

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

**WRIT PETITION (St.) NO. 21467 OF 2018
WITH
WRIT PETITION (St.) NO. 21468 OF 2018
WITH
WRIT PETITION (St.) NO. 21469 OF 2018
WITH
WRIT PETITION (St.) NO. 21470 OF 2018
WITH
WRIT PETITION (St.) NO. 21481 OF 2018
WITH
WRIT PETITION (St.) NO. 21496 OF 2018
WITH
WRIT PETITION (St.) NO. 21507 OF 2018**

Girish Shrichand Jani	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation		
through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21506 OF 2018
WITH
WRIT PETITION (St.) NO. 21509 OF 2018
WITH
WRIT PETITION (St.) NO. 21510 OF 2018
WITH
WRIT PETITION (St.) NO. 21557 OF 2018
WITH
WRIT PETITION (St.) NO. 21563 OF 2018
WITH
WRIT PETITION (St.) NO. 21564 OF 2018
WITH
WRIT PETITION (St.) NO. 21565 OF 2018
WITH
WRIT PETITION (St.) NO. 21566 OF 2018**

Rimple Khushal Dedhia	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21567 OF 2018
WITH
WRIT PETITION (St.) NO. 21579 OF 2018**

Himmatlal Champalal Mutha	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21568 OF 2018
WITH
WRIT PETITION (St.) NO. 21571 OF 2018
WITH
WRIT PETITION (St.) NO. 21595 OF 2018**

Rohit B. Katte	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21572 OF 2018
WITH
WRIT PETITION (St.) NO. 21586 OF 2018
WITH
WRIT PETITION (St.) NO. 21596 OF 2018**

Jalinder Ranu Magrukhane	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21581 OF 2018

Ranjana Priaji Pawar	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21732 OF 2018

Dinesh Prakash Ahuja	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21583 OF 2018

Dinesh Prakash Ahuja	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21584 OF 2018

WITH

WRIT PETITION (St.) NO. 21605 OF 2018

WITH

WRIT PETITION (St.) NO. 21621 OF 2018

WITH

WRIT PETITION (St.) NO. 21639 OF 2018

Bharat Jalindar Magrukhane	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21594 OF 2018

WITH

WRIT PETITION (St.) NO. 21664 OF 2018

WITH

WRIT PETITION (St.) NO. 21679 OF 2018

WITH

WRIT PETITION (St.) NO. 21740 OF 2018

Hitendra Ratanshi Shah	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21603 OF 2018

Dinesh Gopal Pawar	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21610 OF 2018

Samir Amrut Gandhi	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21611 OF 2018
WITH
WRIT PETITION (St.) NO. 21615 OF 2018**

Jayantilal Bhawanji Gada	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21613 OF 2018

Indrani Ramesh Goyal	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21614 OF 2018
WITH
WRIT PETITION (St.) NO. 21620 OF 2018
WITH
WRIT PETITION (St.) NO. 21623 OF 2018**

**WITH
WRIT PETITION (St.) NO. 21720 OF 2018
WITH
WRIT PETITION (St.) NO. 21767 OF 2018
WITH
WRIT PETITION (St.) NO. 21769 OF 2018**

Sushmatai Murlidhar Gadge	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21619 OF 2018

Pankaj Madhukar Kalekar	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21622 OF 2018

Ratanshi Hansraj Shah (Decd.) through LRs	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21646 OF 2018
WITH
WRIT PETITION (St.) NO. 21647 OF 2018
WITH
WRIT PETITION (St.) NO. 21719 OF 2018**

Chandrlal Arjundas Ahuja	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21659 OF 2018
WITH
WRIT PETITION (St.) NO. 21661 OF 2018
WITH
WRIT PETITION (St.) NO. 21671 OF 2018**

**WITH
WRIT PETITION (St.) NO. 21677 OF 2018
WITH
WRIT PETITION (St.) NO. 21696 OF 2018
WITH
WRIT PETITION (St.) NO. 21709 OF 2018
WITH
WRIT PETITION (St.) NO. 21711 OF 2018**

Manik Dhanraj Goyal	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21768 OF 2018

Kavita Raju Kandhari	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21681 OF 2018
WITH
WRIT PETITION (St.) NO. 21708 OF 2018**

Jagdish Hirji Shah	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21700 OF 2018
WITH
WRIT PETITION (St.) NO. 21702 OF 2018**

Jayaben Jayantilal Gada	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21712 OF 2018

Anjali Ashok Shah	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21714 OF 2018

Benkatlal Goverdhan Upadhye	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21715 OF 2018

WITH

WRIT PETITION (St.) NO. 21717 OF 2018

Khushal Ramesh Dedhia	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21722 OF 2018

Dhiren Jayantilal Gada	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21724 OF 2018

Mehboob Abdul Gani Choudhari	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21727 OF 2018

Mulchand Devji Shah (Decd) through
 LR Shri Amit M. Shah ... Petitioner
Versus
 The Solapur Municipal Corporation
 through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21741 OF 2018

Mukesh Arjundas Kandhari & Anr. ... Petitioners
Versus
 The Solapur Municipal Corporation
 through its Superintendent of Land & Estates ... Respondent

**WRIT PETITION (St.) NO. 21743 OF 2018
 WITH
 WRIT PETITION (St.) NO. 21733 OF 2018
 WITH
 WRIT PETITION (St.) NO. 21765 OF 2018**

Tara Pravin Shah ... Petitioner
Versus
 The Solapur Municipal Corporation
 through its Superintendent of Land & Estates ... Respondent

**WRIT PETITION (St.) NO. 21458 OF 2018
 WITH
 WRIT PETITION (St.) NO. 21459 OF 2018
 WITH
 WRIT PETITION (St.) NO. 21460 OF 2018
 WITH
 WRIT PETITION (St.) NO. 21461 OF 2018
 WITH
 WRIT PETITION (St.) NO. 21463 OF 2018
 WITH
 WRIT PETITION (St.) NO. 21464 OF 2018
 WITH
 WRIT PETITION (St.) NO. 21466 OF 2018**

Omprakash Dnyandev Barad	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21731 OF 2018
WITH
WRIT PETITION (St.) NO. 21750 OF 2018**

Kavita Shrichand Jani	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21734 OF 2018

Basavraj S. Chinchure	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21735 OF 2018
WITH
WRIT PETITION (St.) NO. 21738 OF 2018**

Vinod Ratanshi Shah	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

WRIT PETITION (St.) NO. 21736 OF 2018

Kanhaiyalal Mohandas Vadhariya	...	Petitioner
<i>Versus</i>		
The Solapur Municipal Corporation through its Superintendent of Land & Estates	...	Respondent

**WRIT PETITION (St.) NO. 21737 OF 2018
WITH
WRIT PETITION (St.) NO. 21753 OF 2018**

Sanjeev Tikamdas Nichani ... Petitioner
Versus
 The Solapur Municipal Corporation
 through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21739 OF 2018

Sanjay Rajgopal Upadhye ... Petitioner
Versus
 The Solapur Municipal Corporation
 through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21744 OF 2018

WITH

WRIT PETITION (St.) NO. 21754 OF 2018

WITH

WRIT PETITION (St.) NO. 21755 OF 2018

WITH

WRIT PETITION (St.) NO. 21759 OF 2018

Arjundas Mohandas Vadhariya ... Petitioner
Versus
 The Solapur Municipal Corporation
 through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21745 OF 2018

Manoharlal Haridasmal Talreja ... Petitioner
Versus
 The Solapur Municipal Corporation
 through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21749 OF 2018

Ramesh Ramchandra Vishnu ... Petitioner
Versus
 The Solapur Municipal Corporation
 through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21752 OF 2018

Sangita Sanjay Soni ... Petitioner
Versus
The Solapur Municipal Corporation
through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21757 OF 2018

Rohit Ramesh Vishnu ... Petitioner
Versus
The Solapur Municipal Corporation
through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21758 OF 2018

Sunil Rajgopal Upadhye ... Petitioner
Versus
The Solapur Municipal Corporation
through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21760 OF 2018

Manoj Parasmal Joshi ... Petitioner
Versus
The Solapur Municipal Corporation
through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21761 OF 2018

Jugalkishor Ratanlal Dargad ... Petitioner
Versus
The Solapur Municipal Corporation
through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21762 OF 2018

Raju Prahlad Mangtani ... Petitioner
Versus
The Solapur Municipal Corporation
through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21763 OF 2018

Sanjay Purshottam Kekade ... Petitioner
Versus
 The Solapur Municipal Corporation
 through its Superintendent of Land & Estates ... Respondent

WRIT PETITION (St.) NO. 21766 OF 2018

Laxmiben Mulchand Shah
 through POA Holder ... Petitioner
Versus
 The Solapur Municipal Corporation
 through its Superintendent of Land & Estates ... Respondent

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Mr.Akshay Petkar for the Petitioner in Writ Petition (St.) Nos. 21467 of 2018, 21468 of 2018, 21469 of 2018, 21470 of 2018, 21481 of 2018, 21496 of 2018, 21507 of 2018, 21594 of 2018, 21664 of 2018, 21679 of 2018, 21740 of 2018, 21659 of 2018, 21661 of 2018, 21671 of 2018, 21677 of 2018, 21696 of 2018, 21709 of 2018, 21711 of 2018, 21681 of 2018, 21708 of 2018, 21700 of 2018 and 21702 of 2018.

Mr. Balasaheb G. Ligade for the Petitioner in Writ petition (St.) Nos. 21506 of 2018, 21509 of 2018, 21510 of 2018, 21557 of 2018, 21563 of 2018, 21564 of 2018, 21565 of 2018, 21566 of 2018, 21567 of 2018, 21579 of 2018, 21568 of 2018, 21571 of 2018, 21595 of 2018, 21572 of 2018, 21586 of 2018, 21596 of 2018, 21581 of 2018, 21583 of 2018, 21741 of 2018, 21760 of 2018, 21761 of 2018, 21762 of 2018, 21763 of 2018 and 21766 of 2018.

Ms.Shivani S. Samel for the Petitioner in Writ Petition (St.) Nos. 21732 of 2018, 21584 of 2018, 21605 of 2018, 21621 of 2018, 21639 of 2018, 21603 of 2018, 21610 of 2018, 21611 of 2018, 21615 of 2018, 21613 of 2018, 21614 of 2018, 21620 of 2018, 21623 of 2018, 21720 of 2018, 21767 of 2018, 21769 of 2018, 21619 of 2018, 21622 of 2018, 21646 of 2018, 21647 of 2018, 21719 of 2018, 21768 of 2018, 21712 of 2018, 21714 of 2018, 21715 of 2018, 21717 of 2018, 21722 of 2018, 21724 of 2018 and 21727 of 2018.

Mr.Kaustubh Thipsay for the Petitioner in Writ Petition (St.) Nos. 21743 of 2018, 21733 of 2018, 21765 of 2015, 21458 of 2018, 21459 of 2018,

21460 of 2018, 21461 of 2018, 21463 of 2018, 21464 of 2018, 21466 of 2018, 21731 of 2018, 21750 of 2018, 21734 of 2018, 21735 of 2018, 21738 of 2018, 21736 of 2018, 21737 of 2018, 21753 of 2018, 21739 of 2018, 21744 of 2018, 21754 of 2018, 21755 of 2018, 21759 of 2018, 21745 of 2018, 21749 of 2018, 21752 of 2018, 21757 of 2018 and 21758 of 2018.

Mr. Vishwanath Patil for Respondent Nos. 1 to 4 in all Petitions.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **3rd AUGUST, 2018.**

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. By consent, all these Petitions are decided as per common order dated 31st July, 2018 passed in Writ Petition No. 8211 of 2018, as the same and identical issue involved in these Petitions and the respondent party i.e., Solapur Municipal Corporation is one and the same in all Petitions.
3. Rule. Rule made returnable forthwith. By consent of the parties, these Petitions are heard finally and disposed of at the stage of admission.
4. By invoking the Writ Jurisdiction of this Court under Article 227 of the Constitution of India these Petitions are filed wherein the common

order dated 17th July, 2018 passed by the learned Principal District Judge, Solapur below Exhibit 5 in their respective Misc. Appeals is challenged. The common order is passed by the learned Principal District Judge of the Appellate Court under Section 81-F (3) of the Maharashtra Municipal Corporations Act, 1949 (hereinafter referred to as “the said Act”) for stay of judgment and order dated 17th May, 2018 passed by the Deputy Commissioner, Solapur in exercise of power under Section 81-B and C of the said Act.

5. The petitioners are the occupants of a building, which was owned by the Municipal Corporation and was given to two persons viz. One Mr.Upadhyay and Mr. Joshi on a lease for a period of 50 years in the year 1967 till 2017. These two persons have constructed a commercial building with shops on the plot wherein the present petitioners are occupying their respective shops or commercial premises on a rental basis. The lease period was over on 19th December, 2017. The Municipal Corporation issued notice under Section 81B of the said Act for eviction of these petitioners on the ground that the lease period has come to an end. The proceedings after the said notice were placed before the Deputy Commissioner of the Municipal Corporation, who confirmed the eviction under Section 81B (4) of the said Act and the said order is challenged before the learned Principal District Judge, Solapur by all

these petitioners by filing various Appeals. The petitioners moved an application for stay of the order of the Deputy Commissioner. While allowing the application for stay, the learned Principal District Judge, Solapur has fixed the damages at the rate of Rs. 70/- per sq. ft. per month from the date of Appeal till its realization and also directed the petitioners to deposit Rs.21/- per sq. ft. per month for the land from 19th December, 2017 till the date of the Appeal. The order of payment at the rate of Rs. 21/- per sq. ft. is not challenged. However, being aggrieved by the order of depositing damages at the rate of Rs. 70/- per sq. ft., which is mentioned in the operative clause (1) (a) of the impugned order is a subject matter of these Petitions.

6. The learned Counsel for the petitioners has pointed out two reports of the Valuers. One report dated 12th April, 2018 is received from the Assistant Director of Town Planning wherein he has valued the damages for the first floor at the rate of Rs. 189/- per sq.ft and for the ground floor at the rate of Rs. 129.11 per sq. ft. Another report dated 14th May, 2018 is received from Mr. Pravin R.Shaha, who is government recognized Valuer and appointed by the present petitioners. As per his report, he has valued the premises at the rate of Rs. 12.45 /- per sq. ft. for the ground floor and the first floor. He has submitted that the order passed by the Appellate Court is perverse mainly on the two counts. Firstly, the

Appellate Court has wrongly held by its order that the commercial premises is owned by the Municipal Corporation though the commercial premises is admittedly not owned by the Municipal Corporation. Secondly, the Appellate Court has held that the petitioners have accepted and agreed to pay the rate as per ready reckoner as mentioned in the reply before the Deputy Commissioner of the Municipal Corporation, which is wrong. He has further submitted that the petitioners never agreed to pay the damages of the rent at the rate of ready reckoner, but they are ready to pay the damages valued as per Valuer Mr.Pravin R. Shaha. An amount of Rs.70/- per sq.ft., which is fixed by the Appellate Court is exorbitant and it is to be reduced.

7. The learned Counsel for respondent Nos.1 to 4 while supporting the order passed by the Appellate Court, has referred the order dated 17th May, 2018 passed by the Deputy Commissioner of the Municipal Corporation wherein in clause (c) he directed the petitioners to pay the damages at the rate of Rs.129/- per sq.ft till the date of filing of the actual possession of the suit. He has submitted that in fact, the Appeals filed by the petitioners are in the nature of money decree. However, the Appellate Court keeping in mind the rate of damages fixed by the Deputy Commissioner of the Municipal Corporation, has in fact reduced the said rate of damages to Rs.70/- per sq.ft., which is reasonable. He has further

pointed out that the Appeals filed by the petitioners were scheduled for final hearing on 11th July, 2018. However, in between, some other applications are moved and the Appeals are fixed for final hearing on 7th August, 2018.

8. While hearing these Petitions, the learned Counsel for the petitioners pointed out that two groups of the petitioners have filed two suits for specific performance of the clauses of the lease deed and declaration, which are pending before the learned Civil Judge, Senior Division, Solapur. A prayer was made to the learned Principal District Judge that the said suits are also to be brought before the Appellate Court and all the Appeals are to be clubbed, as the parties in both the proceedings are same and the issues involved are same and identical. The interpretation of clauses of the lease deed and the resolutions dated 13th December, 1967 and 29th December, 1967 is required.

9. The submissions of the learned Counsel for the petitioners are accepted to the extent that all these matters are entirely hinging on the issue of interpretation and these two resolutions and clauses in the lease deed. However, the issue of the interpretation on these clauses of lease deed and the resolutions passed by the Corporation therein is not within the scope of the Appeals, which are filed under Section 81F of the said

Act. In view of Section 81A, B and E of the said Act, I am of the view that the learned Principal District Judge of the Appellate Court while dealing with the issue of unauthorized occupation will have to take into account the resolutions and also the clauses of the lease deed whether the lease period is over or not. Writ Petition No.8055 of 2018 is filed by group of the petitioners challenging the order passed by the learned Principal District Judge, Solapur. The petitioners have moved an application under Section 24 of the Code of Civil Procedure requesting that two suits filed by them are to be clubbed alongwith the Appeals pending before the learned Principal District Judge. The Appellate Court has rightly rejected the said application. Therefore, these two suits need not to be clubbed with the Appeals. The learned Principal District Judge to proceed with the matter as scheduled by him and shall also consider interpretation of the clauses of the lease deed and two resolutions as mentioned herein}

10. On perusal of the reports of the two Valuers, it appears that there is a wide gap in the rates of damages fixed by two Valuers. The Appellate Court has also fixed the rate of damages at Rs.70/- per sq.ft. As a via media, in all practical purposes, I am of the view that the said rate of damages can be randomly reduced. To that extent, the order passed by the learned Principal District Judge, Solapur is modified as follows:

The rate of damages for the ground floor is fixed at Rs.50/- per sq.ft. per month and for the first floor, the rate of damages is fixed at Rs.40/- per sq.ft. per month. The petitioners to deposit the amount till 16th August 2018 with the respondent/Municipal Corporation, without prejudice to the rights of both the parties.

11. The learned Counsel for the petitioners has submitted that the petitioners have made an application before the learned Principal District Judge, Solapur for adducing evidence.

12. The learned Counsel for the petitioners may file similar application before the learned Principal District Judge, Solapur. If such application is filed, then the learned Principal District Judge may decide the same in accordance with law at the earliest.

13. In view of the above, Writ Petitions are disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)