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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.5184 OF 2026
IN
FIRST APPEAL NO.1987 OF 2025

The City and Industrial Development Corporation of Maharashtra Limited ... Applicant

In the matter between

State of Maharashtra (through Deputy Collector (Land Acquisition), Metro Center No.1, Uran, Taluka Uran, District Raigad ... Appellant

V/s.

Jayprakash Janardan Patil & Anr. ... Respondents

WITH
INTERIM APPLICATION NO.5185 OF 2026
IN
FIRST APPEAL NO.1983 OF 2025

The City and Industrial Development Corporation of Maharashtra Limited ... Applicant

In the matter between

State of Maharashtra (through Deputy Collector (Land Acquisition), Metro Center No.1, Uran, Taluka Uran, District Raigad ... Appellant

V/s.

Narayan Gosavi Patil, since deceased through legal heirs Chandrabhaga Narayan Patil & Others ... Respondents

Mr. G.S. Hegde, Senior Advocate with Ms. P.M. Bhansali for the applicant-CIDCO.

Mr. A.R. Patil, Additional G.P. for the appellant-State.

Mr. Shriram S. Kulkarni with Mr. Gaurav Ugale and Mr. Aryavrat Dubey for the respondents-claimants.

CORAM	**: AMIT BORKAR, J.**
RESERVED ON	**: JULY 28, 2026**
PRONOUNCED ON	**: JULY 31, 2026**

JUDGMENT:

1. The applicant CIDCO has filed these Interim Applications asking for permission to join them in the present First Appeals as a respondent. The applicant wants to be added as respondent No. 3 in First Appeal No. 1987 of 2025 and as respondent No. 10 in First Appeal No. 1983 of 2025.

2. These First Appeals are about the lands which are described in Land Reference Case No. 33 of 2014. For easy reference, these lands are hereafter called the "suit lands". The lands are situated at Village Bokadvira, Taluka Uran, District Raigad, bearing Survey and Hissa Nos. 6/13, 24/2, 27/6, 41/6, 65/7 and 149/3B.

3. The record of Land Reference No. 33 of 2014 shows that the suit lands were acquired for the New Bombay Project. A notification under Section 4 of the Land Acquisition Act was issued on 24 September 1986. Thereafter, an award under Section 11 of the Land Acquisition Act was passed in the year 1989. The lands were acquired for the public purpose of developing the new city of Navi Mumbai. After completing the legal process for acquisition, possession of the lands was handed over to CIDCO for planning and development of Navi Mumbai. Later, Land Acquisition Reference No. 48 of 2015 was decided by the learned Joint Civil Judge, Senior Division, Panvel, by judgment and award dated 24 March 2021. Since the claimants were not satisfied with the compensation awarded, they filed an application under Section 28A on 24 March 2021 relying upon the judgment passed by the Alibag Court in LAR No. 695 of 2000. After the Special Land Acquisition Officer passed the re-determination award dated 3 May 2014, the respondents filed a reference under Section 28A(3) before the Reference Court at Panvel seeking enhancement of compensation up to Rs. 2,000/- per square metre. By judgment and award dated 24 March 2021 in LAR No. 48 of 2015, the Reference Court held that the claimants were entitled to market value at the rate of Rs. 1,124/- per square metre along with statutory benefits under Sections 23(1A), 23(2) and 28 of the Land Acquisition Act, 1894.

4. The above judgment and award has been challenged by the State of Maharashtra by filing the present First Appeals. Thus, the State of Maharashtra has questioned the correctness of the Reference Court's judgment through the present First Appeals. It is pointed out that in several similar matters relating to land acquisition for Navi Mumbai, the State of Maharashtra had approached the Supreme Court by filing Special Leave Petition (Civil) Diary Nos. 42084 of 2017. By order dated 20 July 2018, the Supreme Court set aside the judgments of the High Court and sent those matters back for fresh consideration. The Supreme Court observed as follows:

> "In view of the decision rendered on 31st October, 2017 in C.A. Nos. 1564-1565 of 2016 etc. (Babibai Babu Patil vs. The State of Maharashtra & Ors.) the cases are remitted to the High Court. The impugned judgment and order is set aside."

5. It is further pointed out that in Civil Appeal Nos. 1564 to 1565 of 2016, *Babibai Babu Patil vs. State of Maharashtra & Others,* the Supreme Court held that the High Court should hear the appeals again. The Hon'ble Supreme Court also directed the High Court to decide the amendment application afresh after considering the decision in *Ambya Kalya Mhatre (Dead) Through LRs. & Others vs. State of Maharashtra*, (2011) 9 SCC 325. The Hon'ble Supreme Court also observed that in matters arising under Section 28A of the Land Acquisition Act, 1894, the High Court should keep in mind the limited scope of a reference under that provision. According to the Hon'ble Supreme Court, Section 28A is meant only for reopening cases in special situations and, therefore, every case should be decided afresh by applying the correct legal principles. It is stated that the present First Appeals have now been listed before this Court in view of the above directions of the Hon'ble Supreme Court.

6. The applicant states that it is the New Town Development Authority for Navi Mumbai. According to the applicant, it is responsible for paying the enhanced compensation to the original landowners under the Government Resolutions issued from time to time. Even though this financial liability is upon the applicant, it was neither made a party before the Reference Court nor joined as a respondent in the present First Appeals. Therefore, the applicant has filed these applications requesting that it should be added as a party in these proceedings. The applicant further states that the Urban Development Department of the Government of Maharashtra issued Government Resolution No. LQN-02/2008/Pr. Kr. 37/A-2 dated 14 March 2008 and Government Resolution No. CID-3407/11/Pr. Kr.01/NAVI-10 dated 12 February 2008. According to these Government Resolutions, whenever land is acquired for a particular acquiring body, that body should be joined as a party in all land acquisition proceedings. The Government also decided that CIDCO should bear the liability of paying compensation, solatium, interest, and any enhanced compensation awarded in such matters. This responsibility extends not only to proceedings before the Reference Court but also to First Appeals and all other related proceedings pending before any Court or authority concerning lands acquired for the Navi Mumbai Project. The applicant further submits that by the Government Resolution dated 12 February 2008, the State Government also gave CIDCO the responsibility of opposing claims for enhancement of compensation. Under these Government Resolutions, CIDCO was authorised to contest proceedings under Sections 18 and 28 of the Land Acquisition Act on behalf of the Government. Copies of these Government Resolutions have been produced along with the application as Exhibit A collectively.

7. The applicant states that when the Navi Mumbai project area was first handed over for development, it mainly consisted of barren land, marshy land and salt pan areas. According to the applicant, over the years CIDCO has spent huge amounts from its own funds for developing the new city. This includes creating roads, public facilities, infrastructure and providing benefits to project affected persons under the 12.5% Scheme. The applicant states that these expenses can be recovered only through the sale of developed lands, which is its main source of income. It is further stated that CIDCO has undertaken major development works such as land filling, levelling of land, roads, footpaths, street lights, storm water drains, sewerage system, water supply, reservoirs, water pipelines, dams like Morbe, Hetwane and Balganga, MSEB substations, gardens, nurseries, children's parks and other public facilities such as community centres, police stations, crematoriums, burial grounds, playgrounds, schools, health centres and transport facilities. According to the applicant, CIDCO has also carried out major city level projects including shifting of APMC and Steel Market Yard, construction of railway lines between Mankhurd, Vashi, Belapur, Panvel, Kalwa, Turbhe, Nerul and Uran, Belapur Pendhar Metro Line and development of Navi Mumbai International Airport. The applicant states that because of these large development works, CIDCO is required to recover all the expenses incurred and those likely to be incurred in future through the sale of saleable lands. It is submitted that the enhanced compensation payable in land acquisition cases is also paid from the money received by selling such lands. Therefore, according to the applicant, every increase in compensation directly affects the funds available for development of Navi Mumbai. The applicant also states that CIDCO and the landowners had earlier challenged several judgments of this Court relating to enhancement of compensation for lands situated at villages Rodpali, Vadghar and Bokadvira. Those matters included First Appeal No. 378 of 2001, First Appeal No. 1310 of 2005 and First Appeal No. 123 of 2014 along with connected appeals. It is stated that those judgments were based on the earlier judgment in First Appeal No. 646 of 1995 and connected matters. According to the applicant, the Supreme Court, by various orders passed between July and September 2018, set aside those judgments and remanded all those matters to this Court for fresh hearing. It is also stated that by order dated 12 November 2024 passed in Miscellaneous Application Nos. 320 to 321 of 2023, the concerned Civil Appeals were restored.

8. The applicant seeks permission to rely upon the above orders at the time of hearing. According to the applicant, the Supreme Court considered the importance of the issues raised by CIDCO while setting aside the earlier judgments of this Court. It is, therefore, submitted that those issues will also have a direct effect on the decision in the present First Appeals. The applicant further states that all lands acquired for development of Navi Mumbai have been vested in CIDCO for development purposes. According to the applicant, the entire burden of paying compensation is borne by CIDCO from the income generated by sale of the lands vested in it. Apart from this, CIDCO is also required to allot lands to project affected persons under the 12.5% Scheme, which creates an additional financial responsibility.

9. The applicant further states that the Reference Court has not properly determined the market value of the lands and has adopted an incorrect method while assessing compensation. According to the applicant, since it is required to bear the financial burden of enhanced compensation, it should be given an opportunity of being heard before any order granting enhanced compensation or directing deposit of such amount is passed. In these circumstances, the applicant states that it is necessary and proper to add CIDCO as a respondent supporting the State in the present First Appeals. According to the applicant, this is also required in public interest and is consistent with the Government Resolutions referred to above. Therefore, the applicant claims that it is both a necessary and proper party to these proceedings. The applicant states that, in the interest of justice and fairness, it should be impleaded as a party respondent in the present First Appeals. It also requests that it should be permitted to place its detailed submissions before this Court by filing affidavits or in any other manner which this Court may consider appropriate.

10. Mr. Hegde, learned Senior Advocate appearing for the applicant, submitted that the applicant had filed Special Leave Petition (Civil) Diary No. 42084 of 2017 before the Supreme Court. He submitted that by order dated 20 July 2018, the Supreme Court granted leave, converted the matter into a Civil Appeal and sent the cases back to the High Court for fresh hearing. According to him, since the applicant was allowed to pursue the matter before the Supreme Court and the matters were remanded, the applicant should now be treated as a proper party in the present First Appeals. Referring to the judgment of this Court in *Percival Joseph Pareira vs. Special Land Acquisition Officer & Others*, 2010 (1) Mh.L.J. 985, Mr. Hegde submitted that while deciding that case, the Coordinate Bench did not consider that the applicant has to bear the burden of giving 12.5% developed land to the project affected persons as part of the compensation package. According to him, because this important aspect was not considered, the applicant should now be added as a proper party in these appeals.

11. Mr. Hegde further referred to Section 50 of the Land Acquisition Act, 1894. He submitted that the development carried out by CIDCO on the acquired lands and the effect of such development on the value of the plots were not considered by the Coordinate Bench in *Percival Pareira*. He fairly accepted that under the Government Resolution dated 12 February 2008, the State Government has made arrangements regarding payment of compensation. However, according to him, in actual practice CIDCO first pays the compensation and only later receives reimbursement from the State Government. During this period, CIDCO has to bear the interest liability. He further submitted that since CIDCO has developed the lands which are the subject matter of the reference proceedings, it possesses important information regarding the nature of the lands and the factors relevant for deciding their correct market value. He argued that the Coordinate Bench wrongly treated the issue only from the angle of whether CIDCO was a necessary party and failed to examine whether it was at least a proper party whose presence would help the Court in deciding the dispute.

12. On the other hand, Mr. Kulkarni, learned Advocate appearing for the claimants, opposed the applications. He submitted that the Government Resolution dated 6 March 1990 clearly recognises CIDCO only as an agent of the State Government. According to the said Resolution, the compensation payable to the claimants is the liability of the State Government. CIDCO may initially make the payment, but it is entitled to recover or adjust the same with the State Government. Therefore, according to him, CIDCO cannot claim any independent right in the present proceedings.

13. Mr. Kulkarni then referred to Section 113(3A) of the Maharashtra Regional and Town Planning Act, 1966. He submitted that Chapter VI of the Act deals with development of a new town. Under Section 113(1), the State Government has power to declare and develop a new town by issuing a notification. Section 113(3A) authorises the State Government to appoint a Corporation, Company or subsidiary Company as its agent for developing and disposing of lands in the new town area. According to him, it is under this provision that CIDCO has been appointed only as an agent of the State Government. He further submitted that Section 113A empowers the State Government to acquire land for a Corporation or Company declared as a New Town Development Authority. He also referred to Sections 118 and 119 of the Maharashtra Regional Town Planning Act, 1966 and submitted that although the Development Authority may dispose of lands vested in it, such power is subject to the directions of the State Government. Therefore, according to him, the statutory scheme shows that CIDCO acts only on behalf of the State Government.

14. Mr. Kulkarni also invited attention to Section 6 of the Land Acquisition Act, 1894, particularly the second proviso. He submitted that the proviso provides that no declaration under Section 6(1) can be made unless the compensation is to be paid either by a Company or from a fund controlled or managed by a Local Authority. According to him, the Section 6 declaration in the present case does not show that the acquisition was to be made at the cost of CIDCO.

15. Mr. Kulkarni further submitted that the Government Resolution dated 12 February 2008, on which the applicant is relying, came much after the Section 6 notification. Referring to paragraph 12 of the judgment in *Percival Pareira*, he submitted that the Coordinate Bench had examined this very Government Resolution and held that the acquisition was made at the cost of the State Government. He also referred to paragraph 14 of the said judgment where the Coordinate Bench observed that under Section 113(3A) of the MRTP Act, CIDCO functions only as an agent of the State Government. According to him, the Coordinate Bench had also examined Sections 20 and 3(b) of the Land Acquisition Act, 1894 and held that CIDCO did not fall within any of the categories of persons entitled to participate in a reference under Section 18. It was further held that CIDCO was not a "person interested" because it had no interest in the compensation amount itself. He submitted that the Coordinate Bench also considered Section 50 of the Land Acquisition Act and held that the acquisition was not made from any fund controlled or managed by CIDCO. According to him, the said judgment was affirmed by the Division Bench of this Court. He pointed out that while affirming the judgment, the Division Bench observed that the entire acquisition cost was borne by the State Government and that CIDCO received only Rs. 5 lakh per year towards administrative expenses. The Division Bench also noted that before the Income Tax Appellate Authority, CIDCO had claimed that it was acting only as an agent of the State Government and, therefore, was not liable to pay income tax on the income generated from the development activities. According to him, after taking such a stand, CIDCO cannot now take a contrary position.

16. Mr. Kulkarni further submitted that the allotment of 12.5% developed land is an additional benefit granted under the policy of the State Government and is separate from the statutory compensation payable under the Land Acquisition Act. He submitted that the Government Resolution dated 6 March 1990 clearly records that the decision to grant 12.5% developed land was taken by the State Government itself. According to him, CIDCO only implements that policy as an agent of the State Government and does not acquire any independent legal right because of such implementation.

17. In reply, Mr. Hegde submitted that in Civil Appeal No. 9005 of 2017, the Hon'ble Supreme Court had granted leave to CIDCO, entertained the appeal and remanded the matter to the High Court. According to him, that matter also related to acquisition of lands from a similar village under the same Navi Mumbai Project. He then relied upon the judgment of the Hon'ble Supreme Court in

Delhi Development Authority vs. Bhola Nath Sharma (Dead) by LRs. & Others, (2011) 2 SCC 54. He submitted that in paragraph 36 of the judgment, the Supreme Court referred to its earlier decision in *Neyvely Lignite Corporation Limited vs. Special Tahsildar (Land Acquisition), Neyvely & Others*, (1995) 1 SCC 221 and held that the expression "person interested" and the right available under Section 50(2) of the Land Acquisition Act should not be interpreted narrowly. According to him, the right under Section 50(2) is an additional safeguard flowing from the principles of natural justice and fair procedure. He submitted that the Hon'ble Supreme Court adopted this approach because experience had shown that Government authorities do not effectively defend land acquisition matters. He also relied upon the judgment of the Karnataka High Court in *Smt. Gangabayamma w/o. Late Nagojirao vs. Special Land Acquisition Officer & Another*, Miscellaneous Second Appeal No. 101 of 2022 (LA), decided on 23 November 2024, wherein the beneficiary of the acquisition was held to be a necessary party. He also placed reliance on the decision in *Neyvely Lignite Corporation*.

18. In response, Mr. Kulkarni submitted that the judgment in *Delhi Development Authority* was based upon an entirely different statutory scheme under the Delhi Development Act, 1957. Referring to Section 22 of that Act, he submitted that the Delhi Development Authority was not treated merely as an agent of the Government. He also referred to Section 15 of the Delhi Development Act, under which lands acquired by the Government were transferred to the Development Authority after the Authority paid the compensation awarded under the Land Acquisition Act. According to him, since the provisions of the Delhi Development Act are materially different from those of the MRTP Act, the said judgment cannot be applied to the present case.

19. Mr. Kulkarni further submitted that merely because the Hon'ble Supreme Court granted special leave in some matters does not make CIDCO a "person interested" under the Land Acquisition Act, 1894. According to him, in certain other matters the Special Leave Petitions filed by CIDCO were dismissed on the ground that it had no locus to maintain them. He submitted that having regard to the discretionary nature of the power exercised under Article 136 of the Constitution of India, the grant of leave cannot be treated as a declaration that CIDCO is either a necessary party or a proper party. According to him, unless the Hon'ble Supreme Court expressly decides that issue, no such inference can be drawn.

20. Lastly, Mr. Kulkarni relied upon the judgment of the Division Bench of this Court in *Shailendrakumar Ugamchand Jain & Others vs. City and Industrial Development Corporation of Maharashtra Limited*, Writ Petition No. 4961 of 2022, decided on 27 February 2023. He submitted that the Division Bench upheld the challenge to Clause 3 of the Government Resolution dated 6 March 1990 by holding that only a reasonable amount could be charged for allotment of 12.5% developed land. On that basis, he submitted that the present Interim Applications are without merit and deserve to be dismissed.

<u>FINDING AND REASONS:</u>

21. I have carefully gone through the Interim Applications, replies filed by all parties, documents placed on record, provisions of the Maharashtra Regional and Town Planning Act, 1966, the Land Acquisition Act, 1894, Government Resolutions relied by both sides and also judgments shown by the learned Senior Counsel for the applicant and the learned counsel appearing for the claimants. At this stage, this Court is not deciding what should be correct market value of the acquired lands. The issue now is whether the applicant, namely CIDCO, is required to be joined as party respondent in these First Appeals.

22. For deciding this question, it becomes necessary to look into the statutory provisions, legal position of CIDCO, nature of acquisition proceedings and legal principles coming from the judgments relied upon by both sides. After seeing all these things together, proper conclusion can be reached.

23. Before considering the rival submissions, it is necessary to refer to the relevant provisions of the Maharashtra Regional and Town Planning Act, 1966 and the Land Acquisition Act, 1894. Section 113 of the Maharashtra Regional and Town Planning Act, 1966 deals with designation of an area as a site for a new town and creation of the Development Authority. Under sub-section (1), if the State Government is satisfied that any area should be developed as a new town, it may notify that area as the site for the proposed town. Sub-section (2) of Section 113 provides that after issuing such notification, the State Government shall constitute a

New Town Development Authority for acquiring, developing and disposing of lands in the new town area. The Authority consists of a Chairman, Vice-Chairman and other members appointed by the State Government for carrying out the development work.

24. Sub-section (3A) of Section 113 is relevant for deciding the issue. It reads as under:

> "Having regard to the complexity and magnitude of the work involved in developing any area as a site for the new town, the time required for setting up new machinery for undertaking and completing such work of development, and the comparative speed with which such work can be undertaken and completed in the public interest, if the work is done through the agency of a corporation including a company owned or controlled by the State or a subsidiary company thereof, set up with the object of developing an area as a new town, the State Government may, notwithstanding anything contained in sub-section (2), require the work of developing and disposing of land in the area of a new town to be done by any such corporation, company or subsidiary company aforesaid, as an agent of the State Government; and thereupon, such corporation or company shall, in relation to such area, be declared by the State Government, by notification in the Official Gazette, to be the New Town Development Authority for that area."

25. Thus, where the State Government appoints a Corporation or Government Company under Section 113(3A), such Corporation is authorised to undertake development and disposal of land in the new town area. At the same time, the Act states that such Corporation shall act "as an agent of the State Government". It is declared to be the New Town Development Authority for that area by notification issued by the State Government.

26. Section 113A deals with acquisition of land where a Corporation or Company has been declared as the New Town Development Authority under Section 113(3A). The relevant part reads as follows:

> "where any corporation or company is declared to be the New Town Development Authority under sub-section (3A) of section 113, the State Government shall acquire either by agreement or under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013... any land... and vest such land in such Authority…"

27. Therefore, where a Corporation is appointed as the New Town Development Authority under Section 113(3A), the acquisition of land is to be undertaken by the State Government. After acquisition is completed, the land is vested in the Development Authority for carrying out development in accordance with the provisions of the Act.

28. Section 118 deals with disposal of lands by the Development Authority. It permits the Development Authority, subject to the directions of the State Government, to dispose of lands acquired by it or vested in it in such manner and on such terms as may be necessary for development of the new town. However, transactions such as sale or grant of lease exceeding ninety-nine years require prior consent of the State Government. Sub-section (2) of Section 118 provides that while disposing of such lands, the Development Authority should give persons whose lands were acquired an opportunity to obtain suitable plots or accommodation, subject to the conditions prescribed by the

Development Authority.

29. Section 119 empowers the State Government to issue directions to the Development Authority regarding disposal and development of lands acquired by or vested in the Authority whenever such directions are considered necessary.

30. It is necessary to refer to Section 6 of the Land Acquisition Act, 1894. Section 6 provides for issuance of a declaration that the land is required for a public purpose. The second proviso to Section 6(1) reads as under:

> "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."

31. The above proviso makes it clear that before issuing a declaration under Section 6, the source from which compensation is to be paid must be identified. The compensation may be payable by a Company, wholly or partly from public revenue, or from a fund controlled or managed by a local authority, depending upon the nature of the acquisition.

32. Explanation 2 to Section 6 further provides:

> "Explanation 2.—Where the compensation to be awarded for such property is to he paid out of the funds of a corporation owned or controlled by the State, such compensation shall be deemed to be compensation paid out of public revenues."

33. Another relevant provision is Section 50 of the Land Acquisition Act, 1894, which reads as follows:

"(1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under Section 18."

34. Thus, Section 50 creates a right in favour of the local authority or Company for whose benefit land is acquired at its cost. Such authority or Company may participate before the Collector or the Reference Court for the purpose of determining compensation. However, it has no independent right to seek a reference under Section 18 of the Act.

35. It is necessary to notice the definition of "person interested" under Section 3(b) of the Land Acquisition Act, 1894, which states:

"the expression 'person interested' includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;"

36. Therefore, under the scheme, a person becomes a "person interested" if such person claims an interest in the compensation payable due to acquisition, or otherwise satisfies the requirements contained in Section 3(b). Whether a particular authority or

Corporation falls within that expression has to be decided by examining the facts of each individual case.

37. Main argument of the applicant is that burden of enhanced compensation will come upon CIDCO and because of that it has interest in these Appeals. It is submitted that CIDCO has spent huge money for developing Navi Mumbai, and it is under obligation to implement the 12.5% Scheme for project affected persons. According to the applicant, if compensation amount is increased, its financial position gets affected. This submission cannot be ignored because if some authority has to bear financial burden, it will have concern with the result of the case. But at the same time, only because financial burden may come on an authority, it does not make that authority a party in every proceeding. The Court still has to examine whether under the statute such authority is recognised as a necessary party or at least a proper party in proceedings under the Land Acquisition Act. Therefore, financial burden alone cannot decide legal status.

38. The applicant has placed much reliance upon the orders passed by the Supreme Court by which similar matters were remanded back to the High Court. According to the applicant, once leave was granted in the Appeals filed by CIDCO and the earlier judgments were set aside, it would mean that CIDCO has right to participate in such proceedings. It is correct that the Supreme Court granted leave and remanded those matters. However, on careful reading of those orders, it appears that they direct fresh hearing of the Appeals and reconsideration of the issues involved. Those orders nowhere state that CIDCO is a "person interested" or that it has to be treated as a necessary party or proper party in every land acquisition matter. Therefore, merely because the matters were remanded, it cannot be said that the issue before this Court also stands decided.

39. It is further argued by the applicant that the judgment in *Percival Joseph Pareira* requires reconsideration because, according to it, proper distinction between a necessary party and a proper party was not considered. It is submitted that even if CIDCO is not treated as a necessary party, still it should at least be treated as a proper party because it possesses material regarding development of Navi Mumbai and facts affecting valuation of the acquired lands. This submission cannot be rejected merely because an earlier judgment has taken a different view. At the same time, this Court cannot ignore the findings recorded in *Percival Joseph Pareira*. Unless there is some material change in the statutory provisions or unless the said judgment has been overruled by a higher Court, those findings continue to bind this Court and cannot be ignored.

40. The statutory provisions become important for deciding the present controversy. Section 113(3A) of the Maharashtra Regional and Town Planning Act provides that where the State Government appoints a Corporation or Company for development of a new town, such Corporation shall perform the work "as an agent of the State Government." These words are deliberately used by the Legislature and they cannot given some different meaning. The section does not say that such Corporation becomes the acquiring body. It only authorises the Corporation to carry out development work on behalf of the Government. Similarly, Section 113A provides that where a Corporation is declared as the New Town Development Authority, "the State Government shall acquire" the land and vest the land in such Authority. Therefore, if both these provisions are read together, it appears that acquisition of land and development of land are kept separate. Acquisition continues with the State Government, whereas development work may be entrusted to the Development Authority.

41. Sections 118 and 119 of the MRTP Act appear to support the same arrangement. It is true that after the land is vested in the Development Authority, it may dispose of such land. However, such power remains subject to the directions issued by the State Government. Therefore, though the Development Authority has powers regarding development and disposal of lands, those powers are not independent. Overall control still remains with the State Government. This arrangement shows that, in matters relating to lands acquired for the new town, the Development Authority does not act entirely on its own but continues to function under the control provided by the statute.

42. Learned counsel appearing for the claimants has also relied upon Section 6 of the Land Acquisition Act. The second proviso thereto states:

> "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."

43. This provision shows that while issuing declaration under Section 6, the source from which compensation is payable becomes relevant. In the present matter, as noticed in *Percival Joseph Pareira*, the notification under Section 6 records that acquisition was undertaken at the instance of and at the cost of the State Government. Before this Court, nothing has been shown to indicate that this finding has been reversed or set aside by any later judgment. Therefore, as of now, that finding still continues to operate.

44. Considerable arguments were advanced by both sides regarding Section 50 of the Land Acquisition Act. According to the applicant, since it has to bear burden of enhanced compensation, it should receive the benefit flowing from Section 50. On the other hand, learned counsel for the claimants submitted that Section 50 applies only where acquisition is at the cost of the concerned local authority or company. According to them, if that statutory requirement is absent, Section 50 cannot be attracted merely because some financial liability may come upon another authority.

45. Section 50(1) provides:

> "Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company…"

46. Therefore, the section makes one requirement clear that acquisition must be "at the cost" of the concerned local authority or company. Whether this condition is satisfied or not cannot be assumed merely because one authority may spend some money. It has to be examined from the statutory provisions governing the acquisition as well as from the notifications issued in the case. Unless this requirement is satisfied, Section 50 may not become applicable.

47. In *Percival Joseph Pareira*, the learned Single Judge examined the statutory provisions, Government Resolutions and acquisition notifications in detail. After examining all those materials, the Court recorded a finding that "the acquisition is on behalf of the State Government at the cost of the State Government." The learned Judge further observed that "the CIDCO acts as an agent of the State Government" and held that "the acquisition cannot be said to be at the instance of the CIDCO." Thereafter, while considering Section 50, the Court further concluded that "land is not being acquired at the cost of any fund controlled or managed by the CIDCO." On that reasoning, it was held that Section 50 had no application. These findings were recorded after considering both the statutory provisions and the factual position placed before the Court.

48. These findings were affirmed by the Division Bench in *City and Industrial Development Corporation v. Percival Joseph Pareira*. The Division Bench again examined Section 113(3A) and observed:

> "it is crystal clear that the New Town Development Authority is declared as an Agent of the State Government."

49. The Division Bench further observed:

> "This statutory status bestowed on the appellant cannot be whittled down nor can be elevated to any other position by an administrative decision."

50. These observations become important because the applicant's case is based upon the Government Resolutions issued in the year 2008. The Division Bench has examined that aspect while recording the above findings.

51. The Division Bench further noticed that under the Government Resolution dated 12 February 2008, compensation paid by CIDCO was only "on account of Government." Therefore, such payment was held to be made by CIDCO in its capacity as an agent of the State Government. The Division Bench also noticed that under the Government Resolution dated 12 August 2010, CIDCO was merely authorised to represent the Government in proceedings under Sections 18 and 28A. On that basis, the Division Bench concluded that neither of these Government Resolutions changed the statutory relationship created under Section 113(3A). According to the Division Bench, the legal position under the statute continued to remain the same.

52. It is true that the applicant has argued that the financial burden falls upon CIDCO. Such submission cannot be said to be irrelevant from an administrative point. However, this aspect has been examined by the Division Bench. It noticed that acquisition expenses are borne by the State Government and CIDCO receives only administrative charges. The Division Bench also referred to the stand earlier taken by CIDCO before the Income Tax Appellate Authority where CIDCO had stated that it was acting only as an agent of the State Government. Therefore, it was held that CIDCO cannot claim a different character. That finding binds this Court unless it is set aside by a superior Court.

53. The applicant has placed reliance upon the judgments of the Supreme Court in *Neyvely Lignite Corporation*, *Delhi Development Authority*, *Himalayan Tiles* and *U.P. Awas Evam Vikas Parishad*. There is no dispute that those judgments lay down important legal principles. In *Delhi Development Authority*, after referring to *Neyvely Lignite Corporation*, the Supreme Court observed:

> "The right given under sub-section (2) of Section 50 is in addition to and not in substitution of or in derogation to all the incidental, logical and consequential rights flowing from the concept of fair and just procedure consistent with the principles of natural justice."

54. The Supreme Court observed that the beneficiary has a right to participate in the proceedings and, wherever necessary, challenge the award because it bears the burden of compensation. These observations explain the object of Section 50.

55. Similarly, in *Himalayan Tiles*, the Supreme Court observed that the expression "person interested" should receive liberal interpretation so as to include the authority "for whose benefit the land is acquired and who is bound under an agreement to pay the compensation." The Constitution Bench in *U.P. Awas Evam Vikas Parishad* held that a local authority entitled to invoke Section 50(2) must receive notice so that the right given to it becomes effective.

56. There cannot be any dispute with these legal principles because they are binding declarations of law made by the Supreme Court. However, at the same time, those judgments proceed on the basis that the authority claiming such right is either the beneficiary for whose benefit the land is acquired or the authority which bears liability of acquisition within the meaning of Section 50. Therefore, the question which remains is whether CIDCO answers that description under the statutory scheme governing acquisition for the Navi Mumbai Project. Unless that question is answered in favour of the applicant, merely relying upon those judgments may not decide the controversy.

57. In the opinion of this Court, that question stands answered by the judgment of the Division Bench in *City and Industrial Development Corporation v. Percival Joseph Pareira*. The Division Bench has distinguished the scheme under the MRTP Act from those cases where acquisition is made for local authority or company. It has held that under Section 113(3A), CIDCO functions as an agent of the State Government and not as the acquiring body. Once this finding continues to remain binding, the foundation on which *Delhi Development Authority*, *Neyvely Lignite Corporation* and *Himalayan Tiles* proceeded does not appear to exist in the facts of the present case.

58. Learned counsel for the applicant has relied upon the judgment of the Karnataka High Court where the beneficiary was held to be a necessary party. That judgment explains the scope of Section 50. However, the controversy before this Court arises under the provisions of the Maharashtra Regional and Town Planning Act and is governed by the judgments interpreting those provisions. Therefore, the judgments rendered under the MRTP Act by this Court would prevail while deciding the present controversy because they relate to the same statutory framework.

59. Another submission made by the applicant is that it possesses material evidence regarding development of Navi Mumbai and various factors affecting market value. To some extent this submission appears to have substance because the Development Authority may possess relevant records regarding development of the project. Still, merely because a party possesses useful evidence, it does not obtain a statutory right of impleadment. Whether a person should be impleaded has to be decided with reference to the governing provisions and the status of that person.

60. Upon overall consideration of the statutory provisions, Government Resolutions and the precedents, this Court finds that the position declared in *Percival Joseph Pareira* and affirmed by the Division Bench continues to govern the present matter. Those judgments hold that under Section 113(3A), CIDCO functions only as an agent of the State Government, acquisition is undertaken by and at the cost of the State Government, Section 50 of the Land Acquisition Act has no application, and CIDCO cannot be treated as a "person interested" merely because it develops the acquired lands or discharges certain financial obligations on behalf of the Government. In the absence of any contrary decision, this position shall apply.

61. For all these reasons, in the absence of any later pronouncement overruling those decisions or any change in the statutory provisions, this Court is bound to follow the law declared. Consequently, the applicant cannot be held either to be a necessary party or a proper party in these First Appeals. Therefore, the Interim Applications are liable to be rejected.

62. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

(i) The Interim Applications seeking impleadment of the applicant–City and Industrial Development Corporation of Maharashtra Limited (CIDCO) as party respondent in the present First Appeals are rejected;

(ii) It is held that the applicant is neither a necessary party nor a proper party to the present First Appeals in view of the statutory scheme of the Maharashtra Regional and Town Planning Act, 1966, the provisions of the Land Acquisition Act, 1894, and the binding decisions in *Percival Joseph Pareira* and the Division Bench judgment in *City and Industrial Development Corporation v. Percival Joseph Pareira*;

(iii) Consequently, the prayer for impleadment stands refused;

(iv) In the facts and circumstances of the case, there shall be no order as to costs.

(AMIT BORKAR, J.)