IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12476 OF 2025

Surendra Krishnaji Dabholkar, Age 70 years,
Occ.Business, R/o.Dabholkar House,
Edulji Road, Charai, Thane (W)-400 601. Petitioner

versus

1. Mumbai Metropolitan Region Slum Rahabilitation Authority, Thane.
2. The Chief Executive Officer, Mumbai Metropolitan Region Slum Rahabilitation Authority, Thane.
3. Shivanand Co-op/Hsg.Society (proposed), Thane.
4. M/s.Yuvan Constructions, Thane.
5. The Apex Grievance Redressal Committee.
6. The State of Maharashtra Respondents

Mr.Madhav Surana for Petitioner.

Mr.Atul Damle, Senior Avocate, with Dr.Dhruti Kapadia for Respondent nos.1 and 2.

Ms.S.A.Prabhune, AGP, for Respondent no.6 State.

Ms.Priyanka Bhadrashete for Respondent no.5 AGRC.

Mr.Chirag Balsara i/by Abhijit Patil for Respondent no.4.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 22nd January 2026

ORAL JUDGMENT – (Per : G.S.Kulkarni, J.) :-

1. Rule. Respondents waive service. By consent of the parties heard finally.

2. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs :

"a) This Hon'ble Court in its jurisdiction under Article 226 of the Constitution of India, be pleased to issue a Writ of Mandamus and/or Writ of Certiorari, and/or any other appropriate Writ and/or order and/or direction, calling upon the Respondent no.1, 2 and 6 to produce case papers of Acquisition of Petitioner's suit property and after examining the legality and/or validity and/or propriety thereof, be pleased to hold and declare that entire Acquisition Proceedings and acquisition of Petitioner's Suit property by Respondent nos.1,2 and 6 u/s.14(1) of Slum Act are illegal and bad in law and same be quashed and set aside;

(a1)This Hon'ble Court in its jurisdiction under Article 226 of the Constitution of India be pleased to issue a Writ of Mandamus and/or Writ of Certiorari and/or any other appropriate Writ and/or Order and/or Direction calling upon Respondent no.6 to produce the case papers of Final Notification dated 29.9.2025 issued by Respondent no.6 and after examining legality and/or validity and/or propriety thereof, be pleased to quash and set aside impugned order dated 29.9.2025 passed by Respondent no.6 acquiring Petitioner's suit property u/s.14(1) of Slum Act which is published in Government Gazette dated 29.9.2025 and Respondent no.3 and 4's application dated 23.4.2024 for acquisition of Petitioner's suit property u/s.14(1) of Slum Act be rejected with costs;

b) This Hon'ble Court in its jurisdiction under Article 226 of Constitution of India, be pleased to issue a Writ of Mandamus and/or Writ of Certiorari, and/or any other appropriate Writ and/or order and/or direction, calling upon Respondent nos.1, 2 and 6 to produce case papers of acquisition of Petitioner's suit property and after examining the legality and/or validity and/or propriety thereof, be pleased to quash and set aside order dated 23.4.2025 passed by Respondent nos.1 and 2 granting Respondent nos.3 and 4's application for acquisition of Petitioner's suit property u/s.14(1) of Slum Act and order dated 19.9.2025 passed by Respondent no.5 in Appeal No.188 of 2025, and Respondent No.3's application dated 22.4.2024 for acquisition of Petitioner's suit property u/s.14(1) of Slum Act be rejected with compensatory costs;

c) This Hon'ble Court in its jurisdiction under Article 226 of Constitution of India, be pleased to issue a Writ of Mandamus and/or Writ of Certiorari, and/or any other appropriate Writ and/or order and/or direction, calling upon Respondent nos.1 and 2 to produce case papers of Petitioner's suit property and after examining legality and/or validity and/or propriety thereof,be pleased to direct and/or order Respondent nos.1 and 2 to accept, process and approve Petitioner's proposal for redevelopment of suit property under provisions of Slum Act as early as possible and within a stipulated time.”

3. The Petitioner claims to be the absolute owner of plots of the land described in paragraph 2 of the petition namely land bearing Survey No.196, Hissa no.1, Hissa no.192, Hissa no.1/1 (P), 3/1 (P) and Survey No.196 Hissa no.2/1 totally admeasuring about 7,451 sq.yards equivalent to 6,229.94 sq.mtrs area situated at Revenue Village Panchpakhadi, Thane within the limits of Thane Municipal Corporation, Thane. As the land was inundated with slums, the Respondent nos.1 and 2 took steps to declare the said land as a slum rehabilitation area as per the provisions of Section 3C(1) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (`Slum Act’) by issuance of Notification dated 26th December 2023. The same was published in the Government Gazette on 27th December 2023. Once the land was declared as a slum rehabilitation area, it enabled redevelopment of the slums primarily under the provisions of Section 13 of the Slum Act., as contained in Chapter I-A of the Slum Act, providing for ‘Slum Rehabilitation Scheme’. The said provision reads thus :

“**13. Power of Slum Rehabilitation Authority to develop Slum Rehabilitation Area** :

(1) Notwithstanding anything contained in sub-section (10) of section 12, the Chief Executive Officer shall, after any land has been declared as the Slum Rehabilitation Area, including community economic activity area, if the owners,landholders or occupants of such land do not come forward within a reasonable time, which shall not be more than one hundred and twenty days, required for relocation and rehabilitation of protected and other occupiers justifying with the Slum Rehabilitation Scheme for redevelopment of such land, by order, determine to redevelop such land by entrusting into any agency or other developer for the purpose.

(2) Where on declaration of any land as Slum Rehabilitation Area, the Chief Executive Officer is satisfied that, the land in the Slum Rehabilitation Area has been or is being developed by the owners, landholders or occupants or developers in contravention of the plans duly approved, or any restrictions or conditions imposed under sub-section (10) of section 12, or in contravention of

> any provision of any Slum Rehabilitation Scheme or any condition specified in the approval or has not been developed within the time, as specified under such conditions of approval, he may, by order, determine to develop the land declared as Slum Rehabilitation Area by entrusting it to any agency or the other developer recognized by him for the purpose.
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> (3) The agency or the other developer so appointed shall within a period of forty-five days of the order of the Chief Executive Officer,be required to deposit an amount of compensation payable to the outgoing landowners or occupants or developers, as the case may be, for expenditure incurred by them on payment made to any public authority, local bodies for receiving approvals for the Slum Rehabilitation Scheme and construction of rehabilitation tenements as determined by the Chief Executive Officer :
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> **Provided** that, such compensation shall not be payable by the agency appointed by the Chief Executive Officer, for any expenditure incurred towards construction to meet conditional obligations made to any third party by the landowners or occupants or previous developers, as the case may be. The Chief Executive Officer before passing such order shall obtain report from approved valuer independently appointed on his behalf and by the concerned parties to the proceeding before the Chief Executive Officer :
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> **Provided further** that before passing such order by the Chief Executive Officer, the concerned landowner or occupant or developer, as the case may be, shall be given a reasonable opportunity of being heard and time which shall not be more than thirty days of showing cause why the order should not be passed :
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> **Provided also** that, an appeal, if any, against the order of the Chief Executive Officer shall be filed before the Apex Grievance Redressal Committee and order of the Apex Grievance Redressal Committee shall be final and binding on all the parties."

4. As per the settled principles of law, the prerequisite to resort to any action to acquire a private land, would be first to issue a notice to the owner to call upon the owner to redevelop the slums, and only when within the prescribed period, no the action is taken by the owner to submit a proposal for redevelopment, then by following the due procedure in law, a process to acquire the slum rehabilitation area can be initiated. Admittedly, in the present case no notice under sub-section (1) of Section 13 of the Slum Act is issued. This has also been noted by the Chief Executive Officer, SRA, Thane, in his order dated 1st October 2025 while deciding the Petitioner's representation dated 7th March 2025 against the steps being taken by Respondent nos.3 and 4 for redevelopment of the

land in question as slums. The relevant observations in that regard are reproduced below :

> "… …… **There is no notice issued u/s.13(1) of Slum Act, 1971 to applicant owner. Respondents have filed false Affidavit along with their proposal despite there being litigation pending in the court of law.** Respondents have relied upon GBR dated 2.4.2023 and proposal for Acceptance is dated 25.4.2024 that is after 1 year and 23 days. There is Office Order dated 13.10.2006 (SRA/Brihanmumbai/No.SRA/Admin/06/668) of the Slum Rehabilitation Authority which states that "No proposal should be accepted if it is not accompanied by the latest "General Body Resolution" (GBR) which has been adopted within the proceedings six months by the proposed Slum Dwellers CHS."
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> In view of the aforesaid discussion this Authority has come to conclusion that the proposal for acceptance dated 25.4.2024 of Respondent nos.1 and 2 is deficient, incomplete an un-approvable proposal in all respect and hence it is required to be rejected/recorded. Hence, the following order :
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> **ORDER**
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> 1. The Representation dated 7.3.2025 of the Applicant is allowed.
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> 2. The proposal for Acceptance dated 25.4.2024 of the Respondent no.1 and 2 is hereby recorded/rejected as being deficient/incomplete and un-approvable."
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> (emphasis supplied)

5. Thus, the fact remains that insofar as redevelopment is concerned, the proposal of Respondent nos.3 and 4 has not been accepted by the Chief Executive Officer of SRA, Thane.

6. However, the grievance of the Petitioner in the present proceedings is in respect of action being taken to acquire the Petitioner's lands under Section 14 of the Slum Act on the ground that the Petitioner had not come forward to redevelop the slum and the land is required to be acquired on the proposal as submitted by Respondent nos.3 and 4, dated 22nd April 2024. The Notification for acquisition issued by Respondent no.1 is dated 29th September 2025 (Page 225C of the petition). On such backdrop, the Petitioner resorted to different proceedings including by making representations against the acquisition by approaching the Appellate Authority challenging the acquisition under Section 14(1) of the Slum

Act in Appeal No.188 of 2025 filed before Respondent no.5 Apex Grievance Redressal Committee (AGRC), which was in fact a premature appeal, as it was filed prior to the declaration made under Section 14(1) made on 29th September 2025 as per draft.

7. Mr.Surana, learned counsel for the Petitioner has urged that proper procedure namely of issuing notice to the Petitioner under Section 13(1) was admittedly not followed, hence there was no opportunity given to the Petitioner of being put to notice that the land be redeveloped within the prescribed time schedule, as stipulated under Section 13(1) of Slum Act. It gives time limit of 120 days. Thus, in the absence of such notice, there was no opportunity to the Petitioner to undertake redevelopment without which further steps to consider Petitioner's land for acquisition under Section 14(1) could not have been initiated, much less, the Notification issued. Mr.Surana in support of such contention relied on the decisions of this Court in **Indian Cork Mills Private Limited, a Private Limited company Vs. State of Maharashtra**[1] and **Bishop John Rodrigues Vs. State of Maharashtra through Principal Secretary and others**[2], which was upheld by the Supreme Court in its recent decisions in **Tarabai Nagar Co-op. Hsg. Society(Proposed) Vs. The State of Maharashtra**[3], and **Saldanha Real Estate Private Limited Vs. Bishop John Rodrigues and others**[4] respectively. Also reliance is placed on the decision of this Court in **Nesco Limited Vs. State of Maharashtra and**

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2 2024-SCC OnLine-Bom-1632

3 2025-SCC OnLine-SC-1795

4 2025-SCC OnLine-SC-1794

others[5], where in the said decisions of the Supreme Court were considered and in similar circumstances the acquisition of the land in question under Section 14 of the Slum Act was quashed and set aside.

8. On the other hand, Mr.Damle, learned Senior Advocate appearing for the SRA has submitted that although Section 13(1) notice was not issued, steps were taken to acquire the property in question. Mr.Damle has not disputed that Section 13(1) notice being not issued to the Petitioner, no steps were called upon to be taken by the Petitioner to submit a scheme/proposal for redevelopment. He would not dispute that considering the legal position, issuance of notice under Section 13(1) was an essential requirement for taking a decision for acquiring the land.

9. Mr.Balsara, learned counsel for Respondent no.3 society would submit that this is a case where the Petitioner was at the relevant time aware that slums are required to be redeveloped and it is for such reason a specific notice under Section 13(1) was not required to be issued to the Petitioner and in fact the obligation of the Petitioner for redevelopment of slums was required to be discharged by the Petitioner. Hence, no fault can be found in the impugned actions, as taken on behalf of the Chief Executive Officer, SRA as also the State Government in notifying the land in question.

10. We have heard learned counsel for the respective parties. We have perused the record. At the outset, we find substance in the contentions as urged on behalf of the Petitioner. We are of the clear opinion that the acquisition in question

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in the present case is in fact in the teeth of principles of law, as laid down in the decisions of this Court in **Indian Cork Mills Pvt Ltd Vs. The State of Maharashtra**[6] and the decision in **Bishop John Rodrigues Vs. State of Maharashtra (supra)**, as confirmed by the Supreme Court in the decisions of **Tarabai Nagar Co-op.Hsg.Society (proposed) Vs State of Maharashtra and others**[7], and **Saldanha Real Estate Private Limited Vs. Bishop John Rodrigues and others (supra)**. The position of law is to the effect that it is a mandatory requirement that a notice under Section 13(1) needs to be issued by the SRA to the owner of the slum clearance area, calling upon the owner to redevelop the slums within a specific period, as contemplated under Section 13(1). This admittedly was not undertaken in the present case. Thus there was no warrant for extinguishing the Petitioner's preferential rights as owner to redevelop the slum, without following the mandatory requirement, as it would amount to a violation of the Petitioner's rights as owner of the property/land is guaranteed under Article 300A of the Constitution of India. The position in law that the owner has preferential rights to redevelop the land, was recently considered in the decision of this Court in the case of **Nesco Limited Vs. State of Maharashtra and others (supra)** wherein following the aforesaid decisions of the Supreme Court in similar circumstances, this Court quashed and set aside the notification acquiring the land subject matter of the petition. The relevant observations made by the Court in similar facts, are required to be noted, which read thus :

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"3. The primary challenge as urged on behalf of the petitioner is that the land is admittedly private land on which there were hutments and which came to be declared as 'Slum Rehabilitation Area' under the provisions of Section 3C(1) of the Slum Act. The petitioner contends that the same could not have been acquired without recognizing the preferential rights of the petitioner as owner of the said land, to undertake redevelopment and rehabilitation of the slum tenements. In such context, it is the petitioner's case that merely because the society formed by the slum dwellers would intend to make a proposal, the State Government could not have discarded the petitioner's right and proceeded to acquire the land under Section 14 of the Slum Act. The petitioner has supported their contention relying on the decision of this Court in **Indian Cork Mills Pvt. Ltd. vs. State of Maharashtr**a & Ors.(supra) and **Bishop John Rodrigues Vs. State of Maharashtra** (supra), and the same being upheld by the recent decision of the Supreme Court in **Tarabai Nagar Co-op.Hsg.Society (proposed) vs. State of Maharashtra & Ors.** (supra) and in **Saldanha Real Estate Pvt. Ltd. Vs. Bishop John Rodrigues & Ors.** (supra).

11. At the outset, we may observe that it is not in dispute that the land in question is a private land in respect of which the petitioner enjoys valuable rights under Article 300A of the Constitution. It is Mr. Chinoy's submission that merely for the reasons there exists slum structures on the petitioner's land, the slum dwellers without recognition of the petitioner's preferential right in respect of the land and more particularly in respect of any redevelopment, could not have made a proposal to the CEO SRA for acquisition of the said land. It is Mr. Chinoy's submission that the legal position in this regard stands well settled in the decision of this Court in the **Indian Cork Mills Pvt. Ltd.** (supra) in which the co-ordinate Bench of this Court, in regard to such preferential rights, made the following observations:

> "62. That a preferential right for redevelopment is so vested in the owners/landholders and/or occupants is further clear in view of a conditional power/authority created with the SRA to undertake redevelopment of the slum rehabilitation area in a two-fold manner firstly by exercising power under sub-section (1) or (2) of Section 13 which is to re-develop the land by entrusting it to any agency on a failure of the landholder or the occupant in not coming forward within a reasonable time with a scheme for re-development; and when application of Section 13(1) and (2) do not fetch any result by re-developing or carrying out development under the slum rehabilitation scheme in any slum rehabilitation area by resorting to acquisition of the land under section 14 as applicable with modification under Chapter I-A. It is thus clear that the object and purpose which the provisions of Section 3B(4)(e), Section 13(1) and (2), Section 12(10) and Section 14 (as modified by under Chapter IA) is to achieve and bring about an effective redevelopment of slum rehabilitation area.
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> 63. Thus, from the legislative scheme of the amended provisions it can be clearly inferred that the rights so conferred under these provisions on the owner/landholder/occupant cannot be usurped directly by putting into operation the acquisition machinery, simply because such power exist on the statute book. The exercise of such power within the scheme of Chapter I-A is required to be resorted by due adherence to the said provisions which have created and

recognized the legitimate rights in the owners, landholders and occupants to undertake re-development. The power to acquire land is also required to be exercised in a fair manner and certainly in the context of the present statutory scheme, when the object and purpose for which acquisition is to be undertaken can be achieved by other methods and for which the statute has made the requisite provision for achievement of such purpose.

100. We also cannot accept the submission as urged on behalf of the society that since the society has submitted a scheme prior to the petitioner's scheme, the preferential right in favour of the petitioner does not survive. This submission pre-supposes that there is a preferential right in the petitioners to redevelop the said land……."

12. Mr. Chinoy has also drawn the Court's attention to the decision of the Division Bench of this Court in **Bishop John Rodrigues** (supra) in which referring to the decision in **Indian Cork Mills Pvt. Ltd.** (supra) in the similar context the Court made the following observations:

"101. In these circumstances, when valuable private rights as guaranteed under Article 300A of the Constitution to an owner of the land are being deprived under the garb of slum rehabilitation, there has to be an insurmountable situation on record of the SRA or for any reasonable body of persons to come to an unimpeachable conclusion that the only and only remedy and/or avenue in a given case is to acquire the private land and not permit the owner of the land to undertake the development. The CEOSRA has an onerous obligation to reasonably, non-arbitrarily, and objectively deal with the valuable property rights of private citizens who are dragged in such situation that the monsters of encroachment and persons supporting them take the rule of law in their hands in depriving the land owner of his right to property. They forget that there is a rule of law and there are Courts and any such attempt to dent the rule of law can be dealt with iron hands. We may also add that if the official machinery was to act as per law, today we would not have been confronted with the situation of an international city like Mumbai being also known for its slums on private and public lands [See the observation of the Court in High Court on its own motion (In the matter of) Jilani Building at Bhiwandi v. Bhiwandi Nizampur Municipal Corporation.

102. Be it so, in our opinion, a cumulative reading of the provisions under Chapter-I-A does not, in any manner, depict a legislative intent that the moment the private land is declared as a slum and a cooperative society of slum dwellers is formed, no opportunity whatsoever is required to be granted to the owner of the land to undertake development of the land. In fact, primary obligation on the CEO-SRA as also for the slum rehabilitation society is to issue a notice to the owners of the land specifying the period/a time bound schedule i.e. 120 days as contemplated under Section 13(1) of the Slum Act. This would be the basic necessity before a owner could be deprived of its constitutional rights under Article 300A before applying the statutory 120 days as contemplated under Section 13(1) of the Slum Act either from the declaration of the slums as the slum rehabilitation area or any insistence on the part of the society and which may not be to the knowledge of the owner. In our opinion, the petitioner would

bevcorrect in its contention that Section 13(1) would be required to be read in the context of what has been observed by the Division Bench of this Court in Indian Cork Mills Pvt. Ltd. v. State of Maharashtra (supra), in as much as, for a valid acquisition under Section 14, the pre-requisite would be an opportunity to call upon the owner of the land to come forward with a scheme to undertake the redevelopment by putting him to a notice that a rehabilitation scheme if not submitted by him, would be a circumstance which would be taken against him so as to take steps to acquire the land. The Division Bench had held that such notice to the land owners was imperative, considering the plain reading of Section 14(1) of the Slum Act. The observations of the Division Bench in that regard are already noted by us hereinabove.

…. … ….

111. We may also observe that such contention of the society that the moment the land in question, which is of private ownership, is declared as a slum and after coming into force of Regulation 33(10) of the DCR would mandate steps to be taken to develop the land, would also be required to be held to be fallacious. As stated hereinabove, it cannot be expected that the owner of the land would instantly possess the necessary wherewithal, or would have no opportunity to mobilise/organise himself to undertake a redevelopment. Thus, it is ill-conceivable that an instant development of such land from the resources of a private person can automatically be foisted. Such an argument also lacks discernment to any ground realities in which the owner of the land in a given situation may find himself, under the scheme of the things.

118. If this be the position, then certainly, the slum dwellers merely by forming a society cannot assert that their rights are higher than the rights of the owners of the land and as successive Division Benches of this Court has held that the rights of the slum dwellers cannot be elevated (as if they are the owners of the property), so as to control the rights of the owners of the land under the garb of rehabilitation and through the resources of a developer, foist/dictate compulsory acquisition of land against the owner. The acquisition of the land for rehabilitation of slum dwellers can also never be on a pedestal and/or of a status of an acquisition of the land for public purposes in relation to public project to be undertaken by the State in exercise of its powers of eminent domain. This for two reasons firstly, it is a private group of persons (slum developers) who would be the beneficiary of such land acquisition and the second beneficiary would be the developer who would reap bonanza of a huge Floor Space Index (FSI) in undertaking construction of commercial/saleable premises. Thus, the only beneficiaries of such acquisition of private persons, the Government would spend a meager amount of compensation to be paid as per Section 17 of the Slum Act. Despite this clear position, quite unfortunately, the experience in relation to acquisition under the Slum Act is quite different. It is completely misunderstood, misapplied, misinterpreted or abused by the authorities; this considering the proliferation of litigation in this regard, concerning private lands as encroached, and what is happening to public lands is a mystery which can never be resolved.

….. …

121. Thus, a conclusion can be reached that the process of acquisition of private land under the Slum Act is quite draconian with minimal say to the owners of the land coupled with enormous discretion conferred on the CEO, SRA, leaving an enormous scope and window, for large scale arbitrariness and illegality. Considering such parameters, there is an onerous obligation on the State Government not to have a mechanical approach in processing proposals from the CEO SRA and to very minutely examine each and every proposal and reach to a subjective satisfaction for reasons to be recorded in writing as to whether the proposal for acquisition as being put up by the CEO, SRA is fair, reasonable and non-arbitrary. In the present case, valuable land of the petitioner situated at Bandra is being acquired for merely 35 slum dwellers. It is quite astonishing as to why in such a situation, the SRA would not grant an opportunity to the petitioner to undertake redevelopment of its own land and rehabilitate the slum dwellers and in fact, resort to a compulsory acquisition of the petitioner's land under Section 14 of the Slum Act."

(emphasis supplied)

13. Mr. Chinoy has brought to our notice a recent decision of the Supreme Court in **Tarabai Nagar Co-op.Hsg.Society (proposed)** (supra) wherein the Supreme Court was considering a challenge to the decision of the Division Bench of this Court in **Indian Cork Mills Pvt. Ltd.** (supra). In upholding the said decision of this Court, the Supreme Court recognized the position in law that the land owner would have preferential right to undertake development, and if any acquisition of the land declared as slum rehabilitation area is sought to be undertaken without recognition of the preferential right of the owners of the land, such acquisition would be required to be held to be illegal. The relevant observations are required to be noted which read thus:

"77. In this context, we deem it appropriate to clarify at this stage that Section 14 empowers the State Government to acquire land if necessary to enable the SRA to carry out development under the SR Scheme. It is writ large on the text of Section 14 that the State can invoke its power to acquire the land, if it is necessitated, as per the SRA, for the implementation of a Scheme.

83. Rather, any process to acquire the land shall have to be kept in abeyance till such time as the owner's preferential right to develop it stands extinguished. Since it is open to the owner to file its own SR Scheme within a reasonable time and the proposal of the owner, if valid and complete, would take primacy, it cannot be said that there is any legal necessity to acquire the land. If acquisition is allowed to take place at this stage, it will jeopardise the preferential right of the landowner. It is only when the owner declines to undertake development or to support any third-party development, thereby foregoing its preferential right, that such a necessity would actually arise. There can thus be no doubt that, as long as the owner is willing to undertake development in exercise of its preferential right, the acquisition cannot proceed.

84. This can also be harmoniously read in conjunction with the requirement for a notice-cum-invitation to the owner, as set out in Section 13. Until the SRA has invited the owner to submit an SR Scheme, the owner's right to develop the land cannot be said to have closed. In such a case, the subsisting preferential right cannot be

frustrated or undermined by initiating the acquisition process."

14. Also in a further decision of the Supreme Court in **Saldanha Real Estate Pvt. Ltd. Vs. Bishop John Rodrigues & Ors.**[8] the decision of this Court in **Bishop John Rodrigues** (supra) has been upheld. In a context similar to the present case, the following are the questions which had arisen for consideration of the Supreme Court.:

"**D. Issues**

16. Having regard to the issues already adjudicated upon in Tarabai (supra), we deem it appropriate to confine our analysis to the following three questions:

I. Whether the High Court has rightly rejected Kadeshwari Society's preliminary objection?

II. Whether the 2018 Amendment impacts the law laid down in Indian Cork Mills (supra) and as reiterated in Tarabai (supra)?

III. Whether, in the facts of the instant case, the High Court rightly set aside the notice dated 29.10.2021 and the order dated 29.03.2022?"

15. In answering the aforesaid issues on the validity of the acquisition, the Supreme Court recognized the preferential rights of the owners of the land (Bishop Rodrigues). The relevant observations as made by the Supreme Court are required to be noted which read thus:

E.3 Issue III: Validity of Acquisition

26. This Court in Tarabai (supra) has unequivocally established that: (i) the private owner of an SR Area has a preferential right to develop it; (ii) the SRA must invite the landowner to come forward with a redevelopment proposal and give them reasonable time to do so before the said preferential right extinguishes; and (iii) the State or the SRA cannot move to acquire the land before the preferential right of the owner is extinguished. These principles will also apply mutatis mutandis to the case in hand.

27. Consequently, there vests a preferential right in favour of the Church Trust, over and above the SRA, occupants, or other stakeholders, to develop the Subject Land. The Trust ought to have been invited by the SRA to submit a proposal and undertake such redevelopment after the declaration dated 29.12.2020 was issued. Thus, the SRA cannot proceed for acquisition of the Subject Land unless (i) such a notice-cum-invitation is extended, and (ii) thereafter, the right of the Church Trust is extinguished if it fails to submit a redevelopment scheme within the prescribed period of 120 days.

28. The High Court has held that there was no compliance of

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these preconditions by the SRA before initiating the acquisition, and the entire process was liable to be invalidated. The High Court has further found from the conduct of the Appellants that the acquisition proceedings arose from an exercise of power in bad faith. We, therefore, now proceed to examine whether the High Court was right in drawing such a conclusion.

32. The inevitable consequence of the SRA's omission to issue a separate notice under Section 1329 is that the Church Trust's preferential right to redevelop the Subject Land remains intact. In the absence of a valid notice or opportunity, there existed no legal basis to extinguish this right. The acquisition was, therefore, vitiated in law, falling afoul of the prescribed procedure."

20. Before parting we would be failing in our duty if we do not remind the Slum Authority as also the appropriate officer of the State Government as to the responsibility the law would cast on the Chief Executive Officer as also the officials of the State Government before the draconian powers under Section 14 of the Slum Act, are exercised. Such powers can never be undertaken at the behest of unscrupulous elements and discarding the legal rights of private landlords when the land inundated by slums is of private ownership. The significant observations as to what happens in reality is echoed by this Court in **Bishop John Rodrigues** (supra) when the Court made the following observations:-

"119. It also cannot be overlooked that the acquisition of private land under the Slum Act has a large element of discretion being made available to the CEO, SRA as also to the State Government, object of which as stated herein above, is not of some acquisition for a public purpose, much less of a monumental nature, but for a private purpose that is rehabilitation of a limited number of slum dwellers accompanied with a private benefit which the developer would reap. The nature of the compulsory acquisition under the Slum Act, hence, is not to achieve a public purpose but purely private. Thus, the rudimentary principles on which a decision to acquire land for a public purpose are premised, is certainly not the consideration when it comes to acquisition of private land under the Slum Act. We may observe that the method of acquisition under the Slum Act is also quite draconian in as much as after the objections are raised by the person interested against the acquisition, it is completely the discretion of the competent authority (CEO, SRA) to inform the Government of the inclination towards acquisition and the Government forming an opinion that the land is required to be acquired and accordingly the land would be acquired by publishing a notice to that effect in the Official Gazette. … … … ."

21. In the aforesaid context, the Supreme Court in **Saldanha (supra)** has made the following significant observations which need to be borne in mind by the officials of the SRA:-

"48. ….. .. … ..Nevertheless, for some inexplicable reason and with a sense of uncharacteristic urgency, which again speaks to the invisible but pervading influence of the powerful private developer, the SRA has forsaken the basic tenets of equity and recommended the acquisition.

> 49. Throughout this case, the SRA and its CEO appear to have abandoned their public duty to uphold the Rule of Law and protect the rights of the landowner. On the contrary, the facts reveal a prejudiced attempt by the SRA to undermine legislative and judicial efforts and hand over the Subject Land and the benefits of its rehabilitation to Saldanha. Such actions of a public authority, marred by collusion and connivance and motivated by extraneous profit interests of private builders, are highly depreciable and underline the possibility of bureaucratic misuse of statutory provisions.
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> 50. The facts of the instant case compel us to infer that Saldanha's overreaching influence went beyond the slum-dwellers' proposed society. In its attempt to take over the Subject Land, the developer appears to have gotten the typically slow-moving bureaucratic wheels of the SRA to run at full speed. Moreover, Saldanha was able to achieve this manoeuvre at a time when the entire country was under lockdown and the machinery of governance was overwhelmed by the unprecedented challenges of the COVID-19 pandemic.
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> 51. These circumstances underpin the need for practical and actionable safeguards in a legal system involving competing interests among private parties. The Slums Act, while providing wholesome protection to slum dwellers and their homes and livelihood, does not give such express protection to the interests of the owner of the land. The ensuing vacuum, as we have seen in these appeals, allows opportunistic developers to swoop in, exploit the circumstances of the poor slum dwellers, manipulate the hand-in-glove authorities, and enrich themselves off the helpless owner's land.
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> 52. Keeping the facts of this case and the obviously colourable conduct of the Appellants in mind, the acquisition proceedings cannot be allowed to sustain. As such, the High Court has rightly nipped these proceedings in the bud, protecting the statutory rights and interests of the Church Trust over the Subject Land and preventing the Appellants from illegally grabbing it."

11. The aforesaid principles of land are aptly applicable in facts of the present case, as it is indisputed that there was no adherence to the process of law inasmuch as the Petitioner was never put to notice that in the event Petitioner does not submit a scheme for redevelopment of the slum within a specified time of 120 days, as prescribed under Section 13(1), the Petitioner would be subjected to suffer due expropriation of Petitioner's land by compulsory acquisition. This is an indisputed position on record. In the aforesaid circumstances considering the

aforesaid settled principles of law, the petition needs to succeed. It is accordingly allowed by the following order :

ORDER

(i) The impugned acquisition order dated 29th September 2025 is quashed and set aside;

(ii) The Petitioner shall accordingly be entitled to undertake redevelopment of the slum land in question in accordance with law and in that regard, the Chief Executive Officer of SRA, Thane, shall take appropriate steps;

(iii) The Petitioner to submit a proposal for redevelopment to the Chief Executive Officer, SRA, Thane within a period of thirty days and if such a proposal is submitted, the Chief Executive Officer, SRA, Thane shall take an appropriate decision on such proposal in accordance with law within thirty days thereafter;

(iv) All contentions of the parties in that regard are expressly kept open;

(v) Writ Petition stands allowed in the aforesaid terms. No costs.

(AARTI SATHE, J.) **(G. S. KULKARNI, J.)**