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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**905 WRIT PETITION NO. 10217 OF 2014**

BHOGIBHAI SHIVJI PATEL AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

**WITH**

**WRIT PETITION NO. 5099 OF 2015**

JASPAL HARDAYALSING GHAI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

**WITH**

**WRIT PETITION NO. 10900 OF 2014**

MANJI JETHA PATEL (DIED) THR. LRS. MANIBEN MANJI PATEL AND  
OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

**WITH**

**WRIT PETITION NO. 10909 OF 2014**

SHIVJI LALJI PATIL (DIED) THR. LRS. MANISH SHIVJI PATEL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

**WITH**

**WRIT PETITION NO. 11836 OF 2014**

SHAIKH NASEER SHAIKH IBRAHIM

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

**WITH**

**WRIT PETITION NO. 412 OF 2015**

KHIMJIBHAI RATANSING PATEL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS



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**WITH**  
**WRIT PETITION NO. 413 OF 2015**  
LADHARAM ARJUN PATEL  
*VERSUS*  
THE STATE OF MAHARASHTRA AND OTHERS

**WITH**  
**WRIT PETITION NO. 1314 OF 2015**  
DAYALAL KHEMJI PATEL AND ANOTHER  
*VERSUS*  
THE STATE OF MAHARASHTRA AND OTHERS

**WITH**  
**WRIT PETITION NO. 1315 OF 2015**  
GOVIND LALJI PATEL  
*VERSUS*  
THE STATE OF MAHARASHTRA AND OTHERS

**WITH**  
**WRIT PETITION NO. 1316 OF 2015**  
VISHRAM KARSHANBHAI PATEL AND ANOTHER  
*VERSUS*  
THE STATE OF MAHARASHTRA AND OTHERS

Mr. A.B. Kale, Advocate for the petitioners.  
Mr. S.J. Salgare, AGP for respondent/State.  
Mr. Shambhuraje V. Deshmukh, Advocate for respondent No.2.  
Mr. D.P. Palodkar, Advocate for the intervenor in WP/10217/2014.  
Mr. K.B. Jadhavar, Advocate for respondent No. 2 in WP/1314/2015.

**CORAM** : **KISHORE C. SANT &**  
**SUSHIL M. GHODESWAR, JJ.**  
**RESERVED ON** : **25.03.2026**  
**PRONOUNCED ON** : **07.05.2026**



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**ORDER: [PER : KISHORE C. SANT, J.] :-**

01. Heard learned Advocates for the parties. These petitions are taken up for final disposal by the consent of the parties.

02. All these petitions are filed challenging the same acquisition proceeding and praying for the similar reliefs i.e. to quash and set aside award dated 18.12.2006. Further prayer is made to stay the implementation of award. Last substantive prayer is to grant injunction restraining the respondents from entering into land of the petitioners from Gat No. 113 situated at Tisgaon, Tal. & Dist. Aurangabad.

03. Facts in short giving rise to the present petitions as stated in the petitions are that the petitioners are owners of the respective lands in land Gat No. 113 of village Tisgaon, Dist. Chh. Sambhajinagar (Aurangabad). Respondent No.2 – CIDCO is a planning authority who sought to acquire the land for widening of Aurangabad – Waluj road. In the draft development plan, the area was notified on 07.10.1991. It is alleged that on 04.04.2012 Officers of respondent No.2 came on the land and told that the lands are already acquired and directed to vacate the premises. On asking the Authorities, the Authorities could not produce



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any document of acquisition. However, panchanama was drawn on taking possession. Copy of the panchanama was also not given to the petitioners. On that, the petitioners came to know from the adjoining owners that an award was passed on 18.12.2006. On verification of the award, their names were found in the award. It is alleged that the said proceeding was conducted without any notice to the petitioners. It is alleged that the same is therefore illegal. The petitioners, therefore, have approached this Court.

04. Learned Advocate Mr. Kale for the petitioners vehemently argued that in the present case, the Authorities have acted arbitrarily and without any authority. The draft development plan was published on 16.04.1992. On 14.08.2001, the draft development plan was sanctioned by the Government, which came into force on 01.10.2001. The acquisition has started on 02.08.1996. The declaration under section 126(2) of the Maharashtra Regional and Town Planning Act and Section 6 of the Land Acquisition Act was published on 10.12.1998 and in the gazette on 07.02.2002. There was no notice published on the Chawadi i.e. conspicuous place in the village. Section 9 Notification was published on 27.11.2000. However, thereafter, no notice is served under section 12 (2) on the petitioners till today. Thus, the award declared on



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18.12.2006 is illegal. He submits that since after section 9 Notification, no Notification was published within stipulated period, therefore, the proceeding has lapsed. He submits that till that time, there was no knowledge to the petitioners and therefore the petitioners are required to file these petitions. The reply filed by respondent No.2 is totally against the record. There was no joint measurement carried, as stated in the affidavit of respondent No.2. He submits that in the award it is stated that the Notification was published in daily Rehbar, published in Urdu language, on 25.09.1998. Another Notification was published in daily Lokmat on 12.12.1998. However, no such Notification was found in daily Lokmat. Thereafter, corrigendum was published and it was stated that the Notification was in-fact published in daily Lokmat, that too on different dates. Thus, the Notification cannot be said to be published in the eyes of law. No corrigendum could have been issued after lapse of the period. What is permissible to be done is only typographical and arithmetical errors. He thus submits that the declaration made under section 6(2) of the Land Acquisition Act is not valid. Till now, no compensation is paid. Panchanama is also against section 16 of the Act.

05. So far as Writ Petition No. 744 of 2007 is concerned, he submits that no signature of the owner appears on panchanama. There



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also no service of notice is shown.

06. On legal submissions, learned Advocate Mr. Kale submits that no Notification is published under section 126(4) in a prescribed manner within time. No proper declaration under section 6 is published. Notice under section 9(1)(2)(3) and (4) could not have been issued before section 6 Notification. The award was kept in abeyance without paying any compensation. Section 12(2) Award was not mandatory, as it was not served. The panchanama is only on paper and it is not prepared on the spot. In panchanam, name of the petitioner does not appear. At this stage, it is necessary to mention that Shivji Lalji, brother of the petitioner had filed petition, which was dismissed. However, same cannot come in the way of the present petitioners, as same was dismissed on the ground of disputed question of facts. Notice dated 05.01.2026 is received only in the Court, wherein it is stated that the amount of compensation is deposited in the Civil Court. The Award could not have been corrected after it was passed by changing names of the owners. The correction is made without any sanction. In some record, it is shown that the publication was in daily Ajintha, which is also not reflected in the corrigendum. He refers to section 40 of the MRTP Act and submitted that the proviso shall not be applicable by referring to Sections 113, 125, 126



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as the same is not followed.

07. It is further submitted that the CIDCO had no authority to publish Notice in view of section 113 and 113A of the MRTP Act, as it was not acting as agent of the State. It was only for the State Government to take steps. The properties of the petitioners are just adjoining the highway where they are running their shops. At last, he submits that if procedure is to be followed, the compensation needs to be paid as on today as per rate prevailing today. In the present petitions, the point is about declaration in the newspaper and publication of award at Chawadi. Since, now there is no right to challenge and seek enhancement in the award in view of limitation, now the remedy remains is only present petitions. He further submits that the petitioners have paid all the taxes till today and produced on record the receipts. He thus submits that the entire process of acquisition deserves to be declared as lapsed by allowing the petitions.

08. Learned Advocate Mr. Deshmukh for respondent No.2 submits that in Writ Petition No. 10900 of 2014, the amount as per award is already deposited in the Civil Court by the SLAO in the year 2007. There is no question of fresh acquisition. The petitions suffer from delay and



laches. There is suppression of material facts. The petitions are full of incorrect and misleading statements. No prejudice is shown to have been caused to the petitioners. He submits that the petitioner himself in Writ Petition No. 10900 of 2014 has accepted that the CIDCO is a special planning authority. The knowledge is also shown in the pleading itself that on 04.04.2012 and still the petitions were not filed promptly. The petitioner on his own has stated that there was publication of award on 10.12.1998. Now, he cannot argue that there was no publication. He submits that the publication of draft development plan itself is a declaration of intention of the authorities to acquire land and therefore no section 4 Notification is required. Publishing the Award in the official gazette itself is substantial compliance. So far as sections 6 and 9 Public Notices are concerned, he submits that only public notices are contemplated, even in absence of corrigendum dated 20.02.2002, no prejudice is caused. The corrigendum was published for Gat No. 126 and not in respect of Gat No. 113. The notice was pasted at Chawadi on 19.11.2000. Now for the first time, dispute is raised in the year 2014. Passing of award is conclusive proof of compliance of the procedure in proper manner. After publication of the Notification under section 9, some of the land owners filed objections. This itself shows that there was publication of notice. Once public notice is given, no grievance can be



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raised that personal notice was not given, individual notice is not contemplated under the Act. He submits that now names of the news papers are given and amount is also deposited. There is no attempt made by the petitioners to collect the amount of compensation. Possession of the land is taken on 02.04.2006. Panchanama is also accordingly drawn. There is no requirement of law to obtain owner's signature on panchanama. He invited attention to representation by some other land owners, on getting knowledge that section 12(2) award was published. So far as payment of taxes is concerned, he submits that not entire land of that Gat Number is acquired, taxes may be for the remaining area of the land. In any case, he submitted that mere payment of taxes will not show that the petitioners are lawful owners of the land. Now, properties are recorded in the name of CIDCO. 7/12 extract also shows its name. Substantial compliance is shown of the procedure, which cannot be faulted with.

09. So far as Writ Petition No. 5099 of 2015 is concerned, he opposes the petition stating that public notices under sections 6 and 9 are given, whereas personal notice is required only under section 12. In the corrigendum there are no substantial changes. It is open for the petitioner to collect the amount of compensation. He submits that



brother of petitioner in Writ Petition No. 10217 of 2014 had filed Writ Petition. It was dismissed. Immediately, thereafter present petition is filed by the same Advocate. It only shows that earlier fact of filing of the petition is suppressed. All the questions are disputed questions of facts and need not be gone into by this Court. Thus, he submits that the petitions deserve to be dismissed.

10. Mr. K.B. Jadhavar, learned AGP appearing for the Government adopted arguments of Mr. Deshmukh and prays for rejection of the petitions.

11. Learned Advocate Mr. Palodkar for intervenor in Writ Petition No. 10217 of 2014 vehemently argued that the petition deserves to be dismissed. He submits that on 26.04.2023, the order was passed in the intervenor's application. However, till now intervenor is not added as a party. By referring to sections 40 and 111 to 114 of the MRTP Act, he submits that respondent No.2 is having power to acquire land. The land is given to CIDCO. (section 116). He submits that the petitioners have not pointed out that any of the provisions were mandatory. In 1992 itself, the petitioners had a knowledge that the lands are required akin to the Notification under section 4. He thus prays for dismissal of the writ



petitions.

12. In rejoinder, learned Advocate Mr. Kale submits that in Writ Petition No. 5099 of 2015, name of the person Jaspal has not signed the documents. He submits that the petitioners' rights are affected prejudicially. The petitioners have right to challenge the acquisition. In the joint measurement also name of the petitioner is not shown. Under the garb of correction, now new names are included. The properties are commercial properties. So far as judgment in the case of **Ek Nath s/o. Punjaji Nawale Vs. State of Maharashtra and Ors., 2012(5) Mh.L.J.94** is concerned, he submits that an application seeking review of the said judgment is pending.

13. On hearing the arguments of the parties, this Court finds that following are the questions, which need to be dealt with.

- i) Whether the petitioners have made out a case that they had no knowledge of the acquisition till 2012?
- ii) Whether the petitioners have shown that prejudice is caused to them?
- iii) Whether the acquisition is bad for not following procedure?



- iv) Whether the acquisition proceeding needs to be held as lapsed?

14. Before considering the above questions, the legal position as emerges from the judgments relied by the parties needs to be considered. The petitioners relied upon following judgments :-

a) Judgment in the case of **Vyalikaval House Building Co-op. Society Vs. Chandrappa and Ors., AIR 2007 SC 1151** is on delay and laches. In the said case, it was found that the acquisition of land was with mala fide. It was not for public purpose. In the said case there was delay and laches in filing the petition. The Hon'ble Apex Court, however, considered that the Notification itself was issued with mala fide and was not for public purpose. In the said case it was held that nothing turns on the question of delay and acquiescence.

b) In the case of **Patasi Devi Vs. State of Haryana and Ors., AIR 2013 SC 856**, the petition was filed after passing of the award. On that count the petition was dismissed by the High Court. The Hon'ble Apex Court held that it was not proper for the High Court to dismiss the petition.



c) In the case of **Kunwar Pal Singh (Dead) by LRs Vs. State of UP and Ors., AIR 2007 SC 1675**, the Court considered section 6(2) of the Land Acquisition Act, dealing with various kinds of publications like publication in the official gazette, publication in the daily newspapers and causing public notice of the substance of such declaration to be given at convenient place in the locality. It was held that said procedure was not followed and the acquisition was held to be bad in law.

d) In the case of **National Thermal Power Corporation Ltd. Vs. Mahesh Dutta and Ors., 2009 AIR SCW 5277**, by considering sections 17 and 48 of the Land Acquisition Act, it was held that taking over of the possession in terms of provisions of the Act would, however, mean actual possession and not symbolic possession.

. Learned Advocate for the petitioners relied upon the said judgment for the purpose to show that the petitioners are still in possession and no actual possession is taken.

e) In **Mukundwadi Co-operative Grih Nirman Society Ltd. Vs. The State of Maharashtra (Writ Petition No. 3782 of 1994 – Bombay High Court, Aurangabad Bench)**, this Court considered delay



in passing of the award the quashed the award. It was recorded that the possession was not delivered to the Municipal Corporation pursuant to the award. However, MSEDCL had already obtained possession for the area under project under the fresh award and in that view the earlier award was quashed and set aside.

f) In **Vijay Narayan Thatte and Ors. Vs. State of Maharashtra & Ors., AIR 2009 SC (Supp) 1952**, it was held that proviso to section 6 of the Land Acquisition Act is not mandatory and there cannot be any exceptions. This was held on the basis of judgment in Padma Sundara Rao (dead) and Ors. Vs. State of T.N. and Ors, (2002) 3 SCC 533.

g) In **Shriniwas Radhkishan Malani and Ors. Vs. The State of Maharashtra and Ors., (Writ Petition No. 4594 of 2013 - Bombay High Court, Aurangabad Bench)**, it was discussed that declaration of award must be simultaneously/immediately accompanied by offer by the State or the acquiring body, of the amount of compensation so determined under the Award. Mere drawing of an award without offering the amount of compensation to the claimants cannot be construed as an Award within the meaning of section 11(2) of



the Land Acquisition Act, 1894. In the said case the award was drawn in the year 2000 and thereafter no steps were taken and therefore it was held that said was not an award. In the said case for 15 years after drawing of the award, no steps were taken and it was taken to be unreasonable.

h) In **Ramrao s/o. Pralhadrao Deshmukh (dead) LRs Vs. The State of Maharashtra & Ors., (Writ Petition No. 211 of 1994 – Bombay High Court, Aurangabad Bench)**, this Court considered the purpose of construing the proviso (ii) to section 6(1) of the Land Acquisition Act. It is held that in view of section 4(1), no notification shall be made after expiry of one year from the date of publication of notification. It was found that no Chawadi publication was made as required under section 6(2) of the Act.

i) In **V.K.M.Kattha Industries Pvt. Ltd. Vs. State of Haryana & Ors., 2013 AIR(SC) 3557**, there was delay in issuing Notification under the Land Acquisition Act and on that count it was held that the acquisition is lapsed.

j) In **Raja Harish Chandra Raj Singh Vs. The Deputy Land**



**Acquisition Officer and Anr., AIR 1961 SC 1500**, the case was on constructive knowledge. It was held that the limitation starts from the date of knowledge.

k) In **Mohan and Anr. Vs. State of Maharashtra, 2007(3) Mh.L.J. 574**, the case is on corrigendum. It was observed that the award needs to be made within two years from the date of publication of the declaration under section 6. Non-adherence to this time frame is fatal to the award, as the provision is mandatory.

l) In **Rajeev Kumar Damodarprasad Bhadani and Ors. Vs. Executive Engineer, Maharashtra State Electricity Distribution Co. Ltd., and Ors., 2024(3) Mh.L.J.532**, the judgment is in respect of Section 23 of the Land Acquisition Act and Sections 128 and 129 of the MRTTP Act. There the petition was filed after 40 years of taking over possession of the land and 28 years after construction of sub-station. The Court rejected the ground of delay and laches raised by the respondents. From the facts of the case, it is seen that though possession was taken, no compensation was, however, paid to the owners of the land and it is in that view the writ petition was entertained and relief was granted. In the present case, this Court finds that the possession is taken long back.



That was to the knowledge of the petitioners and still no grievance was made. Compensation is also deposited in the Court. Thus, there is no case that without payment of compensation the land was taken.

m) In **Anuradha Dnyandeo Ingle and Ors. Vs. State of Maharashtra and Ors., 2023(3) Mh.L.J. 251**, this Court at Nagpur Bench considered the question of notice under section 9 to persons interested. It is held that after stages contemplated till section 8 of the Act are complied with, the Collector is required to give public notice to persons interested. In that case it was found that there was non-compliance of the mandatory provisions of the Act. While passing of the award, it was clearly seen on the face of record. In that view the award was declared needs to be set aside and the award was set aside. It was kept open for the respondents to take appropriate steps in accordance with law, if they want to acquire the land.

n) In **City and Industrial Development Corporation (CIDCO) Mumbai Vs. Percival Joseph Pareira and Ors., 2013 (4) ABR 26**, the cost of acquisition was borne by the State and CIDCO was acting as agent of the State Government. It was held that the CIDCO cannot be said to be acquiring body. They are only development



authority. This judgment, therefore, would not be applicable to the present case.

15. So far as judgments relied upon by the respondents are as under :-

i) Judgment in the case of **Eknath s/o. Punjaji Nawale Vs. State of Maharashtra and Ors., 2012(5) Mh.L.J.94**, is on the provisions of the Maharashtra Regional and Town Planning Act. This Court held that declaration required to be made in two newspapers, on the basis of judgment in the case of **Special Dy. Collector, Land Acquisition CMDA Vs. J. Sivaprakasam and Ors., 2011(2) Mh.L.J. (SC) 623**, it was held that the requirement of publishing notification in two newspapers is necessary. It was further observed that the parties were aware of the proposed acquisition. Therefore, even if the publication in two regional language newspapers is considered to be not in compliance with the requirement of section 4(1), it cannot affect the validity of the preliminary notification or the consequential proceedings. On considering the facts it was found that the notification was published in official gazette. It was ultimately held that the proceeding would not be vitiated as the petitioners were aware of the said notification.



ii) In the case of **Balmokand Khatri Education and Industrial Trust, Amritsar Vs. State of Punjab and Ors., (1996) 4 SCC 212**, it is held that though the possession is held by the original owners even after award, said possession is illegal. When possession is of large area, it is difficult to take physical possession under compulsory acquisition. Mere retention of possession by land owners will not make the acquisition bad in law. In the present case, therefore, retaining possession by the petitioners will not help them in any manner.

iii) In **State of T.N. and Anr. Vs. Mahalakshmi Ammal and Ors., (1996) 7 SCC 269**, it was held that the publication of declaration under section 6 is conclusive. The subsequent award even if made after lapse of some period, that will not make initial award invalid. In this case also it is considered that it is not possible to take physical possession. Drawing of panchanama is sufficient to show that the possession is legally taken. The possession of the owner even after award is illegal and unlawful and will not bind the Government.

. Considering all above, this Court finds that this judgment is squarely applicable to the present case, so far as argument of the petitioners that they are still in possession is concerned.



iv) In the case of **Swaika Properties (P) Ltd. And Anr. Vs. State of Rajasthan and Ors., (2008) 4 SCC 695**, the challenge made in the writ petition after taking over possession after the award becomes final. It was held that the objection to the acquisition proceeding will not be maintainable on the ground of delay and laches on the part of the appellant. The Hon'ble Apex Court held that in such cases, it is not required even to go into question of merit.

v) In **Girnar Traders Vs. State of Maharashtra and Ors., (2011) 3 SCC 1**, the judgment is delivered considering the provisions of the Maharashtra Regional and Town Planning Act. It is held that all the provisions of the Land Acquisition Act cannot be applied to the MRTP Act. The provisions of the MRTP Act have to be implemented in their own field. Further it is held that the proceedings commence and consequences take place the moment the land is designated or reserved under a plan, draft plan or even scheme. No argument can be accepted that the provisions of the Land Acquisition Act are applicable to the MRTP Act. The Legislature was fully aware of the entire matter including the hardship of the landowners and the same was considered in the light of aims and object of the MRTP Act. So far as Notification under section



126(2) of the MRTP Act is concerned, it is considered that the provisions of section 126(2) are similar to the provisions of Section 7 of the Land Acquisition Act. By publishing initial award, first phase of proceeding for acquisition is complete. Ultimately, it is held that the MRTP Act is complete code in itself and it can take within its ambit the provisions of said Act, excluding the provisions which offend and frustrate the object of the State Act by considering the doctrine of incidental encroachment. By applying doctrine of pith and substance, it was held that the paramount purpose and object of the MRTP Act is to make planned development and for that purpose acquisition is incidental. It was held by considering that entry 5 in Schedule VII, the State is competent to enact such law. Para No. 191 of the said judgment is reproduced as under :-

"191. Having said so, now we proceed to record our answer to the proposition referred to the larger Bench as follows :

For the reasons stated in this judgment, we hold that the MRTP Act is a self-contained code. Further, we hold that provisions introduced in the Land Acquisition Act, 1894 by Central Act 68 of 1984, limited to the extent of acquisition of land, payment of compensation and recourse to legal remedies provided under the said Act, can be read into an acquisition controlled by the provisions of Chapter VII of the MRTP Act but with a specific exception that the provisions of the Land Acquisition Act in so far as they provide different time frames and consequences of default thereof including lapsing of acquisition proceedings cannot be read into the MRTP Act. Section 11A of the Land Acquisition Act being one of such provisions cannot be applied to the acquisitions under Chapter VII of the MRTP Act."



. This Court finds that this judgment practically answers all the questions raised in the present petitions.

vi) Judgment in the case of **Indore Development Authority Vs. Manoharlal and Ors., (2020) 8 SCC 129**, is relied upon as now possession is taken and compensation is deposited in the Court. It is clear that section 24(2) of the Land Acquisition Act would apply only when no award is passed and when no compensation is paid. It is only in such cases the earlier award would lapse. It is also held that if compensation is paid but possession is not taken, the acquisition proceeding would not lapse. In the present case, as earlier discussed, compensation is deposited in the Civil Court. Therefore, the proceeding would not lapse.

16. Learned AGP relied upon following judgments :-

A) In the case of **Shevanta Rama Waingade and Ors. Vs. State of Maharashtra and Ors., 2006(2) Mh.L.J. 463**, it is held that the Collector has every power to make corrections of any clerical or arithmetical mistakes in the award and the error arising therein on its



own motion or on application of any person interested. It is also held that the Collector has given notice to the persons interested.

B) In the case of **Sawaran Lata and Others Vs. State of Haryana and Ors., (2010) 4 SCC 532**, the Hon'ble Apex Court has considered the provisions of Section 4 and 6 of the Land Acquisition Act. There contention of the petitioner was that there was no knowledge of acquisition proceeding as the Notification and declaration were published in the newspaper not having wide circulation. It was held that the said argument is not available as a very huge chunk of land belonging to large number of tenure-holders had been notified for acquisition. It is further observed in the facts of the case that the petitioners were aware of the land acquisition proceeding.

C) In the case of **Municipal Corporation of Greater Bombay Vs. Industrial Development Co. Pvt. Ltd. and Ors., (1996) 11 SCC 501**, the maintainability of the petition on the ground of delay and laches was considered. In that case, the petition was filed after completion of land acquisition proceedings and passing of the award. It was held that no such petition be entertained.



D) In the case of **Mahavir and Others Vs. Union of India and Anr., (2018) 3 SCC 588**, the Hon'ble Apex Court considered the conduct of the land owner. The Court observed that Court is duty-bound to prevent abuse of process of law in the cases where the proceeding is concluded several decades before. It was held that section 24(2) of the 2013 Act, cannot be ignored in dead claims or stale claims. It is considered that failure to deposit money under section 31 after taking over possession only imposes liability to pay interest at a higher rate under section 34. Failure to deposit money that by itself will not be sufficient to hold that the proceeding has lapsed. It is further held that provisions of section 24 does not invalidate judgments/orders of the Court, where the rights are fully lost and the action is barred because of inaction. Law does not permit examination of barred or totally fraudulent claims. In that case, the High Court had refused to entertain the writ petition. No interference was caused by the Hon'ble Apex Court.

17. Learned Advocate Mr. Palodkar for the intervenor has opposed the petitions vehemently. He relies upon judgment in the case of **Ek Nath s/o. Punjaji Navale (supra)**, which is also relied upon by the learned Advocate Mr. Deshmukh for respondent-CIDCO. He further relies upon judgment in the case of **May George Vs. Special Tahsildar**



**and Ors., (2010) 13 SCC 98.** The Hon'ble Apex Court considered the question as to whether provisions of section 9(3) of the Land Acquisition Act are mandatory in nature and the effect of non-compliance. It is held that section 9(3) is not mandatory and even the acquisition would not lapse.

18. In the present case it is clearly seen from the averments of the petitioner that the petitioners had knowledge. No prejudice is shown to have been caused to the petitioners. The judgment in the case of **Ek Nath s/o. Punjaji Navale (supra)** is therefore clearly applicable. It was observed that the petitioners therein submitted objections pursuant to notification under section 126(4). In the present case also, it is seen that some land owners had submitted objections clearly showing that there was knowledge by publication of notice. The submissions of the learned Advocate for the petitioner about knowledge is therefore not correct. The proceeding would not vitiate. In view of judgment in the case of **Balmokand Khatri (supra)**, this Court finds that mere possession of petitioner is of no consequence as the said possession is illegal.

19. The Writ Petition by the brother of petitioner – Shivji Lalji was



dismissed and within few days thereafter, another petition is filed by same advocate. It is thus clear that the petitioner had knowledge of the earlier petition being dismissed. Said fact is still not disclosed and is suppressed from this Court. The case of **Eknath s/o. Punjaji Navale (supra)** was remanded by the Hon'ble Supreme Court and now review is filed. However, said review is still pending since long. Nothing is shown that any attempt is made to get decided the said review. The petitioners cannot take advantage of pendency of the review. From the pleadings in the petition, it is clearly seen that the petitioner got knowledge of the acquisition proceeding. In view of judgment in the case of **Sawaran Lata (supra)** when large chunk of land is acquired, it cannot be said that the petitioners could not get knowledge. So far as submissions by learned Advocate Mr. Deshmukh is concerned, that there is substantial compliance of the procedure, deserves to be accepted. The award cannot be said to have been lapsed. In any case there is delay and laches. When the lands are acquired in 1998 and possession is taken in 2006, the petitions are filed in the year 2014.

20. The judgments relied upon by the petitioners are under Land Acquisition Act; whereas presently the acquisition is under the MRTTP Act. It is clearly held by the Hon'ble Supreme Court in the case of Girnar



Traders (supra) that only certain provisions of the Land Acquisition Act can be resorted to the MRTTP Act being a special enactment, the provision of this Act would prevail. In the present petitions, the work of widening of the road is halted because of pendency of the petitions and because there is an order of status-quo. Thus, the petitioners are responsible for the delay in development work. Merely taxes are paid to the Municipal Corporation, will not show that the petitioners are still owners of the land, when in revenue record name of CIDCO had already appeared. So far as contention that CIDCO is no more authority, however, the judgment in the case of **City and Industrial Development Corporation (supra)**, it is clear that in that case CIDCO was not planning authority, whereas in the present case, it is CIDCO, who was the planning authority when the land was acquired. Merely because different authority is established for the development, will not be of any help to the petitioners.

21. The petitioner in WP No. 10909 of 2014, inspite of knowledge and by suppressing dismissal of earlier petition of his brother has approached this Court. For the said conduct, said petition deserves to be dismissed with costs.



22. Therefore, present Writ Petitions are dismissed. Writ Petition No. 10909 of 2014 (Shivji Lalji Patil (died) LRs. Manish Shivji Patel Vs. The State of Maharashtra & Ors.) is dismissed with costs of Rs. 50,000/- (Rupees Fifty Thousand) to be paid to respondent No. 2 – CIDCO.

**[SUSHIL M. GHODESWAR, J.]**

**[KISHORE C. SANT, J.]**

. At this stage, learned Advocate for the petitioners makes a request for continuation of the interim order passed by this Court for a period of six weeks. The request is vehemently opposed by learned Advocates for the respondents. However, considering that the said interim order is operating since 2014, same is continued for a period of six weeks from today.

**[SUSHIL M. GHODESWAR, J.]**

**[KISHORE C. SANT, J.]**