

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

WRIT PETITION NO.11513 OF 2015

Vitthal Rama Pawar (Katkari) & Ors.

.. Petitioners

Versus

Deputy Collector (Acquisition)
Raigad-Alibag and Others

.. Respondents

WITH

UTKARSH
KAKASAHEB
BHALERAO

INTERIM APPLICATION (ST.) NO. 31804 OF 2022

WITH

INTERIM APPLICATION (ST.) NO. 31801 OF 2022

WITH

INTERIM APPLICATION (ST.) NO. 94718 OF 2020

IN

WRIT PETITION NO. 11513 OF 2015

Maruti Govind Pawar (Katkari) Decd. Thr.
Lhr Kashi Maruti Pawar

...Applicant

Versus

Deputy Collector (Acquisition) Raigad,
Alibaug & Ors.

...Respondents

WITH

WRIT PETITION NO. 3734 OF 2016

Shri. Vidhyadhar Janardan Joshi

...Petitioner

Versus

Deputy Collector (Acquisition) Raigad,
Alibaug & Ors.

...Respondents

WITH

CIVIL APPLICATION NO. 2632 OF 2018

IN

WRIT PETITION NO. 3734 OF 2016

Shri. Vidyadhar Janardan Joshi (Since Decd.)
Through Lrs.

...Applicant

Versus

The Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

WRIT PETITION NO.8862 OF 2015

Sunil Maruti Ghonge & Anr.

...Petitioners

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

WRIT PETITION NO. 8856 OF 2015

Avinash Haribhau Patil & Ors

...Petitioners

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

INTERIM APPLICATION (ST.) NO. 26503 OF 2022

IN

WRIT PETITION NO. 8856 OF 2015

Ramdas Ganpati Katkari

...Applicant

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

WRIT PETITION NO. 9889 OF 2015

Laxman Narayan Divekar & Ors.

...Petitioners

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

INTERIM APPLICATION (ST.) NO. 26495 OF 2022

IN

WRIT PETITION NO.9889 OF 2015

Shingya Nathu Katkari

...Applicant

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

INTERIM APPLICATION (ST.) NO. 942 OF 2021

IN

WRIT PETITION NO. 9889 OF 2015

Laxman Narayan Divekar Anr. Ors.

...Applicants

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

INTERIM APPLICATION (ST.) NO. 981 OF 2021

IN

WRIT PETITION NO. 9889 OF 2015

Chintaman Manohr Gaikawad

...Applicant

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH
WRIT PETITION NO. 9888 OF 2015

Baliram Lahu Bhaud & Ors ...Petitioners

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors ...Respondents

WITH
INTERIM APPLICATION NO. 4157 OF 2021
IN
WRIT PETITION NO. 9888 OF 2015

Parvati Zitu Bane ...Applicant

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors. ...Respondents

WITH
INTERIM APPLICATION (ST.) NO. 26496 OF 2022
IN
WRIT PETITION NO. 9888 OF 2015

Baliram Lahu Bhaud And Ors. ...Applicants

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors. ...Respondents

WITH
INTERIM APPLICATION (ST.) NO. 26489 OF 2022
IN
WRIT PETITION NO. 9888 OF 2015

Haribhau Vitthal Khandekar ...Applicant

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors. ...Respondents

WITH
INTERIM APPLICATION (ST.) NO. 26485 OF 2022
IN
WRIT PETITION NO. 9888 OF 2015

Gangubai Bhagwan Patil ...Applicant

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors. ...Respondents

WITH
INTERIM APPLICATION (ST.) NO. 26476 OF 2022
IN
WRIT PETITION NO. 9888 OF 2015

Pandurang Khandu Patil ...Applicant

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

WRIT PETITION NO. 9887 of 2015

Bharat Dagadu Kadam & Ors.

...Petitioners

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

INTERIM APPLICATION NO. 2016 OF 2023

WITH

INTERIM APPLICATION NO. 2015 OF 2023

IN

WRIT PETITION NO. 9887 OF 2015

Taramati Krishna Patil Deceased Through LHRS ...Applicants

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

WRIT PETITION NO. 9883 OF 2015

Madhukar Ragho Hadage & Ors

...Petitioners

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

INTERIM APPLICATION (ST.) NO. 18359 OF 2023

IN

WRIT PETITION NO. 9883 OF 2015

Rakesh Maruti Chorge And Ors.

...Applicants

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

CIVIL APPLICATION NO. 966 OF 2016

IN

WRIT PETITION NO. 9883 OF 2015

Parshuram Tulsiram Kadam

...Applicant

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

WRIT PETITION NO. 9885 OF 2015

Vasant Gotiram Gudekar & Ors.

...Petitioners

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

INTERIM APPLICATION (ST.) NO. 26486 OF 2022

IN

WRIT PETITION NO. 9885 OF 2015

Santosh Janu Shigvan

...Applicant

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH

WRIT PETITION NO. 9884 OF 2015

Mohan Govind Patil & Ors.

...Petitioners

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors.

...Respondents

WITH
WRIT PETITION NO. 9886 OF 2015

Vasant Gotiram Gudekar & Ors. ...Petitioners

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors. ...Respondents

WITH
WRIT PETITION NO. 11515 OF 2015

Sunil Ambaji Sakpal ...Petitioner

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors. ...Respondents

WITH
WRIT PETITION NO.11138 OF 2015

Yogesh Balkrishna Dhamale & Ors ...Petitioners

Versus

Deputy Collector (Acquisition)
Raigad, Alibaug & Ors ...Respondents

Mr. Shriram Kulkarni, Advocate for the Petitioners/
Applicants in all WPs & IAs. (except WP/3734/2016 &
CAW/2632/2018).

Mr. Sachin Chavan, Advocate for the Petitioner in
WP/3734/2016 and for the Applicant in CAW/2632/2018.

Ms. M. S. Bane, AGP for State-Respondent No.1 to 4.

**CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.**

RESERVED ON : 29th August, 2023

PRONOUNCED ON: 11th January, 2024

JUDGMENT [PER B. P. COLABAWALLA, J.]:-

1. Rule in all the above Writ Petitions. The Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. All the above Writ Petitions have been filed raising the same question of law, namely, (i) in acquisition proceedings, whether an Award can be passed without applying the multiplier factor as specified in the 1st schedule of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* (for

short '**the 2013 Act**'); (ii) whether the notification issued under the 2nd entry of the 1st schedule of the 2013 Act [specifying the multiplier factor], read with Section 26(2) thereof, is mandatory before making an Award; and (iii) where acquisition proceedings have been initiated under the Land Acquisition Act, 1894 (for short '**the 1894 Act**') and no Award under Section 11 thereof is passed, then after the coming into force of the 2013 Act, within how much time the Award has to be passed. These are the three basic core questions to be decided in the above Writ Petitions. It is agreed between the parties that the facts in all the cases are more or less the same, and a decision in one Writ Petition will cover all the others. Since the facts in Writ Petition No.11513 of 2015 have been referred to by the counsel for the respective parties, we shall refer to the facts and the prayers in the said Writ Petition.

3. Writ Petition No.11513 of 2015 is filed *inter alia* seeking to quash and set aside the entire acquisition proceedings in relation to the lands more particularly described in Exhibit '**A**' & '**A1**' of the Petition as well as the Award passed in relation thereto (Exhibit '**B**' to the Petition). By an amendment carried out to the above Petition, (a) a declaration is sought that no Award under Section 26(1) of the 2013 Act can be made unless the market value of the land is multiplied by a factor as specified

in the 1st Schedule of the 2013 Act; and (b) for a further declaration that the period of limitation of 12 months prescribed under Section 25 of the 2013 Act has expired and hence the entire acquisition proceedings have lapsed.

4. Before we embark upon the journey of deciding the questions of law raised in the Petition, it would be necessary to advert to some brief facts. On 31st December 2011, the State Government published a notification under Section 4 of the 1894 Act notifying several lands in village Nidhavali, for acquisition of the Balganga River Dam Project. After objections were raised under Section 5A of the 1894 Act, on 19th December 2012, 25th January 2013, 26th January 2013, and 25th March 2013 Section 6 declarations were published in the Official Gazette as well as in the local newspaper. However, before the Award could be passed, in the interregnum, on 1st January 2014, the 2013 Act came into force. In other words, on the date when the 2013 Act came into force no Award was made/passed. It is the case of the Petitioner that it is for this reason that the present case falls under Section 24(1)(a) of the 2013 Act and the provisions of the 2013 Act relating to the determination of the compensation, would apply.

5. Be that as it may, on 19th March 2014, the State Government, in exercise of powers under Section 26(2) of the 2013 Act read with the 1st Schedule, issued a notification stipulating that when the land to be acquired is situated in rural areas, the market value of the land shall be calculated by the Collector [as per Section 26(1)] by applying the multiplier factor of 1.00. This notification was challenged in Writ Petition No.4274 of 2014 before the Aurangabad Bench of this Court. This Writ Petition was filed on 15th May 2014. On 26th May 2014 the Vacation Court at the Aurangabad Bench passed an ad-interim order staying the operation of the said notification which continued from time to time. Thereafter, a fresh notification dated 13th August 2014 was issued by the State Government stipulating that the multiplier factor for lands in rural areas would be 1.10. Accordingly, on 23rd September 2014 the Division Bench at Aurangabad permitted the Petitioners in Writ Petition No.4274 of 2014 to amend the Petition to challenge the fresh notification dated 13th August 2014 whereby the multiplier factor of 1.10 was prescribed by the State Government as required under the 1st Schedule of the 2013 Act. The said Division Bench at Aurangabad refused to grant any stay of the notification dated 13th August 2014 restraining the State from passing any Award. It however clarified that the same would be subject to the outcome of the Writ Petition. Finally,

Writ Petition No.4274 of 2014 was heard and reserved for Judgment on 9th December 2014. The judgment was finally pronounced on 9th March 2015 when the Division Bench struck down the notifications dated 19th March 2014 and 13th August 2014 respectively. At the request of the State, a portion of the said Judgment was stayed for a period of 2 months. Despite this the State did not challenge the order and judgment of the Division Bench of the Aurangabad Bench dated 9th March 2015 [striking down the notifications dated 19th March 2014 and 13th August 2014] and proceeded to pass the impugned Award on 6th May 2015 (i.e. during the period of the stay). It is being aggrieved by this Award and the fact that the same has been passed by applying the multiplier factor of 1.10 as per the notification dated 13th August 2014, and which has been set aside/struck down by the Division Bench at Aurangabad, the above Petition has been filed.

6. In this factual backdrop, Mr. Kulkarni, the learned counsel appearing on behalf of the Petitioners, submitted that Parliament has repealed the 1894 Act and brought into effect the 2013 Act w.e.f. 1st January 2014. He submitted that Section 24(1)(a) of the 2013 Act contemplates that where no Award under Section 11 of the 1894 Act has been passed, then all the provisions of the 2013 Act relating to the

determination of compensation shall apply. He submitted that Section 26 of the 2013 Act contemplates determination of market value. The criteria to be adopted by the Collector for determining the market value is set out in Section 26(1), and Section 26(2) contemplates that the market value calculated as per Section 26(1) shall be multiplied by a factor to be specified in the 1st Schedule. He thereafter submitted that 1st Schedule contemplates the components to be computed for the minimum compensation package to be given to the person interested. Entry 1 of the 1st Schedule contemplates that market value of the land shall be decided under Section 26(1). Entry 2 contemplates the factor by which the market value is to be multiplied in case of rural areas. Column 3 of Entry 2 stipulates that the Appropriate Government is required to issue a notification providing a multiplier factor of 1.00 to 2.00 based on the distance of the project from the urban area. He thereafter pointed out that Section 27 of the 2013 Act stipulates that after determining the market value, the Collector is further required to calculate the total amount of compensation to be paid to the landowner (whose land has been acquired) by including all assets attached to the land. Section 30(1), according to Mr. Kulkarni, thereafter, stipulates that the Collector shall determine the "Solatium" amount equivalent to one hundred percent of the compensation amount. Mr. Kulkarni therefore submitted

that in cases where acquisition proceedings have been initiated under the 1894 Act but where no Award is passed, then, all provisions of the 2013 Act relating to the determination of compensation would apply. He submitted that this would be by determining the compensation [payable to the landowner] by resorting to the provisions of Sections 26 to 30 of the 2013 Act. Mr. Kulkarni submitted that once this is the case, before any Award could be passed and compensation was determined, the provisions of Section 26 to 30 of the 2013 Act ought to have been scrupulously followed.

7. Mr. Kulkarni submitted that in the facts of the present case, it is not in dispute that whilst determining the compensation (by the impugned Award) the concerned authority [Respondent No.1] has in fact applied the provisions of Section 26 to 30 of the 2013 Act. He however submitted that whilst determining the compensation, Respondent No.1 has calculated the same by relying upon the notification dated 13th August 2014 issued under the Entry 2 of the 1st Schedule of the 2013 Act [applying the multiplier factor of 1.10], and which was set aside by this Court (in Writ Petition No.4274 of 2014), on 9th March 2015. He submitted that once this is the case, then the Award cannot stand. This is for the simple reason that before determining the

final compensation payable, it is mandatory to apply the multiplier factor, and which has to be notified by the Appropriate Government. Mr. Kulkarni submitted that in the facts of the present case the Award was passed by applying the multiplier factor stipulated in the notification dated 13th August 2014. However, this notification was struck down by this Court on 9th March 2015. Once this notification was struck down, Respondent No.1 could not pass an Award on 6th May 2015 applying the multiplier factor of 1.10 as stipulated in the notification dated 13th August 2014. This is for the simple reason that when the Award was passed, the said notification was already struck down/set aside by this Court. Merely because that order was stayed for a period of 2 months by the very same Bench to enable the State to challenge this order before a superior forum, would make no difference. He submitted that the said order was ultimately not challenged and accepted by the State. Once this is the case, then, clearly the Award has to go on the expiry of the stay because the compensation determined therein is admittedly based on a notification which is struck down by this Court. In other words, the argument of Mr. Kulkarni was that if the foundation goes, the super structure has to crumble and cannot stand. He therefore submitted that on this ground alone all the impugned Awards ought to

be set aside and the State authorities be directed to determine the compensation afresh in accordance with law.

8. On the other hand, Ms. Bane, the learned AGP, submitted that while it is true that the said notification dated 13th August 2014 was challenged in the Writ Petition No.4274 of 2014, the same was not stayed by the Aurangabad Bench and the State was allowed to proceed to pass the Award by applying the said notification. She fairly stated that the Court clarified that any Awards passed by applying the multiplier factor stipulated in the said notification would be subject to the outcome of Writ Petition No.4274 of 2014. Ultimately, Writ Petition No.4274 of 2014 was allowed and the notifications dated 19th March 2014 and 13th August 2014 were struck down. However, the Division Bench that decided Writ Petition No.4274 of 2014 itself granted a stay of its order and judgment for a period of 2 months and which expired on 9th May 2015. It is in the interregnum, and while the stay was operating, that the impugned Award is passed. In these circumstances, Ms. Bane contended that the impugned award passed was after applying the multiplier factor [of 1.10] as per the notification dated 13th August 2014, and which was in existence at the time of the passing of the Award. Once this is the case the Award is passed by applying the correct multiplier factor and the

same is valid and proper. She, therefore, submitted that there is no merit in the challenge to the impugned Award, or the acquisition proceedings on this count, and the same has to be rejected.

9. We have heard the learned counsel for the parties at some length on this question. We have also perused the papers and proceedings in the above Writ Petition. As mentioned earlier, the facts really are undisputed in the present case. Admittedly, though the acquisition proceedings were initiated in the year 2011 under the 1894 Act, no Award was passed till the coming into force of the 2013 Act. Once this is the case, then Section 24(1)(a) of the 2013 Act would come into play and all provisions of the 2013 Act relating to determination of compensation would apply. For the sake of convenience Section 24 of the 2013 Act is reproduced hereunder:-

"24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.– (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,—

- (a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or**
- (b) where an award under said section 11 has been made, then such proceedings**

shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

(emphasis supplied)

10. Sections 26 to 30 of the 2013 Act, relate to determination of compensation under the 2013 Act. What is important for our purposes is Section 26(2) and the 1st Schedule of the 2013 Act. Section 26 is reproduced hereunder:-

"26. Determination of market value of land by Collector.-(1)
The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—

- (a) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or**
- (b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or**
- (c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is higher:**

Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1.—The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in Explanation 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid, which in the opinion of the Collector is not indicative of actual

prevailing market value may be discounted for the purposes of calculating market value.

(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.

(3) Where the market value under sub-section (1) or sub-section (2) cannot be determined for the reason that—

(a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(b) the registered sale deeds or agreements to sell as mentioned in clause (a) of sub-section (1) for similar land are not available for the immediately preceding three years; or

(c) the market value has not been specified under the Indian Stamp Act, 1899 (2 of 1899) by the appropriate authority,

the State Government concerned shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas:

Provided that in a case where the Requiring Body offers its shares to the owners of the lands (whose lands have been acquired) as a part compensation, for acquisition of land, such shares in no case shall exceed twenty-five per cent, of the value so calculated under sub-section (1) or sub-section (2) or sub-section (3) as the case may be:

Provided further that the Requiring Body shall in no case compel any owner of the land (whose land has been acquired) to take its shares, the value of which is deductible in the value of the land calculated under sub-section (1):

Provided also that the Collector shall, before initiation of any land acquisition proceedings in any area, take all

necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area: Provided also that the appropriate Government shall ensure that the market value determined for acquisition of any land or property of an educational institution established and administered by a religious or linguistic minority shall be such as would not restrict or abrogate the right to establish and administer educational institutions of their choice."

11. Section 26(1) sets out the criteria that the Collector has to adopt for assessing and determining the market value of the land. Section 26(2) stipulates that the market value calculated as per Section 26(1) shall be multiplied by a factor to be specified in the 1st Schedule. Considering this provision, it would also be necessary to reproduce the 1st Schedule of the 2013 Act which reads as under:

THE FIRST SCHEDULE

[See section 30(2)]

COMPENSATION FOR LAND OWNERS

The following components shall constitute the minimum compensation package to be given to those whose land is acquired and to tenants referred to in clause (c) of section 3 in a proportion to be decided by the appropriate Government.

<i>Serial No.</i>	<i>Component of compensation package in respect of land acquired under the Act</i>	<i>Manner of determination of value</i>	<i>Date of determination of value</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
1.	Market value of land	To be determined as provided under section 26	
2.	<u>Factor by which the market value is to be multiplied in the case of rural areas.</u>	<u>1.00 (One) to 2.00 (Two) based on the distance of project from urban area, as may be notified by the appropriate Government.</u>	
3.	Factor by which the market value is to be multiplied in the case of urban areas.	1(One).	
4.	Value of assets attached to land or building.	To be determined as provided under section 29.	

5.	<i>Solatium</i>	<i>Equivalent to one hundred per cent. of the market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 for rural areas or serial number 3 for urban areas plus value of assets attached to land or building against serial number 4 under column (2).</i>
6.	<i>Final award in rural areas</i>	<i>Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 plus value of assets attached to land or building mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).</i>
7.	<i>Final award in urban areas</i>	<i>Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 3 plus value of assets attached to land or building mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).</i>
8.	<i>Other component, if any, to be Included.</i>	

NOTE.—The date on which values mentioned under column (2) are determined should be indicated under column (4) against each serial number.

(emphasis supplied)

12. As can be seen from this schedule, the same is divided into four columns. Column 2 deals with the component of compensation package in respect of land acquired under the Act and column 3 deals with the manner of determination of value. Entry 1 of the 1st Schedule talks about the market value of the land and stipulates that the same is to be determined as provided under Section 26. Entry 2 of the 1st Schedule, and which is relevant for our purpose, stipulates the factor by which the market value is to be multiplied in the case of rural areas. The manner of determination of value is that the multiplier factor has to be between 1.00 to 2.00, based on the distance of the project from the

urban area, as notified by the Appropriate Government. In other words, whilst determining the compensation in case of the rural areas, the appropriate government has to notify the multiplier factor as contemplated under Entry 2 of the 1st Schedule of the 2013 Act. On a plain reading of Section 26 with Section 30 and the 1st Schedule, it is clear that before any Award is passed in relation to any land in rural areas, the aforesaid multiplier factor has to be applied. Passing an Award without applying the multiplier factor would be contrary to the provisions of Sections 26 to 30 of the 2013 Act.

13. Coming to the facts of the present case, as mentioned earlier, compensation has been calculated by applying the provisions of Section 26 to 30 of the 2013 Act. However, whilst determining the compensation, the authority [Respondent No.1] passing the impugned Award, has applied the multiplier factor as notified by the government *vide* its notification dated 13th August, 2014. The multiplier factor applied is 1.10. As mentioned earlier, this notification dated 13th August 2014 was set aside by this Court *vide* its order and judgment dated 9th March 2015. Once this is a case, no Award could have been passed by applying the multiplier factor in this notification. The only justification given by the learned AGP is that even though the Award was passed on

6th May 2015, and which is after the date when the High Court [in WP No.4274 of 2014] had set aside/struck down the said notification, the Award was passed when the Judgment of this Court in WP No.4274 of 2014 was stayed for a period of 2 months. In other words, the justification given was that all the Awards in all the above Writ Petitions were passed during the period when the stay was in operation. This would mean, according to the learned AGP, that the notification was very much in existence when the Awards were passed. Once this is the case, then, there was nothing wrong on the part of the State to calculate the compensation on the basis of the multiplier factor notified in the notification dated 13th August 2014, was the submission. We find this argument to be without any substance for the simple reason that on the date when the Awards were passed, the said notification was already set aside. It was only to give a liberty to the State to challenge its order that the Division Bench stayed its own order dated 9th March 2015 for a period of 2 months. This does not in any way revive the said notifications. Otherwise also, even if we were to assume that the notifications were in force because the Division Bench [in WP No.4274 of 2014] had stayed its own order dated 9th March 2015 for a period of 2 months, the said Division Bench, by its order dated 23rd September 2014 [whilst refusing to grant a stay of the notifications dated 13th August,

2014], clarified that any Award passed during the pendency of the WP No.4274 of 2014, would be subject to the outcome of the said Petition. Once this is the case, and the Writ Petition No.4274 of 2014 was allowed and the notification dated 13th August 2014 was set aside, and which has now attained finality, the State cannot justify its actions by contending that the Awards were passed during the period when the stay was in operation. Once the said notification dated 13th August 2014 was struck down/set aside, any Award passed on the basis of the said notification cannot stand. In other words, if the foundation of the Award itself goes, the Award cannot be permitted to be held as valid. We say this also because the Hon'ble Supreme Court in the case of ***Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation VS Mahesh and others, [(2022) 2 SCC 772]*** has clearly held that until a notification stipulating the multiplier factor is issued by the "appropriate government" for rural areas, compensation in terms of sub-section (2) of Section 26 cannot be determined. Paragraph 26 of this decision reads thus:-

"26. The determination of compensation is never simple. It is a complex factual and legal exercise. As per sub-section (2) to Section 26 of the 2013 Act, the market value calculated under sub-section (1) is to be multiplied by the factor to be specified in

the First Schedule. Section 30(2) requires the Collector to issue individual awards detailing the particulars of compensation payable and details of payment as specified in the First Schedule. As per the First Schedule, the factor/multiplier in case of rural areas can be between one and two, based on the distance from the urban area, and this factor/multiplier is to be notified by the "appropriate Government". This aspect is of importance when we examine the second issue and would be adverted to later. Thus, it clearly delineates that until notification of the multiplier is issued by the "appropriate Government" for rural areas, compensation in terms of sub-section (2) to Section 26 cannot be determined. When a multiplier of more than 1 applies, the compensation payable under Section 26 of the 2013 Act would be higher than the market value of the land.

(emphasis supplied)

14. In light of this authoritative pronouncement, we are of the view that since the impugned Award is based on a notification issued by the State Government dated 13th August 2014 and which is struck down by this Court, the Award cannot be sustained. On this ground alone the impugned awards in all the above Writ Petitions are liable to be set aside. At the risk of repetition, we may reiterate that we have come to this finding because in all the Writ Petitions, all the Awards are based on the notification dated 13th August, 2014, and all Awards have been passed after 9th March 2015, and on or before 9th May 2015 (the period during which the Division Bench had granted stay of its own order dated 9th March 2015).

15. There is yet another ground on which the awards and the proceedings have been challenged by the Petitioners, namely, that the impugned Awards are not passed within 1 year of 1st January 2014 i.e. the date when the 2013 Act came into force, and hence, the entire acquisition proceedings have lapsed. In other words, it was the submission of the Petitioners that once acquisition proceedings were initiated under the 1894 Act and no Award was made on the date when the 2013 Act came into force, then the Award had to be passed within 12 months from 1st January 2014 subject to any stay being granted by any Court. In other words, if there was any stay, the same has to be excluded for the purposes of calculating the period of 12 months within which the Award ought to be passed.

16. In this regard, Mr. Kulkarni, the learned counsel for the Petitioner, has once again heavily relied upon a judgment of the Hon'ble Supreme Court in the case of ***Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation (supra)***. Mr. Kulkarni submitted that in the facts of the present case, even as per the State there was a stay granted and which was for a period of 42 days. He

submitted that this is also clearly reflected in the impugned Awards and not even disputed by the learned AGP. If the Award was to be passed within 1 year from 1st January 2014, excluding this period of 42 days, then all the Awards ought to have been passed on or before 11th February 2015. However, in the facts of the present case it is an admitted position that all the Awards in all the above Writ Petitions have been passed after 11th February 2015. In fact, they were all passed after the notification dated 13th August 2014 was set aside by the Division Bench of this Court on 9th March 2015 and only whilst a stay was operating of the said order for a period of 2 months, namely, till 9th May 2015. He submitted that once this is the case then entire acquisition proceedings itself are bad because the Awards were not passed within the statutory period of 12 months from 1st January 2014 (even after excluding the period of 42 days the stay was operating).

17. In answer to this argument, Ms. Bane, the learned AGP, submitted that in all the above Writ Petitions the Awards are passed by taking into consideration the provisions of Section 24 of the 2013 Act. She submitted that under Section 24(1)(a) where land acquisition proceedings are initiated under the 1894 Act but have not culminated in an Award on the date when the 2013 Act came into force [i.e. 1st January

2014], then, all the provisions of the 2013 Act relating to the determination of compensation shall apply. She submitted that when one reads Section 24(1)(a), it is clear that proceedings initiated under the 1894 Act have to be continued and it is only for determination of compensation that the provisions of the 2013 Act would come into play. In other words, it was the submission of Ms. Bane that once no Award is passed under the 1894 Act by 31st December 2013, then, only the provisions of Section 26 to 30 of the 2013 Act relating to determination of compensation would apply and not the other provisions, namely, Section 25, which stipulates that the Award is to be passed within a period of 1 year from the notification issued under Section 19 of the 2013 Act. To put it differently, it was the submission of Ms. Bane that the time for passing the Award was a period of 2 years as specified in Section 11A of the 1894 Act and if this be the case, then all the Awards were passed within time and hence there is no question of either the Awards, or the acquisition proceedings relating thereto, having lapsed and or being declared as invalid. In support of this submission Ms. Bane relied upon a decision of the Hon'ble Supreme Court in the case of ***Haryana State Industrial & Infrastructure Development Corporation Ltd. VS Deepak Agarwal & Ors. [2022 SCC Online SC 932]***.

18. We have heard Mr. Kulkarni as well as Ms. Bane on this issue. To understand the question raised, it would be appropriate to once again briefly narrate the facts. In the present case, the notification under Section 4 of the 1894 Act was issued on 31st December 2011. Thereafter, the Section 6 declarations were issued on 19th December 2012, 25th January 2013, 26th January 2013 and 25th March 2013 respectively. Thereafter, before passing of any Award, the 2013 Act came into force on 1st January 2014. In the instant case, all the Awards have been passed after 9th March 2015, and on or before 9th May 2015. What is to be determined is whether the period to pass the Award is 12 months from 1st January, 2014 as contended by Mr. Kulkarni, or a period of 2 years from the Section 6 declarations (by applying the provisions of Section 11-A of the 1894 Act) as contended by the learned AGP. We find that this argument need not detain us any further because the same is squarely covered by the decision of the Hon'ble Supreme Court in the case of ***Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation (supra)***. The Hon'ble Supreme Court was examining the exact same question. After referring to the relevant provisions of both the Acts, in paragraphs 29, 30 and 31, the Hon'ble Supreme Court

concluded that in cases covered under Section 24(1)(a) of the 2013 Act, the limitation period for passing of an Award would commence from 1st January 2014, i.e. the date when the 2013 Act came into force. The Hon'ble Supreme Court further held that Awards passed under clause (a) to Section 24(1) would be valid if made within 12 months from 1st January 2014. The Supreme Court clarified that this dictum is subject to the caveat that a declaration which has lapsed in terms of Section 11-A of the 1894 Act on or before 31st December 2013, would not get revived. The relevant portion of this decision reads thus:-

"29. Given the object and purpose behind Sections 24 and 26 to 30 of the 2013 Act, we notice that practical absurdities and anomalies may arise if the two-year period for making of an award in terms of Section 11-A of the 1894 Act commencing from the date of issue of the declaration is applied to the awards to be made under Section 24(1)(a) of the 2013 Act. This would mitigate against the underlying legislative intent behind prescription of time for making of an award in respect of saved acquisition proceedings initiated under the repealed 1894 Act, which is twofold : (i) to give sufficient time to the authorities to determine compensation payable under the 2013 Act; and (ii) to ensure early and expedited payment to the landowners by reducing the period from two years under Section 11-A of the 1894 Act to twelve months under Section 25 of the 2013 Act. In case of declarations issued in January 2012, on application of Section 11-A of the 1894 Act, the time to determine compensation under the 2013 Act would vary from a day to a month, and while in cases where the declarations were issued within twelve months of the repeal of the 1894 Act, the landowners would be at a disadvantage as an award beyond the twelve-month period specified in Section 25 of the 2013 Act would be valid. In the first set of cases, given the onerous factual and legal exercise

involved in determination of compensation and the need to issue notification under Section 26(2) of the 2013 Act, publication of the awards would be impractical. Hasty and incorrect awards would be deleterious for the landowners. If the awards are not pronounced, the acquisition proceedings would lapse defeating the legislative intent behind Section 24(1)(a) of the 2013 Act to save such proceedings. We would, therefore, exercise our choice to arrive at a just, fair and harmonious construction consistent with the legislative intent.

30. *A rational approach so as to further the object and purpose of Sections 24 and 26 to 30 of the 2013 Act is required. We are conscious that Section 25 refers to publication of a notification under Section 19 as the starting point of limitation. In the context of clause (a) to Section 24(1) of the 2013 Act there would be no notification under Section 19, but declaration under Section 6 of the 1894 Act. When the declarations under Section 6 are valid as on 1-1-2014, it is necessary to give effect to the legislative intention and reckon the starting point. In the context of Section 24(1)(a) of the 2013 Act, declarations under Section 6 of the 1894 Act are no different and serve the same purpose as the declarations under Section 19 of the 2013 Act.*
31. *Consequently, we hold that in cases covered by clause (a) to Section 24(1) of the 2013 Act, the limitation period for passing/making of an award under Section 25 of the 2013 Act would commence from 1-1-2014, that is, the date when the 2013 Act came into force. Awards passed under clause (a) to Section 24(1) would be valid if made within twelve months from 1-1-2014. This dictum is subject to the caveat stated in paras 20 to 23 (supra) that a declaration which has lapsed in terms of Section 11-A of the 1894 Act before or on 31-12-2013 would not get revived."*

19. Faced with this decision, Ms. Bane, the learned AGP, submitted that this decision of the Supreme Court is impliedly overruled by 3 judge bench of the Hon'ble Supreme Court in the case of **Haryana**

State Industrial & Infrastructure Development Corporation Limited (supra). She submitted that in this decision the Supreme Court has held that in cases covered under Section 24(1)(a), it is only the provisions of Section 26 to 30 of the 2013 Act that would apply and not any other provision, namely, Section 25. We are unable to agree with the submissions made by the learned AGP for more than one reason. Firstly, we find that the issue raised before the Hon'ble Supreme Court in the case of ***Haryana State Industrial & Infrastructure Development Corporation Limited (supra)*** was the interpretation of the word "*initiated*" appearing in Section 24(1) of the 2013 Act with reference to land acquisition proceedings under the 1894 Act. It was the contention of some of the parties that for the purposes of Section 24(1)(a) of the 2013 Act, issuance and publication of notification under Section 4(1) of the 1894 Act alone amounted to initiation of acquisition proceedings thereunder. The contrary stand was that it is the declaration under Section 6(1) of the 1894 Act [that the land is required for a public purpose], which would mark the point of initiation of acquisition proceedings thereunder. It was this issue that was being decided by the Supreme Court. In fact, this is clear from paragraph 33 of this decision which states that taking note of the legislative intention it has no hesitation in holding that the point of initiation of land

acquisition proceedings under the 1894 Act, for the purposes of Section 24(1) of the 2013 Act, is the issuance and publication of the Section 4(1) notification in the official gazette of the Appropriate Government. Thereafter, the Supreme Court also went on to consider whether the Section 4 notification issued under the 1894 Act prior to 1st January 2014 could continue or survive after 1st January 2014, and as to whether the Section 6 declaration [under 1894 Act] could be issued after 1st January 2014. It is whilst discussing this issue that the Hon'ble Supreme Court *inter alia* held that the combined effect of Section 24(1) and clause (a) thereof is that if land acquisition proceedings under the 1894 Act were initiated prior to 1st January, 2014 (the date of coming into force the 2013 Act), and it did not culminate into an Award under Section 11 [of the 1894 Act], then all provisions of the 2013 Act relating to the determination of compensation should apply to such acquisition proceedings. The Hon'ble Supreme Court thus held that in such circumstances, the land acquisition proceedings should continue but all the provisions relating to the determination of compensation under the 2013 Act alone will be applicable to such proceedings, meaning thereby, the 2013 Act would come into play only at that stage. When one reads the observations of the Hon'ble Supreme Court in ***Haryana State Industrial & Infrastructure Development Corporation***

Limited (supra) the same cannot be read *de-hors* the question that was being determined by the Supreme Court.

20. It is now too well settled a proposition that the ratio of any decision must be understood in the background of the facts of that case. It has been said a long time ago that a case is only an authority for what it actually decides and not what logically follows from it. If one must refer to any authority on this subject, the Supreme Court, in the case of ***Sarva Shramik Sanghatana (KV) v/s State of Maharashtra [(2008) 1 SCC 494]*** has very succinctly and eloquently reiterated the said proposition. The relevant portion of this decision reads thus:-

"14. On the subject of precedents Lord Halsbury, L.C., said in Quinn v. Leathem [1901 AC 495 : (1900-1903) All ER Rep 1 (HL)] : (All ER p. 7 G-I)

"Before discussing Allen v. Flood [1898 AC 1 : (1895-1899) All ER Rep 52 (HL)] and what was decided therein, there are two observations of a general character which I wish to make; and one is to repeat what I have very often said before—that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but are governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it

actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all."

(emphasis supplied)

We entirely agree with the above observations.

15. *In Ambica Quarry Works v. State of Gujarat [(1987) 1 SCC 213] (vide SCC p. 221, para 18) this Court observed:*

"18. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it."

16. *In Bhavnagar University v. Palitana Sugar Mill (P) Ltd. [(2003) 2 SCC 111] (vide SCC p. 130, para 59) this Court observed:*

"59. ... It is also well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."

(emphasis supplied)

17. *As held in Bharat Petroleum Corpn. Ltd. v. N.R. Vairamani [(2004) 8 SCC 579 : AIR 2004 SC 4778] a decision cannot be relied on without disclosing the factual situation. In the same judgment this Court also observed : (SCC pp. 584-85, paras 9-12)*

"9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of a

statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton [1951 AC 737 : (1951) 2 All ER 1 (HL)] (AC at p. 761), Lord MacDermott observed : (All ER p. 14 C-D)

‘The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J. as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished Judge, ...’

10. In Home Office v. Dorset Yacht Co. Ltd. [1970 AC 1004 : (1970) 2 WLR 1140 : (1970) 2 All ER 294 (HL)] Lord Reid said,

‘Lord Atkin’s speech ... is not to be treated as if it were a statutory definition. It will require qualification in new circumstances.’ (All ER p. 297g)

Megarry, J. in Shepherd Homes Ltd. v. Sandham (No. 2) [(1971) 1 WLR 1062 : (1971) 2 All ER 1267] , observed : (All ER p. 1274d)

‘One must not, of course, construe even a reserved

judgment of even Russell, L.J. as if it were an Act of Parliament;’

And, in British Railways Board v. Herrington [1972 AC 877 : (1972) 2 WLR 537 : (1972) 1 All ER 749 (HL)] Lord Morris said : (All ER p. 761c)

‘There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case.’

11. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

12. The following words of Hidayatullah, J. in the matter of applying precedents have become locus classicus : (Abdul Kayoom v. CIT [AIR 1962 SC 680] , AIR p. 688, para 19)

‘19. ... Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.’

‘Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood

and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it.' "

(emphasis supplied)

18. *We have referred to the aforesaid decisions and the principles laid down therein, because often decisions are cited for a proposition without reading the entire decision and the reasoning contained therein. In our opinion, the decision of this Court in Sarguja Transport case [(1987) 1 SCC 5 : 1987 SCC (Cri) 19 : AIR 1987 SC 88] cannot be treated as a Euclid's formula."*

21. Applying the aforesaid principles, we are unable to accept the submission of Ms. Bane that the decision rendered by the Hon'ble Supreme Court in ***Haryana State Industrial & Infrastructure Development Corporation Limited (supra)*** has impliedly overruled its decision in ***Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation (supra)***. This is more so when one take into consideration that the said judgment in ***Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation (supra)*** has been specifically referred to in ***Haryana State Industrial & Infrastructure Development Corporation Limited*** (in

paragraph 9 thereof), and the same has not been overruled, either expressly or by necessary implication. Another factor that persuades us to take this view is that one of the Judges in both the matters was the same (A. M. Khanvilkar, J. as he then was). If the Supreme Court, in ***Haryana State Industrial & Infrastructure Development Corporation Limited*** wanted to overrule its judgment in ***Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation (supra)***, it would have expressly done so. We therefore find that the argument of Ms. Bane is wholly misplaced and so is the reliance on the judgment of the Hon'ble Supreme Court in the case of ***Haryana State Industrial & Infrastructure Development Corporation Limited (supra)***.

22. As mentioned earlier, this point is squarely covered by the decision of the Supreme Court in the case of ***Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation (supra)*** which clearly stipulates that in cases falling under Section 24(1)(a) of the 2013 Act, the limitation period for passing an Award would commence from 1st January, 2014 and the same would have to be passed within a period

of 12 months thereafter, subject to any stay being granted by any Court. In other words, the period during which the stay was operating would have to be excluded for the purposes of calculating the period of 12 months. This has admittedly not been done in the present case. Therefore, on this count also, the entire acquisition proceedings are bad and the Awards passed pursuant thereto, are also unsustainable.

23. In these circumstances, we hold that the acquisition proceedings in respect of the lands of all the Petitioners in all the above Writ Petitions have lapsed and the Awards passed pursuant thereto are quashed and set aside.

24. The State will now have to initiate fresh acquisition proceedings and acquire the lands of all the Petitioners by following the procedure under the 2013 Act.

25. Rule is made absolute in the aforesaid terms and all the Writ Petitions are disposed of in terms thereof. However, there shall be no order as to costs. In view of the disposal of all the Writ Petitions, nothing survives in any Interim Applications filed therein and the same are disposed of accordingly.

26. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on production by
fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]