IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6334 OF 2020

Shankar Patilba Satpute,
Age : 70 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar. … **Petitioner**

Versus

1. The State of Maharashtra,
   Through The Secretary,
   Revenue and Forest Department,
   Mantralaya, Mumbai - 32.

2. The Collector,
   Through The Deputy Collector,
   Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.5957 OF 2021

Vinayak Shivram Bhokanal,
Age : 53 years, Occu. Agril.,
R/o Akole, Tq. Akole,
District Ahmednagar. … **Petitioner**

Versus

1. The State of Maharashtra,
   Through The Secretary,
   Revenue and Forest Department,
   Mantralaya, Mumbai - 32.

2. The Collector,
   Through The Deputy Collector,
   Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

WRIT PETITION NO.5959 OF 2021

1. Govind Gangadhar Satpute,
Age : 61 years, Occu. Agril.,

2. Jagannath Gangadhar Satpute,
Age : 70 years, Occu. Agril.,

3. Trimbak Gangadhar Satpute,
Age 57 years, Occu. Agril.,

All R/o Sukewadi, Tq. Sangamner,
District Ahmednagar. ... **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through the Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

WRIT PETITION NO.5962 OF 2021

1. Suryabhan Nathu Pansare (Died)
Through Legal Heirs -

1-A] Rohidas S/o Suryabhan Pansare,
Age : 42 years, Occu. Agril.,

1-B] Sunil S/o Suryabhan Pansare,
Age : 38 years, Occu. Agril.,

1-C] Manisha W/o Rajendra Wakchaure,
Age : 34 years, Occu. Agril.,
R/o Pimpalgaon-Nipani,
Tq. Akole, District Ahmednagar.

1-D] Chandrakala W/o Sharad Bibve,
Age : 32 years, Occu. Agril.,
R/o Kalas (BK),
Tq. Akole, District Ahmednagar.

1-E] Kamal W/o Suryabhan Pansare,
Age : 70 years, Occu. Agril.,

2. Chandrabhan Nathu Pansare,
Age : 34 years, Occu. Agril.,

3. Sukhdev Nathu Pansare,
Age : 68 years, Occu. Agril.,

4. Arjun Nathu Pansare,
Age : 59 years, Occu. Agril.,

5. Balasaheb Nathu Pansare,
Age : 63 years, Occu. Agril.,

6. Latabai Bhima Pansare,
Age : 56 years, Occu. Agril.,

7. Devidas Bhima Pansare,
Age : 35 years, Occu. Agri.,

Petitioner No.1-A to 1-B, 1-E, 2 to 7 are
R/o Akole, Tq. Akole,
District Ahmednagar. … **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,

Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.5966 OF 2021

Pandharinath Revaji Pansare,
Age : 61 years, Occu. Agril.,
R/o. Akole, Tq. Akole,
District Ahmednagar. … **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through the Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.5969 OF 2021

Raghunath Sakharam Kute,
Age 67 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar. … **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through the Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

WRIT PETITION NO.5977 OF 2021

1. Bhagwat Daji Naikwadi,
Age : 65 years, Occu. Agril.,

2. Shobha Nivrutti Naikwadi (Died),
Through Legal Heirs -

2-A] Jalindar Nivrutti Naikwadi,
Age : 36 years, Occu. Agril.,

2-B]. Kiran Nivrutti Naikwadi,
Age 32 years, Occu. Agril.,

All R/o Akole, Tq. Akole,
District Ahmednagar. ... **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through the Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

WRIT PETITION NO.6027 OF 2021

Somnath Namdeo Shinde,
Age : 56 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar. … **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.6045 OF 2021

Sanjay Diwakar Pote,
Age : 54 years, Occu. Agril. and Service,
R/o Akole, Tq. Akole,
District Ahmednagar. … **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

WRIT PETITION NO.6064 OF 2021

1. Bacchav Sukhdeo Satpute,
Age : 64 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar.

2. Ambarnath Sukhdeo Satpute,
Age : 75 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar.

3. Shivaji Sukhdeo Satpute,
Age : 72 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar.

4. Dagadabai Hari Bhoknal,
Age : 64 years, Occu. Agril.,
R/o Mangalapur, Tq. Sangamner,
District Ahmednagar.

5. Sakhubai Baburao Mungase,
Age : 60 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar.

6. Yashodabai Karbhari Ghule,
Age : 50 years, Occu. Agril.,
R/o Pokhari Haveli, Tq. Sangamner,
District Ahmednagar.

7. Manda Shankar Chattar,
Age : 48 years, Occu. Agril.,
R/o Pokhari Haveli, Tq. Sangamner,
District Ahmednagar.

8. Vacchalabai Lahanu Bhagawat,
Age : 52 years, Occu. Agril.,
R/o Bhagawatwadi, Tq. Sangamner,
District Ahmednagar. … **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.6065 OF 2021

Macchindra Mahadu @ Madhav Shinde,
Age : 52 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar. … **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.6066 OF 2021

1. Janabai Sopan Dighe,
Age : 55 years, Occu. Agril.,

2. Ramnath Paraji Shinde,
Age : 63 years, Occu. Agril.,

R/o Sukewadi, Tq. Sangamner,
District Ahmednagar. … **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.6067 OF 2021

Maruti Nabaji Satpute,
Age : 61 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar. … **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,

Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

WRIT PETITION NO.6068 OF 2021

Kondiba Navasa Satpute,
Age : 75 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar. ... **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

WRIT PETITION NO.6069 OF 2021

1. Ramnath Shankar Gholap,
Age : 68 years, Occu. Agril.,

2. Nivrutti Ranu Gholap,
Age : 70 years, Occu. Agril.,

3. Eknath Namdev Gholap,
Age : 69 years, Occu. Agril.,

4. Laxman Vithoba Gholap,
Age 65 years, Occu. Agril.,

All R/o Akole, Tq. Akole,
District Ahmednagar. … **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.6133 OF 2021

1. Navnath Banshi Naikwadi,
Age : 35 years, Occu. Agril.,

2. Sonabai Banshi Naikwadi,
Age : 70 years, Occu. Agril.,

3. Pandurang Baban Naikwadi,
Age : 72 years, Occu. Agril.,

All R/o Akole, Tq. Akole,
District Ahmednagar. … **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

WRIT PETITION NO.6135 OF 2021

1. Arun Ganpat Naikwadi,
Age : 62 years, Occu. Agril.,

2. Kashinath Ganpat Naikwadi,
Age : 65 years, Occu. Agril.,

Both R/o Akole, Tq. Akole,
District Ahmednagar. ... **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

WRIT PETITION NO.6136 OF 2021

Sadashiv Laxman Tiwari,
Age : 79 years, Occu. Agril.,
R/o Tiwari Mala, By-pass road,
Sangamner, Tq. Sangamner,
District Ahmednagar. ... **Petitioner**

Versus

1. The State of Maharashtra,

Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.6137 OF 2021

1. Ramnath Shankar Gholap,
Age : 68 years, Occu. Agril.,

2. Nivrutti Ranu Gholap,
Age : 70 years, Occu. Agril.,

3. Eknath Namdev Gholap,
Age : 69 years, Occu. Agril.,

4. Laxman Vithoba Gholap,
Age : 65 years, Occu. Agril.,

5. Maruti Tukaram Gholap,
Age : 60 years, Occu. Agril.,

All R/o Akole, Tq. Akole,
District Ahmednagar. … **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

<u>WRIT PETITION NO.7262 OF 2021</u>

1. Bhaskar Vishram Shinde,
Age : 35 years, Occu. Agril.,

2. Dattu Vishram Shinde,
Age : 50 years, Occu. Agril.,

3. Mina Vishram Shinde @ Mina Sanjay Pawar,
Age : 40 years, Occu. Agril.,
R/o Nilwande, Tq. Sangamner,
District Ahmednagar.

4. Ashok Karbhari Satpute,
Age : 57 years, Occu. Agril.,

5. Satyabhama Vishram Shinde,
Age : 72 years, Occu. Agril.,

6. Ramnath Piraji Shinde,
Age : 62 years, Occu. Agril.,

7. Janabai Sopan Dighe,
Age : 55 years, Occu. Agril.,

8. Macchindra Mahadu @ Madhav Shinde,
Age : 50 years, Occu. Agril.,

Petitioner Nos.1, 2, 4 to 9 R/o Sukewadi,
Tq. Sangamner,
District Ahmednagar. ... **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,

Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.7263 OF 2021

Bajirao Umaji Satpute (Died)
Through Legal heirs -

1. Mandabai Bajirao Satpute,
Age : 57 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar.

2. Sunita Sanjay Patil,
Age : 37 years, Occu. Household,
R/o Ghulewadi, Tq. Sangamner,
District Ahmednagar.

3. Anita Sanjay Ghorpade,
Age : 39 years, Occu. Household,
R/o Sinnar, Tq. Sinnar,
District Nasik.

4. Savita Somnath Roham,
Age : 35 years, Occu. Household,
R/o Ghulewadi, Tq. Sangamner,
District Ahmednagar.

5. Bhagawat Bajirao Satpute,
Age 31 years, Occu. Household,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar. … **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.7264 OF 2021

Ramnath Bajirao Satpute (Died)
Through the legal heirs -

1. Kamal W/o Ramnath Satpute,
Age : 65 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar.

2. Ajit S/o Ramnath Satpute,
Age : 38 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar.

3. Rakhi Vinayak Nehe,
Age : 28 years, Occu. Agril.,
R/o Mhaisgaon, Tq. Rahuri,
District Ahmednagar.

4. Rina Ravindra Khatode,
Age 25 years, Occu. Agril.,
R/o Rajapur, Tq. Sangamner,
District. Ahmednagar. … **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,

Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.7265 OF 2021

Gorakshnath Vitthal Dhumal,
Age : 51 years, Occu. Agril.,
R/o Akole, Tq. Akole,
District Ahmednagar. … **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). … **Respondents**

WITH

WRIT PETITION NO.7266 OF 2021

Sahebrao Madhav @ Mahadu Shinde,
Age 60 years, Occu. Agril.,
R/o Sukewadi, Tq. Sangamner,
District Ahmednagar. … **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

<u>WRIT PETITION NO.7267 OF 2021</u>

Punjaram Bhikaji Naikwadi,
Age 70 years, Occu. Agril.,
R/o Akole, Tq. Akole,
District Ahmednagar. ... **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

<u>WRIT PETITION NO.7268 OF 2021</u>

1. Bhaskar Bhau Surase,
Age : 65 years, Occu. Agril.,

2. Trimbak Laxman Surase,
Age : 50 years, Occu. Agril.,

3. Sharad Laxman Surase,
Age : 47 years, Occu. Agril.,

4. Tarabai Laxman Surase,
Age : 72 years, Occu. Agril.,

All R/o Akole, Tq. Akole,
District Ahmednagar. ... **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

WRIT PETITION NO.7269 OF 2021

Ashok Karbhari Satpute,
Age 57 years, Occu. Agril.,
R/o Maldar Road, Sangamner, Tq. Sangamner,
District Ahmednagar. ... **Petitioner**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.13, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

WITH

<u>WRIT PETITION NO.7270 OF 2021</u>

1. Bhausaheb Baban Bhoknal,
Age : 42 years, Occu. Agril.,

2. Parwatibai Baban Bhoknal,
Age : 68 years, Occu. Agril.,

Both R/o Akole, Tq. Akole,
District Ahmednagar. ... **Petitioners**

Versus

1. The State of Maharashtra,
Through The Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.

2. The Collector,
Through The Deputy Collector,
Land Acquisition No.03, Ahmednagar.

3. The Executive Engineer - (Deleted). ... **Respondents**

...

Advocate for Petitioners : Mr. D. A. Bide.
Advocate (Appointed as Amicus Curiae) to Assist the Court :
Mr. S. V. Adwant.
AGP for Respondents-State : Mr. S. B. Yawalkar.

...

CORAM : RAVINDRA V. GHUGE AND
S. G. MEHARE, JJ.

RESERVED ON : 14.10.2021
PRONOUNCED ON : 16.12.2021

<u>JUDGMENT</u> ***<u>: (Per S. G. Mehare, J.)</u>*** ***:-***

1. Rule. Rule made returnable forthwith. With the consent of the learned advocates for the parties, heard finally.

2. The reference applications filed by the petitioners under Section 64 of The Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred to as '2013 Act') against the award passed by the Collector / Land Acquisition Officer (hereafter referred to as 'L.A.O.') for forwarding it to the Authority under 2013 Act, were rejected by the L.A.O. by communication dated 19.08 2019. The L.A.O. has given the reason that by notice dated 11.02.2019, the petitioners were called upon to pay the court fees on reference applications, but they had failed. Hence, their reference applications have been dismissed.

3. To appreciate the *lis* amongst the parties, it will be appropriate to briefly refer to the relevant facts for consideration as follows :

(a) By these petitions, the petitioners have impugned the communications mentioned above on the ground that as per Section 96 of 2013 Act, the court fees on the reference application to be forwarded by the Collector to the Authority under section 64 is exempted.

(b) In 2013 Act, the expression “Court” as was in the Land Acquisition Act, 1894, has been deleted. Section 63 of the 2013 Act bars the jurisdiction of the Civil Court.

(c) Under the new 2013 Act, the reference applications are be forwarded by the Collector/L.A.O. to the Rehabilitation and Resettlement Authority ('the Authority' for short) under section 64 of the 2013 Act. It is not a court. Hence, provisions of Maharashtra Court Fees Act are not applicable to the present cases.

(d) Since the land acquisition Act has been re-enacted the court fees chargeable on reference as provided in Schedule-I, Article 15 of the Maharashtra Court Fees Act would not apply to the reference applications under 2013 Act.

4. This Court, by it's order dated 20.08.2021, appointed learned advocate Mr. S.V. Adwant as an Amicus Curiae. He has submitted his short notes for consideration.

5. The learned advocates for the petitioners have submitted various case law in their support. They have the common arguments that, the court fee is exempted under section 96 of the 2013 Act. The Competent Authority Constituted/ appointed under the said Act is not a Court. Hence, the provisions of the Maharashtra Court Fees Act would not apply to the reference under section 64 of the 2013.

6. The learned A.G.P. Mr. Siddharth B. Yawalkar supporting the impugned communications argued that, the petitioners have wrongly interpreted section 96 of the 2013 Act. By that section, the court fees to be paid on the reference application is not exempted. It is a proceeding before the Authority. It has the powers of Civil Court. The proceeding before the Authority is as good as Civil suit. The parties have right to lead the evidence and prove the claims. Therefore, Maharashtra Court Fees Act is squarely applicable to the references made under

section 64 of the 2013 Act. He has submitted his written points for consideration.

7. The learned Amicus Curiae Mr. Adwant, submits that the designated Authority established under Section 51 of the 2013 Act is neither the Court nor a Tribunal under the General Clauses Act. The term "Court' must be read in the context in which it is used in the statute. In the instant case, the expression "Court" is to be read as comprehending the Courts of Civil Jurisdiction. Any Authority may have all the trappings of a Civil Court, yet, it continues to be an Authority and does not partake the character of a Civil Court. However, the term, "Authority" defined under the Act of 2013, has to be travel within the radius set out by the Act and not beyond it.

8. He further points out that Section 63 of the 2013 Act, bars the jurisdiction of the Civil Court to entertain any dispute relating to the Land Acquisition, which the Collector or the Competent Authority is empowered to entertain and decide as per the new Act. Therefore, the insistence of the State to pay Court Fees on the reference application under Section 64 of the 2013 Act is misplaced.

9. He added that Section 70 of the 2013 Act gives the status of decree to the award passed by the authority, that clearly implies that, it is provided and meant for execution of such award and does not indicate that the authority passing the award is a Civil Court.

10. He also pointed out that Section 96 of the 2013 Act exempts from the payment of Income-tax, Stamp-duty, fees and charges. Hence, it would be unreasonable to ask such applicants to pay the Court Fees on the reference applications.

11. The learned Amicus further submitted that, Section 108 of the 2013 Act provides for an option to the claimant to avail the better compensation, rehabilitation and resettlement, if it is available under the State Act and also to opt be governed by the State Act, instead of going under the Central Act. The significance of this provision lies in saying that the State Act can be more beneficial than the Central Government, but, in no case, it be derogatory to the latter legislation. It takes us to say, that, if the Central Act does not provide for payment of any

Court Fee, the State Act cannot provide for its imposition, which would be in utter derogation of the principal enactment.

12. The learned Amicus, comparing the various provisions of old Land Acquisition Act 1894 and the Act of 2013 would argue that a conjoint reading of Sections 51, 64 and 69 of the 2013 Act, leads to an inescapable inference that the Authority constituted under Section 51 is invested with the jurisdiction to decide the dispute relating to the compensation, determine whether the Collector has followed the parameters set out in Sections 26 to 30 and thereafter determine the compensation. In fact, if the provisions of Section 18 of the Act 1894 are compared and contrasted with provisions of Section 64 of the Act of 2013, which envisage reference to the Authority, the only additional feature for which the reference can be made to the Authority, is objection with regard to the right of rehabilitation and resettlement under Chapter V and VI of the Act of 2013. This additional investiture of power of disposition of disputes, however, does not dilute the primary character of the Authority to adjudicate the disputes as to compensation and determination of the compensation on a reference.

13. Referring to Sections 6 and 8 of the General Clauses Act, the learned Amicus has pointed out that minute reading of Section 8 will lead to the only conclusion that re-enacted land acquisition legislation gives a different intention and object therefore, the references will be of little help to the State and the edifice sought to be raised will fall flat. The repeal of 1894 Act is without prejudice to the general application of section of the General Clauses Act,1897. However, the principles under Section 6 of the General Clauses Act shall be applicable unless a contrary intention appears in any other provisions of the Act of 2013. He has added further that the award passed by the L.A.O. is nothing more than an offer of compensation. Hence, it does not partake the character of decree or order. The reference to an adjudicating body, be it a Court under Section 18 of the 1894 Act or Authority under Section 64 of the 2013 Act, is for adjudication of the just and fair compensation for the acquired land, in accordance with the provisions of relevant laws.

14. Then turning to the main issue of court fees involved in these petitions, the learned Amicus commented that, the 2013

Act reads that the acquisition shall be at the cost of the acquiring body, which clearly speaks in favour of exemption from the payment of court fee at least by the person whose land is acquired under the said Act. There is no provision under the 2013 Act corresponding to the Section 53 of the 1894 Act by which the provisions of Civil Procedure Code were made applicable to the proceedings in the nature of Land Reference Application. The referential proceedings are not in the form of Civil suit. A civil suit, by and large, is meant for vindication of the civil rights of the person as against its violation at the hands of another individual, although at time, it has to be filed against the State as well. Looking from any angle, such proceedings cannot be equated to a suit on which court fee is required to be paid.

15. The leaned Amicus, raised the point that, if a particular provision was covered in the earlier statute but has been dropped out in the later statute, it must be imputed that the legislature in its wisdom and application of mind, consciously, decided to omit, earlier provision. In view thereof, the same cannot be invoked and pressed into service partially, as is

suggested by the State. Deletion of the express provision in the Act of 1894, whereby the reference was to be made to a civil court and requiring a person to file a referent to the Authority through the Collector, under the Act of 2013, is a pointer to the legislative intention that such authority shall not be a court of law. Resultantly, the idea of payment of court fee also stands obliterated. Another salutary principle, which the State has to consider is that, what cannot be done directly cannot be done indirectly. The rule of law also contemplates that everything shall be done in accordance with law and within the four corners of law and not otherwise. The entire scheme of 2013 Act, will have to be taken in to account and considered while dealing with the issue at hand which does not postulate the payment of Court Fees while making a reference under section 64 of the 2013 Act.

16. The next limb of the submission of the learned Amicus is that the Court Fees Act 1870, was originally enacted as a "Central Act" and continues to be in force by virtue of provisions of Section 292 of the Government of India Act, 1935, and Article 372 of the Constitution, even after the

Constitution of India has come into force. As per Entry 3 of List II (State List) of the Seventh schedule of the Constitution of India, the court fees payable in all courts except the Supreme Court, is a State subject and only State Legislatures are competent to enact or amend any law Court fees payable in the High Courts and Courts subordinate thereto (Article 246 (3) of the Constitution of India) having jurisdiction in any State. He referred to the Court Fees Acts of the States of Assam, Bihar, Madhya Pradesh, Orissa, Punjab, Haryana and Uttar Pradesh, and submitted that in pursuance of the Constitutional mandate those States have amended the Court Fees Acts of their States.

17. The learned Amicus further takes us to the legal provisions that neither the Central Statute nor the State Acts have authorized the State to impose, levy and recover court fees on the reference made by a person interested, for enhancement of compensation under Section 64 of the Act of 2013 as said Act does not prescribe for it. The payment of court fees is a matter between the State and the suitor of the claim. The payment of Court Fees amounts to revenue for welfare of the public and society at large and prescribes the

mode of collecting the Court Fees. The Maharashtra Court Fees Act, as amended by Amending Act 24 of 2012, with effect from 01.05.1960, is a taxing statute and is subject to interpretation, therefore, we need to read the provisions of the Court Fees coherently and disjunctively. Such a reading would reveal that the proceedings taken up under Section 64 of the Act of 2013, is by way of an application to be given to the Collector, who would in turn refer the matter to the Authority, who shall deal with matter by considering the grounds on which the objection is raised to the award passed.

18. He also added that the reference application under Section 64 of the 2013 Act is not a document within the meaning of Section 5 of the Bombay Court Fees Act, 1959, as a result of which it is not amenable to payment of any court fee under the said Act. Neither Section 7 nor any other analogous provisions of the Maharashtra Court Fees Act, issues a mandate that a reference under Section 64 of the 2013 Act shall require to pay the equal or any amount of court fee. The reference application under Section 64 of the 2013 Act is as good as an application for payment mentioned in Section 20 (xiii) of the

Bombay Court Fees Act, which is exempted from payment of court fees. Hence, no court fees shall be charged on such reference applications. The reference application under the 2013 Act cannot be equated with the reference application under Section 18 of the 1894 Act.

19. Lastly, the learned Amicus pressed into service the rules of interpretation of law. He pressed that Plain meaning Rule, Purposive interpretation rule, and Mimansa rules of interpretation, and the rule of literal interpretation shall be applied.

20. On the basis of various provisions of law, the purpose and object of law, rules of interpretations, effect of repealing of the Act and re-enactment of the Law on Land Acquisition, the learned Amicus opined that no court fee shall be levied on the reference application under Section 64 of the 2013 Act.

21. Per Contra, the learned A.G.P. Mr. Siddharth Yawalkar for the State vehemently argued that Section 5 of the Maharashtra Court Fees Act requires to pay court fee on any document filed in the court, Section 7 further provides that court fee is

chargeable on the appeal against the award of compensation. Hence, the interpretation that Section 95 of the 2013 Act exempts the court fees on reference application is unacceptable. He also referred to Section 20 of the said Act, and pointed out that exemption in court fee is not granted to the application under Article 15 of Schedule I of the said Act. He further referred to Sections 36, and 40 of the Maharashtra Court Fees Act and various provisions of the 2013 Act along with Sections 6 and 8 of the General Clauses Act and argued that the wording used in Article 15 of the Maharashtra Court Fees Act is to be read as reference under Section 64 of the 2013 Act. He relied on few case laws those will be referred to at the relevant time. He prayed to dismiss the petitions.

22. The controversy that has arisen since the Act of 1894 is repealed and the Act of 2013 is re-enacted with various modifications and additions of provisions in the said Act. The moot question that has been raised in these petitions is that the 2013 Act does not provide for the payment of Court Fees on the reference application under Section 64 of the said Act. Hence, the petitioners in the absence of specific provisions

cannot be insisted to pay the Court Fees. The petitioners have heavily relied on Section 96 of the 2013 Act and claimed that it is a clear provision that exempt the petitioners from payment of court fees. In the light of the issues raised in the petitions, we would have to go through the various the provisions of Court Fees Act and the land Acquisitions Act.

23. Section 96 of the 2013 Act and Section 51 of the 1894 Act which are similar/identical are reproduced hereunder for ready reference.

> "**96. Exemption from income-tax, stamp duty and fees** — No income-tax or stamp duty shall be levied on any award or agreement made under this Act, except under section 46 and no person claiming under any such award or agreement shall be liable to pay any fee for a copy on the same."

> "**51. Exemption from stamp-duty and fees** — No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same."

24. Section 96 of the 2013 Act is the replica of the old Section 51 of the 1894 Act except addition of one word ‘income tax’. Be that as it may, the said section in the first part

provides that no income-tax and stamp duty shall be charged on the award or agreement and in the second part it provides that no person shall be liable to pay any fee for a copy of award or agreement made under the 2013 Act. The stamp-duty is exempted on any award and agreement.

25. We have to examine what is award and agreement under the 2013 Act to find out the correct answer to the question raised by the petitioners that in view of Section 96 of the 2013 Act, the court fees on reference is exempted. Simultaneously, we also need to examine what is reference under section 64 of the 2013 Act.

26. The term Award has not been defined in the 2013 Act. However, in Sections 23 and 25 in Chapter IV titled "Notification and Acquisition" and in Sections 69 and 70 in Chapter VIII titled "Establishment of Land Acquisition, Rehabilitation and Resettlement Authority", there is a reference of the term "Award". Under chapter IV, the Collector/ Land Acquisition Officer has to pass an Award. In Chapter VIII the Authority has to pass an award under Section 69 of the 2013 Act. An Award passed by the Authority under chapter VIII as

provided under Section 70(2) is a deemed decree and the statement of the grounds of every such award a judgment within the meaning of clause (2) and clause (9) respectively, of Section 2 of the Code of Civil Procedure, 1908 (5 of 1908). Every such award, which is a deemed decree, is executable. Section 60(2) of 2103 Act confers original jurisdiction to adjudicate upon every reference under Section 64 to the Authority. However, as provided under subsection 3 of Section 60 of the said Act, the Authority is not bound by the procedure laid down in the Code of Civil Procedure but shall be guided by the principles of natural justice and subject to the other provisions of the said Act and of any rules made thereunder, it shall have the power to regulate its own procedure. It is clear that while regulating its own procedure while determining the award the provisions of the Act of 2013 and Rules made thereunder shall be followed by the Authority. However, the Authority has limited powers as vested in a Civil Court under the Code of Civil Procedure as provided under Section 60(1) of the Act of 2013. The Authority determines the reference after the reference application is made to him by the Collector/ L.A.O. under Section 64 of 2013 Act or on the application made by the applicant on failure of the Collector to make a reference to him.

27. As against the above, the Collector / L.A.O. has to pass land acquisition Award after making an enquiry on the objections raised by the persons interested in the land to be acquired, the true area of the land and the compensation as determined under Section 27 of the 2013 Act. It has to pass an Award within a period of twelve months form the date of publication of the declaration under Section 19. The Collector shall adopt the criterion in assessing and determining the market value of the land, as provided under Section 26 and has to consider the parameters provided under Section 28 in determination of Award, in case the land is to be acquired at the cost of Local authority or Requiring body. In any such proceeding before the Collector or the Authority, the Local Authority or Requiring body concerned as provided under Section 95(2) may appear and adduce the evidence for the purpose of determining the amount of compensation. However, as per the proviso to the said section, no such Local Authority or Requiring Body shall be entitled to demand a reference to

the Authority concerned under Section 64. As soon as the Award is filed in the office of Collector it become final. It is the conclusive evidence of true area and market value of the land and assets attached thereto between the Collector and the person interested. After passing the Award the Collector has to tender payment of the compensation awarded by him to the persons interested as provided under Section 77. The law is settled that the award passed by the Collector is a mere offer to the person/s interested and not a judgment or a decree. We agree with this proposition of law with the learned Amicus.

28. The procedure for passing the Awards by the Collector and the Authority as discussed above made is clear that the reference to the Authority under Section 64 is not a continuation of the proceeding before the Collector. In reference to the Authority the applicants have to prove the grounds of objection taken on the Award passed by the Collector by leading the evidence. The Authority as provided under Section 69 has to consider whether the Collector has followed the parameters set out under Sections 26 to 30 and the provisions under Chapter V of the Act of 2013. This Section

gives the powers to the Authority to examine the Award passed by the Collector beside the burden of the applicant to prove his/her grounds of objections raised in the reference application.

29. Secondly the term ‘agreement made under this Act’ as find place in Section 96, such agreements are exempted from the payment of Stamp-duty. The landowner may by consent agree for the compensation for the lands acquired for the private companies or public private partnership as provided under Section 26(1)(c). In such a case there may be an agreement. Another written agreement may be there, whenever the occupation of waste or arable land appears necessary for the public purpose temporarily and the Collector offer him/her a compensation in a gross sum of money or by paying monthly or periodical basis.

30. On the basis of the words used in Section 96 of the 2013 Act as regards the exemption of Stamp duty and fee, the next point to be considered is that whether the Stamp-duty and the fee that is exempted under Section 96 and the expression “Court Fees” are the same concepts ?

31. The stamp-duty is levied under the Maharashtra Stamp Act. It is a taxing statue and fiscal measure to secure revenue for the State. The Stamp-duty is the State levy paid on instrument which includes every document by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded, but does not include a bill of exchange, cheque, promissory note, bill of lading, letter of credit, policy of insurance, transfer of share, debenture, proxy or receipt. The State has power to legislate on Stamp-duty under Entry 44, List III in Schedule VII of the Constitution of India.

32. The dictionary meaning of the term 'Fee' is a payment in return for services. The Court fee is a fee that is imposed on a litigant to contest a case in the court of Law. The Court fees is levied by the government on the people seeking judicial remedies through a legislation. We understand from the meaning of Reading these two terms as defined above together i.e. Stamp-duty and Fess, no one doubts that there is difference between the two. One is clearly a Tax and the latter is not strictly a tax. Article 366(28) of the Constitution defines

Taxation and Tax: “Taxation includes the imposition of any tax or impost, whether general or local or special, and 'tax' shall be construed accordingly”. The State may legislate the Court Fees under Entry 3 List II in Schedule VII of the Constitution of India.

33. The Hon’ble Apex Court while interpreting Entry 3, List II in Schedule VII of the Constitution of India, in the case of ***Government of Madras Vs. Zenith Lamp and Electrical Ltd. [AIR 1973 SC 724]*** has held that the fees taken in Courts cannot be equated with taxes and observed as under :

> "But even if the meaning is the same, what is ‘fees’ in a particular case depends on the subject-matter in relation to matter fee are imposed not in this case we are concerned with the administration of civil justice in a State. The fees must have relation to the administration of civil justice. While levying fees the appropriate legislature is competent to take into the account all relevant factors, the value of the subject matter of the dispute, the various steps necessary in the prosecution of a suit or matter, the entire cost of the upkeep of courts and officers administering civil justice, the vexatious nature of a certain type of litigation and other relevant matters. It is free to levy a small fee in some case, a large fee in others, subject of course to the provisions of Article 14. But one thing the Legislature is not competent to do, and that is to make litigants contribute to the increase of general public revenue. In other words, it cannot tax litigation, and make

litigations pay, say for road building or education or other beneficial schemes that a State may have. There must be a broad co-relationship with the fees collected and the cost of administration of justice."

34. Discussing the above case and various other cases the Hon'ble Apex Court, in ***Secretary to Government of Madras V. P.R. Sriramuln and another (1996) 1 SCC 345***, observed in paragraph No.14, which is extracted hereunder :

"14. Having regard to the decisions and various pronouncements cited above it is difficult to accept the reasoning and the view taken by the High Court in the impugned judgment. As discussed above if the essential character of the levy is that some special service is intended as quid pro quo to the class of citizens which is intended to be benefited by the service and a broad and general correlation between the amount so collected and the expenses incurred in providing the services is found to exist, then such levy would partake the character of "fee", irrespective of the fact that such special services for which the amount by levy of fee is collected incidentally and indirectly benefit the general public also. In order to establish the correlation between the amount recovered by way of "fee' and the expenses incurred in providing the services they should not be examined to minutely or be whipped in golden scale to discern any difference between the two. It is not necessary to ascertain the same with any mathematical exactitude for finding the correlation out the test would be satisfied if a broad and general correlation is found to exist and once such a broad correlation between the totality of the expenses on the services rendered as a whole, on the one hand and the totality of the amount so raised by way of the fee, on the other is established, it would be no part of the legitimate exercise in the examination of the constitutionality of the concept of the amongst to embark upon its effect in the individual cases. If the aforesaid relation is found to exist in the levy of the fee, the levy cannot be said to be wanting in its essential character of a fee on the ground that the measure of its distribution on the persons or incidence is disproportionate to the actual services made available to them……"

35. A clear law is laid down by the Hon'ble Apex Court in the above case that the Court fee levied by the State is not a tax, but it is a fee levied for a special service to the class of citizens i.e. litigants. It is a fee collected to expend on up keeping the Courts and the Officers administering the civil justice.

36. The difference between the Stamp-duty and the Court Fee can be understood well by reading and reproducing the relevant Entries in the Seventh Schedule of the Constitution of India.

Entry 3 List II reads as under :

"3. Officers and servants of the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court."

Entry 44 in List III reads as under :

> "44. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duties."

37. The Stamp Act relates to the stamps and rates of stamp duties other than those in respect of the document specified in entry 91 of List-I in the Seventh Schedule to the Constitution of India. As seen above, the Court Fee Act is the legislation relating to the administration of civil justice. First is the Taxing law and latter a payment in return for service. The Above articles of the Constitution further make the difference crystal clear in the two terms i.e. Stamp-duty and the Court Fees. The court fee is taken in all courts. The stamp duty is charged on the instruments other than the duties or fees collected by means of judicial stamps. The stamps are of two types. The Judicial Stamps and non-Judicial/General Stamps. The general stamps are affixed on the instrument to recover the tax as revenue. Section 46 of the Maharashtra Court Fees Act empowers the State Government either to reduce or remit the fees mentioned in the first and second schedule of the said Act. The State Government under the said section also has the

powers to cancel or vary the orders reducing and remitting the court fees.

38. We also have to consider whether the term "Fees" used in Section 96 of the 2013 Act is in the context of the court fees. Reading the said Section carefully it gives an answer that the Section is in two parts. First part states about the exemption of income tax and stamp duty and second part is about the exemption of the fees. The words in the second part reads :

> "… and no person claiming under any such award or agreement shall liable to pay any fee for a copy of the same."

39. The words are plain and unambiguous that the fee is exempted on the copy of award and agreements made and executed under the 2013 Act. 'Fee' is the charge paid for something. Something may be many things. The word 'Fee' is a noun. All nouns can be further classified as a proper or common noun. Various types of proper nouns are prefixed to the noun Fees. We may have some examples of fees, there may a tuition fee, admission fee, examination fee, annual fee, ATM card maintenance fee, doctor's and lawyer's advice fee, copying fee, registration of documents fee, entry fee, membership fee,

etc. The words used in the second part of the Section 96 of the 2013 if read meticulously, we find that the term 'fee' used therein is in the context of the fee on the copy of the award and agreement.

40. The concept of acquisition involves an element of permanency and finality involving a transfer of title. In other word, acquisition of land is a transfer of title. The consideration of the acquired land is by way of compensation. Every transfer of title of immovable property shall be made by conveyance. Conveyance as defined under section 2(g) of Maharashtra Stamp Act means a conveyance of sale, instrument, every decree or final order of any civil court. As discussed above every Conveyance as defined under section 2(g) of Maharashtra Stamp Act means a conveyance of sale, instrument, every decree or final order of any civil court. Every such conveyance valuing more than Rs.100/- is compulsorily registrable under Section 17 of the Registration Act. The Stamp-duty has to be paid on such conveyance as per Article 25 of Schedule I of the Maharashtra Stamp Act.

41. As discussed above every award passed under the 2013 Act is a deemed decree as provided under Section 70(2) of the said Act. The State of Maharashtra has amended the Registration Act 2010 wherein Section 89A has been inserted. As per the said amendment, every court passing, the decree or order creating, declaring, transferring limiting, or extinguishing any right, title or interest to or in immovable property, shall send a copy of such decree or order together with a memorandum describing the property to the registering officer within the local jurisdiction the whole or any part of the immovable property comprised in such decree or order is situate. The said provision is clear that every decree or order passed that creates or extinguishes the right in present or future shall be registered and stamp fee shall be charged.

42. The next question that is raised is the Authority under Section 64 of the 2013 Act is not the Court nor can be equated with the Court. Hence, the provisions of the Maharashtra Court Fees Act would not apply to the reference under Section 64 of the 2013 Act.

43. Section 51 of the 2013 Act specifically provides that for the purpose of speedy disposal of the dispute relating the land acquisition, the Authority shall be established by the appropriate Government. Appropriate Government as defined in Section 3(e) of 2013 Act, means in relation to acquisition of land situated within the territory of, a State, the State Government. In view of the powers conferred under Section 51 of the 2013 Act, the Government of Maharashtra has established the Authority. The appointments of the Presiding Officer and the Staff of the Authority shall be made by the State Government as provided under Sections 53 and 55 of the 2013 Act. The salaries and allowances and other service conditions of the officers and employees of the said Authority shall be as prescribed by the State Government as provided under Section 55(3) and the Salary and allowances and other conditions and terms of services of the presiding officer of the Authority shall be paid by the State Government as prescribed. In short, all the expenses to provide the services to the litigants through the Authority shall be borne by the State Government. The Authority established under Section 51 is created by statute conferring the powers to dispose of the disputes

relating to land acquisition, compensation, rehabilitation and resettlement. It has original jurisdiction to adjudicate upon every reference made to it under Section 64 of the 2013 Act as provided under Section 60(2) of the said Act. It is clear from the above provisions that the reference under Section 64 of the 2013 Act is a 'dispute' and that is to be adjudicated by the Authority. It has the same powers as are vested in the Civil Court under Code of Civil Procedure including to receive the evidence on affidavit and also to review its decisions, directions and orders. The appeal against the award passed by the Authority lies to the High Court under Section 74 of the 2013 Act. So, the Authority is subordinate to the High Court.

44. Section 7 of Maharashtra Court fees Act states that court fees be charged on the memorandum of appeal against an order under the acquisition of lands for public purpose. This provision is not disturbed anywhere in any act. If the award passed by the Authority under Section 69 of the 2013 Act is challenged before the High Court the party except the State has to pay the court fees as per the Maharashtra Court Fees

Act. The same litigant has to pay court fee in one court and no fee charged in another court. This may be anomaly.

45. In view of the points raised by the learned Amicus that the Act of 2013 reads that the acquisition shall be at the cost of acquiring authority, which clearly speaks in favour of exemption from the payment of court fee at least by the persons whose land is acquired under the said Act. There is no provision under 2013 Act corresponding to Section 53 of the 1894 Act by which the provisions of Code Procedure Code, is made applicable to the proceedings in the nature of the land reference application. The proceedings before the Authority under 2013 Act is not a suit. Hence, court fees shall not be paid on such reference. Neither Section 7 nor any analogous section of the Maharashtra court fees Act issues a mandate that a person applying for reference to the authority under section 64 of the 2013 Act shall require to pay any amount of court fee, therefore, it cannot be said and sustained that person applying for the reference under the 2013 Act must pay court fee. The State was exempted from the payment of court fee on the appeal preferred against the award of compensation for

acquisition of land. Therefore, inequality prevailing before the law has been removed by the new 2013 Act, bringing the individual at par with the State by dispensing with the necessity of payment of the Court-fee even by aggrieved individuals. We need to examine the relevant sections with its purpose.

46. Section 7 of the Maharashtra Court Fees Act, as discussed above states that the court fee is chargeable on the appeal memo preferred against an order determining compensation for the acquisition of the land. Section 5 the Court Fee Act, speaks of fees on documents filed, etc. in courts or in public offices. The kinds of the documents have been specified in Schedule-I and II of the said Act, which are chargeable with court fees and to be filed and preferred before the court and in public offices. In the first Schedule there is mention of plaint, memorandum of appeal, application, certificate, probate and also the application to the collector for reference under Section 18 of the land Acquisition Act 1894. It is provided in Section 65 of 2013 Act that, any person who does not accept the award passed by the Collector, may file an

application to the collector requesting him to refer the application the Authority.

47. The procedure in the 2013 and 1894 Act, so far as reference against the award of Collector is concerned, is the same. In the re-enacted 2013 Act, the provision is amended regarding the reference application to the Authority instead of the court as was in 1894 Act. Most of the provisions in the 2013 Act are similar except few changes in the words, or some additions. The procedure to determine the market price of the land is mostly intact except few changes. Considering the related provisions involved in this case, it may safely be said that the structure of the 1894 Act has not been totally changed by the 2013 Act. The Authority to decide the dispute as regards the compensation is established with sole object to expedite the reference. The powers of the Court have been conferred on the Authority as if it is a Special Court. A separate mechanism has been set up for quick disposal of the references made by the persons who want to claim a particular amount as market price for their properties acquired.

48. This expression ‘document’ in Section 5 shall be read in the context of the nature of petitions/applications referred to in the first schedule. The expression ‘documents’ used in Section 5 of the Court Fees Act are not restricted to be filed in the courts but it includes the documents to be filed or presented in the public offices also. The dictionary meaning of the term “Public Office” is a position of authority or service involving responsibility to the public, especially within the Government. The office that is created by the constitution or through legislation with authority conferred by the legislature indicates that an office is a public office. The Authority under the 2013 Act is created by statute by the legislation. Hence, it must be a public office covering the public office as expressed in section 5 of the court fees act.

49. The point is raised by the learned Amicus that Section 7 of the Court Fees Act is charging Section, however, neither Section 7 nor any analogous provisions of the Maharashtra Court Fees Act issues a mandate that a person applying for the reference to the authority under Section 64 of the 2013 Act shall be required to pay court fee.

50. We have gone through Section 7 of the Maharashtra Court Fees Act. Sub-section 1 of Section 7 is a specific provision under the said Act for the court fee to be paid on the memorandum of appeal against an order relating to compensation under any Act for the time being force for the acquisition of land for public purpose. Further it provides how to calculate the court fee. The term "under any Act for the time being in force" is of great significance to understand whose order relating to the compensation if challenged in the appeal shall be chargeable with court fee. Now the compensation dispute under reference by the individual is to be decided by the Authority established under Section 51 of the 2013 Act. The above term clearly covers the Authority under 2013 Act.

51. Section 6 of the Court Fees Act is to be looked into which speaks of certain kinds of the suits on which the court fee is payable. Section 6(i) pertains to the suit for money including suit for compensation. The provisions to make an application for the reference to be made to the collector under Section 65 of the 2013 Act and Section 18 of the 1894 are similar except adding one more ground of the rights of rehabilitation and

resettlement in 2013 Act. It provides that the reference application shall mention the grounds of objections against the award of the Collector. The grounds of objections also have been provided in the sections itself. The grounds are whether his objection is on the measurement of the land acquired, the amount of compensation, the person whom it is payable.

52. It is further pointed out by the learned Amicus that since the State has been exempted from the payment of court fees under Section 7 of the said act, the inequality prevailing before the law has been removed by the 2013 Act.

53. We must state here that the provision for charging the Court Fees was neither provided in the 1894 Act nor under 2013 Act. It is the State legislation. It is in cases where the State is the acquiring body, then the court fees is exempted. This Section was in the Court Fees Act even prior to the repeal of 1894 Act. We reiterate that most of the provisions of the 1894 Act are reproduced in 2013 Act. Instead of the Court the Authority has been established in 2013 Act. There is no explicit provision in either of the Land Acquisition Acts as regards to the Court Fees Act. The State in it's power has enacted the

Court Fees Act determining the nature of dispute for which the court fees shall be levied. Having regard to the relevant provisions of Court Fees Act, as discussed above, we are not impressed upon the preposition put forth by learned Amicus, that the 2013 Act has removed the inequality.

54. The pivotal point raised by the learned Amicus is that the principles under Section 6 of the General Clauses Act shall be applicable unless contrary intention appears in any other provisions of 2013 Act. He has referred to the case of ***Bansidhar Vs. State of Rajasthan (1989)2 SCC 557***. He urged that the Authority established in 2013 Act cannot be equated with the Court (Reference Court) as envisaged in 1894 Act.

55. Section 6 of the General Clauses Act states the effect of repeal. The Hon'ble Apex Court in ***State of Punjab Vs. Manohar Singh (1955) S.C.J. 25*** has observed that when the repeal is followed by fresh legislation on the same subject, Courts would undoubtedly have to look to the provisions of new Act but only for the purpose of determining whether they indicate a different intention. At the cost of repetition, we reiterate that the purpose behind establishing the Authority under Section 51

of 2013 Act is only the speedy disposal of the disputes relating to the land acquisition, compensation etc. as provided in the 2013 Act. Section 51 of the 2013 Act under which the Authority is established itself made the legislative intention explicit. Therefore, we do not find that the said section as regards to the Authority for the disposal of the disputes falling under the 2013 Act is enacted with different intention.

56. The next Section that the Amicus has referred to is Section 8 of the General Clauses Act. Referring the said Section, he would point out that the minute reading of this section will lead us to the only conclusion that re-enacted Land Acquisition legislation gives different intention. Therefore, the reference of 1894 Act in other Act cannot be construed as reference to the provisions of 2013 Act.

57. The Hon'ble Apex Court in ***State through S.P. New Delhi Vs. Ratan Lal Arora A.I.R. 2004 S.C. 2364*** has observed that the object of Section 8 of the General Clauses Act, obviously and patently made known is that where any Act or Regulation is repealed and re-enacted, reference in any other enactment to provisions of the repealed enactment must be read and

construed as references to the re-enacted new provisions, unless a different intention appears. The 1894 Act is repealed by 2013 Act under Section 114. In view of the provisions of Section 8 of the General clauses Act, where there are references of repealed Act in any other enactment or document, it shall be construed as references to the provisions so re-enacted. For example, The Factories Act of 1934 was repealed and re-enacted by the Act of 1948 and therefore by virtue of Section 8 of the General Clauses Act 1897 references in the Workmen's Compensation Act to the Act of 1934 must be construed as references to the Act of 1948. In Schedule I clause 15 of Maharashtra Court Fees Act, there is reference of the 1894 Act as relates to the reference to be made to the Collector under Section 18 of the said Act.

58. The re-enacted, 2013 Act, without making any change except the forum to whom the Collector shall make a reference on the application of the person interested kept the entire procedure same. In the old and re-enacted Act, the right to make a reference on refusing the award passed by the Collector is also maintained. Nothing contrary intention appears from

the 2013 Act as regards to the reference to Authority. Hence, we are of the opinion that merely changing the forum to decide the dispute as regards the compensation, that too established with express intention to have speedy disposal would not make the provisions of Maharashtra Court Fees Act inapplicable to the reference under Section 65 of 2013 Act.

59. It is also the submission of the learned Amicus that, the 2013 provides that the acquisition shall be at the cost of the acquiring body, that clearly speaks in favour of exemption from the payment of court fees at least by the person whose land is acquired under the said Act.

60. Section 95 of the 2013 Act is relevant to the point raised above. It states that where the provisions of 2013 Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Requiring Body, the charges of land incidental to such acquisition shall be defrayed from or by the Requiring Body. The section is very specific that the charges of land incidental to such Acquisition shall be defrayed from the fund controlled by local authority or by the Requiring Body. It does not speak

of the court fee that shall be paid by such local authority or Requiring Body. It simply says about the compensation amount and the administrative charges of the acquiring authority.

61. The last submission of the learned Amicus is that it would be atrocious on the part of the State to impose court fee in such matter when it is depriving a person of his property, source of livelihood, displacing him from domicile, uprooting from the point of his standing, transplanting his entire family to an unknown destination and throwing his future to uncertainty.

62. On charging the court fees in the State of Maharashtra and Gujarat on reference applications under Section 18 of the 1894 Act, the Hon'ble Apex Court in the case of ***Shri Ambya Kalya Mhatre through LRs Vs. The State of Maharashtra*** in ***Civil Appeal No.7784 of 2011 [Arising out of SLP [c] No. 20741 of 2009]*** decided on 12.09.2011 has suggested the government in the following words :

> *"In all other States, ad valorem court fee is payable only when an appeal is filed against the award of reference court, seeking higher compensation and not in regard to the applications for*

> *reference under section 18 of LA Act. Only in Maharashtra and Gujrat, the land loser, are required to pay half of the ad valorem court-fee while seeking reference to the civil court. Most of the land owners are agriculturist. For many of them, the only source of livelihood is taken away by the acquisition of their lands. Though, the Collector is expected to award compensation based on the market value, thereby forcing the land-losers to seek references to civil court. In such cases, the amount awarded by the Collector being comparatively small, the requirement to pay ad-valorem court-fee on the application causes irreparable hardship, forcing the land loser to seek a lesser increase that what is warranted. The State Government may therefore, consider giving appropriate relief to the land losers by providing nominal fixed court-fee, on the application for reference, instead of ad-valorem court fee."*

63. In *P. R. Shriramulu* (*supra*), the Hon'ble Apex Court observed in 15, that, "As pointed out earlier with reference to the decisions of this court the State enjoys the widest latitude where measure of economic regulations, are concerned. These measures for fiscal and economic regulation involve an evaluation of diverse and quite often conflicting economic criteria, adjustment and balancing of various conflicting special and an economic values and interests. It is for the state to decide what economic and social policy it should pursue. It is settled law that in view of the inherent complexity of the fiscal adjustment, the court give a large discretion to the legislature

in the matter of its preferences of economic and social policies and effectuate the chosen system in all possible and reasonable ways….”. In simple words it is the mandate of the law enumerated by the Hon’ble Apex court in the above case, that the courts should be slow in interfering in the economic or fiscal policy pursued by the State.

64. We have discussed above, the discretion and powers of the State to legislate on the court fees Section 46 of the Maharashtra Court Fees Act, specifically provides for the powers of the State to reduce and remit the court fees. Specific provision of such a nature is explicit that unless the State specifically exempt any type of suit or proceeding from the payment of court fee, the court fees for the reference under 2013 Act is leviable.

65. So far as the interpretation of the relevant sections of 2013 are is concerned, we do not find the ambiguity in any of the Sections of the said Act.

66. After having a detailed discussion on the provisions of 2013 and 1894 Act as regards to the reference to be made after

the award is passed by the Collector, we are of the opinion that the contention of the petitioners that court fee on reference application under Section 96 of 2013 Act is exempted, is incorrect. Hence, the interpretation of Section 96 of the 2013 Act made by the petitioners is liable to be discarded.

67. Before we part with the judgment, we appreciate and acknowledge the sincere efforts and assistance extended by the learned Amicus Curiae Mr. S.V. Adwant on the legal issue involved in these petitions.

68. For the reasons mentioned above, we do not find merit in the petitions. Hence, the petitions stand dismissed. Rule is discharged.

69. No orders as to costs.

(S. G. MEHARE, J.) **(RAVINDRA V. GHUGE, J.)**

…

vmk/-