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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3502 OF 2022

1. Tushar Laxman Bhakare @ Chawhan,
Age: 27 years, Occupation: Agriculturist,
 2. Baby Laxman Bhakare @ Chawhan,
Age: 46 years, Occupation: Housewife,
Both R/at: Village, Kalewadi,
Taluka: Indapur, District Pune
- ...Petitioners

Versus

1. The Collector,
Through PLAQ, 1 Floor,
B Wing, New Collector Office,
Pune – 411 001
 2. The Land Acquisition Officer No.17
New Collector Office, 2nd Floor,
B Wing, Beside SBI Main Branch,
Pune – 411 001
 3. The National Highway Authority,
Office at: S.No. 134/1, BAIF Bhawan
Campus, Dr. Manibhai Desai Nagar,
Warje, Pune – 411 058
 4. Superintendent of the Land Records,
Village: Kalewadi, Post Indapur,
District Pune
- ...Respondents

Mr. Gaurav Potnis i/b. Ms. Pallavi Potnis for Petitioner.
Mr. K. S. Thorat, 'B' Panel Counsel a/w Ms. S. R. Crasto, AGP for
Respondent-State.
Mr. P. B. Gujar a/w Mr. Siddarth Ambegaonkar for Respondent
No.3-NHAI.

**CORAM: M.S. Sonak &
Jitendra Jain, JJ.**

DATED: 7 February 2025

ORAL JUDGMENT (Per M. S. Sonak):-

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.
3. The respondent is the owner of the property admeasuring 3 Ha-39 Ares of land from Gat No.402 situated in Village Kalewadi, Tal. Indapur, District Pune.
4. By an award dated 7 December 2011, issued by the competent authority, the land measuring 2250 sq.mtrs belonging to the petitioner from Gat No. 402 was acquired. However, the petitioner asserts that possession of 10600 sq.mtrs of land was taken, although the award dated 7 December 2011 only referred to the 2250 sq.mtrs area.
5. On 15 June 2012, the Highway Authority issued a notification on page 61 of the paper book under Section 3(1) of the National Highways Act, 1956, regarding its additional area of 8350 sq.mtrs. However, such notification was not pursued. As a result, neither has any award been made for this additional area, nor has any compensation been paid to the petitioner for this extra area.
6. Typically, given the summary nature of our jurisdiction under Article 226 or 227 of the Constitution, we would have been

reluctant to go into such issues. But, here, we are satisfied that there are no disputed questions of fact. The Authorities have admitted to possessing the additional lands. Even proposals were initiated to acquire this extra land. But because such proposals are not being taken to their logical conclusion the Petitioner was forced to file this petition.

7. The petitioner has placed on record the report from the land survey department dated 20 July 2015, which certifies that the total area of 10600 sq.mtrs. has been acquired from Gat No.402 and even road has been built over the said land. This document is at pages 62 and 63 of the paper book.

8. The petitioner has also placed on record a communication dated 5 March 2013 issued by the Deputy Superintendent of Land Records, which is the cover letter of the panchnama that certifies the above position. This document refers to Mr. Mishra's presence on behalf of the Highway Authority, but it notes that Mr. Mishra declined to sign the panchnama. This document is on page 72 of the paper book.

9. The petitioner has also placed on record the communication dated 27 October 2016 addressed by the National Highway Authority of India (NHAI) to the Special Land Acquisition Officer-17, Pune. This communication also refers to Gat No.402 at Village Kalewadi, Tal. Indapur, District Pune, states, in no uncertain terms, that the total area affected due to National Highway-9 is 10600 sq.mtrs. This communication further states that out of this area, 2250 sq.mtrs. is already acquired, and the balance area to be acquired is 8350 sq.mtrs. This document is on pages 86 and 87 of the paper book.

10. The petitioner has also placed on record the letter dated 3 March 2017 addressed by the Deputy Collector (Land Acquisition) No.17, Pune to the Project Director of National Highway Authority requiring the NHAI to issue necessary notification regarding the acquisition of additional land from Gat No.402. Based on all the above documents, the petitioner contends that this additional land of 8350 sq.mtrs, of which, the possession is already taken over without the authority of law and without paying any compensation to the petitioner, must be forthwith compensated upon, if necessary, by proceeding to at least now acquire the same.

11. Ms. Aarti Bhosale, Collector (Land Acquisition) No.17, Pune, has filed an affidavit for Respondents Nos.1 and 2. This affidavit shows that at least the State Government has not raised any serious dispute regarding the case set out by the petitioner. The state government has only recorded that it was following up on the matter with the NHAI and has referred to the correspondence with the NHAI on this subject.

12. Paragraph 8 of Ms. Aarti's affidavit filed on behalf of the respondent Nos.1 and 2 is important, and the same is transcribed below for the convenience of reference ;

8. I say that, further National Highway Authority published Gazette on 15/06/2012 notification under section 3A of the National Highway Act 1956 the increasable area of Gat No. 402 admeasuring at 8350 Sq. mtrs situated at Village - Kalewadi, Tal Indapur, Dist Pune The SLAO informed to National Highway Authority about the increasable area of joint measurement dated 03/03/2017. Hereto annexed and marked as Exhibit - 3 is the copy of Letter dated July, 2018 from SLAO to NHAI. I say that the National Highway Authority of India sent the letter to Special Land Acquisition officer dated 10/07/2018 about the increasable area of joint measurement. I say that further sent the letter to NHAI dated 15/09/2018 about the increasable area of

joint measurement. Hereto annexed and marked as Exhibit - 4 is the copy of Letter dated 15/09/2018 from SLAO to NHAI.

13. The NHAI has filed two affidavits in this matter. Both the affidavits have been filed by Mr. Sanjay Kadam, Project Director for NHAI. In the first affidavit dated 14 July 2022, the NHAI stated that it has acquired only 2250 sq.mtrs. out of Gat No.402 belonging to the petitioner. The affidavit also states that the highway, as it has existed since about two decades on the date of handover, was 30 mtrs wide. Based on those, Mr. Gujar, learned counsel for the NHAI, contended that the acquisition was only for widening this highway.

14. In this affidavit, there is no serious denial of the fact that the highway portion over the property measures 10,600 sq.mtrs. But, the defence is that the NHAI acquired only 2250 sq.mtrs, and the remaining was a part of the existing highway, which was handed over by the said authority (PWD) to the NHAI.

15. Paragraph (i) of the NHAI affidavit dated 14 July 2022 explains the limited role of NHAI, and the same is transcribed below for the convenience of reference ;

i. Be that as it may, the role of this Respondent in the matter is limited to depositing the compensation amount with the Competent Authority (Respondent No. 2) as per s. 3-H (1) of the Act, which amount the Competent Authority then proceeds to distribute as per the Award. This Respondent has accordingly deposited the compensation amount for the acquired lands, taken possession of the lands (made over in accordance with the acquisition by the Competent Authority) and completed the construction/highway widening work.

16. Thus, this is the case of NHAI that the role of NHAI in the matter is limited to depositing the compensation amount with the competent authority (respondent No.2).

17. Surprisingly, the first affidavit does not explain anything about the notice dated 15 June 2012 issued under Section 3A of the National Highways Act regarding the additional area of 8350 sq.mtrs. The affidavit also does not explain why the NHAI sent the proposal dated 27 October 2016 to the Land Acquisition Officer for acquiring 8350 sq.mtrs to additional land from Gat No.402. These are crucial documents that called for explanation from the NHAI. However, this explanation is missing at least from the affidavit dated 14 July 2022.

18. Mr. Sanjay, Project Director of NHAI, filed yet another affidavit on 7 February 2025. In this affidavit, the stand is taken that *‘7/12 extract considering Gat No.402 includes the then existing highway of 30 meter wide that it must have to be acquired or otherwise taken from the petitioner in 1990 and which absolutely would not need to be acquired afresh.’* This affidavit seeks to explain the proposal dated 27 October 2016 by stating that *‘this was necessarily a tentative proposal and this office expected that the competent authority/Superintendent of land records would seriously consider the point described in paragraph (a) above raised by this office, after which the publication of notice under Section 3A can be considered’.*

19. The above theories that *“the land must have been acquired”* or *‘tentative proposal’* are a complete afterthought. Acquisition is a serious matter. Some documents should have backed it. The State admits it has not acquired this extra land measuring 8350 sq. mtrs from the petitioner or any other party. The State was pursuing the acquisition matter with NHAI. Even the NHAI commenced the acquisition process. The proposal dated 27

October 2016 is unambiguous. This does not refer to any tentative proposal. Besides, several letters are placed on record from the State Government authorities to the NHAI regarding completion of the acquisition process for this additional area of 8350 sq.mtrs. In the response to none of these letters, it was even whispered that the proposal dated 27 October 2016 was a *'tentative proposal'*.

20. This affidavit has been filed at the last moment only to somehow or the other avoid acquisition and not pay any compensation to the petitioner. Even in the first affidavit filed by Mr. Sanjay Kadam, the Project Director, there was no explanation about the 27 October 2016 proposal, though this was one of the primary documents relied upon by the petitioner. Even at that stage, nothing was said about the proposal being a *'tentative proposal'*. It is most unfortunate that the Project Directors of NHAI filed contradictory affidavits not supported by any record simply to deny a citizen compensation after it is established that the property of such citizen is being utilised as a national highway without acquisition or payment of any compensation. This is not some measurement dispute or discrepancy of a few square metres. The acquisition was of only 2250 sq. metres. The extra area is 8350 sq. metres.

21. Thus, the record shows that the possession of 8350 sq.mtrs. of the petitioner's land from Gat No.402 has been taken over though, the authorised acquisition and the award was only regarding the area of 2250 sq.mtrs. The NHAI's defence that this additional land *'must have been acquired'* is highly vague and far from an honest defence. The State Government has not taken such a defence obviously because there is no document, much less any

award, to show that this portion was indeed acquired. The arguments based on survey records or the simple statements that this was the position for the last 20 years are again not backed by any record. The two affidavits are grossly defective and inspire no confidence.

22. Mr. Sanjay Kadam, the Project Director, who has made such averments, has not bothered to state the source of his knowledge on these aspects. The verification clause on the affidavit dated 7 February 2025 simply states that:

‘what is stated above in paragraphs No. 1 to 4 are true to my own knowledge and that what is stated in the remaining paragraphs are true to the best of my information which I obtained from the following sources; I believe the information to be true for the following reasons:’

23. The entire affidavit has only three paragraphs. Therefore, we cannot understand what the reference to the fourth paragraph is. Secondly, we are unable to understand what the reference is to the ‘remaining paragraphs’. What is most important is that Mr. Sanjay Kadam, who is the Project Director of NHAI, states that he obtained some information from the ‘*following sources*’. However, Mr. Sanjay Kadam, has forgotten to indicate what these sources are. In such circumstances, Mr. Sanjay Kadam’s affidavit has no evidentiary value whatsoever. Such affidavit should never have been filed, and that too, in such a casual manner. The affidavit is replete with surmises and conjunctures. The only aim of the affidavit appears to be to raise some belated pleas to deny a citizen compensation under law. This certainly cannot be appreciated.

24. Even the affidavit of 14 July 2022 is verified in the same manner. There is a reference to information that Mr. Kadam claims to have received from the ‘*following sources*’. However, the names

of these sources are not disclosed in the affidavit/verification. A clause also reads, '*I believe the information to be true for the following reasons.*' However, after this, not a single reason is set out. Thus, we can impart no evidentiary value to the two affidavits of Mr. Kadam, Project Director of NHAI.

25. The affidavits contradict the State Government's stand. The State Government has virtually admitted that the additional area of 8350 sq.mtrs was taken over, but there was no acquisition or award for it. That is why the State Government pursued the matter with the NHAI so that this portion could also be appropriately acquired.

26. From the records, it is evident that neither the State Government nor the NHAI were willing to take any steps to formally acquire the petitioner's property after its possession was taken over and the property was used for the purposes of the national highway. This forced the petitioner to approach this Court. At least the State Government, substantially admitted the petitioner's case in its affidavit. The NHAI, however, based on surmises, conjectures, afterthoughts and even after raising false defences opposed the petition, simply so that the petitioner should not obtain any compensation for the additional land already put to use as a highway.

27. Predictably, Mr. Gujar relied upon the decision of the Hon'ble Supreme Court in the Case of the ***State of Maharashtra vs. Digambar¹***. He submitted that the portion of the land that was used as an existing highway may have been taken over some 20 years

¹ (1995) 4 SCC 683

ago, and therefore, the present petition is barred by delay and laches.

28. In the first place, the contention that petitioner's property i.e. the additional area of 8350 sq.mtrs. was taken over 20 years ago is based on no material and is only a surmise or conjecture. Mr. Sanjay who has filed affidavits and vaguely raised such contentions cannot have had any personal knowledge in this regard. The nature of these affidavits is already discussed above and based on such affidavits, such a contention can never be accepted. The State Government has also not raised such a contention. The petitioner has asserted that the possession of the additional area taken over was much later when the NHAI came into the picture. Therefore, the decision in the case of *Digambar (Supra)* would not apply.

29. Be that as it may, reference is to be made to the decision of the Hon'ble Supreme Court in the case of *Tukaram Kana Joshi Vs MIDC*², *Sukh Dutt Ratra Vs State of Himachal Pradesh*³, the decision of the division bench of this Court in the case of *Rajeev Kumar Damodarprasad Bhadani & Ors. Vs The Executive Engineer, MIDC*⁴ and *Vasant B. Wale Vs Vithal M. Deshmukh*⁵. In all these cases, arguments based on any alleged delay and laches were considered but rejected.

30. In the case of *Sukh Dutt Ratra (Supra)* and *Rajeev Bhadani (Supra)*, after considering the decision of Hon'ble Supreme Court in the case of *Digamar (Supra)* held that ;

² AIR 2013 SUPREME COURT 565

³ 2022 0 Supreme(SC) 305

⁴ 2024 0 BHC(AS) 470

⁵ 2006 (1) BOM.C.R.669

15. When it comes to the subject of private property, this court has upheld the high threshold of legality that must be met, to dispossess an individual of their property, and even more so when done by the State. In *Bishandas v. State of Punjab*, 1962 (2) SCR 69 this court rejected the contention that the petitioners in the case were trespassers and could be removed by an executive order, and instead concluded that the executive action taken by the State and its officers, was destructive of the basic principle of the rule of law. This court, in another case - *State of Uttar Pradesh and Ors. v. Dharmander Prasad Singh and Ors.*, 1989 (1) SCR 176, held:

"A lessor, with the best of title, has no right to resume possession extra-judicially by use of force, from a lessee, even after the expiry or earlier termination of the lease by forfeiture or otherwise. The use of the expression 're-entry' in the lease-deed does not authorise extrajudicial methods to resume possession. Under law, the possession of a lessee, even after the expiry or its earlier termination is juridical possession and forcible dispossession is prohibited; a lessee cannot be dispossessed otherwise than in due course of law. In the present case, the fact that the lessor is the State does not place it in any higher or better position. On the contrary, it is under an additional inhibition stemming from the requirement that all actions of Government and Governmental authorities should have a 'legal pedigree'".

16. Given the important protection extended to an individual vis-a-vis their private property (embodied earlier in Article 31, and now as a constitutional right in Article 300-A), and the high threshold the State must meet while acquiring land, the question remains can the State, merely on the ground of delay and laches, evade its legal responsibility towards those from whom private property has been expropriated? In these facts and circumstances, we find this conclusion to be unacceptable, and warranting intervention on the grounds of equity and fairness.

17. When seen holistically, it is apparent that the State's actions, or lack thereof, have in fact compounded the injustice meted out to the appellants and compelled them to approach this court, albeit belatedly. The initiation of acquisition proceedings initially in the 1990s occurred only at the behest of the High Court. Even after such judicial intervention, the State continued to only extend the benefit of the court's directions to those who specifically approached the courts. The State's lackadaisical conduct is discernible from this action of initiating acquisition proceedings selectively, only in respect to the lands of those writ

petitioners who had approached the court in earlier proceedings, and not other land owners, pursuant to the orders dated 23.04.2007 (in CWP No. 1192/2004) and 20.12.2013 (in CWP No. 1356/2010) respectively. In this manner, at every stage, the State sought to shirk its responsibility of acquiring land required for public use in the manner prescribed by law.

18. *There is a welter of precedents on delay and laches which conclude either way - as contended by both sides in the present dispute however, the specific factual matrix compels this court to weigh in favour of the appellant-land owners. The State cannot shield itself behind the ground of delay and laches in such a situation; there cannot be a 'limitation' to doing justice. This court in a much earlier case - Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, 1969 (1) SCR 808, held:*

"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are most material.

But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

19. *The facts of the present case reveal that the State has, in a clandestine and arbitrary manner, actively tried to limit disbursal of compensation as required by law, only to those for which it was specifically prodded by the courts, rather than to all those who are entitled. This arbitrary action, which is also violative of the appellants' prevailing Article 31 right (at the time of cause of action), undoubtedly warranted consideration, and intervention by the High Court,*

under its Article 226 jurisdiction. This court, in Manohar (supra) a similar case where the name of the aggrieved had been deleted from revenue records leading to his dispossession from the land without payment of compensation -held:

"Having heard the learned counsel for the appellants, we are satisfied that the case projected before the court by the appellants is utterly untenable and not worthy of emanating from any State which professes the least regard to being a welfare State. When we pointed out to the learned counsel that, at this stage at least, the State should be gracious enough to accept its mistake and promptly pay the compensation to the respondent, the State has taken an intractable attitude and persisted in opposing what appears to be a just and reasonable claim of the respondent.

Ours is a constitutional democracy and the rights available to the citizens are declared by the Constitution. Although Article 19(1)(f) was deleted by the Forty-fourth Amendment to the Constitution, Article 300-A has been placed in the Constitution, which reads as follows:

"300-A. Persons not to be deprived of property save by authority of law.-No person shall be deprived of his property save by authority of law."

This is a case where we find utter lack of legal authority for deprivation of the respondent's property by the appellants who are State authorities. In our view, this case was an eminently fit one for exercising the writ jurisdiction of the High Court under Article 226 of the Constitution"

20. Again, in Tukaram Kana Joshi (supra) while dealing with a similar fact situation, this court held as follows:

"There are authorities which state that delay and laches extinguish the right to put forth a claim. Most of these authorities pertain to service jurisprudence, grant of compensation for a wrong done to them decades ago, recovery of statutory dues, of ot claim for educational facilities and other categories of similar cases, etc. Though, it is true that there are a few authorities that lay down that delay and laches debar a citizen from seeking remedy, even if his fundamental right has been violated, under Article 32 or 226 of the Constitution, the case at hand deals with a different scenario altogether. The functionaries of the State took over possession of the land belonging to the appellants without any sanction of law. The appellants had asked

repeatedly for grant of the benefit of compensation. The State must either comply with the procedure laid down for acquisition, or requisition, or any other permissible statutory mode."

These decisions, together with the decision in the case of *Tukaram Joshi (Supra)*, hold that a property right may not be a fundamental right. Still, it is a constitutional right under Article 300-A and a human right under the Protection of Human Rights Act, 1998.

31. In this case, factually, there is no delay and laches. In any event, as held by the Hon'ble Supreme Court, such rights cannot be defeated merely on the grounds of delay and laches. This is not the case of laches at all. The laches is not mere physical running of time. To establish laches, the opposite party must plead and establish some parallel rights being created in them or make out the case in which it would be inequitable to displace such parallel rights at this point in time. The petitioner in this case, is not seeking any restoration of possession or even seeking to dismantle the portion of the national highway. Instead, the petitioner is only seeking compensation.

32. The NHAI, in its affidavit of 14 July 2022 has made it clear that its role in the matter is limited to depositing the compensation amount with the Competent Authority (respondent No.2) as per Section 3H(1) of the National Highways Act, 1956. Therefore, any objection based on so called delay or laches could hardly have been raised by the NHAI in this matter.

33. Recently, the Hon'ble Supreme Court in the case of

Kolkatta Municipal Corporation & Anr. Vs Bimal Kumar Shah⁶

made the following observations in the context of compulsory acquisition of property;

27. *What then are these sub-rights or strands of this swadeshi constitutional fabric constituting the right to property? Seven such sub-rights can be identified, albeit non-exhaustive. These are: i) duty of the State to inform the person that it intends to acquire his property – the right to notice, ii) the duty of the State to hear objections to the acquisition – the right to be heard, iii) the duty of the State to inform the person of its decision to acquire – the right to a reasoned decision, iv) the duty of the State to demonstrate that the acquisition is for public purpose – the duty to acquire only for public purpose, v) the duty of the State to restitute and rehabilitate – the right of restitution or fair compensation, vi) the duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings – the right to an efficient and expeditious process, and vii) final conclusion of the proceedings leading to vesting – the right of conclusion.*

28. *These seven rights are foundational components of a law that is tune with Article 300A, and the absence of one of these or some of them would render the law susceptible to challenge. The judgment of this Court in K.T. Plantations (supra)¹³ declares that the law envisaged under Article 300A must be in line with the overarching principles of rule of law, and must be just, fair, and reasonable. It is, of course, precedentially sound to describe some of these sub-rights as ‘procedural’, a nomenclature that often tends to undermine the inherent worth of these safeguards. These seven sub-rights may be procedures, but they do constitute the real content of the right to property under Article 300A, non-compliance of these will amount to violation of the right, being without the authority of law.*

29. *These sub-rights of procedure have been synchronously incorporated in laws concerning compulsory acquisition and are also recognised by our constitutional courts while reviewing administrative actions for compulsory acquisition of private property. The following will demonstrate how these seven principles have seamlessly*

⁶

[2024] 5 S.C.R. 831

become an integral part of our Union and State statutes concerning acquisition and also the constitutional and administrative law culture that our courts have evolved from time to time.

34. The Hon'ble Supreme Court has referred to seven principles in the context of compulsory property acquisition. One of the principles is the right of prosecution for fair compensation. Other is the right to efficacious and expeditious process. The facts of this case disclose the petitioner's property to 8350 sq.mtrs. was taken over by the Highway Authorities but there is stiff resistance to payment of any compensation to the petitioner. Even the right of efficacious and expeditious process is rendered a complete casualty. Therefore, the respondent's actions in this case are contrary to the statutory and constitutional principles regarding the acquisition of private property. The actions of the NHAI and State Government violate the decisions of the Hon'ble Supreme Court, including the decision in the case of *Bimal Kumar Shah (Supra)*.

35. The petitioner has pleaded and there is no reason to disbelieve that in all, 10600 sq.mtrs. the petitioner's property from Gat No.402 was taken over around 7 December 2011 when an award was made for the acquisition of 2250 sq.mtrs. The award dated 7 December 2011 determines the market value at Rs.180/- per sq.mtrs. At this rate, the compensation for 8350 sq.mtrs. would come to approximately Rs.15,00,000/- (Rupees Fifteen Lakhs) as of 2011. Almost fourteen years have passed since this determination. Therefore, it would be safe to tentatively double this amount.

36. In the gross facts of this case, the NHAI is liable and is

directed to deposit with land acquisition officer No.17, Pune (respondent No.2), the amount of Rs.30,00,000/- (Rupees Thirty Lakhs) within four weeks from today. Accordingly, we direct the NHAI to deposit this amount with respondent No.2 within four weeks from today. Respondent No.2 or, for that matter, the Competent and Appropriate Authorities under the State Government must immediately start acquiring the petitioner's additional land of 8350 sq.mtrs. and complete this process within six months from today. This will include determining the compensation payable to the petitioner. If the petitioner is unsatisfied with this compensation, it will be open to the petitioner to seek a reference for enhancement and all other statutory benefits.

37. If, for any reason, the respondents do not start the process within two months from today, then the amount of Rs.30,00,000/- (Rupees Thirty Lakhs) referred to above must be paid to the petitioner as an ad-hoc compensation. Receiving this compensation will obviously be without prejudice to the rights and contentions regarding the additional compensation. However, if the acquisition process starts within two months, then, this amount need not be immediately paid to the petitioner. This amount, together with any further amount that may be determined, can be paid to the petitioner at an appropriate rate based on the determination by the appropriate authority.

38. In this case, we considered whether to impose any cost on the NHAI. However, since the NHAI would pay such a cost through public funds, we decided not to.

39. The rule is made absolute in the above terms without any

cost order.

40. All concerned are to act upon the authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)