IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1755 OF 2011

Manak Yeshwant Patil and others … Petitioners

Vs.

Municipal Corporation of Greater Mumbai & others … Respondents

WITH

INTERIM APPLICATION NO.1733 OF 2019

IN

WRIT PETITION NO.1755 OF 2011

Dr. Birendra Saraf, Senior Advocate a/w. Ms. Malaika Castellino, Mr. Mehul Shah and Ms. Chaitali Jadhav for Petitioners.

Mr. Ram Apte, Senior Advocate a/w. Ms. Anuja Tirmali i/b. Komal Punjabi for Respondent No.1 - BMC.

Ms. Usha Rahi, AGP f or Respondent Nos.2, 3 and 4 - State.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.
Reserved on : **JUNE 16, 2026**
Pronounced on: **JULY 03, 2026**

JUDGEMENT : (*Per Justice Manish Pitale*)

. This is the fourth writ petition filed in this Court regarding claims of petitioners concerning acquisition of their lands, possession of which was admittedly taken by respondent No.1 municipal corporation, way back in the year 1960. While compensation was paid in terms of agreements executed between the parties for some portions of the land, the question regarding acquisition of remaining portions of the land, has been hanging fire for all these years.

2. The land acquisition award dated 30.08.2001, passed in respect of the unacquired land, was challenged by the respondent municipal

corporation itself on the ground that the quantum of compensation was wrongly calculated by the respondent No.4 Special Land Acquisition Officer (SLAO). The writ petition filed by the respondent municipal corporation was allowed and the SLAO was directed to proceed further in the matter. One of the questions raised on behalf of the petitioners was that a fresh notification under Section 4 of the Land Acquisition Act, 1894 (L. A. Act) ought to have been issued. As a matter of fact, in the said proceedings itself whereby the land acquisition award was set aside, the petitioners had also raised the issue regarding lapsing of acquisition on the ground that the declaration under Section 6 of the L. A. Act was not issued within a year of issuance of the notification under Section 4 thereof. In the special leave petition filed before the Supreme Court challenging the order of this Court setting aside the land acquisition award, the aforementioned question and corresponding grounds of challenge were raised. Eventually, the Supreme Court disposed of the special leave petition by refusing to interfere with the order of this Court and granting liberty to the parties to raise all issues before the SLAO.

3. In that light, the petitioners raised the aforementioned issue regarding the declaration under Section 6 of the L. A. Act being rendered illegal before the SLAO. But, the SLAO passed the impugned order dated 19.07.2011, rejecting the applications filed by the petitioners on the ground that the said issue had been dealt with by this Court as well as the Supreme Court. The present writ petition has been filed challenging the said order and also with a specific prayer for declaring that the acquisition proceeding had lapsed on the ground that the declaration under Section 6 of the L.A. Act was issued beyond one year of issuance of the notification under Section 4 thereof.

4. The replies and rejoinders in the writ petition were filed and the petition was taken up for hearing.

5. Before adverting to the rival submissions, it would be appropriate that the chequered history of this litigation is briefly referred to, so that the rival contentions can be appreciated in the proper context.

6. The petitioners were / are owners of lands in Borla and Deonar, Mumbai admeasuring 50 acres and a few gunthas. In 1958, some of the lands were acquired by the respondent State for the benefit of the respondent municipal corporation. As a matter of fact, a notification dated 27.11.1958 was issued under Section 4 of the L.A. Act for the said purpose. In this backdrop, on 14.10.1960, an agreement was executed between the petitioners and their family members on the one hand and the respondent municipal corporation on the other. This agreement pertained to acquisition of unacquired land with the rate being fixed at Rs.4.25 per square yard. In the light of the said agreement, the respondent municipal corporation took possession of the lands including the unacquired land.

7. Till 05.12.1970, the respondent municipal corporation acquired only a small portion of the lands that was subject matter of the said agreement, despite taking over possession of the lands. For some reason, portions of land were de-notified from acquisition and thereafter they were again notified for acquisition for the benefit of the respondent municipal corporation. In the interregnum, the value of the lands increased and in that context, the petitioners and their family members approached the municipal commissioner for increase in the quantum of compensation. In this backdrop on 28.07.1976, a fresh agreement was executed between the parties, agreeing to acquire the lands by paying compensation @ Rs.40/- per square yard.

8. On 11.05.1978, another agreement was executed between the parties, revoking and cancelling the aforesaid earlier two agreements. This agreement also specifically recorded that the possession of the

lands was already taken over in October 1960. The respondent municipal corporation agreed to purchase the lands described in the first schedule and it was agreed that the amounts that were paid under the earlier two agreements would be adjusted towards the amount of compensation that would be payable under the acquisition proceedings.

9. Since possession of the land had been taken over much earlier and the land acquisition proceedings were not moving forward, the petitioners and their family members were constrained to file Writ Petition No.1385 of 1979 before this Court. The petitioners therein sought a direction against the respondents for declaring land acquisition awards and for payment of compensation. On 23.08.1979, this Court disposed of the said writ petition by directing the respondent municipal corporation to declare the land acquisition awards in respect of lands that were already acquired, within a period of six months from the date of the order. In that light, the SLAO declared 16 awards and in some of the awards, the amounts already paid under the previous agreements were adjusted. In the last such award declared in the year 1988, compensation was paid @ Rs.350 per square yard. But, it is an admitted position that though the aforesaid exercise was carried out, land admeasuring 9295.25 sq.mtrs. remained unacquired, despite the fact that possession thereof had already been taken by the municipal corporation. The said unacquired land was utilized for construction of municipal schools, roads, public utility services and such other purposes.

10. Since acquisition proceedings, consequent awards and payment of compensation for the said unacquired land was not undertaken, the petitioners sent a letter on 12.02.1993 to the respondent municipal corporation for taking appropriate steps in the matter. On 27.08.1993, the respondent municipal corporation called upon the petitioners to submit documentary evidence in support of their claim, further stating

that a statement with regard to the acquisition of parts of the land of the petitioners had been sent to the SLAO and that a response was awaited. On 06.07.1994, the petitioners submitted all the necessary information and documents to the respondent municipal corporation and yet, there was no further development in the matter.

11. In this backdrop, the petitioners were constrained to file Writ Petition No.109 of 1996 before this Court, seeking a direction against the respondent municipal corporation for restoring possession of the said unacquired land, with a further direction to the said respondent to pay compensation to the petitioners for use and occupation of such land. The petitioners also prayed for a direction, in the alternative, to forthwith acquire the unacquired land and to pay compensation at market rate to the petitioners. In this petition, the respondent municipal corporation claimed that there was some difficulty in ascertaining the exact extent of unacquired land and therefore, the said pieces of land could not be acquired. In that light, this Court appointed a surveyor with the consent of the parties to carry out a survey, in order to identify the unacquired land. The said exercise was carried out.

12. In this backdrop, on 04.12.1996, this Court disposed of the said writ petition, specifically directing the respondent municipal corporation to acquire identified unacquired land of the petitioners within a year from the date of the order. In this judgement and order, a contention raised on behalf of the municipal corporation that compensation ought to be restricted to Rs.40/- per square yard as per the aforementioned agreements, was rejected and it was specifically observed that in the last award declared in the year 1988, compensation was already determined and paid @ Rs.350/- per square yard.

13. The respondent municipal corporation filed Appeal No.1022 of 1997 before Division Bench of this Court to challenge the said

judgement and order of the learned Single Judge passed in Writ Petition No.109 of 1996. On 18.03.1998, the Division Bench of this Court directed that the respondent municipal corporation would initiate proceedings in respect of the unacquired land, but, if the compensation determined under the said proceeding exceeded Rs.40/- per square yard, the excess amount would not be paid to the petitioners during the pendency of the appeal. It is a matter of record that on 22.06.2004, the appeal was dismissed as infructuous in the light of the fact that award dated 30.08.2001 was declared in the meanwhile.

14. In the process of undertaking acquisition of the unacquired land in terms of the order passed by the learned Single Judge of this Court in Writ Petition No.109 of 1996, the SLAO had issued notification under Section 4(1) of the L. A. Act on 08.12.1999, which was published on 23.12.1999. The declaration under Section 6 of the L. A. Act was issued on 05.01.2001 and it was published in the Government Gazette on 18.01.2001. It is to be noted that the principal contention raised in the present petition concerns these two dates. Eventually, on 30.08.2001, the SLAO passed the said award under Section 11 of the L. A. Act. The SLAO relied upon the ready reckoner value, ascertaining it at Rs.11,836/- per sq.mtr. The SLAO proceeded to hold that since 40% of the land under acquisition was encroached, the entire ready reckoner value could not be the basis and thereupon considered 50% of the ready reckoner value i.e. Rs.5948/- per sq.mtr., eventually granting compensation @ Rs.5,000/- per sq.mtr. In the light of the aforementioned interim order dated 18.03.1998 passed by the Division Bench of this Court in Appeal No.1022 of 1997, the SLAO held that compensation @ Rs.40/- per sq.mtr. would be given for three survey numbers and that, until further orders by this Court, the full amount as determined by the SLAO would not be paid to the petitioners. It is a matter of record that the petitioners filed reference under Section 18 of

the L. A. Act seeking enhancement of the compensation awarded by the SLAO.

15. On 27.10.2005, the municipal corporation itself challenged the said award by filing Writ Petition No.11 of 2006. In the meanwhile, as referred to hereinabove, on 22.06.2004, the appeal filed by the municipal corporation bearing Appeal No.1022 of 1997 was already dismissed as infructuous. In the said petition i.e. Writ Petition No.11 of 2006, filed more than four years after the said award dated 30.08.2001, the respondent municipal corporation raised a challenge on the ground that the SLAO erred in taking the ready reckoner value as the basis for determination of compensation. On 29.11.2005, this Court directed the respondent municipal corporation in Writ Petition No.11 of 2006 to deposit the amount granted under the said award dated 30.08.2001. There was no direction permitting withdrawal of the amount. The respondent municipal corporation filed Notice of Motion No.6 of 2006 in Writ Petition No.11 of 2006, seeking modification of the aforesaid order dated 29.11.2005. In the affidavit in support of the notice of motion, the respondent municipal corporation stated that the compensation came to Rs.6,43,87,350/-. On 13.01.2006, the respondent municipal corporation was directed to deposit the said amount with the Prothonotary and Senior Master of this Court. It is an admitted position that the said amount was deposited. On 14.02.2006, the said notice of motion was disposed of, holding that the order dated 29.11.2005 could not be modified. The respondent municipal corporation was granted time of four months to deposit the balance amount of compensation. On 23.05.2006, the respondent municipal corporation deposited Rs.10,79,42,583/- with the Prothonotary and Senior Master of this Court.

16. The petitioners filed their reply in the said Writ Petition No.11 of

2006 relying upon sale instances showing the market value to be more than Rs.16,000/- per sq.mtr. They also moved Notice of Motion No.380 of 2006 in the said writ petition seeking deposit of further amounts by the respondent municipal corporation and also prayed for withdrawal of the amounts already deposited. On 22.12.2006, this Court disposed of the said notice of motion of the petitioners permitting them to withdraw the amounts deposited by the respondent municipal corporation on furnishing bank guarantee and on keeping the bank guarantee alive till Writ Petition No.11 of 2006 was finally heard and disposed of by the High Court and also for a further period of six months thereafter.

17. Aggrieved by the same, the petitioners filed Special Leave Petition (Civil) No.5670 of 2007, challenging the said order dated 22.12.2006 passed by this Court. On 18.02.2008, while disposing of the SLP, the Supreme Court granted leave and hence it was renumbered as Civil Appeal No.1398 of 2008. While disposing of the appeal, the Supreme Court modified the order of this Court by directing that the amounts deposited by the respondent municipal corporation before this Court shall be placed in fixed deposit in a nationalized bank, initially for a period of six months, to be renewed from time to time till disposal of Writ Petition No.11 of 2006. It was further directed that the petitioners would be permitted to withdraw the interest that would accrue on the said amount lying in fixed deposit, without furnishing any security or bank guarantee. It was made clear that the amounts placed in fixed deposit would not be withdrawn by the petitioners. A direction was issued for disposing of the writ petition within three months.

18. In this backdrop, on 14.08.2008, this Court disposed of Writ Petition No.11 of 2006, setting aside the award passed by the SLAO on the ground that incorrect principles were applied for determining the quantum of compensation. In the order passed by this Court while

disposing of the said writ petition, the contentions raised on behalf of the petitioners regarding lapsing of acquisition and necessity for issuance of fresh notification by the SLAO under Section 4 of the L. A. Act, were considered, but they were not accepted. It was held that the said aspect was within the domain of the SLAO and that the said respondent would take care of all legalities while declaring a fresh award. Being aggrieved by the rejection of the aforesaid contentions of the petitioners, they challenged the said order dated 14.08.2008 passed by this Court in Writ Petition No.11 of 2006 by filing Special Leave Petition (Civil) No.23894 of 2008. In the special leave petition, the petitioners specifically raised questions of law and corresponding grounds of challenge, asserting that the land acquisition proceedings had lapsed on account of failure of SLAO to issue declaration under Section 6 of the L.A. Act within a year of issuance of notification under Section 4 thereof. On 13.10.2008, the Supreme Court passed an interim order permitting the petitioners to withdraw the interest accrued on the deposited amounts without furnishing any bank guarantee or security. On 15.01.2010, the Supreme Court passed a further order in the said SLP continuing the said arrangement of the petitioners withdrawing the interest amount, while the deposited amounts remained in the fixed deposit.

19. Eventually, on 05.04.2011, the Supreme Court disposed of the pending proceeding. Since leave was granted, it was renumbered as Civil Appeal No.1115 of 2010. By order dated 05.04.2011, the Supreme Court disposed of the appeal by directing that the SLAO shall consider all the issues raised by the parties and thereupon pass the award. According to the petitioners, the said order of the Supreme Court reserved liberty for them to raise the aforesaid issue of lapsing of acquisition before the SLAO. Hence, on 13.05.2011, the petitioners filed an application before the SLAO, claiming that the acquisition had lapsed and they also sought permission to withdraw compensation amount

deposited by the respondent municipal corporation with the Prothonotary and Senior Master of this Court. On 18.05.2011, the petitioners filed a supplementary application before the SLAO, making the aforesaid prayers. The said application was heard in the backdrop of the say filed by the respondent municipal corporation. On 19.07.2011, the SLAO passed the impugned order rejecting both the applications. The SLAO held that the issue regarding lapsing of acquisition sought to be raised by the petitioners was considered by both, this Court and the Supreme Court in their respective orders passed in Writ Petition No.11 of 2006 and the proceedings arising therefrom before the Supreme Court. In that light, the prayer of the petitioners seeking lapsing of acquisition was rejected. As regards the question of withdrawal of amounts, it was held that since the entitlement of the petitioners regarding amount of compensation was yet to be adjudicated, the prayer for withdrawal of amount could not be granted.

20. Aggrieved by the said order dated 19.07.2011 passed by the SLAO, the petitioners filed the present writ petition. The petitioners prayed for setting aside of the said order of the SLAO. They also prayed for a declaration that the acquisition proceeding had lapsed, as the notification dated 05.01.2001 published on 18.01.2001 under Section 6 of the L.A. Act was rendered void. A further prayer was made for a direction to the SLAO to initiate the acquisition proceedings afresh. By a subsequent amendment, it was prayed that such fresh acquisition proceeding ought to be undertaken as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013). On 14.11.2011, this Court granted *Rule* in the writ petition and also interim relief in terms of prayer clause (g), meaning thereby that during pendency of the present writ petition there was stay of further proceedings before the SLAO for acquisition of the said land. The replies and rejoinders were filed in the writ petition.

The writ petition was taken up for hearing.

21. Dr. Birendra Saraf, learned senior counsel appearing for the petitioners submitted that by operation of law, the land acquisition proceeding in the present case lapsed as the declaration under Section 6 of the L.A. Act was rendered void as it was clearly issued beyond the period of one year from issuance of the notification under Section 4 of the said Act. It was submitted that there was no dispute about the dates. In such a situation, the acquisition proceeding having lapsed, there was no option for the respondents but to initiate the acquisition proceedings for the aforementioned unacquired land afresh, so that appropriate compensation could be determined for payment to the petitioners. The learned senior counsel for the petitioners relied upon judgements of the Supreme Court in the cases of *Vijay Narayan Thatte and others Vs. State of Maharashtra and others*, **(2009) 9 SCC 92** and *Anil Kumar Gupta Vs. State of Bihar and others*, **(2012) 12 SCC 443**. It was submitted that in the face of lapsing of acquisition by operation of law, the consequence would be that the respondents would be required to return the unacquired land to the petitioners. It was emphasized that possession of the land had been taken as far back as in the year 1960 and the petitioners were still struggling for payment of compensation for the aforesaid unacquired land.

22. The learned senior counsel for the petitioners submitted that in the interregnum, even the unacquired land had been utilized for various public purposes such as municipal schools etc., as a consequence of which, it may be impossible for return of the said land and in any case, it would cause much hardship to the public at large. In that context, it was submitted that this Court may consider adopting an approach indicated by the Supreme Court in various judgements, wherein the notification under Section 4 of the L.A. Act itself was shifted to a future date to

ensure that justice was done to claimants like the petitioners herein, without causing inconvenience to the public at large. In this context, reliance was placed on judgements of the Supreme Court in the cases of *Ram Chand and others Vs. Union of India and others*, **(1994) 1 SCC 44**; *Competent Authority Vs. Barangore Jute Factory and others*, **(2005) 13 SCC 477**; *Special Agricultural Produce Market Committee for Fruits and Vegetables, Golimangla Vs. N. Krishnappa and others*, **(2017) 3 SCC 239** and *Bernard Francis Joseph Vaz and others Vs. Government of Karnataka and others*, **(2025) 7 SCC 580**, as also judgement of Karnataka High Court in the case of *M. Suresh Kumar and others Vs. State of Karnataka and others*, **2011 SCC OnLine Kar 4376**.

23. By placing reliance on the aforementioned judgements, the learned senior counsel appearing for the petitioners submitted that this Court may consider shifting the date of the notification under Section 4 of the L. A. Act by exercising power under Article 226 of the Constitution of India. It was submitted that the said judgements clearly recognized such a power in this Court exercising writ jurisdiction. It was submitted that if the contention of the petitioners with regard to lapsing of acquisition is accepted, ideally, the acquisition ought to be undertaken afresh and that the petitioners would be entitled to press for acquisition and payment of compensation under the Act of 2013. But, considering the law laid down by the Supreme Court in the aforementioned judgements, this Court may pass appropriate orders to grant relief to the petitioners in the facts and circumstances of the present case.

24. It was submitted that the approach adopted by the respondent municipal corporation in the present case, is most unfortunate. They are opposing relief to which the petitioners are entitled, despite the fact that possession of unacquired land was also taken as far back as in the year 1960. The petitioners and their family have been deprived of enjoying of

their own land, without a farthing being paid towards compensation, thereby violating their constitutional right under Article 300-A of the Constitution of India. It was submitted that the Supreme Court in various judgements, including judgement in the case of **Bernard Francis Joseph Vaz and others Vs. Government of Karnataka and others** *(supra)*, has recognized the right under Article 300-A of the Constitution of India as a human right. It was submitted that the respondent municipal corporation cannot be further allowed to trample upon the rights of the petitioners.

25. As regards the stand taken on behalf of the respondents, particularly the respondent municipal corporation, the learned counsel for the petitioners submitted that the respondents cannot claim that the petitioners are prevented from raising the issue of lapsing of acquisition for the reason that the said issue was already considered and decided when Writ Petition No.11 of 2006 was disposed of and when orders were passed by the Supreme Court in proceedings arising therefrom. By placing reliance on the aforementioned judgements of the Supreme Court, it was submitted that once the acquisition had lapsed by operation of law, there was no question of the petitioners being prevented from raising the said issue. No order of any Court could revive such a lapsed acquisition proceeding. In any case, it was submitted that the Supreme Court in its order dated 05.04.2011, disposing of Civil Appeal No.1115 of 2010, had specifically kept all issues open for consideration before the SLAO. By referring to the contents of the special leave petition leading upto the said civil appeal, it was submitted that all questions including the question of lapsing of acquisition was kept open for further consideration.

26. On the contention raised on behalf of the respondent municipal corporation that the petitioners ought not to be permitted to claim

compensation beyond the rate of Rs.40/- per square yard as per the agreements executed between the parties, it was brought to the notice of this Court that an identical contention was rejected by a learned Single Judge of this Court, as far back as in the year 1996 when Writ Petition No.109 of 1996 filed by the petitioners had been allowed by order dated 04.12.1996. The said order attained finality. It was submitted that despite the said admitted position on facts, the respondent municipal corporation, being a public body, was unnecessarily taking such an intransigent approach only with the intention of depriving the petitioners of their rightful claims. It was further submitted that the contention pertaining to Section 126 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act') is absolutely unsustainable because no such stand has been taken in the reply affidavits filed in the present writ petition and in any case, even the earlier round of the arguments concerned the award dated 30.08.2001, which was passed on the basis of notification issued under Section 4 of the L. A. Act. This further demonstrated the unsustainable approach of the respondent municipal corporation to somehow deprive the petitioners of their rightful claims. On this basis, it was submitted that the writ petition deserved to be allowed.

27. Ms. Usha Rahi, learned AGP appearing on behalf of the respondent State authorities i.e. respondent Nos.2, 3 and 4 submitted that the dates regarding issuance of notification under Section 4 of the L. A. Act and declaration under Section 6 thereof cannot be denied as they are a matter of record. But, it was submitted that the contention regarding lapsing of acquisition cannot be raised by the petitioners in the light of the findings rendered by this Court while disposing of Writ Petition No.11 of 2006, filed by the respondent municipal corporation. The Supreme Court confirmed the said order of this Court and therefore, the petitioners cannot be allowed to raise the said contention. It was

submitted that the delay in determination and disbursal of compensation was due to the petitioners themselves, as they approached this Court to challenge the order dated 19.07.2011 passed by the SLAO. This Court granted stay of further proceedings, as a consequence of which, the award could not be passed for all these years. It was further submitted that in the facts and circumstances of the present case, the order dated 19.07.2011 passed by the SLAO cannot be found fault with and therefore, the petition deserved to be dismissed.

28. Mr. Ram Apte, learned senior counsel appearing for the respondent municipal corporation submitted that the impugned order dated 19.07.2011 passed by the SLAO was absolutely correct in the facts and circumstances of the present case. It was submitted that the issue regarding lapsing of acquisition was indeed dealt with by this Court while disposing of Writ Petition No.11 of 2006. The specific contention being raised on behalf of the petitioners in this petition was squarely rejected and the said order of this Court was confirmed by the Supreme Court while disposing of the appeal arising from the order of this Court. It is in this backdrop that the SLAO correctly observed that since this Court and the Supreme Court had dealt with the said issue, there was no question of the same being considered again.

29. For the same reason, it was submitted that the petitioners cannot raise the issue of lapsing of acquisition in this writ petition also. The learned senior counsel appearing for the respondent municipal corporation submitted that if the petitioners had not challenged the order dated 19.07.2011 passed by the SLAO, further acquisition proceedings could have been continued and by this time, the award would have been rendered ensuring that the compensation was determined.

30. It was submitted that a perusal of the agreements executed between the parties from the year 1960 onwards would show that the

petitioners had agreed for monetary compensation at a specific rate. The last of the said agreements recorded that the compensation would be payable @ Rs.40/- per square yard. The petitioners cannot be permitted to claim amount over and above the said quantum of compensation. On this basis, it was submitted that the writ petition deserved to be dismissed.

31. Apart from this, the learned senior counsel appearing for the respondent municipal corporation submitted that since the acquisition concerned Section 126 of the MRTP Act, wherein acquisition process starts directly at the stage of declaration similar to the one made under Section 6 of the L. A. Act, the question of lapsing of acquisition would not arise. He further submitted that therefore, there was no question of the petitioners finding support from the aforementioned judgements of the Supreme Court regarding lapsing of acquisition when declaration under Section 6 of the L. A. Act is not issued within one year of issuance of notification under Section 4 thereof. Hence, there is no question of shifting of the date of notification under Section 4 of the L. A. Act, thereby demonstrating that the writ petition deserves to be dismissed so that the SLAO can proceed further in the matter.

32. We have considered the rival submissions in the backdrop of the pleadings and documents on record, as also the judgements brought to our notice. In this case, it is not seriously disputed that the possession of the subject unacquired land was taken by the respondent municipal corporation way back in the year 1960. Agreements were executed in the years 1960, 1976 and 1978 between the petitioners, their family members and the respondent municipal corporation, under which certain parcels of land were acquired for which compensation was paid as per mutually agreed terms.

33. After this Court passed order in Writ Petition No.1385 of 1979, as

many as 16 awards were rendered. In the last of such awards, passed in the year 1988, compensation was paid @ Rs.350 per square yard, thereby demonstrating that the rate of Rs.40 per square yard agreed between the parties in the said agreements, clearly stood superseded. Yet, the aforementioned unacquired land remained in possession of the respondent municipal corporation, with no steps taken for payment of compensation.

34. The second round of litigation before this Court, in the form of Writ Petition No.109 of 1996, culminated in the order dated 04.12.1996 passed by the learned Single Judge of this Court, allowing the writ petition and directing the respondents to acquire the unacquired land expeditiously and in any case, within a period of one year from the date of the order. It is an admitted position that during the pendency of the said writ petition, a surveyor was appointed, who identified the exact extent of the unacquired pieces of land admeasuring 9295.25 sq.mtrs.

35. The findings rendered by the learned Single Judge of this Court in the said order demonstrated that the contention raised on behalf of the respondent municipal corporation that the petitioners were entitled to compensation at a fixed rate of Rs.40 per square yard, in the light of the aforementioned agreement, was rejected. The learned Single Judge of this Court took specific note of the fact that the last land acquisition award of the year 1988 granted compensation @ Rs.350 per square yard. Hence, it was held that the respondent municipal corporation could not be permitted to fall back on the agreements, in order to restrict the quantum of compensation payable to the petitioners, while acquiring the unacquired land, possession of which was already taken decades ago. These findings rendered in the order dated 04.12.1996 passed in Writ Petition No.109 of 1996 are significant and they have a bearing on the present writ petition also.

36. The third round of litigation was Writ Petition No.11 of 2006 filed by the respondent municipal corporation, challenging the award dated 30.08.2001 passed by the SLAO. The same was disposed of by order dated 14.08.2008, whereby the said award passed by the SLAO on 30.08.2001, was quashed and set aside and the SLAO was directed to proceed in the matter.

37. In the said petition also, the petitioners had raised the issue regarding lapsing of acquisition, as declaration under Section 6 of the L. A. Act was not issued within one year of issuance of notification under Section 4 thereof. But, this Court did not agree with the submission and observed that the SLAO would have to take care of the legalities required to be followed, while declaring the award, further specifically observing that this Court does not wish to interfere in the legal domain of the SLAO. These observations have to be appreciated in the backdrop of a specific submission made on behalf of the petitioners that a direction may be given to the SLAO to issue fresh notification under Section 4 of the L. A. Act.

38. The petitioners challenged the said judgement and order of this Court passed in Writ Petition No.11 of 2006 by filing Special Leave Petition (Civil) No.23894 of 2008 before the Supreme Court. A copy of the memo of the Special Leave Petition is annexed to the affidavit-in-rejoinder filed on behalf of the petitioners. A perusal of the same shows that the issue regarding lapsing of acquisition was raised in question (vii) and grounds (g), (j) and (k).

39. Eventually, on 05.04.2011, the Supreme Court disposed of Civil Appeal No.1115 of 2010 [arising from Special Leave Petition (Civil) No.23894 of 2008], observing as follows:-

> " In view of the fact that this Court has set aside the award by giving cogent reasons and has passed an order

> for passing a fresh award in accordance with law, we are not inclined to interfere with the same but make it clear that the SLAO would allow the parties to raise all issues before him, which may be available to the parties in accordance with law and upon taking into consideration all those issues, may pass the award. It shall also be open to the parties to place all documents or evidence that may be available with them in support of their claims for compensation for consideration of the SLAO, which shall be taken notice of by the SLAO while passing the impugned award.
>
> It transpires from the records and also, from the impugned order that certain amount was deposited by the Municipal Corporation of Bombay in Court which was invested by the Prothonotary and Senior Master, High Court. The appellants havé also filed an application in this court with a prayer to allow them to withdraw an amount of Rs.6,43,87,350/- as deposited with the Prothonotary and Senior Master, High Court. The aforesaid prayer could also be made before the SLAO who shall consider the said prayer and, if it is found that the appellants are entitled to receive such an amount, the same shall be ordered to be released in their favour. While doing so, the order passed by this Court may also be taken notice of."

40. Thus, the order passed by this Court, setting aside the award of the SLAO, was confirmed. This Court had held that the quantum of compensation was improperly determined by the SLAO by relying upon the ready reckoner. Hence, the SLAO was required to undertake the process of determination of compensation afresh. The Supreme Court in the above-quoted portion of the order dated 05.04.2011 made it abundantly clear that the SLAO would allow the parties to raise all issues, which may be available to the parties in accordance with law and upon consideration of all such issues, the award may be passed. This has to be read in conjunction with the observation made by this Court, while disposing of Writ Petition No.11 of 2006, specifically observing that the SLAO would take care of the legalities, while declaring the award afresh and that this Court would not enter into the domain of the SLAO.

41. We are of the opinion that the said observations made by this Court and the Supreme Court in the said third round of litigation, indicated that the parties were at liberty to raise all issues before the SLAO. The petitioners filed applications dated 13.05.2011 and 18.05.2011 before the SLAO, asserting that the acquisition proceedings had lapsed due to issuance of declaration under Section 6 of the L. A. Act beyond the period of one year from issuance of notification under Section 4 thereof and they had prayed for a fresh notification to be issued under Section 4, for determination of compensation. The petitioners also prayed for permission to withdraw the amount deposited by the respondent municipal corporation in this Court.

42. The SLAO rejected the applications by the impugned order dated 19.07.2011. A perusal of the said order shows that the SLAO proceeded on the basis that the issue pertaining to notification under Section 4 of the L. A. Act being issued afresh, was considered and rejected by this Court and the Supreme Court. On this basis, the SLAO concluded that it would be appropriate for the said authority to consider the applications filed by the petitioners, as it would amount to interfering with the orders of this Court and the Supreme Court.

43. We are unable to agree with the approach adopted by the SLAO, as a proper interpretation of the order dated 14.08.2008 passed by this Court and order dated 05.04.2011 passed by the Supreme Court, would show that liberty was reserved for the parties, including the petitioners, to raise all issues before the SLAO. On this short ground, the impugned order dated 19.07.2011 deserves to be set aside.

44. In any case, apart from challenging the said impugned order dated 19.07.2011 passed by the SLAO, the petitioners have specifically prayed for a declaration as per prayer clause (b), to hold and declare that the acquisition has lapsed, in the face of the admitted position on facts that

declaration under Section 6 of the L.A. Act was issued beyond the mandatory period of one year, specified under Section 4 thereof. As a writ court, we are required to consider the said issue as it goes to the very root of the matter. The aforesaid issue has serious consequences, which need to be considered in the light of the position of law clarified by the Supreme Court.

45. In the case of **Vijay Narayan Thatte and others vs. State of Maharashtra and others** *(supra)* while considering the issue pertaining to lapsing of acquisition, the Supreme Court referred to the Constitution Bench judgement in the case of *Padma Sundara Rao vs. State of Tamil Nadu*, **(2002) 3 SCC 533** and held that proviso to Section 6 of the L. A. Act is mandatory. On this basis, it was held that if declaration under Section 6 of the L. A. Act is issued beyond one year from issuance of notification under Section 4 thereof, such declaration is rendered void and the acquisition necessarily lapses.

46. It would be appropriate to refer to relevant portion of Section 6 of the L. A. Act, which reads as follows:-

> **"6. Declaration that land is required for a public purpose**.- (1) Subject to the provisions of Part VII of this Act, when the appropriate Government is satisfied, after considering the report, if any, made under section 5-A, subsection (2), that any particular land is needed tor a public purpose, or for a company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1), irrespective of whether one report or different reports has or have been made (wherever required) under section 5-A, sub-section (2):
>
> Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1),—

> (i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of three years from the date of the publication of the notification; or
>
> (ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of the publication of the notification:
>
> Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority."

47. As a matter of fact, a bare reading of proviso to Section 6 of the L. A. Act shows that no declaration under the said provision can be published after expiry of one year from the date of publication of notification under Section 4(1) of the L. A. Act. The words of the provision being clear, there can be no other interpretation. In this context, in the aforesaid case of **Vijay Narayan Thatte and others vs. State of Maharashtra and others** (*supra*), the Supreme Court observed as follows:-

> "21. In view of the above discussion, it is evident that the proviso to Section 6 of the Land Acquisition Act is totally mandatory and bears no exceptions. In fact, a Constitution Bench decision of this Court in Padma Sundara Rao v. State of T.N. [(2002) 3 SCC 533] is clearly in support of the submission of the learned counsel for the appellants that the proviso to Section 6 is mandatory, and hence the Notification under Section 6 dated 30-10-2006 is time-barred.
>
> 22. In our opinion, when the language of the statute is plain and clear then the literal rule of interpretation has to be applied and there is ordinarily no scope for consideration of equity, public interest or seeking the intention of the legislature. It is only when the language of the statute is not clear or ambiguous or there is some conflict, etc. or the plain language leads to some absurdity that one can depart from the literal rule of interpretation. A perusal of

> the proviso to Section 6 shows that the language of the proviso is clear. Hence the literal rule of interpretation must be applied to it. When there is a conflict between the law and equity it is the law which must prevail. As stated in the Latin maxim *dura lex sed lex* which means "the law is hard but it is the law".
>
> xxx xxx xxx
>
> 24. In our opinion, there can be no estoppel against a statute. Since the statute is very clear, the period of limitation provided in clause (ii) of the proviso to Section 6 of the Act has to be followed, and concessions of the counsel can have no effect. As already stated above, the proviso is mandatory in nature, and must operate with its full rigour vide Ashok Kumar v. State of Haryana [(2007) 3 SCC 470] (SCC para 17)."

48. The said position of law was followed by the Supreme Court in the case of **Anil Kumar Gupta vs. State of Bihar and others** *(supra)*. It was observed in the said judgement as follows:-

> "18. We may now advert to the main question as to whether the declaration issued under Section 6(1) was a nullity because the same was issued after expiry of the period of one year specified in the first proviso (ii) to that section. This issue is no longer res integra and must be treated as settled by the judgments of this Court in Padma Sundara Rao v. State of T.N. [(2002) 3 SCC 533], Ashok Kumar v. State of Haryana [(2007) 3 SCC 470] and a recent judgment in Devender Kumar Tyagi v. State of U.P. [(2011) 9 SCC 164 : (2011) 4 SCC (Civ) 542] In Padma Sundara Rao case [(2002) 3 SCC 533] the Constitution Bench unequivocally held that the second proviso to Section 6(1) is mandatory and a declaration issued beyond the period of one year from the last publication of the notification issued under Section 4(1) is nullity. In view of the proposition laid down in these judgments, it must be held that the learned Single Judge had rightly held that the declaration issued under Section 6(1) was non est.
>
> 19. The learned counsel for the respondents relied upon the corrigendum dated 1-7-1994 and argued that if the period of one year is counted from the date of corrigendum then the declaration issued under Section 6(1) cannot be treated as beyond the period of one year.

> We are unable to accept the submission of the learned counsel for two reasons. Firstly, it has not been shown whether the corrigendum had been published in the manner prescribed under Section 4(1). Secondly, the corrigendum was issued only for correcting the typographical mistakes in the gazette publication of the notification issued under Section 4(1). Such corrigendum will relate back to the date on which the notification under Section 4(1) was issued and the same cannot be relied upon for recording a finding that the declaration under Section 6(1) was issued within the period prescribed under the first proviso (ii) to that section."

49. The aforesaid judgements of the Supreme Court make it abundantly clear that the mandatory requirement of law under proviso to Section 6 of the L. A. Act, has to be applied strictly. It is significant to note that in this case, the respondent State did not dispute the dates of issuance and publication of notification under Section 4 and declaration under Section 6 of the L. A. Act. A perusal of the award dated 30.08.2001 shows that the notification under Section 4 of the L. A. Act, was issued on 08.12.1999 and published on 23.12.1999, while the declaration under Section 6 thereof was issued on 05.01.2001, published in daily newspapers on 19.01.2001 and date of publication on the notice board of the Collector was 23.01.2001.

50. The aforesaid admitted position on facts shows that declaration under Section 6 of the L. A. Act was beyond the period of one year from issuance and publication of notification under Section 4 thereof, thereby showing that the declaration was rendered a nullity and the said acquisition process lapsed. Therefore, the relief sought by the petitioners at prayer clause (b) deserves to be granted and the acquisition process needs to be undertaken afresh. It is significant to note that such lapsing is by operation of statute and law itself and therefore, no order of any Court can undo what has happened by operation of law. As observed by

the Supreme Court in the aforementioned judgement in the case of **Vijay Narayan Thatte and others vs. State of Maharashtra and others** (*supra*), the Latin Maxim, *dura lex sed lex* meaning 'the law is hard but it is the law', applies to the facts of the present case.

51. In this context, we find that the contention raised on behalf of respondent municipal corporation, by relying upon Section 126 of the MRTP Act, is a red herring and a desperate attempt to somehow deprive the petitioners of their rightful dues and consequences that follow due to lapsing of acquisition, in the light of the observations made hereinabove. It is an admitted position on record that the respondent municipal corporation took possession of petitioners' land way back in the year 1960. While some parcels of land were acquired through agreements and some compensation was paid and thereafter, certain land acquisition awards were issued upto the year 1988, in pursuance of the direction issued by this Court in the first round of litigation (Writ Petition No.1385 of 1979), the unacquired land identified by the surveyor during the proceedings concerning Writ Petition No.11 of 2026, was never acquired and the petitioners were and are clearly entitled to appropriate relief under law. The respondent municipal corporation being a public body, having taken possession of lands of the petitioners way back in the year 1960, has adopted such an intransigent approach in opposing the contentions of the petitioners tooth and nail, to somehow postpone the inevitable.

52. It is to be noted that the MRTP Act was itself enacted in the year 1966, much after the possession of lands was already taken by the respondent municipal corporation in the year 1960 and therefore, reliance on Section 126 of the MRTP Act, is wholly unsustainable. This is apart from the fact that as per order passed in Writ Petition No.1385 of 1979 and Writ Petition No.109 of 1996, the acquisition was undertaken

by the SLAO under the L. A. Act by issuing notification under Section 4 and declaration under Section 6 thereof. It is significant to note that there is not a whisper in the reply affidavit filed on behalf of the respondent municipal corporation about Section 126 of the MRTP Act. It is for the first time in the oral arguments that the said submission was made, without any basis in the material on record. Hence, the said contention raised on behalf of the respondent municipal corporation, is rejected.

53. The manner in which the respondent municipal corporation and the State authorities have proceeded in the present case, demonstrates that the valuable right of the petitioners under Article 300A of the Constitution of India, has been violated. Despite possession of the said unacquired land having taken in the year 1960, compensation has not been paid till date. In the case of **Bernard Francis Joseph Vaz and others Vs. Government of Karnataka and others** (*supra*), the Supreme Court has relied upon earlier judgements and reiterated that the right to property is not only considered a constitutional or a statutory right, but it is also treated as a 'human' right. This dimension of the right to property has to be given its due meaning, particularly in the light of the observations made by the Supreme Court in various judgements, including judgements in the cases of *Tukaram Kana Joshi and others vs. Maharashtra Industrial Development Corporation and others*, **(2013) 1 SCC 353** and *Kolkata Municipal Corporation and another vs. Bimal Kumar Shah and others*, **(2024) 10 SCC 533**.

54. Keeping in mind the importance of said right to property, the consequence of lapsing of acquisition would be that the respondent municipal corporation will have to return the said unacquired land to the petitioners. But, since the said land has been already utilized for public purpose, it would be a drastic consequence and it would also cause grave inconvenience to the public at large. In such situations, the Supreme

Court, in its various judgements, has held that instead of giving the consequential direction for returning the subject unacquired land to the land owners / claimants, the Court, by adopting a balanced approach, can direct shifting of date of notification issued under Section 4(1) of the L. A. Act.

55. In the case of *Haji Saeed Khan and others vs. State of Uttar Pradesh and others*, **(2001) 9 SCC 513**, the Supreme Court shifted the date of notification under Section 4(1) of the L. A. Act, so that the interests of all parties were taken care of. In the case of **Competent Authority vs. Barangore Jute Factory and others** (*supra*), the Supreme Court, having found that the acquisition itself was rendered invalid, further took into consideration the fact that the subject land was indeed acquired and utilized for public purpose and in that backdrop, directed shifting of notification. The relevant portion of the said judgement reads as follows:-

> "14. Having held that the impugned notification regarding acquisition of land is invalid because it fails to meet the statutory requirements and also having found that taking possession of the land of the writ petitioners in the present case in pursuance of the said notification was not in accordance with law, the question arises as to what relief can be granted to the petitioners. The High Court rightly observed that the acquisition of land in the present case was for a project of great national importance i.e. the construction of a national highway. The construction of a national highway on the acquired land has already been completed as informed to us during the course of hearing. No useful purpose will be served by quashing the impugned notification at this stage. We cannot be unmindful of the legal position that the acquiring authority can always issue a fresh notification for acquisition of the land in the event of the impugned notification being quashed. The consequence of this will only be that keeping in view the rising trend in prices of land, the amount of compensation payable to the landowners may be more. Therefore, the ultimate question will be about the quantum of compensation payable to the landowners. Quashing of the notification

at this stage will give rise to several difficulties and practical problems. Balancing the rights of the petitioners as against the problems involved in quashing the impugned notification, we are of the view that a better course will be to compensate the landowners, that is, the writ petitioners appropriately for what they have been deprived of. Interests of justice persuade us to adopt this course of action.

15. Normally, compensation is determined as per the market price of land on the date of issuance of the notification regarding acquisition of land. There are precedents by way of judgments of this Court where in similar situations instead of quashing the impugned notification, this Court shifted the date of the notification so that the landowners are adequately compensated. Reference may be made to:
(a) Ujjain Vikas Pradhikaran v. Raj Kumar Johri [(1992) 1 SCC 328]
(b) Gauri Shankar Gaur v. State of U.P. [(1994) 1 SCC 92]
(c) Haji Saeed Khan v. State of U.P. [(2001) 9 SCC 513]

In that direction the next step is what should be the crucial date in the facts of the present case for determining the quantum of compensation. We feel that the relevant date in the present case ought to be the date when possession of the land was taken by the respondents from the writ petitioners. This date admittedly is 19-2-2003. We, therefore, direct that compensation payable to the writ petitioners be determined as on 19-2-2003, the date on which they were deprived of possession of their lands. We do not quash the impugned notification in order not to disturb what has already taken place by way of use of the acquired land for construction of the national highway. We direct that the compensation for the acquired land be determined as on 19-2-2003 expeditiously and within ten weeks from today and the amount of compensation so determined, be paid to the writ petitioners after adjusting the amount already paid by way of compensation within eight weeks thereafter. The claim of interest on the amount of compensation so determined is to be decided in accordance with law by the appropriate authority. We express no opinion about other statutory rights, if any, available to the parties in this behalf and the parties will be free to exercise the same, if available. The

> compensation as determined by us under this order along with other benefits, which the respondents give to parties whose lands are acquired under the Act, should be given to the writ petitioners along with what has been directed by us in this judgment."

56. The said position of law was followed by the Supreme Court in its judgement in the case of **Special Agricultural Produce Market Committee for Fruits and Vegetables, Golimangla vs. N. Krishnappa and others** (*supra*). The Supreme Court rejected the challenge to an order passed by the High Court, whereby relief was moulded by shifting the date of notification under Section 4(1) of the L. A. Act, while specifically referring to the said earlier judgement in the case of **Competent Authority vs. Barangore Jute Factory and others** (*supra*).

57. In a recent judgement in the case of **Bernard Francis Joseph Vaz and others Vs. Government of Karnataka and others** (*supra*), the Supreme Court dealt with the said issue in detail. It is significant to note that in the said judgement, the Supreme Court held that only the High Court, under Article 226 of the Constitution of India and the Supreme Court, under Article 32/142, could shift the date of issuance of notification under Section 4(1) of the L. A. Act to a later or subsequent date. It was specifically held that such power is not available with the SLAO or the State Government. The relevant portion of the said judgement in this context reads as follows:-

> "15. It can thus be seen that the learned Single Judge of the High Court, upon appreciation of the material placed on record, was of the view that insofar as the opinion of the learned Advocate General with regard to shifting of the date of the preliminary notification to a later date is concerned, the said opinion was beyond the scope and ambit of the query put forth to him and consequently, the said opinion could not have been made the basis by the SLAO to pass the award. It is further to be seen that the learned Single Judge of the High Court after considering the provisions of the 1894 LA Act, the KIAD Act and various decisions of this Court, observed that the market value of the acquired land has to be taken as on the date

of the preliminary notification as contemplated under Section 11 of the 1894 LA Act. Further, the learned Single Judge of the High Court observed that only in exceptional circumstances, where either this Court or the High Court comes to the conclusion that the acquisition proceedings themselves were liable to be quashed on account of certain illegalities or infirmities in the acquisition process/procedure, it was permissible only for this Court in exercise of its powers under Article 32/142 or the High Courts under Article 226 of the Constitution of India to shift the date to a later/subsequent date. It was further observed that this power to shift the date is available only to either this Court or the High Courts and not definitely/certainly to the SLAOs or the State Government.

16. We are in agreement with the findings of the learned Single Judge of the High Court, inasmuch as the SLAO cannot shift/postpone the date of preliminary notification. In case, upon appreciation of the material placed on record if this Court or the High Court, in exceptional circumstances, came to the conclusion that the acquisition proceedings themselves were liable to be quashed only then by exercising inherent powers this Court under Article 32/142 or the High Courts under Article 226 of the Constitution of India, respectively, can shift/postpone the date of preliminary notification to a later date. In our considered opinion, therefore, the learned Single Judge of the High Court rightly came to the conclusion that the award dated 22-4-2019 be quashed and set aside and ordered accordingly.

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53. No doubt that as already observed by us hereinabove, we do not find any error in the approach adopted by the learned Single Judge of the High Court in holding that the SLAO could not have shifted the date and it could have been done only by this Court in exercise of powers under Article 32/142 of the Constitution of India or by the High Court under Article 226 of the Constitution of India. However, the learned Single Judge of the High Court instead of relegating the appellants to again go through the rigours of determination by SLAO, ought to have exercised powers under Article 226 of the Constitution to do complete justice. Even the Division Bench of the High Court on a hypertechnical ground has

non-suited the appellants."

58. In the said judgement, the Supreme Court took into consideration the long period of time for which the land owners had been deprived of their legitimate dues and in that context, observed as follows:-

> "49. It cannot be gainsaid that the appellants herein have been deprived of their legitimate dues for almost 22 years ago. It can also not be controverted that money is what money buys. The value of money is based on the idea that money can be invested to earn a return, and that the purchasing power of money decreases over time due to inflation. What the appellants herein could have bought with the compensation in 2003 cannot do in 2025. It is, therefore, of utmost importance that the determination of the award and disbursal of compensation in case of acquisition of land should be made with promptitude."

59. Thus, we find that in such situations, where the acquisition itself is liable to be quashed and it is held that the same has lapsed, as in the present case, this Court exercising jurisdiction under Article 226 of the Constitution of India, has the power to shift the date of notification under Section 4(1) of the L. A. Act to address the concerns of all parties. We find that if such an approach is not adopted, either the said unacquired land will have to be returned to the petitioners at grave inconvenience and cost to the public at large or the petitioners may claim that compensation be granted for the value of the land as on today.

60. But, by following the position of law enunciated by the Supreme Court in the aforementioned judgements, we are inclined to shift the date of notification under Section 4(1) of the L. A. Act and to issue consequential directions to the respondents, while disposing of the present writ petition. In this context, various submissions were made on behalf of the rival parties, but we find that in order to balance the interests of all the parties, it would be appropriate to shift the date of notification issued under Section 4(1) of the L. A. Act to the date on

which the present writ petition was filed.

61. The record shows that this petition was lodged in this Court on 26.08.2011 and in the light of the observations made hereinabove, we are inclined to shift the date of notification issued under Section 4(1) of the L. A. Act to the said date. By treating the same as the date of notification, the SLAO shall calculate the quantum of compensation payable to the petitioners, in accordance with law.

62. In view of the above, the writ petition is disposed of as follows:-

(a) The impugned order dated 19.07.2011 passed by the SLAO is quashed and set aside;

(b) It is held that in the light of the declaration under Section 6 of the L. A. Act being issued beyond the mandatory period of one year from issuance of notification under Section 4 thereof, the said declaration is rendered a nullity and the acquisition process to that extent, is found to be illegal;

(c) In the light of the observations made hereinabove and following the position of law laid down by the Supreme Court in such cases and in order to balance the interests of all the parties, the notification issued under Section 4(1) of the L. A. Act, is shifted to 26.08.2011;

(d) The SLAO shall now undertake the exercise of calculation of quantum of compensation, by passing a fresh award, taking the market value as on 26.08.2011;

(e) The SLAO shall complete the said exercise within a period of three months from today;

(f) The petitioners shall be entitled to all statutory benefits as available in law and after the award is passed, the rights of all parties with regard to further proceedings shall remain

open;

(g) Since there was no clarity as to whether the amounts deposited in this Court under the earlier proceedings, were withdrawn by the respondent municipal corporation or not, it is directed that in the event the amount is still lying with the Prothonotary and Senior Master of this Court, the same shall be taken into account and adjusted when the quantum of compensation is determined by the SLAO in terms of the directions given hereinabove. Such amount, if any, lying in this Court along with accrued interest, shall be disbursed forthwith to the petitioners after the award is passed by the SLAO;

(h) If the amount has been already withdrawn by the respondent municipal corporation from this Court, the entire amount of compensation, as may be determined by the SLAO, shall be disbursed in favour of the petitioners;

(i) In any case, the awarded amount shall be made over to the petitioners within four weeks of the award being passed by the SLAO.

63. Rule is made absolute in above terms.

64. Pending applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**

MINAL SANDIP PARAB Digitally signed by MINAL SANDIP PARAB Date: 2024.07.03 15:32:17 +0530