

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 213 OF 2019

|                               |   |             |
|-------------------------------|---|-------------|
| Ramesh G. Karani and Ors.     | } | Petitioners |
| versus                        |   |             |
| Slum Rehabilitation Authority | } |             |
| and Ors.                      | } | Respondents |

WITH  
WRIT PETITION NO. 87 OF 2019  
WITH  
CHAMBER SUMMONS (L) NO. 31 OF 2018  
AND  
CHAMBER SUMMONS (L) NO. 291 OF 2018

|                               |   |             |
|-------------------------------|---|-------------|
| Harcharansingh Ghura          | } |             |
| and Ors.                      | } | Petitioners |
| versus                        |   |             |
| State of Maharashtra and Ors. | } | Respondents |

WITH  
WRIT PETITION NO. 102 OF 2019

|                               |   |             |
|-------------------------------|---|-------------|
| Tulsidas Nabhumal Khatri      | } |             |
| and Ors.                      | } | Petitioners |
| versus                        |   |             |
| Slum Rehabilitation Authority | } |             |
| and Ors.                      | } | Respondents |

WITH  
WRIT PETITION (L) NO. 549 OF 2019

|                          |   |             |
|--------------------------|---|-------------|
| Suresh Subbayya Shetty   | } |             |
| and Ors.                 | } | Petitioners |
| versus                   |   |             |
| The State of Maharashtra | } |             |
| and Ors.                 | } | Respondents |

**WITH  
WRIT PETITION (L) NO. 550 2019**

|                                 |   |                    |
|---------------------------------|---|--------------------|
| <b>Pandurang Janardan Nayak</b> | } |                    |
| <b>and Ors.</b>                 | } | <b>Petitioners</b> |
| <b>versus</b>                   |   |                    |
| <b>The State of Maharashtra</b> | } |                    |
| <b>and Anr.</b>                 | } | <b>Respondents</b> |

Mr.Anil V.Anturkar-Senior Advocate I/b. Mr.Altaf Khan for the petitioners in WP/213/2019.

Mr.Nitesh Acharya I/b. Mr.Nizam Tanveer M. Sharif for the petitioners in WP/87/2019.

Mr.Ashif Hussain for the petitioners in WP/201/2019.

Mr.Anand Mishra with Mr.Sushil Upadhyay and Mr.Manoj Nayar I/b. Mr.A.M.Saraogi for the petitioners in WPL Nos. 549/2019 and 550/2019.

Mr.S.P.Thorat for respondent no. 1(SRA) in WP/213/2019.

Mr.A.Y.Sakhare-Senior Advocate with Ms.Rupali Adhate for the Municipal Corporation of Greater Mumbai in all petitions.

Mr.Girish Utangale with Mr.Kunal Chheda and Mr.Chetan Mhatre I/b. M/s.Utangale and Co. for respondent no.2 (MHADA) in WP Nos. 213/2019 and 102/2019.

Mr.Hemant Haryan-AGP for State in WP/213/2019.

Mr.Sukanta Karmarkar-AGP for State in WP Nos.87/2019, 102/2019 and WPL/549/2019.

Mr.Amit Shastri-AGP for State in WPL/550/2019.

Mr.Ashish Kamat with Mr.Rashmin Khandekar, Mr.Prateek Pai and Mr.Shashwat Rai I/b.

M/s.Keystone Partners for respondent no.6 in WP Nos. 213/2019 and 102/2019.

Mr.Anoop Patil for respondent no.4 in WP/87/2019 and for respondent nos. 1 and 4 in WP/102/2019.

Mr.Anil Kshirsagar - Assistant Engineer, Maintainance M-West Ward present.

Mr.Sanjay Jadhav-Assistant Engineer, Development Plan present.

**CORAM :- S. C. DHARMADHIKARI &  
B. P. COLABAWALLA, JJ.**

**DATE :- APRIL 26, 2019**

**ORAL JUDGMENT :-** (Per S.C.Dharmadhikari, J.)

1. Rule. Respondents waive service. By consent, Rule is made returnable forthwith.
2. By these petitions under Article 226 of the Constitution of India, the petitioners are challenging the action of the Municipal Corporation in seeking to evict them. The petitioners are informed by the Municipal Corporation that firstly the demarcated line styled as regular line is of the year 1975. Throughout, it is evident from the Municipal Corporation's records that the regular line is determined by the Municipal Corporation way back in the year 1975. However, the road was not widened to the extent decided in the year 1975. Now it is decided to be laid upto the stipulated width in the documents of

1975. Hence, the petitioners should vacate their premises, which are affected by the road line. Else, they would be forcibly removed and at the cost, charges and expenses of the petitioners.

3. We take three writ petitions, which are identical, to be disposed of by this order. The arguments have been canvassed in Writ Petition No.213 of 2019. The facts in that are that there are eight petitioners, claim to be slum dwellers as well. They are hutment dwellers on land bearing CTS No.29(part), 28(part) and 1831(part) at village Chember, Taluka Kurla, Mumbai Suburban District.

4. The petitioners, in paragraph 1 of the petition claim to be the beneficiaries under a slum rehabilitation project approved by the Slum Rehabilitation Authority. However, as far as that aspect of the matter is concerned, the petitioners have fairly stated that though they claim certain benefits and particularly of inclusion of their structures and their names in the Slum Rehabilitation Scheme under implementation, that relief was not granted. That relief having been rejected by the statutory authority, a writ petition was brought in this court. That writ petition was also disposed of as withdrawn. Therefore, insofar as that relief is concerned, the present petition cannot survive.

5. Then, it is claimed that the petitioners have certain statutory and fundamental rights. It is claimed that the petitioners were informed by the Municipal Corporation officers that though they are permanent residents and their structures can be identified as that of protected occupiers, still, they would have to remove themselves. The Municipal Corporation has prepared a list styled as Annexure II which includes the names of the present petitioners. They are identified for eviction so that the Municipal Corporation lays the road. The petition, as is rightly criticised, does not contain the averments in relation to this aspect, but faintly attempts to state that the eviction notices have been served and the petitioners are sought to be evicted although there is no prescribed regular line of the street. In other words, unless such regular line of street is prescribed, there is no power in the Municipal Corporation to issue the eviction notices.

6. We may, in that regard, refer to the grounds which have been inserted after seeking leave to amend. The grounds are in respect of the widening of Ghatkopar Mahul Road. It is pertinent to note that in the road plan on both sides of the erstwhile proposed sub-way at the junction of Ghatkopar-Mahul Road and Santacruz Chembur Link Road, there is a deletion and subsequently, the sub-way portion was deleted. However, the

width of 122 feet remained. The petitioners are being called upon to shift themselves. Today, the regular line is required to be fixed as per the new development plan. Now, the petitioners are being informed that the width is 122 feet. Hence, it is not possible to push them back, but they would have to vacate the site is the understanding of the Municipal Corporation. It is that understanding, which, according to the petitioners, is contrary to the statutory provisions.

7. Mr.Anturkar learned senior counsel appearing for the petitioners submitted before us that the authorisation, contemplated by section 297(1)(b) of the Mumbai Municipal Corporation Act, 1888 (for short “the MMC Act”) and particularly the General Body, is lacking. The Resolution No.2193 dated 10<sup>th</sup> May, 1976 by the General Body specifically includes the portion of the road, namely, from Glass Factory to the junction of the 15<sup>th</sup> Road (Amar Mahal Junction to Sahkar Cinema Signal). The documents which have been produced by the Municipal Corporation with regard to this General Body Resolution are different than the copy of the Resolution, which is being used in the office of the General Body. Thus, the original Resolution and the one that is being asserted by the Municipal Corporation is distinct.

8. Alternatively and even if it is assumed that the authorisation contemplated by section 297(1)(b) is granted, still for the disputed portion of 30 feet i.e. part of the street, such authorisation given in 1976 cannot be permitted to be used in August, 2016. That is purported to be utilised after 40 years. It is thus not a live authorisation. This is contrary to the wording of section 297(1)(b) of the MMC Act.

9. Before canvassing these submissions, Mr.Anturkar concedes that the petitioners before this court are neither the owners of the land on which the shops are located, nor are they tenants. They are also not opposing the widening of the road. They concede that this is a public purpose. Finally, it is conceded that if the petitioners have to be rehabilitated, then, the rehabilitation package under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (hereinafter referred to as “the Slum Act”) cannot be extended to them. They can only take advantage, at best, of a scheme devised by the Municipal Corporation for rehabilitating these affected persons/structures. However, they cannot, while such package is extended to them by the Municipal Corporation, insist on in situ rehabilitation or rehabilitation within close vicinity of the existing premises or in the very suburb. They may have to move to some other area in this city.

10. Mr.Anturkar's next contention was that the Slum Act contains Chapters I-B and I-C. Once the petitioners are protected occupiers and have photo passes issued in their favour and are to be dealt with only by the authority under this Act, who is implementing a scheme, then, assuming that the present public purpose is undisputed by the petitioners, still, the competent authority to evict the petitioners would be the one designated under the Slum Act. Therefore, a list of affected occupants compiled by the Municipal Corporation can never be binding. That should be brushed aside by this court and this court should direct the authorities to proceed strictly in accordance with the Slum Act while rehabilitating the petitioners before us.

11. Then, the argument of Mr.Anturkar is based on the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the MRTP Act"). He submits that the same applies. In that regard, he says, on the part of the road where the petitioners' structures are situate, if the Municipal Corporation wants to increase the width of the Development Plan Road (DP Road) now to 122 feet, it must follow the procedure prescribed in the MRTP Act. Hence, section 37 of that Act would have to be invoked and applied before the eviction can be effected.

12. Finally, Mr.Anturkar submits that the petitioners are occupying a property. That property is a land as defined in section 2(p) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the Act of 2013”) and that land has to be acquired. If that is to be acquired by taking over the rights of the petitioners as occupiers, then, the Act of 2013 must be invoked and applied. If that is not applied, then, the subject eviction notices must fail.

13. Mr.Anturkar has brought to our notice, from a compilation tendered by him, several documents as also judgments of the Hon’ble Supreme Court and this court, to which we will make a reference at an appropriate stage.

14. In these writ petitions, we have an affidavit in reply, which is filed on behalf of the Municipal Corporation. This affidavit, in the first instance, clarifies to the court that it is erroneous to assume that regular road line was not prescribed. The regular road line of the street, as now asserted, is prescribed already. The assertion in that behalf is to be found in para 6 of the affidavit in reply, which is tendered in this court on 18<sup>th</sup> September, 2017. The deponent says as under:-

“6. I say that the original roadline for M.G.Road from Amar Mahal Junction has been drawn by the Executive Engineer (Traffic) of the MCGM way back in 1975. I crave

leave to refer and rely upon the relevant document as and when necessary. I say that the total station survey plan for the said road was prepared on 4/12/2014 in which the road line drawn in 1975 was taken into account and the contravening structures can clearly be seen in the said Survey Plan. Hereto annexed and marked as **Exhibit "A"** is the copy of the total station plan prepared by the MCGM based on the road line of 1975. I therefore state that the entire case of the Petitioners stating that the regular line/RL of the Ghatkopar-Mahul Marg has been arbitrarily increased on 1/8/2016 for the benefit of any person, is entirely false and concocted and is merely surmise of the Petitioners. As stated above the corporation can produce a range of documents to show that the road line was drawn in 1975 itself and therefore all allegations of malafides are totally misplaced and without any basis."

15. We have then a rejoinder affidavit, but prior to that, there is an additional affidavit which is filed by the fifth respondent-Municipal Corporation of Greater Mumbai. In that, the writ petition, as amended, is sought to be dealt with. In that as well, we find the same assertions. That affidavit is filed on 6<sup>th</sup> November, 2017.

16. The petitioners have filed an affidavit in rejoinder and they purport to deny all the allegations in the affidavit in reply and question the assertion of the Municipal Corporation that the road width was 122 feet and that was prescribed in 1976. Some of the petitioners have filed affidavit in rejoinder to the affidavit in reply tendered in this court by the Municipal Corporation on 16<sup>th</sup> April, 2019. The assertions are more or less common.

17. The petitioners in Writ Petition Nos. 87 of 2019 and 213 of 2019 have adopted the arguments of Mr.Anturkar.

18. There is another Writ Petition being Writ Petition No.549 of 2019. In that, the petitioner claims that his eviction may be on the same grounds. However, the premises cannot be demolished or he cannot be evicted as this is an expansion of the road. This is not a widening of the road, but the existing road is being extended. It is in these circumstances that somewhat different assertion is sought to be placed before the court. It is also stated that the premises of the petitioners are not situated on the road, but internal road commencing from the main road.

19. Mr.Sakhare learned senior counsel appearing for the Municipal Corporation would urge that the writ petitions have no merit. Each of the writ petitions are argued without any pleadings. There is no foundation laid for the assertions and particularly about the applicability of the Slum Act, the applicability of the MRTP Act and the applicability of the Act of 2013. Yet, there are answers to each of these arguments and in law.

20. Mr.Sakhare submitted that it is fallacious to suggest that the Municipal Corporation is utilising one document to give

information to the petitioners, whereas, in the records, there is a distinct document based on which it is claiming that the regular line is already prescribed. That argument has no basis because, throughout, the Municipal Corporation has complied with the provisions of law.

21. Our attention has been invited to the MMC Act by Mr.Sakhare. He would submit that section 297 of the MMC Act appears under sub-heading “Preservation of Regular Line in Public Streets”. Sub-section (1) gives power to prescribe a line on each side of any public street. Then, by clause (b) of sub-section (1) of section 297, the Commissioner may, from time to time, but subject in each case to his receiving the authority of the corporation in that behalf, prescribe a fresh line in substitution for any line so prescribed or for any part thereof provided that such authority shall not be accorded unless the conditions stipulated in sub-clauses (i) and (ii) of this clause are complied with. Mr. Sakhare submits that this would have no application for the simple reason that the Commissioner has already prescribed a line on each side of the public street. That has been done under proper authorisation way back in 1975-76. The fallacy in the argument of Mr.Anturkar, according to Mr.Sakhare, is that he assumes that now a fresh line is prescribed and that is why on

every occasion, the Commissioner must go back to the Municipal Corporation or the General Body or to the Improvement Committee and seek their authorisation. Such is not the case and therefore, the issue of sweep of this clause and the sub-clauses thereof need not be gone into. Mr.Sakhare states that once there is a line prescribed on each side of the public street, then, sub-section (3) of section 297 mandates that no person shall construct any portion of any building within the regular line of the street except with the written permission of the Commissioner, who shall, in every case in which he gives such permission, at the same time report his reasons in writing to the Standing Committee. Mr.Anturkar has conceded, according to Mr.Sakhare a very vital point, which denotes that none of the petitioners were at the site when this regular line was prescribed by the Commissioner. If they were not at the site at all, they would not know when the regular line was prescribed on either side and an attempt is allegedly made to prescribe a fresh line in substitution. Mr.Sakhare submits that it is fallacious to assume that the requirement of the MMC Act has not been complied with.

22. Then, Mr.Sakhare submits that given that section 297 operates independently of the MRTP Act or any proposals or designations in the development plan prepared in accordance

therewith, then, all the more the present petitions deserve to be rejected. Mr.Sakhare has brought to our notice the Development Control Regulations for Greater Mumbai, which, according to him, demonstrate and prove that once there is a DP Road, but that road is of a certain width or measurement, that does not mean that the regular line, as required to be prescribed by section 297 of the MMC Act, of a public street, cannot be prescribed. In fact, there is an obligation to prescribe such line of public street. The regular line as prescribed under Section 297 of the MMC Act can exceed the DP Plan Road width. Once the object and purpose is clear and the power is conferred in that behalf, then, the line on each side of any public street, as prescribed by the Commissioner, would prevail over the width of the DP Road as designated in the development plan. Once this position in law is understood, then, section 37 of the MRTP Act is not required to be invoked at all.

23. Even the Act of 2013 guaranteeing fair compensation also need not be invoked for there is no acquisition of the land. Mr.Sakhare submits that the land belongs to Maharashtra Housing and Area Development Authority (MHADA) or is granted to MHADA by the Government itself. What the petitioners are occupying is a structure thereon and which is also unauthorised and illegal. That is only protected by a policy of the State. For

such an occupation, therefore, there is no obligation to pay compensation.

24. Finally, he would submit that the argument of Mr.Anturkar, that Slum Act should be invoked, has no merit. That need not be invoked after the petitioners have given up their rights under the scheme implemented by the Slum Rehabilitation Authority. All the more, therefore, the writ petitions have no merit and should be dismissed.

25. With the assistance of the learned counsel appearing for the parties, we have perused the petitions and we have also perused the affidavits placed on record and we have carefully and minutely perused the original documents which have been placed for our perusal by the Municipal Corporation.

26. Firstly, we must indicate that the argument of Mr.Anturkar on the basis of applicability of the Act of 2013 or its predecessor legislation has absolutely no merit. There are no pleadings which would demonstrate that the petitioners have any right in the land or that their land having been acquired for public purpose, they must be compensated. We do not think that we must waste our time in dealing with this argument.

27. Equally meritless is the argument based on the applicability of the Slum Act. The petitioners may be the protected occupiers and may be beneficiaries of the Slum Rehabilitation Scheme because of their occupation before a cut-off date. Because that occupation is before a cut-off date, the Slum Rehabilitation Authority may or may not include such occupants in the scheme. If that scheme is being implemented by the authorities under that Act, then, the competent authority under that Act would have to pass an eviction order. If a person is neither a beneficiary nor is a likely beneficiary under a SRA scheme, then, the Slum Rehabilitation Authority can invoke the powers under the Act to evict him. The eviction notices in this case are not traceable to Slum Act. They are not traceable to section 33 of the Slum Act. They are traceable to a statutory power conferred in the Municipal Corporation under the MMC Act, 1888. Hence, the argument of Mr.Anturkar, based on the applicability of the Slum Act, has no merit.

28. We also do not find any merit in the argument of Mr.Anturkar on the applicability of section 37 of the MRTP Act. There is a plan styled as Development Plan. That plan has the contents as set out in section 22 of that law. If that law enables the authority to propose and obtain sanction to any minor modification or to effect a substantial modification to the

sanctioned development plan, then, that has to follow the rules prescribed under that law. No development plan is being modified in this case. There is nothing in the pleadings which would indicate that there was an existing DP Road and that road is either not required or that DP Road is to be deleted from the plan or the reservation or designation to that effect has to be modified. Hence, this argument also has no merit.

29. Finally, what remains for our consideration is whether there was at all a line prescribed on each side of the public street styled as regular line. We have, with the assistance, of Mr.Sakhare and being called upon by us of the Municipal Engineers, perused the original documents, including the plan depicting the road. The original plan itself indicates as to how there was an existing road line. That was prescribed by the Commissioner way back in the year 1976. That road line has never been questioned by anybody. Admittedly, the petitioners are not saying that this line was prescribed contrary to law. All that they are saying is, there is a fresh line in substitution of the earlier line and that has to follow the Rules. We have found from the original record that there is a stated width of the road. The width is set out and with adequate details from junction to junction and from point to point. The line of the road thus varies

except from Glass Factory to the junction of 15<sup>th</sup> Road where the width varies from 90 ft. to 122 ft. (27.40 M to 37.20 M). The relevant documents read as under:-

“No.CE/5519/ETC Of  
From : The Municipal Commissioner,  
To : The Municipal Secretary.

Sub : Revision of regular line along  
1) Ghatkopar Mahul Road between  
Mahatma Gandhi Road and Eastern  
Express Highway.  
2) Ramakrishna Chemburkar Marg  
between Corridor road and  
Eastern Express Highway

Ghatkopar Mahul road between Mahatma Gandhi Road and Eastern Express Highway and the other Ramakrishna Chemburkar Marg between Corridor road and Eastern Express Highway have sanctioned width of 21.34 mts. (70'-0") as per D.P. Due to the increase in traffic owing to the constant upward trend in its growth it is proposed to widen the above mentioned roads to 27.40 mts. (90'-0") in width except from Glass Factory to the Jn. of 15<sup>th</sup> Road where the width varies from 90'-0" to 122'-0" (27.40 M to 37.20M) as shown on accompanying plan.

Notices under section 297(1) (b) of Bombay Municipal Corporation Act were displayed on site and notification were published in approved local news papers and Government Gazette to invite objections, if any, from the residents of that locality.

In response to this, no objections were received from the residents of the locality within the stipulated period. However, one suggestion from Municipal Councillor Shri S. N. Acharya was received to change the proposed road line to save the cross near Maravali village entrance. As the cross falls on the proposed footpath and according to the letter of the Councillor, Villagers are ready to shift the same by few feet, it is not felt necessary to .....

Sanction of the Corporation is now requested under section 297(1) (b) of Bombay Municipal Corporation Act to prescribe the regular lines to 27.40 mts. (90'-0") width except from Glass Factory to the Jn. of 15<sup>th</sup> road where the width

varies from 90'-0" to 122'-0" (27.40M to 37.20M) as shown green on the accompanying plan No.EET & C (Subs)/(1) 128(A) (2) 128 (B) (3) 128 (C) (4) 128 (C-part) of 4-6-75.

Municipal Commissioner"

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"No.MS/2167/C  
MUNICIPAL CORPORATION OFFICE,  
BOMBAY 10-5-76

To : E.E.T. & C.

Ref : Your memo under No.CE/5992/Rds./VI, dated 18.3.1976

Sir,

*I have to inform you that at a meeting of the Municipal Corporation, held on 1.3.1976 the following Resolution was passed :-*

"Ref : (i) M.C.'s letter No.MCP 6236 (CE/5519/ETC) dated 29.7.1975 and (ii) W.C.(S) R.No.361, dated 3.9.1975.

"That sanction be given , under Section 297(1)(b) of the B.M.C.Act, to the regular line of (1) Ghatkopar Mahul Road between Mahatma Gandhi Road and Eastern Express Highway and (2) Ramakrishna Chemburkar Marg between Corridor Road at Eastern Express Highway being revised to 27.40 17.40 mts. (90'-0") width except from Glass Factory to the junction of 15<sup>th</sup> Road where the width varies from 90'-0" to 120'-0" (27.40 M to 37.20M) as shown green on the Plan No. EET end C (Suburbs) (1) 128A (2) 128(B) (3) 128(C) (4) 128(C-Part), dated 4.6.1975, received with the letter, as proposed."

(This is subject to confirmation of the Minutes of the Meeting by the Corporation).

For Municipal Secretary"

30. From one junction or one point to another, it could not get the regular width. The line was prescribed, but the width could not be achieved. That is why it is stated that the road must have a width of 90 feet to 122 feet. That is how the road is understood by

the parties. It is not as if the documents indicate that the road line was throughout to be of 90 feet only. Thus, the assertion of the petitioners is not consistent with what is set out in the original documents. We have not only perused the original plan, which was drawn up, but we have also perused the authorisation of the Improvement Committee and the proposals placed before the Improvement Committee and the General Body by the Commissioner. There is no discrepancy or inconsistency in any of these documents as urged by Mr. Anturkar nor is any attempt made to show that there is one plan disclosed to the petitioners while another is utilised by the Municipal Corporation. Throughout, the understanding appears to be that such a road has to be laid. That road could not have been laid in the year 1976 to achieve the necessary width or may not have been required at that time does not mean that the road cannot be widened in 2016. This is not a case of any stale or old prescription which has lost its efficacy. This is a case of a regular line prescribed on both sides of a public street. One must acknowledge the foresight of the Planners. The street can be widened depending upon the requirement. The prescription was always there. It is only the widening which has not been carried out at the relevant time, namely, 1976, but it is being done later on. There should be a prohibition in law and disabling the Municipal Corporation from

doing so. That is admittedly not there. In the above circumstances, the primary arguments of the petitioners have to fail.

31. The reliance by the petitioners on the judgments of this court as also of the Hon'ble Supreme Court do not carry their case any further. The Division Bench judgment in the case of *Shankara N. Shetty vs. State of Maharashtra*<sup>1</sup> relied upon by Mr. Anturkar, does not support his case. That Division Bench judgment, after inviting the attention of the parties to the relevant provisions in law, specifically says that the DP Road may be of a width and that designation with the width of the road is there in the development plan. However, the development proposals do not preclude the Municipal Corporation from resorting to its powers under the MMC Act. The observations in paragraph nos. 5, 6 and 7 in the judgment support our conclusions.

32. The judgment of the Hon'ble Supreme Court, in the case of *Manohar Joshi vs. State of Maharashtra and Ors.*<sup>2</sup> has absolutely no application for the simple reason that the same emphasises the importance of planning and to make every proposal or designation in the development plan meaningful and effective. It

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1 (2008) 1 MLJ 740

2 (2012) 3 SCC 619

is to carry the designation to its logical conclusion that various other provisions are enacted in the law. We do not see how this judgment can have any application. It is clearly distinguishable.

33. The reliance on the Hon'ble Supreme Court judgment in the case of *V.Subramaniam vs. Rajesh Raghuvandra Rao*<sup>3</sup>, which dealt with, rather struck down section 69(2A) of the Indian Partnership Act, 1932 is entirely misplaced. The Act was providing for disability. Once the right of the partner was sought to be crippled, the Hon'ble Supreme Court struck it down. To our mind, this judgment is not applicable to the present case.

34. As a result of the above discussion and finding that none of the petitions, other than those argued by Mr.Anturkar have any distinguishing features, we hold that all must fail. They are accordingly dismissed. Rule is discharged in each of these petitions. All interim orders are vacated forthwith. In the light of the disposal of the writ petitions, the chamber summonses/ applications, if any, do not survive and stand disposed of as such.

35. At this stage, Mr.Khan appearing for the petitioners in Writ Petition No.213 of 2019 prays for continuation of the ad-interim orders. This request is opposed by Mr.Sakhare, who submits that the road has to be widened to avoid heavy traffic congestion.

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3 (2009) 5 SCC 608

36. Having noted that larger public interest must prevail over every private or commercial interest and finding that the names of some of the petitioners have been compiled in a list prepared by the Municipal Corporation, which may be loosely termed as Annexure II, but which ensures a rehabilitation package or scheme to them, we decline to accede to the request of Mr.Khan. The request is refused.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)