IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10896 OF 2025

Ramubai Krushna Patil ...Petitioner

Versus

1. The State Of Maharashtra Through Special Land Acquisition Officer, Uran, District Raigad
2. Kailas Ramesh Patil
3. Jayashree Mangesh Patil
4. Tulsabai Ramesh Patil
5. Hemlata Vinod Thakur
6. Raghunath Budhaji Patil
7. Anandi Sadanand Patil
8. Laxman Ambu Patil
9. Shanta Shantaram Patil
10. Meghashyam Shantaram Patil
11. Dinesh Shantaram Patil
12. Yogesh Shantaram Patil
13. Kashibai Mahadev Gharat
14. Lata Madhukar Patil
15. Damayanti Vilas Thakur
16. Manoj Bhalchandra Patil
17. Bharat Bhalchandra Patil
18. Chetna Vinod Wajekar

...Respondents

SANTOSH SUBHASH KULKARNI

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5. Hemlata Vinod Thakur ...Respondents

Mr. Saurabh Patil, a/w Kshema Mahuli, for the Petitioner.
Mr. P. G. Sawant, AGP for the State – Respondent No.1 in all WPs.
Mr. Saurabh Butala, for the Respondent Nos.2 to 18 in all WPs.

CORAM: N. J. JAMADAR, J.
Reserved On: 3rd DECEMBER, 2025
Pronounced On: 29th JANUARY, 2026

JUDGMENT:-

1. Rule. Rule made returnable forthwith and, with the consent of the learned Counsel for the parties, heard finally.

2. These petitions under Article 227 of the Constitution of India assail identical orders passed by the Executing Court in the petitions filed to execute the awards passed in land acquisition references.

3. The facts in WP/10896/2025 are noted as a representative case.

4. The background facts leading to these petitions can be stated as under:

4.1 Pandu alias Pandurang Manglya Patil, Ambu Manglya Patil and Budhya Manglya Patil, were the owners of the land bearing Survey No.56, Hissa No.8, admeasuring 8 R and Survey No.116, Hissa No.16, admeasuring 21 R situated at Mauje Bokadvira, Taluka Uran, District Raigad, ("the subject lands"). The petitioner is the daughter of Pandu @ Pandurang Mangalya Patil. Respondent Nos.2 to 5 are the legal heirs of late Ramesh Mangaly Patil, the brother of the petitioner. Respondent Nos.6 to 18 are the legal heirs of late Ambu Mangaly Patil and Budhya Mangalya Patil.

4.2 The subject lands were acquired by respondent No.1 for Navi-Mumbai Project vide Notification dated 24th September, 1986 issued under Section 4 of the Land Acquisition Act, 1894 ("the Act, 1894"). The Land Acquisition Collector passed an award. The petitioner and respondent Nos.2 to 18, who are the successors-in-interest of the abovenamed holders of the subject lands, made references under Section 28A(3) of the Act, 1894.

4.3 By a judgment and award dated 18th July, 2016, the Reference Court partly allowed the reference LAR No.222/2014 and ordered respondent No.1 to pay compensation of Rs.20,71,060/- alongwith interest.

4.4 The petitioner and the other co-claimants filed Special Darkhast No.51/2016 to execute the award passed in LAR No.222/2014. Respondent No.1 deposited the amount under the award on 27th February, 2019. An application for withdrawal of the said amount came to be allowed by the Executing Court by an order dated 3rd April, 2019 subject to certain conditions.

4.5 Subsequently, respondent No.2 filed an application (Exhibit-39) for himself and on behalf of respondent Nos.2 to 5, 6, 7 and 9/1 to 13/3 asserting that the petitioner – original claimant No.5, had no right to receive the compensation as she was not the daughter of Pandu @ Pandurang Patil. The

petitioner was not born to her mother out of the wedlock with late Pandu @ Pandurang Patil.

4.6 The petitioner resisted the application.

4.7 By an order dated 10th October, 2019, the Executing Court rejected the prayer of the co-claimants – respondent Nos.3 to 5, 6, 7 and 9/1 to 13/3 to release the amount of compensation in favour of the claimants excluding the petitioner. However, the learned Civil Judge observed that since the extent of the share of the claimants in the compensation awarded under the award in LAR/222/2014 was not determined, the applicants in the said application (Exhibit-39) or the petitioner – original claimant No.5, were required to institute a suit before the Civil Court for the determination of their right in the compensation. Till then, the amount of compensation deposited by respondent No.1 cannot be released in favour of any of the claimants - award holders.

4.8 The respondents challenged the said order in writ petition before this Court. During the pendency of the said writ petition, the petitioner preferred an application for withdrawal of the amount falling to her share (Exhibit-55). The petitioner claimed that, she had ½ share in the compensation, payable for the acquisition of the land of Pandu @ Pandurang Patil, being the

daughter of late Pandu @ Pandurang Patil, and the balance ½ share was that of late Ramesh, the predecessor-in-title of respondent Nos.2 to 5. The petitioner, thus, prayed for release of the said amount subject to an undertaking and bank guarantee to the extent of her 50% share.

4.9 By an order dated 7th May, 2025, the learned Civil Judge rejected the application opining that the Executing Court had already passed an order on the application (Exhibit-39) and thereby directed the parties to have their share determined by the Civil Court. The said order was not reversed or set aside and, thus, the Executing Court can not review its own order.

5. Being aggrieved, the petitioner has preferred this petition assailing the aforesaid order.

6. The facts in WP/10897/2025 and WP/10898/2025 are almost identical. LAR/209/2014, the subject of WP/10897/2025, was in respect of the agricultural land bearing Survey No.89/3 and 89/7 and by the judgment and award dated 13th July, 2016 compensation of Rs.45,59,020/- alongwith interest was awarded. In WP/10898/2025, the award in LAR/208/2014 was passed on 13th July, 2016 and thereby compensation of Rs.35,85,795/-, alongwith interest, was awarded for the acquisition of the land, bearing Survey No.112, Hissa No.3/9

and Hissa No.3/22, belonging to Pandu @ Pandurang Patil. The said LAR was filed by the petitioner and respondent Nos.2 to 5, the successors-in-interest of Ramesh Pandu Patil.

7. Identical orders on the applications for releasing the compensation amount to the claimants, excluding the petitioner, and on the applications preferred by the petitioner to release 50% of the amount, were passed by the learned Civil Judge. The petitioner has, thus, invoked the writ jurisdiction.

8. I have heard Mr. Saurabh Patil, the learned Counsel for the petitioner, Mr. Saurabh Butala, the learned Counsel for respondent Nos.2 to 18 and, Mr. Sawant, the learned AGP for the State – respondent No.1, at some length. With the assistance of the learned Counsel for the parties, I have perused the material on record.

9. Mr. Patil, the learned Counsel for the petitioner, submitted that the impugned orders passed by the Executing Court are legally unsustainable and have caused grave prejudice to the petitioner. It was submitted that not only the land acquisition references were filed by the petitioner and respondent Nos.2 to 5 with a clear and categorical assertion that the petitioner was the daughter of late Pandu @ Pandurang Patil but even the execution petitions were filed with the assertion that the

petitioner and late Ramesh, the predecessor-in-title of respondent Nos.2 to 5, were the successors-in-interest of late Pandu @ Pandurang Patil. Belatedly and with a *mala fide* design, the respondents objected to the release of the amount of compensation in favour of the petitioner, falsely claiming that the petitioner was not the daughter of late Pandu @ Pandurang Patil and she was born to her mother by latter's quondam husband.

10. Mr. Patil further submitted that the respondent Nos.2 to 5 and the petitioner had jointly filed applications for their recognition as their legal heirs not only of late Pandu @ Pandurang Mangalya Patil but even Vithabai, the wife of late Pandu @ Pandurang Patil and the mother of the petitioner and late Ramesh Patil. Those applications were allowed by orders dated 29th January, 2008 declaring the petitioner and respondent Nos.2 to 5 to be the legal heirs of late Pandu @ Pandurang Patil and Smt. Vithabai. Thus, the Executing Court committed a manifest error in holding that the question as to who were entitled to the compensation deposited by respondent No.1 was required to be determined by the Civil Court.

11. Moreover, till the filing of these petitions, respondent Nos.2 to 5 had not instituted the suit, though the Executing Court has

passed the order recording such a view in the year 2019. The objections *mala fide* raised on behalf of the respondents; respondent Nos.2 to 5, in particular, caused grave prejudice to the petitioner, who is more than 80 years of age, urged Mr. Patil.

12. In opposition to this, Mr. Butala, the learned Counsel for the respondents, submitted that the Executing Court has correctly ruled that the question as to whether the petitioner is entitled to a share in the compensation was required to be determined by the Civil Court. A specific objection to the petitioner's right to inherit the estate left behind by late Pandu @ Pandurang Patil has been raised. It was the positive case of respondent Nos.2 to 5 that the petitioner was not the daughter of late Pandu @ Pandurang Patil. She was born to Vithabai by her quondam husband. Therefore, no fault can be found with the impugned order. To buttress this submission, Mr. Butala placed reliance on a judgment of Supreme Court in the case of ***P. K. Sreekantan and others vs. P. Sreekumaran Nair and others***[1]***.***

13. Mr. Butala further submitted that Jayashree Patil (R3) and Hemlata Thakur (R5), the daughters of Ramesh Patil, have instituted a suit bearing RCS/109/2025 asserting that the

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1 (2006) 13 Supreme Court Cases 574.

petitioner – defendant No.3 therein, is not entitled to a share in the amount of compensation and the other benefits in lieu of the acquired land. Thus, till the Civil Court determines the contentious issues with regard to the entitlement of the parties to succeed to the estate of late Pandu @ Pandurang Patil, the amount of compensation deposited by respondent No.1 cannot be released, submitted Mr. Butala.

14. To start with, it is necessary to note that there is not much controversy over the acquisition of the subject lands and the award of enhanced compensation by the Reference Court in LAR/222/2014, LAR/208/2014 and LAR/209/2014. Incontrovertibly, the LAR Nos.222/2014 and 209/2014 were filed by the petitioner and respondent Nos.2 to 18 and LAR/208/2014 was filed by petitioner and respondent Nos.2 to 5, claiming to be the legal representatives of the original holders of the land. Qua the acquired property which originally belonged to late Pandu @ Pandurang Patil, respondent Nos.2 to 5 and the petitioner claimed that they were the successors-in-interest of late Pandu @ Pandurang Patil. Indisputably, the awards were passed in favour of the petitioner and respondent Nos.2 to 5 qua the share of late Pandu @ Pandurang Patil.

15. It is also imperative to note that the petitioner and respondent Nos.2 to 18 had jointly filed applications for execution of the award passed in LAR/222/2014 and LAR/209/2024 and the petitioner and respondent Nos.2 to 5 filed execution petition for execution of award in LAR/208/2014. The controversy seems to have arisen when respondent No.2 filed an application seeking release of the amount of compensation, excluding the petitioner. At that stage, a contention was raised by the respondents; respondent Nos.2 to 5, in particular, that the petitioner was not the daughter of Pandu @ Pandurang Patil and she was born to Vithabai out of her wedlock with her quondam husband and was treated like a daughter by Pandu @ Pandurang Patil.

16. On first principles, the pleadings and representations by respondent Nos.2 to 5 upto that stage, ran counter to the said case sought to be urged before the Executing Court. Secondly, it is pertinent to note, the petitioner and respondent Nos.2 to 5 had obtained heirship certificate by filing joint applications not only in respect of Pandu @ Pandurang Patil but also in respect of Vithabai, the wife of Pandu @ Pandurang Patil. Thirdly, at no point of time, a dispute about the apportionment of the amount of compensation was raised by respondent Nos.2 to 5, in

particular, either under Section 28A(3) read with Section 18 or under Section 30 of the Act, 1894.

17. The last factor assumes critical legal significance. A Reference Court under the Act, 1894 is a Court of limited jurisdiction. The Reference Court has to discharge the functions in terms of the reference made by the the Collector either under Section 18 or 30 of the Act, 1894. It is well recognized the Reference Court gets jurisdiction only if the matter is referred to it under Section 18 or 30 of the Act, 1894 by the Land Acquisition Collector. The Reference Court cannot widen the scope of its jurisdiction or decide the matters which are not referred to it.

18. In the case of ***(Rai) Pramatha Nath Mullick Bahadur vs. Secy. Of State***[2]***,*** the Privy Council enunciated that the jurisdiction of the Court under the Act, 1894 was a special one and strictly limited by the terms of those sections. It only arises when a specific objection has been taken to the Collector's award, and it is confined to a consideration of the objection. Once therefore it is ascertained that the only objection taken is to the amount of compensation, that alone is the "matter"

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2 AIR 1930 Privy Council 64.

referred, and the Court has no power to determine or consider anything beyond it.

19. In the case of ***Kothamasu Kanakarathamma and others vs. State of A.P.***[3]***,*** the Supreme Court enunciated that the jurisdiction of the Reference Court arises solely only on the basis of the reference made to it. Where the Land Acquisition Officer has made a reference under Section 30 of the Act, 1894, the reference was only in regard to the apportionment of the compensation among the claimants. Such a reference would certainly not invest the Court with jurisdiction to consider the question of quantum of compensation which is not directly connected with it.

20. In the case of ***Prayag Upnivesh Awas Evam Nirman Sahakari Samiti Ltd. vs. Allahabad Vikas Pradhikaran and another***[4]***.*** the Supreme Court after reference to the previous pronouncement in the case of ***Ajjam Linganna and others vs. Land Acquisition Officer, Revenue Divisional Officer, Nizamabad and others***[5]***,*** enunciated that the Reference Court has no power to convert reference under Section 30 into one under Section 18

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3 AIR 1965 Supreme Court 304.

4 (2003) 5 Supreme Court Cases 561.

5 (2002) 9 Supreme Court Cases 426.

of the Act at the instance of the persons who did not apply for reference earlier.

21. A profitable reference can also be made to a three-Judge Bench Judgment of the Supreme Court in the case of ***Madan vs. State of Maharashtra***[6]***,*** wherein expounding the distinction between Sections 18 and 30 of the Act, 1894, the Supreme Court enunciated that at a cursory glance of the provisions of Sections 18 and 30 of the Act, may suggest that there is some overlapping between the provisions inasmuch as both contemplate reference of the issue of apportionment of compensation to the Court. But, a closer scrutiny would indicate that the two Sections of the Act operate in entirely different circumstances. While Section 18 applies to situations where the apportionment made in the Award is objected to by a beneficiary thereunder, Section 30 applies when no apportionment whatsoever is made by the Collector on account of conflicting claims. In such a situation one of the options open to the Collector is to make a reference of the question of apportionment to the Court under Section 30 of the Act. The other is to relegate the parties to the remedy of a suit.

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6 AIR 2014 Supreme Court 846.

22. In the case of ***P. K. Shreekantan*** (supra), on which reliance was placed by Mr. Butala, after referring to the aforesaid pronouncements, on the question whether Reference Court can deal with the question covered by Section 30 of the Act in a reference under Section 18 of the Act and vice-a-versa, the Supreme Court enunciated that it was impermissible to deal with the matter covered under Section 30 of the Act, while dealing with a reference in terms of Section 18 of the Act. However, it is to be noted that there is no time-limit for seeking reference under Section 30 of the Act, though it should always be done within a reasonable time. The reasonableness of time flows from the need for a finality to judicial proceedings.

23. In the light of the aforesaid legal position, the legality of withholding of the amount of compensation deposited by respondent No.1, in the wake of the dispute raised by respondent Nos.2 to 5, in particular, deserves to be appreciated. It is imperative to note the dispute as to apportionment was not raised at any point of time till the awards came to be passed in LAR/408/2014, LAR/209/2014 and LAR/222/2014. On the contrary, not only those references were made by the petitioner and respondent Nos.2 to 5 jointly, in the capacity of the successors-in-interest of late Pandu @ Pandurang Patil, but

even joint applications for execution of the awards were filed. It is only after the Executing Court passed the order of release of the amount deposited by respondent No.1, a dispute was sought to be raised by the respondents, especially respondent Nos.2 to 5, as to the entitlement of the petitioner on the premise that she was not the daughter of late Pandu @ Pandurang Patil.

24. Undoubtedly, a dispute as to apportionment could be raised. There is no time-limit prescribed for making a reference as to the appropriation of the amount of compensation. However, the question of reasonability of time within which such a dispute is to be raised, the nature and stage of the proceedings in which such dispute is sought to be raised and the conduct of the parties, assume material significance.

25. In the case at hand, this Court finds that an unequivocal, unqualified and positive representation that the petitioner is the daughter of late Pandu @ Pandurang Patil and sister of Ramesh Patil, the predecessor-in-title of respondent Nos.2 to 5, manifested not only throughout the proceedings under the Act, 1894 but even in filing applications for grant of heirship certificate. Categorical statements acknowledging the petitioner to be the daughter of late Pandu @ Pandurang Patil have been made in the application for recognition as the legal heirs of late

Pandu @ Pandurang Patil. What further exacerbates the situation is, in the application for the grant of heirship certificate in respect of Vithabai, the wife of Pandu @ Pandurang Patil. Respondent Nos.2 to 5 claimed to be the legal heirs of Vithabai as well on the premise that Ramesh was the son of late Pandu @ Pandurang Patil and Vithabai.

26. The aforesaid conduct of respondent Nos.2 to 5 manifested in the pleadings in judicial proceedings cannot be said to be inconsequential. It is trite, admissions in pleadings constitute judicial admissions and stand on a higher pedestal than evidentiary admissions and signify waiver of proof. Therefore, the relegation of the parties to the Civil Court for determination of their entitlement on the basis of a contention which *ex facie* runs counter to the consistent stand of respondent Nos.2 to 5, could not have been as a matter of course. The learned Civil Judge ought to have kept in view clear, explicit and unequivocal representations, the conduct of the parties, the stage of the proceedings at which the dispute was sought to be raised and the masterly inaction on the part of respondent Nos.2 to 5 till the stage of distribution of the compensation amount, while ordering that the amount of compensation would be released

only after respondent Nos.2 to 5 or the petitioner obtained a declaration from the Civil Court.

27. The conduct of respondent Nos.2 to 5 in maintaining a stoic silence for over five years, even after the order dated 3rd April, 2019 was passed by the Executing Court, also bears upon the *bona fide* of their claim. No proceeding was instituted by respondent Nos.2 to 5 to seek a declaration till these petitions came to be filed before this Court.

28. As noted above Mr. Butala tendered a copy of the plaint in RCS/109/2025 for the perusal of the Court. It seems that the said plaint was filed in the month of September, 2025. A bare perusal of the plaint in the said suit betrays the casual and halfhearted manner in which the said suit has been instituted by Hemlata Thakur (R5) and Jayashree Patil (R3). Even there is no prayer in the said suit that the petitioner – defendant No.3 therein, is not the daughter of late Pandu @ Pandurang Patil and is, therefore, not entitled to a share in the compensation and other benefits in lieu of the acquisition of the subject land. An innocuous declaration is sought that the plaintiffs – respondent Nos.3 and 5 herein, are entitled to such compensation and benefits and the consequential injunctive relief.

29. In the said plaint, there is also no reference to the fact that the executing Court, by an order dated 3 April 2019, directed the Respondent Nos.2 to 5 to have declaration from the Civil Court as to their right to the compensation. In contrast, the cause of action is stated to have arisen on 2 June 2025 when the Petitioner – Defendant No.3 demanded 50% share in the compensation. Prima facie, a clever attempt has been made to obviate the bar of limitation for a suit for declaration. The cause of action can be said to have arisen to the Respondents latest on 3 April 2019 when the right to sue first accrued to the Respondent Nos.2 to 5. Prima facie, Respondent Nos.2 to 5 will have to surmount the impediment of bar of limitation.

30. Should the Petitioner, or for that matter, the co-claimants, be made to wait to reap the fruits of the awards till such suit is finally adjudicated by the Civil Court, is the question that pricks conscience of the Court. The Petitioner and the co-claimants who have legitimate right to receive the compensation which has been ordered to be released, cannot be made to endure vicissitudes of litigation, which *ex facie* suffers from the glaring infirmities adverted to above.

31. In a situation of the present nature, the fact that there is no apportionment either under Section 18 or Section 30 of the

Act, 1894 need not preclude the writ court from exercising the plenary jurisdiction to remedy the injustice, unshackled by the procedural technicalities. Writ Court can exercise its jurisdiction "to reach injustice wherever it is found". **(*U.P. state Sugar Corporation Ltd. vs. Kamal Swaroop Tondon*[7]).**

32. In the case of ***Maharashtra Chess Association vs. Union of India and Ors.***[8], the Supreme Court emphasised the role of the High Court under the Constitution. The observations in paragraph No.13 are instructive, and, hence, extracted below :

> "13. The role of the High Court under the Constitution is crucial to ensuring the rule of law throughout its territorial jurisdiction. In order to achieve these transcendental goals, the powers of the High Court under its writ jurisdiction are necessarily broad. They are conferred in aid of justice. This Court has repeatedly held that no limitation can be placed on the powers of the High Court in exercise of its writ jurisdiction. In ***A V Venkateswaran, Collector of Customs, Bombay v Ramchand Sobhraj Wadhwani***[9] a Constitution Bench of this Court held that the nature of power exercised by the High Court under its writ jurisdiction is inherently dependent on the threat to the rule of law arising in the case before it:
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> > "10. ..... We need only add that the broad lines of the general principles on which the court should act having been clearly laid down, their application to the facts of each particular case must necessarily be dependent on a variety of individual facts which must govern the proper exercise of the

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7 (2008) 2 SCC 41

8 (2020) 13 scc 285

9 (1962) 1 SCR 753

> discretion of the Court, and that in a matter which is thus pre-eminently one of discretion, it is not possible or even if it were, it would not be desirable to lay down inflexible Rules which should be applied with rigidity in every case which comes up before the court."
>
> The powers of the High Court in exercise of its writ jurisdiction cannot be circumscribed by strict legal principles so as to hobble the High Court in fulfilling its mandate to uphold the rule of law." (emphasis supplied)

33. The conspectus of the aforesaid consideration is that the objection raised by the rest of the co-claimants – award holders, particularly respondent Nos.2 to 5, to the entitlement of the petitioner to share the compensation deposited by respondent No.1 *ex facie* lacks credence and on the basis of such objection, the Executing Court could not have deferred the release of the compensation amount by relegating the parties to the Civil Court. To put it in other words, the delay and inaction on the part of respondent Nos.2 to 5 was at their own peril. Having made positive statements in the judicial proceedings that the petitioner was the daughter of late Pandu @ Pandurang Patil, it was not open for respondent Nos.2 to 5 to question the entitlement of the petitioner to share the compensation in lieu of the acquisition of the subject land. In such circumstances as the justice of the claim clearly lies in favour of the petitioner, the Executing Court ought to have released the amount

proportionate to half share of the petitioner out of the compensation payable for the acquisition of the land of late Pandu @ Pandurang Patil, by putting the petitioner to terms so as to ensure that, in the event, the petitioners claim is found to be unsustainable, the Court could balance the equities.

34. For the forgoing reasons, the petitions deserve to be allowed.

35. Hence the following order:

: O R D E R :

(i) The petitions stand allowed.

(ii) The impugned orders stand quashed and set aside.

(iii) In each of the execution petitions, the Executing Court shall release 50% of the amount of compensation falling to the share of late Pandu @ Pandurang Patil, in terms of the order dated 3rd April, 2019 passed on the application (Exhibit-32) in favour of the petitioner, with the modification that 50% of the said amount be released on Indemnity Bond and affidavit and the balance 50% be released on furnishing a Bank guarantee of a Nationalized Bank.

(iv) The petitioner shall furnish an Indemnity Bond, to indemnify the Court against the claim of the respondents in respect of the compensation paid to the petitioner, in the event, it is declared that the petitioner is not entitled to a share in the compensation in respect of the acquisition of the land belonging to late Pandu @ Pandurang Patil, and an undertaking that the petitioner would bring back the said amount alongwith such interest as may be ordered to be paid by any Court, in each of the execution petitions.

(v) By way of abundant caution, it is clarified that the suit instituted by Hemlata Thakur (R5) and Jayashree Patil (R3) shall be decided on its own merits and in accordance with law, without being influenced by any of the observations in this judgment, which are confined to test the legality and correctness of the impugned orders.

(vi) Rule made absolute in the aforesaid terms.

(vii) The petitions stand disposed.

No costs.

[N. J. JAMADAR, J.]