

ITEM NO.17

COURT NO.11

SECTION IX

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2010  
CC 12362/2010

(From the judgement and order dated 30/03/2010 in  
of The HIGH COURT OF BOMBAY)

WP No. 4255/2008

JAI BAJRAG HOUSING SOCIETY

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

IA 1 (c/delay in filing SLP, c/delay in refiling SLP and office  
report)

Date: 25/08/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Sudheer Vaditel, Adv.  
For Mr. Rameshwar Prasad Goyal,A.O.R.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

This petition is directed against order dated  
30.3.2010 passed by the Division Bench of the Bombay  
High Court which declined to nullify the acquisition of  
the petitioner land by observing that if the period  
during which the order of status quo was operating is  
excluded, the award will be deemed to have been passed  
within two years as per the requirement of Section 11A  
of the Land Acquisition Act, 1894 (for short, "the  
Act").

Learned counsel for the petitioner argued  
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that the stay order passed in the other proceedings did  
not preclude the Deputy Collector and Special Land  
Acquisition Officer to pass the award and the High  
Court committed serious error by refusing to quash the  
acquisition proceedings despite the fact that the award  
was passed after 4 years 11 months and 4 days of the  
publication of the declaration under Section 6 of the  
Act.

In our view, there is no merit in the  
argument of the learned counsel. It is not in dispute  
that the order of status quo passed in the petitions  
filed by the land owners questioning the acquisition of  
their land remained operative for a period of 1708  
days. Therefore, the High Court rightly relied upon  
the judgment of this Court in Swaika Properties (P)  
Ltd. and another versus State of Rajasthan and others  
[(2008) 4 SCC 695] and held that the award was passed  
within the period prescribed under Section 11A of the  
Act.

We are further of the view that the writ petition filed by the petitioner in 2008 was highly belated and in the absence of any tangible explanation for the long time gap of three years and nine months between the date of passing of the award and filing of the writ petition and of more than two years between the date of taking over of possession by the respondents and filing of the writ petition and the High Court would have been justified in non-suiting the petitioner on that ground as well. In any case, this Court cannot ignore the long delay in filing of the writ petition questioning acquisition of the land for a public purpose.

With the above observations, the special

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leave petition is dismissed.

(A.D. Sharma)  
Court Master

(Phoolan Wati Arora)  
Court Master