifth respondent will have to take acquisition to its logical conclusion. In fact, substantial amount has been already deposited by the fifth respondent with the Special Land Acquisition Officer.

21 In view of applicability of the provisions of the said Act of 2013 by virtue of sections 125 and 126 of the MRTP Act, the acquisition will have to be commenced by making a declaration either under sub-

section (2) or sub-section (4) of section 126 in a manner provided under section 19 of the said Act of 2013. Accordingly, we dispose of the petition by passing the following order :-

ORDER

- (i) We direct the first and third respondents to take appropriate steps for issuing a declaration under sub-section (2) or sub-section (4) of section 126 of the MRTP Act in the manner provided under Section 19 of the said Act of 2015 in respect of the subject land as expeditiously as possible and in any event within a period of two months from the date on which this judgment and order is uploaded;
- (ii) We direct the first and third respondents to complete the entire process of acquisition by determination of compensation as expeditiously as possible and in any event within a period of one year from the date on which the declaration as aforesaid is published;
- (iii) In the meanwhile, it is open for the first, third and fifth respondents to consider whether the amount which is already deposited by way of compensation with the fifth respondent can be paid over to the petitioners to avoid burden of interest on the compensation;
- (iv) Rule is made absolute on above terms with no order as to costs.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)