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

WRIT PETITION NO.8434 OF 2009

Shri. Vijaysinh Patwardhan, }
Sole Managing Trustee of }
Shri. Ganpati Panchayat Sansthan, Sangli, }
Presently residing at 4 }
Dakshinmurty Co-operative Housing Society }
10th Road J. B. P. D. Scheme, }
Mumbai 400 049 }
Through the Power of Attorney Holder : }
Shri. Somnath Ramling Kore, }
Age :39 years, Occ: Business, }
Residing at. Kore Plaza, Vishrambag, Sangli }
.. Petitioner

Versus

1. State of Maharashtra }
[Summons to be served on the Learned }
Government Pleader appearing for }
State of Maharashtra under Order XXVII, }
Rule 4, of the Code of Civil }
Procedure, 1908] }
2. The Secretary, }
Health Department, }
Government of Maharashtra, }
Mantralay, Mumbai 400 032 }
3. The Commissioner, }
Sangli, Miraj & Kupwad City Corporation }
at Sangli }
4. The City Survey Officer, }
Kolhapur Road, Sangli Tal. Miraj }
Dist. Sangli }
.. Respondents

**CIVIL APPLICATION (STAMP) NO.25314 OF 2011
IN
WRIT PETITION NO.8434 OF 2009**

Shrimant VijaysinhaRaje Patwardhan	}	
Sole Managing Trustee of Shri Ganpati	}	
Panchayat Sansthan, Sangli.	}	
Presently R/o. Dakshin Maruti Co-op.	}	
Housing Society, 10 th Road, JBPD Scheme,	}	
Mumbai-400 049.	}	
Through Power of Attorney Holder :	}	
Shri. Somnath Ramling Kore,	}	
Age :39 years, Occ: Business,	}	
Residing at. Kore Plaza, Vishrambag,	}	
Sangli 416 416	}	.. Petitioner

Versus

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|----|---|---|--|
| 1. | State of Maharashtra | } | |
| | [Summons to be served on the Learned | } | |
| | Government Pleader appearing for | } | |
| | State of Maharashtra under Order XXVII, | } | |
| | Rule 4, of the Code of Civil | } | |
| | Procedure, 1908] | } | |
| 2. | The Secretary, | } | |
| | Health Department, | } | |
| | Government of Maharashtra, | } | |
| | Mantralay, Mumbai 400 032 | } | |

AND

Sangli Bar Association	}	
Having address at Civil Court,	}	
Rajwada Chowk, Sangli,	}	
By & through its Secretary	}	
Shri. Gajendra Surendra Kabadage,	}	
Age:36 years, Occ: Advocate,	}	

Applicant-Intervener

**CIVIL APPLICATION (STAMP) NO.25464 OF 2011
IN
WRIT PETITION NO.8434 OF 2009**

Vijaysinh Patwardhan,	}	
Sole Managing Trustee of	}	
Shri. Ganpati Panchayat Sansthan, Sangli,	}	
Presently residing at 4,	}	
Dakshinmurty Co-operative Housing Society	}	
10 th Road J. B. P. D. Scheme,	}	
Mumbai 400 049	}	
Through Power of Attorney Holder :	}	
Shri. Somnath Ramling Kore,	}	
Age :39 years, Occ: Business,	}	
Residing at. Kore Plaza, Vishrambag, Sangli	}	.. Petitioner

Versus

- | | | |
|---|---|---------------|
| 1. State of Maharashtra | } | |
| [Summons to be served on the Learned | } | |
| Government Pleader appearing for | } | |
| State of Maharashtra under Order XXVII, | } | |
| Rule 4, of the Code of Civil | } | |
| Procedure, 1908] | } | |
| 2. The Secretary, | } | |
| Health Department, | } | |
| Government of Maharashtra, | } | |
| Mantralay, Mumbai 400 032 | } | ..Respondents |

AND

Shri Ramchandra Tukaram Ghodake,	}	
Age: 63 years, Occ: Social Service,	}	
R/o 359/2, Mhasoba Galli,	}	
Khan Bhag, Azad Chowk, Sangli	}	
		Applicant-Intervener

**ALONG WITH
CIVIL APPLICATION (STAMP) NO.33339 OF 2016
IN**

WRIT PETITION NO.8434 OF 2009

M/s. Parshwa Realty,
 A partnership firm registered under the
 Indian Partnership Act, 1932, having
 Registered office at 'Poshish',
 Lale Plot, Madhav Nagar Road,
 Sangli 416 416

.. Applicant

IN THE MATTER BETWEEN:

Shri Vijaysinh Patwardhan, }
 Sole Managing Trustee of }
 Shri. Ganpati Panchayat Sansthan, Sangli, }
 Presently residing at 1 }
 Dakshinmurty Co-operative Housing Society }
 10th Road J. B. P. D. Scheme, }
 Mumbai 400 049 }
 Through Power of Attorney Holder : }
 Shri. Somnath Ramling Kore, }
 Age :39 years, Occ: Business, }
 Residing at. Kore Plaza, Vishrambag, Sangli }

.. Petitioner

Versus

1. State of Maharashtra }
 [Summons to be served on the Learned }
 Government Pleader appearing for }
 State of Maharashtra under Order XXVII, }
 Rule 4, of the Code of Civil }
 Procedure, 1908] }
2. The Secretary, }
 Health Department, }
 Government of Maharashtra, }
 Mantralay, Mumbai 400 032 }
3. The Commissioner, }
 Sangli, Miraj & Kupwad City Corporation }
 at Sangli }
4. The City Survey Officer, }
 Central Building, Vishram Baug }
 Sangli Tal. Miraj Dist. Sangli }

}.. Respondents

**WITH
INTERIM APPLICATION NO.10042 OF 2024
IN
WRIT PETITION NO.8434 OF 2009**

Shri. Vijaysinh Patwardhan,	}	
Sole Managing Trustee of	}	
Shri. Ganpati Panchayat Sansthan, Sangli,	}	
Presently residing at 4	}	
Dakshinmurty Co-operative Housing Society	}	
10 th Road J. B. P. D. Scheme,	}	
Mumbai 400 049	}	
Through the Power of Attorney Holder :	}	
Shri. Somnath Ramling Kore,	}	
Age :39 years, Occ: Business,	}	
Residing at. Kore Plaza, Vishrambag, Sangli	}	..Applicant
		.. (Org. Petitioner)

Versus

- | | | |
|---|---|----------------|
| 1. State of Maharashtra | } | |
| [Summons to be served on the Learned | } | |
| Government Pleader appearing for | } | |
| State of Maharashtra under Order XXVII, | } | |
| Rule 4, of the Code of Civil | } | |
| Procedure, 1908] | } | |
| 2. The Secretary, | } | |
| Health Department, | } | |
| Government of Maharashtra, | } | |
| Mantralay, Mumbai 400 032 | } | |
| 3. The Commissioner, | } | |
| Sangli, Miraj & Kupwad City Corporation | } | |
| at Sangli | } | |
| 4. The City Survey Officer, | } | |
| Kolhapur Road, Sangli Tal. Miraj | } | |
| Dist. Sangli | } | |
| | | .. Respondents |

...

Mr. S. G. Aney, Senior Advocate (through VC) with Mr. Yogesh S. Sankpal, Mr. Rishi Nirav Bhatt, Mr. Kishor Arjerao i/by Mr. Makarand M. Kale, Advocates for the Petitioner.

Mr. N. V. Walawalkar, Senior Advocate i/by Mr. Shivaji A. Masal, Advocate for Respondent No.3.

Mr. P. P. Kakade, Government Pleader with Mr. S. P. Kamble, Assistant Government Pleader for the Respondent-State of Maharashtra.

Mr. Michelle J. Almeida, Advocate, i/by C.K. Legal, for the Applicant-Intervener in CA(ST)/33339/2016.

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**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

Date on which the arguments concluded : 9TH OCTOBER, 2024.

Date on which the judgment is delivered : 7th JANUARY, 2025.

ORAL JUDGMENT : (PER : A. S. CHANDURKAR, J)

1. Shrimant Chintamanrao Appasaheb Patwardhan was the first Ruler of the Sangli State. He constructed a temple in Sangli city and installed his family idol therein. For the purposes of maintenance and upkeep of the temple and the deity, the “Shri Ganpati Panchayat Sansthan” was formed. The first Ruler became the sole trustee of the Trust. On 25/11/1940, the Sangli Ganpati Panchayat Sansthan Act, 1940, (for short, ‘ the Act of 1940’) came into force. It is the case of the Managing Trustee that after 15/08/1947, Sangli Santhan merged in the dominion of India.

Prior thereto land bearing City Survey nos. 4, 5, 5/1 to 5/18 situated at Sangli was made available free of costs to the State of Sangli for running a civil hospital in the area. As per provisions of Section 19 (b) of the Act of 1940, when the purpose of appropriation of any land given by the Sansthan would come to an end, the said land would revert to the Sansthan as its property. It was also open for the Sansthan to claim compensation or rent for the same. According to the Managing Trustee, sometime in the year 2007 the requirement of the said land on which a civil hospital was being conducted ceased to survive and hence the Sansthan was entitled to its return in accordance with the first proviso to Section 19(b) of the Act of 1940. It is in this backdrop that the Managing Trustee through his power of attorney of holder has filed this writ petition under Article 226 of the Constitution of India seeking return of the aforesaid land to the Sansthan.

2. The Sansthan on 22/06/2007 made an application to the second respondent-Director, Health Services, Maharashtra State stating therein that land admeasuring about 35 acres was made available for running the civil hospital. Land admeasuring 15 acres on the southern side of the earlier existing civil hospital was

lying vacant. On the premise that the said land was now not necessary for the civil hospital, a request was made to return possession of the said land to the Sansthan. On 01/08/2007, the District Civil Surgeon, Padmabhushan Dr. Vasantdada Patil Government Hospital, Sangli communicated its no objection to handover the said land by addressing a communication in that regard to the Director, Health Services, Maharashtra State. The Joint Director, Health Services on 04/01/2008 addressed a communication to the Additional Chief Secretary, Public Health Department stating therein that the District Civil Surgeon and the Deputy Director, Health Services had no objection to return the land to the Sansthan. In furtherance thereof, the Public Health Department on 12/03/2008 made certain enquiries with the Joint Director, Health Services as regards the actual land in use of the said Department. A further decision in this regard is however yet to be taken by the Additional Chief Secretary, Public Health Department. Since there has been no further progress in the matter, the Managing Trustee has filed the present writ petition.

3. Mr. S. G. Aney, the learned Senior Advocate for the Sansthan after referring to the documentary material on record as

well as various provisions of the Act of 1940 submitted that undisputedly the land owned by the Sansthan was permitted to be utilised for running a civil hospital. The need for the said land came to an end as an area of about 35 acres had been made available by the Government of Maharashtra to Padmabhushan Dr. Vasantdada Patil Government Hospital, Sangli for setting up a civil hospital. The said civil hospital was now functioning at the 35 acres of land. As a result, about 15 acres of the land on the southern side remained unutilised. The provisions of Section 19(b) of the Act of 1940 made it clear that on the purpose on the appropriation coming to an end, the grant of land would come to an end and such land was liable to be returned back to the Sansthan. Referring to the judgment of the Division Bench in *Sangli Nagarpalika, Sangli Vs. The Managing Trustee Shri Gannpati Panchayat Sansthan, Sangli represented by its Ganpati Manager, Shri Krishanaji Raghunath Ranade* (Appeal No.206 of 1966 decided on 10/10/1974) it was submitted that the Sansthan continued to remain the absolute owner of the land that was granted by it for running the hospital and that it was never divested of its title. As the utility of that land had come to an end, it was liable to be returned to the Sansthan. The provisions of Article 372 of the

Constitution of India were relied upon to contend that the provisions of the Act of 1940 continued to be “law in force” for being enforced. Referring to the affidavit in reply filed on behalf of the first and second respondent, it was submitted that the shifting of the hospital from the land of the Sansthan to other alternate land was admitted. In the affidavit, it was stated that the land were required for providing facility of residence to Doctors and other supporting staff. Though it was stated that this would be an ancillary purpose, it was pointed out that the land could be utilised only for the purpose for which it was granted namely, running of the civil hospital and not for any other purpose even if such activity was treated as ancillary in nature. Reference was then made to the information received from the State authorities under the provisions of the Right to Information Act, 2005 wherein it was stated in clear terms that there was no proposal under consideration for operating the National Rural Health Mission Hospital at City Survey nos.4, 5, 5/1 to 5/18 at Sangli. The communications in that regard dated 06/02/2010 and 22/02/2010 were referred to. He also referred to the affidavit dated 21/08/2012 filed on behalf of the Civil Surgeon, Health Services and submitted that what was now proposed was

establishment of a 100 bedded hospital for women at Sangli. On this premise, it was urged that if at all the State of Maharashtra desired to utilise the land for establishment of a different hospital, acquisition of such land would be necessary. The Sansthan through its Managing Trustee could not be required to indefinitely await the return of the land. To substantiate his contentions, the learned Senior Advocate placed reliance on the decisions in *The State of Bombay Vs. Heman Santlal Alreja*, AIR 1952 Bom 16, *Tej Singh Rao Vs. State of Maharashtra*, 1992 Supp (2) SCC 554 and *M. Siddiq through legal representatives Vs. Mahant Suresh Das and others* (2020) 1 SCC 1. On the aforesaid premise, it was urged that the State of Maharashtra through its Health Department be directed to return the aforesaid land to the Sansthan in terms of Section 19(b) of the Act of 1940.

4. Mr. P. P. Kakade, learned Government Pleader for the respondent nos.1 and 2 opposed the writ petition. He referred to the affidavit in reply filed on behalf of the said respondents and submitted that notwithstanding the fact that the hospital established earlier had shifted to other premises, the land was being utilised for ancillary purpose like providing for the residence

of Doctors and other supporting staff. There was a need for the said land since it was proposed to be put to use for providing health facilities to the general public. Since the need for the said land continued, it was submitted that no relief could be granted to the petitioner.

5. Mr. N. V. Walawalkar, learned Senior Advocate appearing for the third respondent-the Commissioner, Sangli, Miraj and Kupwad Municipal Corporation at the outset submitted that the averments made in the writ petition had been affirmed by the power of attorney holder of the Managing Trustee. On the basis of a development agreement dated 18/09/2007, the power of attorney holder was claiming interest in the said land. Since the writ petition was not being prosecuted by the Managing Trustee on behalf of the Sansthan, no relief whatsoever was liable to be granted. Reference was also made to the provisions of Section 7(b) of the Act of 1940 to submit that in support of the case of the Sansthan, the pleadings ought to have been verified by the Managing Trustee. In absence of any legal necessity on behalf of the Sansthan being pointed out, the writ petition as filed on its behalf through the Managing Trustee was not liable to be

entertained. It was further submitted that the question as to whether the need of the said land from City Survey nos.4, 5, 5/1 to 5/18 survived or not was a disputed question that could not be adjudicated in writ jurisdiction. The Sansthan ought to invoke the civil remedy for seeking the reliefs as sought in the writ petition. It was then submitted that under provisions of Section 19 of the Act of 1940, it was open for the Managing Trustee to claim compensation for the use of aforesaid land. Since such relief could be claimed by the Sansthan by approaching the civil Court, no writ of mandamus could be issued in its favour. The learned Senior Advocate sought to distinguish the judgment of the Division Bench in *Sangli Nagarpalika, Sangli (supra)* and submitted that the Sansthan was not entitled to any relief whatsoever. The writ petition was therefore liable to be dismissed.

6. In rejoinder, the learned Senior Advocate for the petitioner submitted that the land in question had been handed over to the Government for running a hospital and that no land had been given to the Municipal Corporation. If at all the Municipal Corporation had need of any land, it could approach the State Government in that regard but it could not claim any interest in

the present land. The writ petition as filed sought enforcement of the legal rights of the Managing Trustee on behalf of the Sansthan and merely on the ground that compensation could also be claimed, the same could not be a reason for denying just relief to the Sansthan. The execution of a power of attorney by the Managing Trustee for development of the land could not be a reason to deprive the Sansthan of any relief.

Inviting attention to the affidavit dated 09/09/2011 filed on behalf of the petitioner, it was submitted that the Sansthan was willing to make available alternate accommodation for existing staff members of the hospital who were residing on a portion of the aforesaid land. Such arrangement could be made free of costs elsewhere at the other land of the Sansthan as per the carpet area approved by the State of Maharashtra. Since the Act of 1940 was a pre-constitutional enactment it had its due weightage and it ought to be honoured in its true spirit as held by the Supreme Court in paragraph 986 of its decision in *M. Siddiq through legal representatives (supra)*. It was thus submitted that the petitioner was entitled to the reliefs as prayed for.

7. An affidavit in reply has been filed by Mr. Vishwanath Tukaram Shinde, Incharge City Survey Officer, Sangli wherein it was stated that after perusing the revenue records at the City Survey Office it was found that in 1928 an enquiry had been conducted with regard to the subject land. The name of the Government was shown as occupant by way of 'L' tenure in view of provisions of Bombay Land Revenue Code, 1879. The same was published in the Government Gazette on 07/03/1930. In the property register, against the subject land at City Survey nos.4, 5, 5/1 to 5/18 the remark "appropriated under Section 19 of Shri Ganpati Panchayat Sansthan Act" was recorded in Column 14. The said entry was certified on the basis of an order dated 23/11/1959 passed by the Collector Sangli. The aforesaid property was converted from 'L' tenure to 'C' tenure on 15/02/1963. It is further stated that 'C' tenure would mean the properties belonging to the Sansthan. The revenue record was maintained by the Revenue Department under the Office of the Collector till 31/05/1981. Thereafter the record was being maintained by the Office of the land records.

8. Civil Application (Stamp) No.25464 of 2011 has been filed by Mr. Ramchandra Tukaram Ghodake seeking leave to intervene in the writ petition. In the application, it is stated that the applicant has been rendering social service for many years and is a responsible citizen of Sangli city. It is stated that the subject land stands vested in the Government of Maharashtra and therefore the Sansthan is not entitled to any relief.

Civil Application (Stamp) No.25314 of 2011 has been filed by the Sangli Bar Association through its Secretary seeking leave to intervene in the writ petition in the application. It is stated that one building standing on the subject land had been allotted to the Sangli Bar Association for accommodating various Advocates who were its Members. The Association also opposes the grant of any relief to the petitioner.

Civil Application (Stamp) No.33339 of 2016 has been filed by M/s. Parshwa Realty through its partners. It also seeks leave to be added as party to the writ petition in view of the fact that the partnership firm had purchased the subject land by virtue of registered sale deed dated 28/09/2010. It is

therefore stated that the partnership firm is a necessary party to the present proceedings.

9. We have heard the learned counsel for the parties at length and with their assistance we have also perused the documentary material on record. We have thereafter given thoughtful consideration to the issue that falls for consideration. Land from City Survey nos.4, 5, 5/1 to 5/18 is admittedly owned by the Sansthan and much prior to independence said land had been handed over to the State of Sangli for running a public hospital thereon. After the State of Sangli merged with the dominion of India, the said land was made over to the State of Maharashtra. The record indicates that thereafter the State of Maharashtra acquired about 35 acres land and the civil hospital that was being run on the aforesaid land was shifted there. The newly located hospital was named Padmabhushan Dr. Vasantdada Patil hospital. The fact that the earlier Government hospital was no longer being run from the aforesaid land is clear from the communication dated 01/08/2007 issued by the District Civil Surgeon of the Government Hospital as well as the communication dated 04/01/2008 issued by the Joint Director,

Health Services. It is on this premise that the Managing Trustee submitted a proposal behalf of the Sansthan dated 22/06/2007 to the competent authority seeking to invoke its right under the first proviso to Section 19(b) of the Act of 1940.

10. It was not urged by the State of Maharashtra that the Act of 1940 had lost its legal effect being a pre-constitutional piece of legislation. The Act of 1940 being “law in force” enacted before the commencement of the Court of India, Article 372 recognises its continuation as an existing law. The Sansthan is thus entitled to rely upon the provisions of the Act of 1940 for seeking appropriate relief.

11. To consider the entitlement of the Managing Trustee of the Sansthan to any relief based on the provisions of the Act of 1940, it would be necessary to refer to Section 19 which reads as under:-

“19. (a) The grant of villages of Sangli & Sangliwadi made by Shrimant Chintamanrao Appasaheb the First Ruler of Sangli has been and is hereby recognised as a grant of the soil viz. जल, तरु, काष्ठ, पाषाण, निधी, निक्षेप and all

(b) But all appropriations of land from these two

village made by the Sangli state and by the Sangli Municipality for a public purpose will stand good and will not be called in question by the Managing Trustee at any time nor will the Sansthan Trust be entitled to claim any compensation on account of such appropriations.

Provided that when that present purpose of the appropriations comes to an end or the direct control or management goes out of the hands of the State or the Municipality or from the former to the latter or vice versa the sites will revert to the Shree Ganpati Panchayatan Sansthan as its property or the aforesaid Sansthan may claim compensation or rent therefor as thinks fit.

This proviso however would not apply to the land of the Sansthan which is already acquired or as may be acquired under the Land Acquisition Act, No. 1 of 1894 as applied to the Sangli State.”

Section 19(a) recognises the nature of grant made from villages of Sangli and Sangliwadi by the first Ruler of Sangli State. Under Section 19(b) such appropriation of land from the aforesaid villages when made for a public purpose was to stand good and was not liable to be called in question by the Managing Trustee at any time. However, under the first proviso to Section 19(b) when the purpose of the appropriation would come to an end, the land would revert to the Sansthan as its property. The said proviso however would not apply to land that was already acquired or

would be acquired under provisions of the Land Acquisition Act, 1894.

12. The provisions of Section 19 of the Act of 1940 were the subject matter of consideration in *Sangli Nagarpalika, Sangli (supra)* by a Division Bench of this Court. The facts of the said case indicate that Sangli Nagarpalika undertook activities of quarrying in the land owned by the Sansthan. Since these activities were undertaken without converting the agricultural land into non-agricultural use, there was a correspondence between the parties. The Sangli Nagarpalika took the stand that it was a public body and that the quarrying activities were undertaken for the purposes of development of the city. It therefore sought exemption from the payment of royalty. This was refused by the Sansthan which thereafter filed a suit for recovery of the amount of non-agricultural assessment and royalty. The trial Court held that the Sansthan was the grantee of the land as well as of the sub soil of all the land. It was held entitled to non-agricultural assessment as well as the amount of royalty. An appeal was preferred by the Sangli Nagarpalika wherein the provisions of Section 19 were considered by the Division Bench. In that context, the Division Bench observed in paragraphs 25 and 27 as under :-

25. In our view clause (b) and the proviso must be read together to understand the real meaning thereof. In the opening part of the clause (b) there is a reference to appropriations of land from those two villages 'made' by the Sangli State and by the Sangli Municipality for a public purpose. Prima facie therefore this seems to be a reference to what is already done or what is an existing appropriation at the date of the passing of this Act. The further reference is that these Appropriations will not be called in question by the Managing Trustee at any time nor will the Sansthan Trust be entitled to claim any compensation on account of such appropriation.

27. Against this background if the proviso is read, it is clear that it refers to 'present purpose' being over at some time. The proviso says that when the present purpose of the appropriations comes to an end or the direct control or management goes out of the hands of the State or the Municipality certain consequences should follow. The land or the property belonging to the Sangthan from these two villages is appropriated for the time being for the use of the State or for the Municipality and that was a particular purpose then existing. When that 'present purpose' came to an end or the control of that appropriation came out of the hands of the State or the Municipality the sites have to revert back to the Ganpati Panchayatan Sansthan as its property or the Sansthan may claim compensation or the rent thereof as it thinks fit. This means that the ownership and title of the Sansthan in respect of those properties is maintained all along, but the actual physical use thereof by the Sansthan is kept in abeyance and the Municipality and State of Sangli are permitted to make use of that property. When that present purpose comes to an end and neither the State

nor the Municipality any more require this site, it will revert back to the Sansthan. At that stage the Sansthan can take back the property and make use or refuse to take back or claim compensation or the rent for the user. If those public purposes which are described in those sections continue adinfinitus there would be no question of either making payment or reversion of the property. As and when the 'present purpose' comes to an end what should happen to the appropriated property is laid down by the proviso. We do not read in this clause any provisions by which the Sangli Municipality at any future date can take over any land for permissible public purpose and is still exempt from making any payment to the Shri Ganapati Panchayatan Sansthan. We do not find any support in this proviso to accept the argument of Shri Pratap. On the contrary the second proviso to that clause says that this proviso, which means the earlier proviso, would not apply to the land of the Sansthan which is already acquired or as may be acquired under the Land Acquisition Act, No.1 of 1894, as applied to the Sangli State, Clause (c) then provides that any further acquisition in the villages by the State for public purposes will be on the basis of the Land Acquisition Act in force in the State. Where acquisition is contemplated whether it is in the past or future the provisions of Land Acquisition Act of 1894 are made applicable. Where some appropriation is made for public purpose, a provision has been made that that will be a free user until 'the present purpose' is being served. In this view of the matter we are unable to accept the argument of Shri Pratap in that behalf also.

(emphasis supplied by us)

13. The aforesaid discussion in clear terms recognises the rights

of the Sansthan as available under Section 19(b) of the Act of 1940. On the grant of land by the Sansthan, it was not divested of its ownership in the said land. The grant was only for “the present purpose of appropriation” and on such present purpose of appropriation coming to an end, the land has to revert to the Sansthan. We are in complete agreement with the aforesaid view and it is on this premise that the rights of the Sansthan would have to be considered.

Undisputedly, the land from City Survey nos.4, 5, 5/1 to 5/18 owned by the Sansthan had been handed over to the Sangli State for running a public hospital. After the existing public hospital was shifted from the aforesaid land, the “present purpose of the appropriation” came to an end. Thus a right accrued in favour of the Sansthan to seek return of the said land under the first proviso to Section 19(b) of the Act of 1940. That the Health Department was conscious of the Sanstha’s right is evident from the communication addressed on its behalf to the State of Maharashtra. Merely for the reason that the said land was now proposed to be utilised for providing other health services to members of the public would not mean that the “present purpose of the appropriation” would continue. The said provision does not

recognise any perpetual appropriation especially when the purpose for which such land was initially granted had admittedly come to an end. The Sansthan not having been divested of its title, we are of the considered opinion that a right has accrued in favour of the Managing Trustee of the Sansthan to seek reversion of the aforesaid land to the Sansthan under the first proviso to Section 19(b) of the Act of 1940.

14. We also find merit in the submission made on behalf of the petitioner that the Municipal Corporation cannot seek to put-forth its need for the said land by contending that some other medical facilities are sought to be provided therein. The grant of land was not made to it. While it is open for the Municipal Corporation to undertake such activities, the same has to be pursuant to either some allotment of land to it or after acquiring land in accordance with law. We also do not find that the Sansthan ought to be denied relief on the ground that the writ petition is being prosecuted by the Managing Trustee through his power of attorney holder. The locus of the power of attorney holder is based on the development agreement entered into between the Sansthan and the developer. For the present purpose, it is not necessary for us

to enter into the arena as to whether there is any legal necessity for the Sansthan to have a development agreement as the authorities under the Maharashtra Public Trust Act, 1951 are empowered to go into that aspect if the need arises.

15. Insofar as the civil applications seeking leave to intervene in the writ petition are concerned, we are of the view that the presence of the applicants, Mr. Ramchandra Tukaram Ghodake and the Sangli Bar Association through its Secretary in the present writ petition would not be of much assistance considering the provisions of Section 19 (b) of the Act of 1940. The Sangli Bar Association through its Secretary can approach the concerned respondents and can seek allotment of appropriate space for accommodating its Members. The prayers made in the said Civil Applications therefore are not granted.

16. Coming to the relief that can be granted to the Sansthan, we find that its right to seek return of the appropriation under the proviso to Section 19(b) of the Act of 1940 stands established. We are of the considered opinion that in terms of Section 19(b) of the

Act of 1940 a right has accrued in favour of the Sansthan to seek reversion of the land that was granted by the Sansthan for the purposes of running a civil hospital. The title of the Sansthan having not being lost, the only option available with the State Government is to acquire that land in case it requires the same for a public purpose. A decision in that regard would have to be taken by the State Government. As regards a small portion of the said land occupied by members of the staff of the erstwhile Government hospital, the Sansthan has indicated its willingness to make available alternate accommodation for members of the staff who are occupying a portion of the said land elsewhere at its own costs. That would be a matter to be worked out between the Sansthan and the Health Department of the Government of Maharashtra. In the light of the aforesaid discussion, the following directions are issued:-

- i) The Government of Maharashtra through its Health Department shall within a period of three months from today return land from City Survey nos.4, 5, 5/1 to 5/18 at Sangli to the Sansthan that was the subject matter of grant under Section 19(1) of the Act of 1940. In case the State Government is desirous of retaining the

said land for any public purpose, it would be open for the State Government to acquire the said land in accordance with law.

ii) The statement made on behalf of the Sansthan in the affidavit dated 09/09/2011 that the Sansthan was willing to make an alternate arrangement for members of the staff who are presently occupying a portion of the aforesaid land elsewhere is accepted. The Managing Trustee through his authorised representative and the Chief Secretary, Public Health Department Government of Maharashtra shall work out the modalities in that regard within a period of eight weeks from today.

17. Rule is made absolute in aforesaid terms with no order as to costs. The Interim applications are also disposed of.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]