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REPORTABLE

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3611 OF 2023

1. **DINESH BABULAL SANGHAVI**,
an adult of Mumbai, Indian Inhabitant,
having his address at Room No 4, 1st
Floor, Crown Building, 10 Uranwala
Street, Near Parcel Depot Grant Road
(East), Mumbai – 400 007 and also at
C/o: Babulal Sanghavi, 2901, 29th
Floor, Darshan Pride, Sitaram
Ghadigaonkar Marg, Near Rosewood
Hotel, Tardeo, Mumbai – 400 034.
2. **VINOD JAYANTILAL RATHOD**
an adult of Mumbai, Indian Inhabitant,
having his address at Flat No 12, 3rd
Floor, Gangadevi Bhavan, 10 Uranwala
Street, Near Parcel Depot Grant Road
(East), Mumbai – 400 007
3. **MAHENDRA DALICHAND JAIN**,
an adult of Mumbai, Indian Inhabitant,
having his address at 07, Gangadevi
Bhavan, 10 Uranwala Street, Near
Parcel Depot Grant Road (East),
Mumbai – 400 007.

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4. **CHANDAN JAYANTILAL VORA**
an adult of Mumbai, Indian Inhabitant,
having his address at Room No 6, 2nd
Floor, Mervan Building, 10 Uranwala
Street, Near Parcel Depot Grant Road
(East), Mumbai – 400 007.
5. **MILIND JAYANTILAL VORA,**
an adult of Mumbai, Indian Inhabitant,
having his address at Room No 4, 1st
Floor, Mervan Building, 10 Uranwala
Street, Near parcel Depot Grant Road
(East), Mumbai – 400 007.
6. **AMIT VINOD GANDHI,**
an adult of Mumbai, Indian Inhabitant,
having his address at Room No 7,
Mervan Building, 10 Uranwala Street,
Near Parcel Depot Grant Road (East),
Mumbai-400 007.
7. **JAYESH SHAH,**
an adult of Mumbai, Indian Inhabitant,
having his address at 5, Crown Building,
2nd Floor, 10 Uranwala Street, Near
Parcel Depot Grant Road (East),
Mumbai – 400 007.

... PETITIONERS

~ VERSUS ~

1. **UNION OF INDIA,**
Having its address at Aayakar Bhavan,
Ground floor, Aayakar Bhavan, New
Marine Lines, Mumbai 400020.
2. **STATE OF MAHARASHTRA,**
Having its address at Mantralaya,
Mumbai 400 032
Through Government Pleader, High
Court, Bombay.

3. **MINISTRY OF RAILWAYS,**
Having its address at Room 256-A, Rail Bhawan, Raisina Road, New Delhi – 110001, India.
4. **WESTERN RAILWAYS**
having its address at DRM office, 3rd Floor, East side, Western Railway, Mumbai Central, Mumbai 400 008.
5. **DIVISIONAL RAIL MANAGER,**
Western Railway, having its address at DRM office, 3rd Floor, East Side, Western Railway, Mumbai Central, Mumbai 400 008.
6. **DIVISIONAL ENGINEER,**
Estate / South, Western Railway, Mumbai Central, having its address at Western Railway, Mumbai Central, Mumbai 400 008.
7. **MUNICIPAL CORPORATION OF GREATER MUMBAI,**
Having its address at 5th floor, Annex Building, Municipal HO, Mahapalika Marg, Fort, Mumbai- 400 001.
8. **OFFICE OF CHIEF ENGINEER,**
through Executive Engineer (DP) City
Having its address at 5th floor, Annex building, Municipal HO, Mahapalika Marg, Fort, Mumbai- 400 001.

... RESPONDENTS

APPEARANCES

FOR THE PETITIONER	Mr Gaurav Joshi, Senior Advocate, <i>with Piyush Raheja, Feroze Patel, Sahil Gandhi, i/b Markand Gandhi & Co.</i>
FOR RESPONDENT NO 3 TO 6	Mr JS Saluja, with Mayur C Sarode, <i>Rajashri Kanade.</i>
FOR RESPONDENT- MCGM	Ms Pooja Yadav.
FOR RESPONDENT- STATE	Mrs Varsha Sawant, AGP.

**CORAM : G.S. Patel &
Kamal Khata, JJ.**

DATED : 19th March 2024

ORAL JUDGMENT (Per GS Patel J):-

- 1. Rule.** Rule returnable forthwith.
- The seven Petitioners challenge an order of 11th October 2023 issued by the Western Railways, Respondent No 4 through 6. By this, the Western Railways withdrew its earlier approval to lease about 360 sq ft of railway land to Respondent No 7, the Brihanmumbai Municipal Corporation (“**BMC**”). The Petitioners’ case is that this refusal by the Railways makes it impossible to remove a road bottleneck at the junction of two roads; and the continuance of this bottleneck — which the BMC is willing to remove — infringes the Petitioners’ entrenched fundamental rights under Article 21 of the Constitution of India. As a result of the

bottleneck, at the junction in question the road is too narrow to permit the passage of even emergency vehicles (ambulances, fire tenders and so forth). This violates the Petitioners' Article 21 rights. The impugned refusal is, Mr Joshi for the Petitioners submits, also ultra vires Article 14 of the Constitution of India because it is irrational, arbitrary, unreasonable and disproportionate.

3. The Petitioners reside in different buildings — Crown Building, Gangadevi Bhavan and Merwan Building. The access is through Uranwala Street. It leads off Alibhai Premji Marg, an existing 18-mtr wide road. Uranwala Street has, for most of its length, a sufficient road width of 12 mtrs. But at its southern end (nearing the junction with Alibhai Premji Marg), there stands CS No 56, property of the Western Railways. Here, Uranwala Street is forced into a dogleg, and its width drops to 6 to 6.15 mtrs. This is the bottleneck.

4. There are several maps/drawings available on record. We have used three: Exhibit “J” at page 67 of the Petition; Exhibit “J1” at page 68 of the Petition; and the plan produced at page 94 of the Western Railways' Affidavit in Reply. Scans of these are annexed to the order. We also annex a Google Maps screenshot for a better understanding of the relative locations and the general area. Also annexed to the Petition at pages 72 and 73 are photographs (but not reproduced in this order) taken from a slight elevation showing the bottleneck in question.

5. The entire site is to the east of the Western Railway lines and Grant Road station. Alibhai Premji Marg runs roughly south-west to north-east. Branching off Alibhai Premji Marg, Uranwala Street runs roughly south to north. It has the dog-leg we spoke of at its junction with Alibhai Premji Marg, and at its northern end it turns left and is apparently then a cul-de-sac. Just north-west of the far end of Uranwala Street in the Grant Road Parcel Depot of the Railways. Many of the Petitioners reside in buildings near this Depot. Grant Road Railway Station is but a short distance to the west of Uranwala Street.

6. The BMC has a 'bottleneck policy'. This sounds stranger than it is. For the BMC's approach to bottlenecks is straightforward. It removes them. The road or junction is widened. Those who are affected are covered by the 'policy' in question, matters of rehabilitation or reaccommodation, compensation and so forth. The policy is not challenged before us. No BMC action is called into question by the Petitioners.

7. That there is definitely a narrowing at the junction cannot be disputed. One of the contentions in the Petition (paragraph 5.2)is that this bottleneck blocks emergency vehicle access.

8. On 4th April 2022, one Kaushal Chouhan, a practicing architect, made an application to the BMC asking for a prescription of a regular line of 9.15 mts at this bottleneck portion. He asked that a regular line be prescribed under Section 297(1)(a) of the Mumbai Municipal Corporation Act, 1888 ("**BMC Act**"). The application

pointed out that the Western Railways property CS No 56 had open setback area and that only a small portion of about 2.50 mts width and an average of 12 mts at length could be affected by the road widening required to remove this bottleneck, and this would be possible without affecting any built structure. The application mentioned that the bottleneck posed a safety hazard. Many Petitioners also wrote to the BMC on 10th April 2022 voicing the same concerns.

9. The BMC made a site visit. It marked a tentative alignment of 9.15 mts width. The BMC then sought the remarks of the Western Railways for the widening. A copy of this communication is at Exhibit 'E' to the Petition. On 12th May 2022, the Western Railways through its Divisional Engineer told the BMC's Chief Engineer that according to the Railways' policy the land could be offered on a long-term lease basis for 35 years with the approval of the 5th Respondent, the Divisional Rail Manager. At that time, nobody from the Railways said that the land was not available or was earmarked for any other particular purpose. A reminder letter followed on 6th June 2022 from the Petitioners reiterating the request for widening the road. The BMC granted an in-principle approval on 15th July 2022. There was an internal communication of 27th July 2022 with remarks from various departments of the BMC and this communication was placed before the Municipal Commissioner. Ultimately, on 19th June 2023, the Chief Engineer of the BMC wrote to the Divisional Rail Manager of Western Railways noting the sanction given by the BMC prescribing 9.15 mts width regular line. The BMC's Chief Engineer sought certain

clarifications, a copy of the latest long-term Railways policy and the final lease amount.

10. In August 2023, there was a joint inspection by the BMC and the Railways. The Railways' officers prepared a plan marking the affected area and this was computed at 33.44 sq mts equivalent to about 360 sq ft.

11. Then came the impugned letter of 11th October 2023 from the Divisional Engineer Western Railways to the Chief Engineer of the BMC saying that the issue of land leasing through the BMC was discussed at a higher level and "it was decided that this land could not be spared since it was required by the Western Railways for its own operational purposes". A copy of the impugned letter is at Exhibit 'A' to the Petition at page 39.

12. The BMC asked that this decision be renewed. That was not done.

13. The grounds in the Petition are not many. Essentially, they point to the public need to widen the road. There is no concept of this widened road vesting in a private entity or parties. We note this because it is one of the arguments made on behalf of the Railways today by Mr Saluja that Central Government lands cannot be acquired and certainly not for a private party. That is a strawman argument, for it purports to meet a case nobody has made.

14. The other grounds are that the entire impugned letter is arbitrary and irrational. It contains no reasons. It is entirely disproportionate. It is thus not only violative of Article 14 but materially affects the individual Petitioners' rights to safety guaranteed under Article 21 of the Constitution of India.

15. The next submission by Mr Joshi for the Petitioners is that on any applicable test in a judicial review of administrative action, the impugned communication by the Railways falls afoul of the well settled tests of Wednesbury unreasonableness and the doctrine of proportionality. It is unreasonable, he submits, because there is no denying the factual position on the ground and nobody has denied it, not even in the impugned letter itself. It violates the doctrine of proportionality because the area sought to be acquired is without affecting a built structure. It is required by a statutory Planning Authority, namely the BMC under an bottleneck policy no one assails, one meant for road widening. Further, the affected area of open space is very small indeed. That it has been jointly measured by the BMC and the Railways is also not in dispute.

16. There is an Affidavit by the Divisional Engineer Western Railways. We have considered this Affidavit and the submissions made by Mr Saluja. The Affidavit says that there is an iron steel gate at the entry level of Uranwala Street. There is car parking on one side and an open space between two buildings. There is some redevelopment going on further along the street (at the end before the road turns west). In paragraph 5(vi) at page 91 it is said that at about 1.15 to 2.25 mts distance from a stone wall there is a water

pump room built over an underground water tank of 11275 lts capacity that supplies water to the Grant Road Old Parcel Office of the Railways and other premises occupied by the Recruitment Cell, Motor Control & Traffic workshops, RRC Section, RPF Rest Rooms and the Grant Road railway station.

17. Paragraph 6 of the Affidavit says that the widening of the road to 9.15 mts will not “resolve the issue in question”. What will resolve the issue in question is nowhere stated. The allegation is that there will be “great difficulty” in repositioning the water pipes connected to the underground water storage tanks. Nobody has suggested an acquisition properly so called. There is no expropriation of railway land. Everybody has proceeded on the footing that there would be a lease. The Railways themselves have agreed to it.

18. But what is more disturbing is the approach of the Railways that somehow it can override municipal, urban and city planning issues in this fashion as if almost as if to suggest that the requirements of Railways are forever immutable and forever set in stone. Undoubtedly, the Railways has its place in the urban fabric. This is especially true in a city like Mumbai. Our railway lines and corridors run roughly south to north along the spine of the city. But we are not concerned with railway lines. They are unaffected. What is being pointed out are ancillary facilities that are away from the railway lines. If a water pump room, the water pump, underground storage facilities and pipelines have to be relocated for the stated purpose of widening a bottleneck, then in today’s day and age,

especially when the BMC is able to build vast roadways over the sea and even under it, we see no reason why the Railways should in any manner be allowed to either decry or disparage the BMC's civil engineering skills. Compared to what the BMC is doing around the city, relocating a pump room and underground water storage tank (of extremely modest capacity) and a few pipelines is utterly trivial.

19. More to the point, we do not see how these adamant demands by the Railways that an age-old structure that is today narrowing a street width should continue merely because the Railways says so. On Affidavit it says this will not "address the issue". This means that even according to the Railways there *is* an issue. The issue is clearly that there is a bottleneck.

20. Mr Saluja's submission that this road has been a bottleneck for a long time and there must 'once' have been a fire and some fire engine 'must have gone through it' are submissions and arguments of desperation that we unhesitatingly reject. This kind of speculation is ill-advised in a Writ Court.

21. Curiously, the Affidavit, while acknowledging that there is an issue and claiming that road widening would not solve the issue, offers no solution at all towards a resolution of that very issue.

22. As to the argument that this is all meant to benefit private persons, let us engage for a moment in a simple thought experiment. Let us say we tell Mr Joshi not to say another word and we go a step further, order the deletion of all 7 Petitioners and carry the Petition

forward ourselves. That is certainly within our power to do. What then will remain of these arguments that the bottleneck removal is intended to benefit some private person? The Petitioners do not gain any property rights over the widened road or the junction. What they do canvass is that the narrow road has an adverse impact on a right that is guaranteed to them under the Constitution of India in Part III, viz., an important facet of Article 21. We fail to see how the engineering concerns of the Railways can defeat an Article 21 right, particularly when another authority, namely the BMC in explicit recognition that there is such an issue offers a viable solution.

23. Ground (b) of the Petition mentions that Article 21 rights are not confined to these 7 Petitioners. Along this street there are at least 700 to 800 residents. That is not a small number on a street like this.

24. Finally, we note with a great deal of consternation the utterly extraordinary submission in paragraph 7 of the Affidavit in Reply at page 92. It reads like this:

“7. The Railway Respondents humbly and respectfully submit that in the event **if the redeveloped building is accommodating the entire occupants/residents of the old 4-5 building located in Uranwala path**, then there will be no issue of widening the road, because the entry point itself will become wider.”

(Emphasis added)

25. This is incredible. What the Railways are saying is that an independent and separate redevelopment proposal that is already under way should now be changed, development control regulations should be reconsidered (or violated), permissions should be granted all over again and all residents of the four or five buildings along Uranwala Street should now be reaccommodated in the redeveloped building — with no thought spared to the development control regulations, FSI, municipal permissions or anything of the kind.

26. Why? Simply because the Divisional Manager says so. Simply because of these ‘operational reasons’. On the assumption that our civil engineering skills are stuck in a 100-year-old time warp.

27. The impugned letter is unsustainable.

28. Mr Joshi is right on every count. The impugned communication is utterly irrational, entirely arbitrary, falls on the wrong side of every conceptualization of the principle of *Wednesbury* unreasonableness and fails to strike a correct balance which is the requirement of the doctrine of proportionality.

29. Two aspects of law are brought into play: *Wednesbury* unreasonableness and proportionality. We discuss these briefly.

30. Both *Wednesbury* unreasonableness and proportionality relate to judicial review of administrative action. The law in this

regard is well settled. ‘Wednesbury unreasonableness’¹ speaks of a decision ‘which is so outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it.’: per Diplock LJ in *Council Of Civil Service Unions & Ors v Minister for the Civil Service* (“CCSU”).²

31. Even as *Wednesbury* unreasonableness continued to inform decisions of Courts with the power of judicial review, not only here but in many other jurisdictions, there came into ascendance a parallel doctrine of proportionality. This is not necessarily linked to the award of punishment. It may be a facet of reasonableness. Its tests are slightly different from those of *Wednesbury* unreasonableness. The doctrine tells us that in any executive or administrative action, the act or thing done or ordered to be done cannot be so disproportionate to the cause for that order. To put it more colloquially, an administrator or an executive cannot use our hammer to kill an ant.³

32. The CCSU standard was accepted in *Union of India & Anr v G Ganayutham*.⁴ The two doctrines received an elucidation in *Om*

1 *Associated Provincial Picture Houses Ltd v Wednesbury Corporation*, [1948] 1 KB 223

2 [1983] UKHL 6 : [1984] 3 All ER 935 : [1984] 3 WLR 1174.

3 See: *R v Goldstein*, [1983] 1 WLR 151 : [1983] 1 All ER 434 : per Diplock LJ: “This would indeed be using a sledge-hammer to crack a nut.” Or a paring knife, not a battle axe: *Central Cooperative Bank v Coimbatore District Central Cooperative Bank Employees Association & Anr*, (2007) 4 SCC 669. In CCSU, Diplock LJ foresaw the advent of the proportionality doctrine.

4 (1997) 7 SCC 463.

Kumar & Ors v Union of India,⁵ particularly on the question of primary judicial review (where fundamental rights are involved) and secondary judicial review (where they are not).⁶ The scope of the proportionality principle came to be examined in *Coimbatore District Central Cooperative Bank v Coimbatore District Central Cooperative Bank Employees Association & Anr.*⁷ The Supreme Court said:

17. So far as the doctrine of proportionality is concerned, there is no gainsaying that the said doctrine has not only arrived in our legal system but has come to stay. With the rapid growth of administrative law and the need and necessity to control possible abuse of discretionary powers by various administrative authorities, certain principles have been evolved by courts. **If an action taken by any authority is contrary to law, improper, irrational or otherwise unreasonable, a court of law can interfere with such action by exercising power of judicial review. One of such modes of exercising power, known to law is the “doctrine of proportionality”.**

18. **“Proportionality” is a principle where the court is concerned with the process, method or manner in which the decision-maker has ordered his priorities, reached a conclusion or arrived at a decision. The very essence of decision-making consists in the attribution of relative importance to the factors and considerations in the case. The doctrine of proportionality thus steps in focus true nature of exercise—the elaboration of a rule of permissible priorities.**

...

5 (2001) 2 SCC 386.

6 See also: *Kerala State Beverages (M&M) Corporation Ltd v PP Suresh & Ors*, (2019) 9 SCC 710.

7 (2007) 4 SCC 669.

21. The doctrine has its genesis in the field of administrative law. The Government and its departments, in administering the affairs of the country, are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without abuse of discretion. There can be no “pick and choose”, selective applicability of the government norms or unfairness, arbitrariness or unreasonableness. **It is not permissible to use a “sledgehammer to crack a nut”. As has been said many a time; “where paring knife suffices, battle axe is precluded”.**

(Emphasis added)

33. As the Supreme Court itself noted, the proportionality principle is a test of whether the decision-maker has achieved the correct balance: *Chairman, All India Railway Recruitment Board & Anr v K Shyam Kumar & Ors.*⁸ In *Ganayutham*, the Supreme Court said:

To arrive at a decision on “reasonableness” the Court has to find out if the administrator has left out relevant factors or taken into account irrelevant factors. The decision of the administrator must have been within the four corners of the law, and not one which no sensible person could have reasonably arrived at, having regard to the above principles, and must have been a bona fide one.

(Emphasis added)

34. At least one decision of the Supreme Court reviews more recent thinking in England that the doctrine of proportionately has

8 (2010) 6 SCC 614.

supplanted *Wednesbury* unreasonableness but our Supreme Court held that there is no such clear-cut division: *Jitendra Kumar & Ors v State of Haryana & Anr.*⁹ In given cases both will apply. *Wednesbury* unreasonableness will speak to the rationality of a decision-making process. It has distinct components. One of these is a test of procedural irregularity. Another test is one of reasonableness, to test whether the decision is of a kind that no reasonable person could ever take. In the words of Diplock LJ in *CCSU*, the *Wednesbury* principle, formulated by Lord Greene, is whether the decision is so outrageous in its defiance of law or logic that it cannot possibly be sustained. Proportionality will speak to, as the Supreme Court said in *All India Recruitment Board*, examining if the decision achieves the required balance. In a complete analysis, the Supreme Court held:

Wednesbury and Proportionality

36. *Wednesbury* [Associated Provincial Picture Houses Ltd. v. *Wednesbury Corpn.*, (1948) 1 KB 223 : (1947) 2 All ER 680 (CA)] **applies to a decision which is so reprehensible in its defiance of logic or of accepted moral or ethical standards that no sensible person who had applied his mind to the issue to be decided could have arrived at it. Proportionality as a legal test is capable of being more precise and fastidious than a reasonableness test as well as requiring a more intrusive review of a decision made by a public authority which requires the courts to “assess the balance or equation” struck by the decision-maker. Proportionality test in some jurisdictions is also described as the “least**

⁹ (2008) 2 SCC 161 : “We, with greatest respect, do not have any such problem. This Court not only has noticed the development of law in this field but applied the same also.”

injurious means” or “minimal impairment” test so as to safeguard the fundamental rights of citizens and to ensure a fair balance between individual rights and public interest. Suffice it to say that there has been an overlapping of all these tests in its content and structure, it is difficult to compartmentalise or lay down a straitjacket formula and to say that *Wednesbury* has met with its death knell is too tall a statement. Let us, however, recognise the fact that the current trend seems to favour proportionality test but *Wednesbury* has not met with its judicial burial and a State burial, with full honours is surely not to happen in the near future.

37. **Proportionality requires the court to judge whether action taken was really needed as well as whether it was within the range of courses of action which could reasonably be followed. Proportionality is more concerned with the aims and intention of the decision-maker and whether the decision-maker has achieved more or less the correct balance or equilibrium. The court entrusted with the task of judicial review has to examine whether decision taken by the authority is proportionate i.e. well balanced and harmonious, to this extent the court may indulge in a merit review and if the court finds that the decision is proportionate, it seldom interferes with the decision taken and if it finds that the decision is disproportionate i.e. if the court feels that it is not well balanced or harmonious and does not stand to reason it may tend to interfere.**

38. Leyland and Anthony in Textbook on Administrative Law (5th Edn. OUP, 2005) at p. 331 has amply put as follows:

“Proportionality works on the assumption that administrative action ought not to go

beyond what is necessary to achieve its desired results (in everyday terms, that you should not use a sledgehammer to crack a nut) and in contrast to irrationality is often understood to bring the courts much closer to reviewing the merits of a decision.”

39. The courts have to develop an indefeasible and principled approach to proportionality, till that is done there will always be an overlapping between the traditional grounds of review and the principle of proportionality and the cases would continue to be decided in the same manner whichever principle is adopted. **Proportionality as the word indicates has reference to variables or comparison, it enables the court to apply the principle with various degrees of intensity and offers a potentially deeper inquiry into the reasons, projected by the decision-maker.**

Application of the principles

42. We will now apply the proportionality test to the three alternatives suggested. Principle of proportionality, as we have already indicated, is more concerned with the aims of the decision-maker and whether the decision-maker has achieved the correct balance. **The proportionality test may require the attention of the court to be directed to the relative weight according to interest and considerations.** When we apply that test and look at the three alternatives, we are of the view that the decision-maker has struck a correct balance in accepting the second alternative. The first alternative was not accepted not only because such a process was time-consuming and expensive, but nobody favoured that option, and even the candidates who had approached the court were more in favour of the second alternative. Applying the proportionality test also in our view the Board has struck the correct balance in

adopting the second alternative which was well balanced and harmonious.

43. We, therefore hold, applying the test of *Wednesbury* unreasonableness as well as the proportionality test, the decision taken by the Board in the facts and circumstances of this case was fair, reasonable, well balanced and harmonious. By accepting the third alternative, the High Court was perpetuating the illegality since there were serious allegations of leakage of question papers, large scale of impersonation by candidates and mass copying in the first written test.

(Emphasis added)

35. It is with these principles in mind that we hold that the actions of the Railways and the impugned communication are utterly irrational and *ex facie* arbitrary. No reasonable person could ever have opposed the bottleneck removal. The correct balance has not been struck. All relevant considerations have been utterly ignored.

36. The argument that this is a private acquisition or a takeover of Central Government land is also wholly and demonstrably incorrect from the report itself because it is the Railways themselves that have in fact mentioned the possibility of ceding the required portion of the land on a lease.

37. The Petition succeeds. The reliefs in the Petition are these:

“a) this Hon’ble Court be pleased to issue a writ of certiorari or any other writ in the nature of certiorari, order or direction under Article 226 of the Constitution of India,

to the Respondent Nos. 4 to 6 calling for the records, papers and proceedings pertaining to the Impugned Letter and after considering the veracity and correctness of the Impugned Letter dated 11th October 2023 passed by Respondent Nos. 4 and 5, through Respondent No. 6, this Hon'ble Court be pleased to set aside and/or quash the Impugned Letter dated 11th October 2023;(Ex=A)

b) this Hon'ble Court be pleased to issue a writ of mandamus or any other writ in the nature of mandamus, order or direction under Article 226 of the Constitution of India to the Respondent Nos. 4 to 8 act on and process the lease as set out in the letter dated 12th May 2022 (Exhibit F hereto);

c) this Hon'ble Court be pleased to issue a writ of mandamus or any other writ in the nature of mandamus, order or direction under Article 226 of the Constitution of India to the Respondent Nos. 1 to 8 to take all necessary steps to ensure that the bottleneck portion is widened to 9.15 meters at the intersection/junction of Uranwala Street and Alibhai Premji Marg in Tardeo Division, D Ward;"

38. Rule is made absolute in terms of prayer clauses (a), (b) and (c).

39. In the facts and circumstances of the case, there will be no order as to costs.

(Kamal Khata, J)

(G. S. Patel, J)

MARKED AREA FOR SCANTIONED R.L OF PLOT BEARING C.S. NO. 1/77 & 78 OF TARDEO DIVISION SITUATED AT BLDG NO. 2-5, URANWALA STREET, GRANT-ROAD MUMBAI-400007 IN 'D' WARD.







