

Sumedh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION (L) NO.33467 OF 2024
IN
LAND ACQUISITION REFERENCE NO.4 OF 2014**

New Riviera CHS Ltd. & Ors. ... Applicants/Petitioners
v/s.
The Special Land Acquisition
Officer, MHADA & Ors. ... Respondents

**WITH
LAND ACQUISITION REFERENCE NO.4 OF 2014
WITH
LAND ACQUISITION REFERENCE NO.6 OF 1995**

Mr. Y.R. Mishra a/w. Adv. Adv. Y.S. Bhatte, Adv. A.R. Varma for
Acquiring Body.
Mr. Shriram Kulkarni i/by Adv. Sonia Miskin for Respondent
No.1-Claimant No.1.
Mr. Vasant Dhawan for Respondent Nos.2(a) and (b).
Mr. Himanshu Takke, AGP for the Respondent-State.
Mr. Atul M. Gupte, Chairman of Respondent No.1/Claimant No.1,
present.

CORAM : KAMAL KHATA, J.

DATED : 14TH AUGUST 2025.

P.C. :

1. The learned Counsel submits that there are three Affidavits,
two already on record and one being filed today, that have to be
marked. It would be necessary to identify and mark them for ease
of reference.

a) Affidavit in lieu of Examination in Chief of Mr. Atul Gupte on behalf of New Riviera Co-operative Housing Society Limited, Claimant No.1/Respondent No.1 dated 2nd August 2023 is marked "Exhibit C-A1".

b) Additional Affidavit in lieu of Examination in Chief of Mr. Atul Gupte on behalf of New Riviera Co-operative Housing Society Limited, Claimant No.1/Respondent No.1 dated 5th August 2025 has been taken on record and marked "Exhibit C-A2".

c) Further Additional Affidavit in lieu of Examination in Chief of Mr. Atul Gupte on behalf of New Riviera Co-operative Housing Society Limited, Claimant No.1/Respondent No.1 dated 19th June 2025 has been taken on record and marked "Exhibit C-A3".

2. The learned Counsel submits that by a further Affidavit of Evidence they are bringing on record two documents. He submits that though the Sale Deed is marked, the Index II referred therein remained to be produced. Referring to paragraph 2, he tenders the Original Index II to be taken on record and marked as an Exhibit. None others have objections for the same. Accordingly, the same is taken on record and marked as "Exhibit C-1C".

3. Referring then to paragraph 3, Mr. Kulkarni tendered the

Notice dated 23rd October 1978 referred therein.

4. Evidently the averments did not prove the Notice tendered to be marked as evidence.

5. To this, the Advocate for Acquiring Body and the State stated that they could not admit or deny the said document since not asked before production.

6. Mr. Kulkarni fairly submits that the exercise seeking admission or denial of document was not carried out; and therefore, sought permission to ask few additional questions to the witness to enable marking of the same.

7. Since this is an 11-year-old matter at the least, I have permitted additional questions to take the document on record and mark it.

8. The witness takes oath and submits as follows:.

i) The document is a notice for auctioning the building that was pasted on the wall of the building.

ii) This is a copy given to the secretary of the Riviera Society.

iii) This is a photocopy of the notice pasted on the wall.

Mr. Kulkarni tenders the Notice dated 23rd October 1978 and requests it to be marked. The same is taken on record and be marked as "Exhibit C-1D".

9. Learned Advocate for all the parties agreed to appoint Mr. Rohan Surve as Court Commissioner for recording of evidence.

10. The details of Court Commissioner are as follows:

Name : Rohan Surve.
Address : 19/11, 2nd Floor, Examiner Press
Building, Near Bombay Stock
Exchange, Dalal Street, Fort, Mumbai.
Mobile No. : 8879314716
Email : rpsurve@gmail.com

11. Advocate for Respondent No.4 Acquiring body will commence cross and complete it, tentatively within two days.

12. The Commissioner shall note demeanor of the witnesses in accordance with Order XVIII Rule 4(4) of the Code of Civil Procedure, 1908.

13. All cross-examination shall be conducted and recorded strictly in question-and-answer format.

14. The Commissioner shall have the discretion to direct video recording of the cross-examination, in whole or in part, for the Court's reference. Should that be done, the original audio-visual recording shall be submitted along with Commissioner's Report to the Registry.

15. Re-examination, if any, will be conducted in court.

16. The costs of the commission shall be borne equally by the parties.

17. The parties shall pay cost of Rs.500/- per hearing to the Court Clerk attending the Commission with Court papers. This is to compensate for duties performed beyond regular working hours.

18. The Commissioner shall not permit adjournments on pre-fixed dates, except whereby absolutely unavoidable. Mere inconvenience or unavailability of counsel shall not be considered sufficient ground.

19. The Advocates for Respondent Nos.2(a) and 2(b) and Respondent No.3-State, stated that they will tentatively take two days each to complete the same.

20. The Court Commissioner shall commence the recording of evidence and complete the cross-examination by 22nd August 2025 and under no circumstances will the Commissioner adjourn matter which is pre-fixed for cross-examination.

21. The recording of the cross-examination may be conducted in the court premises so that the original documents may available.

22. List the matter on 26th August 2025 for directions.

(KAMAL KHATA, J.)