IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6027 OF 2010

Abhay V. Khinvasara,)
aged 45 years, an Indian Inhabitant)
having his address at 1215/2/13,)
Kulkarni Marg, Deccan, Pune-411004) **...Petitioner**

Vs.

1. State of Maharashtra,)
Department of Industries and)
Planning, Sachivalaya, Mumbai-40032)

2. The Maharashtra Industrial)
Development Corporation)
at Marol Industrial Area, Mahakali)
Caves Road, Andheri, Mumbai-400069)

3. The Special Land Acquisition)
Officer (s) Pune)
Pune Municipal Transport Building,)
Shankershet Road, Pune – 411 009.) **...Respondents**

Ms. Surabhi Agarwal with Mr. Akash Memon, Ms. Shruti Singhi for Petitioner.
Mr. Sachin Kankal, AGP for State/Respondent No.1 & 3.
Mr. Prashant Chawan, Senior Advocate with Ms. Shraddha Chheda i/b. Navdeep Vora & Associates for Respondent No.2/MIDC.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

RESERVED ON: 07 JANUARY 2025.
PRONOUNCED ON : 17 MARCH 2025.

JUDGMENT (Per G. S. Kulkarni, J.) :-

A. Preface

1. This petition under Article 226 of the Constitution of India primarily challenges the acquisition of the petitioner's land described in the petition to be Survey No.137/2 at village Akurdi, Taluka Haveli, District Pune, under the provisions of the Maharashtra Industrial Development Act, 1961 (for short '**the MID Act**'), which had attained finality in the year 1971, the possession of which was taken over on 11 February 1972 under the panchnama dated 21 January 1972 and 11 February 1972.

2. At the outset it may be stated that this petition was filed on 31 July 2010 and as seen from the cause title of the petition, the petitioner has described himself to be 45 years of age. Hence, when the land acquisition took place culminating into the possession of the land being taken over, the

petitioner was 7 years of age. We observe so as we are quite astonished with the verification clause to this petition, when the petitioner solemnly affirms that the facts which are pleaded in the memo of the petition (paragraphs 1 to 14) are true to "his own knowledge". Notably a survey of the averments in these paragraphs would possibly lead us to arrive at a conclusion that the verification to the petition itself would not be acceptable and legally false as the petitioner could not have deposed personal knowledge of many of these facts.

3. We may next observe that the essential principles in taking recourse to the proceedings under Article 226 in invoking the powers of judicial review, have also been completely discarded and/or deliberately overlooked, namely that what is sought in the petition is a discretionary and equitable remedy, and the nature of the reliefs which are prayed for could be asserted only when the intervention of the Court is sought at the appropriate time, and not after a prolonged and/or an inordinate, much less an unexplained delay of 38 years (as on date of filing of the petition) after the acquisition itself stood completed and the parties have changed their position. This more particularly as in the present case the acquisition in question has antecedents since the year 1963, the details of which we discuss hereinafter.

4. On such conspectus, what is intriguing is that there is not a whisper

or any averment whatsoever to justify such inordinate delay and laches in filing the petition which would go to the root of the matter in entertaining the causes of the nature being canvassed by the petitioner. This more particularly, when it is the petitioner's contention that one of the primary cause for the petitioner to file this petition, and in our opinion, quite cleverly, is that just before filing of the petition, the petitioner is stated to have received knowledge, that it is the Government's name which has been entered in the records of right relating to the said land, and that the petitioner was not aware about any land acquisition proceedings, hence, the petitioner was required to approach this Court in the present proceedings. This case of the petitioner can be seen from paragraph 14(g) of the writ petition, in which the petitioner has averred that respondent No.2 – MIDC (the acquiring body) without, in any manner, resorting to the acquisition proceedings by following the process of law, and without notice or without finalizing, offering and paying any compensation to the petitioner has entered its name in the record of rights relating to the land in question. This was also the basic argument repeatedly canvassed before us by the learned Counsel for the petitioner.

B. Facts

5. On the aforesaid preface on the nature of the cause asserted in the proceedings, we now refer to the relevant facts the pleadings reveal:-

It is stated that the petitioner's father Mr. Vasantlal Mohanlal Khinvasara was the owner of several lands in the Akurdi and Chinchwad villages of Pune District, including piece and parcel of land lying in Village Akurdi, Taluka Haveli, District Pune being Survey No.137 which was purchased by him in the year 1963. Mr. Vasantlal Mohanlal Khinvasara expired on 25 August 2002. It is the petitioner's contention that the land bearing Survey No.137 was bequeathed by Mr. Vasantlal under a Will to his wife Mrs. Vijaya Vasantlal Khinvasara. Mrs. Vijaya expired on 23 November 2009. It is stated that in her Will, she has bequeathed the said land to the petitioner.

6. It is the petitioner's contention that in or about the year 1963, his father late Vasantlal received notices under Section 32(2) of the MID Act qua different lands situated at Villages Akurdi and Chinchwad, including in respect of the said land that these lands are intended to be acquired for the purpose of a 'Railway Siding'. Late Vasantlal approached this Court in proceedings under Article 226 of the Constitution of India (Special Civil Application No. 767 of 1966) challenging these notices received by him under Section 32(2) of the MID Act, under which the land in question was sought to be acquired. Such proceedings before this Court were settled in terms of consent terms as arrived between the parties, under which certain

lands forming subject matter of acquisition were released whereas certain lands were to be acquired by the respondents. The consent terms as entered between the petitioner's father and the respondents read thus:

"CONSENT TERMS

1. The 1st respondent agrees and undertakes to clear from the proposed acquisition the following lands:-

S. No.	Hissa No.	Village	Area A. O. As.
126	1	Akurdi	6-30-8
126	2	- do -	6-4-0
127	1	- do -	5-15-0
127	2	- do -	1-0-0
129	1-B	- do -	1-2-0
136	1-A	- do -	14-37-0
136	1-B	- do -	0-10-0
136	2	- do -	0-10-0
137	-	Haveli	8-17-0
159	1-B	- do -	2-7-8
161	Part	- do -	1-15-0

2. The petitioners agree to the acquisition of the following lands by the 1st respondent and undertake not to raise any objection to the same :-

S. No.	Hissa No.	Village	Area A. O. As.
126	2	Akurdi	0-26-8
136	1-A	- do -	3-14-0
137	**-**	**Chinchwad**	**4-15-0**
206	2	- do -	0-23-0
206	3-A	- do -	0-32-0
206	3-B	- do -	0-16-4

206	3-C	- do -	0-16-4
206	3-D	- do -	0-16-4
206	3-E	- do -	0-16-4
207	1	- do -	0-36-0
208	1	- do -	1-10-0
208	2	- do -	0-25-4
208	3	- do -	0-25-4
208	4	- do -	0-25-4
208	5	Chinchwad	0-25-4
210	1-B	- do -	1-20-8
210	1-D	- do -	1-20-8

3. The petitioners agree to receive compensation for the lands mentioned in Clause (2) above as determined by the 1st respondent subject however to their right to move the appropriate court with regard to the quantum of compensation so determined.

4. The petitioners also agree and undertake to remove immediately the four structures standing on some of the lands mentioned in Clause (2) above and coming within the allotment of the proposed railway siding, at their own cost.

5. In view of the above arrangement being made between the parties, the petitioners agree to withdrawn the above petition.

6. No order as to costs."

(emphasis supplied)

7. As seen from paragraph 2 of the consent terms, the petitioner's father agreed to the acquisition of the land on Survey No.137 admeasuring 4 acres 15 gunthas and further solemnly undertook not to raise any objection to the same. He also agreed to immediately remove four structures standing on the lands which were within the alignment of the proposed railway siding, at his own cost.

8. There is no material whatsoever that late Vasantlal Mohanlal

Khinvasara[1] between the years 1972 and 2002, that is for a period of almost 30 years, had raised any issue/dispute qua the acquisition, or had addressed a single letter/representation to any of the respondents to contend that the said land, subject matter of the present petition, was either not acquired and/or its possession was not taken over, and/or the compensation in that regard was not paid, more particularly considering the compromise and the orders passed by this Court.

9. Apart from the aforesaid position, this petition is filed after 8 years of the petitioner's father having passed away, although what is sought to be pleaded, is also, that the petitioner's mother who passed away in the year 2009, had bequeathed the land in question in favour of the petitioner. However, none of these documents supporting bequeathing of this land, form part of the record. Even otherwise a land which had stood acquired cannot be bequeathed nor the MIDC can have any control on what the testator would purport to write in the Will.

10. It is on such backdrop, the petitioner is before the Court making bald averments and raising several factual disputes asserting that no proceedings were adopted by the respondents to acquire the petitioner's land. The relevant averments in that regard are required to be noted which read thus:

> "8. The Petitioner states that as per the Consent Terms, the

1*who passed away on 25 August 2002

Petitioner therein agreed to certain portions of the property including the said property being acquired in favour of Respondent No. 2. However, from 1968 till date the Respondent has not taken any step(s) whatsoever, muchless as contemplated by law, towards acquisitions of the said property. The Petitioner specifically asserts that even basic process, like demarcation of the said property etc towards the acquisition of the said property has also not been carried out so far by the Respondents.

9. The Petitioner further asserts that the Respondents have also not taken actual physical possession of any part or portion of "the said property" nor have the Respondents paid any compensation for the proposed acquisition of the said property. The Petitioner emphatically states that the Petitioner is in continuous uninterrupted use, occupation and possession of the said property even as on this date. The late Mr. Vasantlal Mohanlal Khinvasara lived in a house constructed on the said property and had also constructed several cattle sheds and workers quarters on the said property. The Passport of the Petitioner has also been issued with the said property listed as his residential address. Hereto annexed and marked Exhibit "D" is a copy of a Punchnama caused to be made by the Petitioner in order to demonstrate that the said property is in the use, occupation and possession of the Petitioner. In fact in the plans issued by Respondent No.2 relating to its properties in the village Akurdi area, the said property has been rightly shown as not belonging to the Respondent No.2.

10. The Petitioner states that without adopting any proceedings for the acquisition of the said property or following any procedure whatsoever, much less due process of law in that regard, the Respondent No. 2 has got the name of Respondent No. 1 inserted in the revenue records of the said property, such as the 7/12 extract relating to the said property. The Petitioner states that before effecting such changes in the revenue record of the said property, even notice was not issued to the Petitioner. The insertion of the name of Respondent No.1 is completely arbitrary and wholly illegal and unsustainable. Hereto annexed and marked Exhibit "E" are the copies of the relevant revenue record of the said property.

11. The Development Plan currently in force of the Pimpri Chinchwad Municipal Corporation, within whose limits the said property is located, has the said property marked under the 'Residential Zone'. The Petitioner craves leave to refer to and rely upon the said Development Plan when produced.

12. The Petitioner states that as per the provision of the Maharashtra Industrial Development Act 1961, in the event the Respondents fails to acquire the said property within the statutory period the entire proposed acquisition of the said property lapses. In the present matter, the said property was to be acquired in the

year 1968 but till date the Respondent No.2 has not taken any step whatsoever towards the acquisition of the said property.

13. The Petitioner is therefore filing the present Petition to challenge the totally arbitrary and illegal claim of the Respondents that the said property is acquired and is presently held by the Respondent No.2 and also to challenge the consequent and incidental action of the Respondents of getting the name of Respondent No.1 entered in the revenue record, including the record of rights relating to the said property belonging to the Petitioner."

11. Thus, it is on such premise that the said land being not acquired as also the possession of which was not taken over, as also disputing the panchanama, the present petition has been filed and as noted above, almost after 38 years of the possession being taken over. The original reliefs as sought by the petitioner before the petition was amended, are required to be noted, which read thus:

"a) that this Hon'ble Court be pleased to hold and declare that any part or portion of the said property bearing Survey No. 137/2 at Village Akrudi, Tal Haveli, District Pune and more particularly described in Exhibit 'A hereto is free from any claim of the Respondents, particularly Respondent No.2 as to acquisition thereof and that the Respondent No.2 has no right title or interest of any nature whatsoever in or over any part or portion of the said property bearing Survey No. 137/2 at Village Akrudi, Tal Haveli, District Pune and more particularly described in Exhibit 'A' hereto.

b) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other Writ, Order or Direction under section 226 of the Constitution of India calling for the revenue record, including the record of rights in respect of the said property bearing Survey No. 137/2 at Village Akrudi, Tal Haveli, District Pune and more particularly described in Exhibit 'A' and after going into the legality and propriety thereof be pleased to quash and set aside the entries made therein whereby the name of the Respondent No.1 has been entered as owner and/or showing it to be entitled to any other rights in respect of the said property bearing Survey No. 137/2 at Village Akrudi, Tal Haveli, District Pune and more particularly described in Exhibit 'A' hereto.

c) That this Hon'ble Court be pleased to issue a Writ of Prohibition or any other Writ, Order or Direction preventing the Respondents by themselves, their servants and agents from:

(i) taking any steps whatsoever towards acquisition of the said property bearing Survey No. 137/2, at village Akurdi, taluka Haveli, district Pune, admeasuring 1.75 Hectares and more particularly described in Exhibit 'A' hereto, and

(ii) from in any manner disturbing and/opr interfering with the Petitioner's actual physical possession of the said property bearing Survey No. 137/2, at Village Akurdi, Tal Haveli, District Pune and more particularly described in Exhibit 'A' hereto."

12. Additional prayers were incorporated by an amendment being prayers a-1 to a-5, which also demonstrate substantial vagueness nay deception, more particularly, when the dates of the notifications are not mentioned. The amended prayers are required to be noted which read thus:

"a-1. That this Hon'ble Court be pleased to issue a Writ of Mandamus or any other writ, order or direction in the nature of a Mandamus directing Respondent No. 1 to set aside the acquisition proceedings qua the property bearing Survey No. 137/2, situate at village Akurdi, taluka Haveli, district Pune, admeasuring 4 acres and 15 gunthas, on the ground that they have lapsed and that the same are void, invalid, bad in law, non-est, and not binding upon the Petitioner;

a-2. That this Hon'ble Court be pleased to pass an order declaring that the acquisition proceedings of the property bearing Survey No. 137/2, situate at village Akurdi, taluka Haveli, district Pune, admeasuring 4 acres and 15 gunthas are vitiated and to quash and set aside the same;

a-3. That this Hon'ble Court be pleased to pass an Order quashing and setting aside the notifications issued by the State Government under Sections 32(2) and 32(1) of the MID Act;

a-4. That this Hon'ble Court be pleased to pass an Order quashing and setting aside the two alleged Panchnamas, wherein possession was purportedly handed over to Respondent No. 1 and subsequently to Respondent No. 2;

> a-5. In the alternate, that this Hon'ble Court be pleased to issue a Writ of Mandamus or any other writ, order or direction in the nature of Mandamus directing Respondent No. 2 to remove the entries in the Revenue Records of Respondent No. 1 of the property bearing Survey No. 137/2, situate at village Akurdi, taluka Haveli, district Pune, admeasuring 4 acres and 15 gunthas restoring it to the Petitioner, without the Petitioner having to pay any amount as and by way of consideration or compensation, due to the fact that no compensation has ever been paid to the Petitioner for acquisition of the Subject Land."

13. We may also observe that the record in fact depicts that the pendency of this petition has been very effectively used by the petitioner by approaching different authorities so as to dig into the old graves of the concluded acquisition and generating replies from the officers of the respondents. A systematic *modus operandi.* After obtaining such replies that the old documents pertaining to the acquisition were not available with the concerned departments and based on such correspondence, the petitioner has attempted to cull out and fortify the theory that there is no acquisition of the land, as also the possession of the land was not taken over. Accordingly by incorporating amendments to the petition, the petitioner has attempted to change the original complexion of his case.

C. Reply Affidavit of the MIDC:-

14. On behalf of the MIDC a reply affidavit is filed opposing the petition. At the outset, it is contended that while invoking the jurisdiction of this Court under Article 226 of the Constitution, the petitioner has suppressed material facts. Hence, the petitioner is guilty of *suppressio veri,*

suggestio falsi, and on this ground, the petition deserves to be dismissed with costs for the reason that the land in question admeasuring 4 acres 15 gunthas from Survey No.137 had stood acquired by the State Government in the year 1971 and on several material circumstances, not fully disclosed in the writ petition, prayers assailing the acquisition are made.

15. It is further stated that the petitioner is seeking to challenge and / or reopen the acquisition of the land admeasuring 4 acres 15 gunthas from Survey No.137 after about 38 years from completion of the acquisition and in doing so the original owner i.e. petitioner's father never questioned or challenged the acquisition and accepted the same. It is hence contended that the petitioner is estopped from raising any issue or challenging the taking over of the possession, as the original owner of the land himself did not challenge the acquisition of the same.

16. It is next contended that the petition suffers from gross and inordinate delay and laches as the acquisition of such land had taken place way back in the year 1971 and the possession of the land was taken over by the MIDC in the year 1972. In such context, it is stated that the predecessor-in-title of the petitioner (petitioner's father) was fully aware of the acquisition proceedings. He had received notices in regard to such acquisition, as also had filed objections to the acquisition. It is stated that

such objections were rejected by the State Government and ultimately the land was acquired in the year 1971 and the possession was taken over in the year 1972.

17. It is next stated that on 11 February 1972 the possession of the said land was handed over to MIDC by the Special Land Acquisition Officer (for short, "SLAO"). It is, hence, contended that the challenge to the land acquisition which stood completed about 38 years back, is wholly untenable, being hit by the principles of delay and laches. It is contended that on such count, the petition deserves to be dismissed.

18. The MIDC has also set out the background of the acquisition in the reply affidavit to contend that in or about the year 1963, notices under Section 32(2) of the MIDC Act were issued for acquisition of lands for industrial area in respect of lands in Akurdi and Chinchwad villages which included the land belonging to the petitioner's father. Being aggrieved by such notices, the petitioner's father had approached this Court in the proceedings of Special Civil Application No.767 of 1966 filed under Article 226 of the Constitution. Such application came to be disposed of in terms of the consent terms dated 3 December 1968, as noted by us hereinabove. It is stated that as clear from the consent orders, certain lands were deleted from the acquisition whereas the land in question was agreed

to be acquired, for which, the petitioner's father furnished an undertaking to the Court that he will not raise any objection in respect of acquisition of the said land. The said land of the petitioner's father was agreed to be acquired including about 4 acres and 15 gunthas from Survey no.137.

19. It is next stated that subsequent to the consent terms and after this Court disposed of the petitioner's father special civil application (supra), notices under Section 32(2) of the MID Act were published on 21 January 1971 under which objections were invited for acquisition of various lands including 4 acres 15 gunthas from Survey No.137 subject matter of the present proceedings. It is stated that despite an undertaking being given to the Court, the petitioner's father had raised an objection to the acquisition contrary to the consent terms. Such objections were considered by the SLAO and were rejected by an order dated 5 October 1971. Thereafter, the SLAO issued a notice dated 16 October 1971 under Section 32(1) of the MID Act acquiring such land. Such notice was published in the Government Gazette on 4 November 1971. It is stated that after publication of the said notice under Section 32(1) of the MID Act, the land in question belonging to the petitioner's father (4 acres 15 gunthas) from Survey No.137 stood vested in the State Government absolutely and free from any encumbrances as the statutory provisions would ordain. In pursuance thereto, a notice dated 3 January 1972 was issued to the

petitioner's father for handing over the possession of the land alongwith the other acquired land by the SLAO. Thereafter, on 28 January 1972, the SLAO took possession of the said land by drawing a panchanama. The possession of the land was handed over to the MIDC by the SLAO on 11 February 1972. It is thus contended that the land on which the petitioner is now asserting rights belonging to the petitioner's father at the relevant time i.e. 4 acres 15 gunthas land from Survey No.137 stood acquired by the State Government under the MID Act, the possession of which was handed over to the MIDC by the State Government, accordingly the land is in possession of the MIDC since 1972.

20. It is stated that the petitioner's father (predecessor-in-title) and others were fully aware of the said position, hence they never questioned the acquisition and/or never alleged that the said land was not acquired. It is stated that the petitioner has suppressed all these facts while filing the present petition. It is therefore prayed that the petition be dismissed with exemplary costs.

D. Reply Affidavit of the State Government:-

21. Reply affidavit is filed on behalf of the State of Maharashtra of the Deputy Collector / Land Acquisition Officer No.3, Pune, *inter alia* contending that it is an admitted position that the land acquisition

proceedings in respect of the subject land were undertaken under the MID Act for which a notice under Section 32(2) of the MID Act was published on 5 January 1971. It is stated that thereafter, a notice under Section 32(1) of the MID Act regarding acquisition of the land for a particular purpose, was published on 16 October 1971, and most vitally possession of the subject land was taken on 28 January 1972. It is stated that subsequently, the land was handed over to the MIDC on 11 February 1972.

22. It is next stated that the mutation entry, recording the name of the State Government in the record of rights, was incorporated as consequence of the acquisition. It is contended that after such events had taken place upto the year 1972, the petitioner filed the present petition on 15 July 2010. It is stated that the unamended petition did not have any clear challenge to the said notices and possession proceedings, hence, amendment was carried out only in February 2024 in pursuance of the leave granted by this Court whereby for the first time the notices issued under Section 32 of the MID Act were challenged. It is hence stated that apparently there is an inordinate delay of 50 years in such cause being pursued if the amended petition is considered, and at least of more than 38 years if the original petition is to be considered.

23. The affidavit categorically states that there is no explanation

whatsoever either in the original petition as also in the amended petition, on such inordinate delay in filing the petition, it is hence stated that the petition is clearly barred by the principles of delay and laches. It is, hence, stated that the petitioner is not entitled to challenge the acquisition proceedings after so many years without there being sufficient cause for the same.

24. The affidavit also explains the factual position in relation to the acquisition. It is stated that the acquisition being an old acquisition had stood concluded in the year 1972. It is contended that it is an admitted position that the land stood absolutely vested with the State Government and the father of the petitioner never challenged it. It is also contended that once the land stood vested in the State Government, there is no question of the petitioner's father bequeathing the land to his wife (petitioner's mother) and the petitioner's mother thereafter bequeathing the land to the petitioner under a new Will. It is also stated that the petitioner had failed to produce any documents showing succession rights. Referring to the correspondence entered by the petitioner during the pendency of the petition namely a letter 19 September 2016 addressed to the Hon'ble Minister, it is stated that such letter does not show that the petitioner had any better rights after the subject land stood vested in the State Government. It is stated that the said letter clearly shows that

predecessor-in-title has not taken efforts whatsoever for challenging the vesting order or the possession proceedings. It is next stated that the petitioner is trying to base his case on non availability of the record in the government office, and he does not have any record on its own to show that the subject land was not acquired. It is next contended that the petitioner has no real or genuine cause of action to file the present petition. It is further stated that after the possession of the land was handed over by the SLAO to the MIDC, the respondent No.3 was not aware of the factual position after 1972 till date and therefore, the petitioner's contentions in regard to such period is not being dealt. It is therefore, submitted that the petitioner is not entitled to any relief as prayed for in the petitioner, and therefore, the petition be rejected.

E. Rejoinder Affidavits

25. There are two rejoinder affidavits filed on behalf of the petitioner disputing the contents in the reply affidavit as filed on behalf of the State Government as also as filed on behalf of the MIDC. The case of the petitioner in the rejoinder affidavit, is significantly surprising, inasmuch as, in his rejoinder affidavit to the affidavit in reply filed on behalf of the MIDC, the petitioner in paragraph 11 thereof has stated that he was not aware of the publication of the notice under Section 32(2) of the MID Act under the Government Gazette dated 21 January 1971. It is the

petitioner's contention that even assuming that such notice under Section 32(2) was published, it needs to be presumed that the acquisition of the land in question has lapsed for want of declaration of an award, referring to the provisions of Section 31(1) and 32(2) of the MID Act. The petitioner has also stated that the notice dated 3 January 1972 or of any other date was not issued to the petitioner's father for handing over possession of the said land and that even today, no copy of the notice is annexed to the reply affidavit. This is being said when more particularly in the year 1972, the petitioner was 7 years of age.

26. In the affidavit in rejoinder to the reply affidavit filed on behalf of the State Government, it is reiterated that there is no land acquisition award in terms of Section 33 of the MID Act as also that there is no proof of payment of compensation and, therefore, the land is not acquired. Insofar as the delay and laches is concerned, the petitioner has stated that the acquisition proceedings were abandoned and no award was produced by the SLAO and no compensation was paid to his predecessor-in-title (petitioner's father) and the possession remained with the petitioner's father, hence, the respondents' contention on delay and laches of the petitioner in filing this petition ought not to be accepted. It is petitioner's contention that the entry in the revenue record has not caused loss of enjoyment of the property to the petitioner, as according to the petitioner,

the entry depicting the respondent's name in the revenue record is illegal as seen from the several documents, namely that the MIDC maps do not show the subject land as part of the MIDC lands. It is stated that the planning authority for the subject land has always been the PCMC and at present the subject land is being shown in the residential zone, the physical possession of which is with the petitioner. Further no compensation for the land acquisition has ever been paid to the petitioner or any of his predecessors-in-title. The petitioner has also reiterated the contention that he has succession rights. The petitioner has also disputed the 'possession panchanama' as relied on behalf of the State Government on several grounds. In the rejoinder affidavit as set out in paragraphs 18 and 19, it is contended that it is wholly incorrect for the respondents to contend that the physical possession of the land was taken over. The petitioner has asserted that the physical possession of the land has remained with the petitioner. The petitioner hence states that he is entitled to the reliefs as prayed for.

F. Submission on behalf of the Petitioner:-

27. Ms. Agarwal, learned counsel for the petitioner has limited submissions. She has reiterated the contentions of the petitioner as raised in the writ petition and the petitioner's affidavits to which we have adverted in detail. Her emphasis is more on the documents which were obtained by

the petitioner during the pendency of this petition under the RTI Act, to contend that this is a case wherein there is neither an award nor compensation was paid to the petitioner, and for such reason, necessarily the land in question is deemed to be not acquired. It is her submission that the petitioner has continued to remain in possession of the land, hence, it cannot be said that there is any delay and laches in filing the petition to challenge the acquisition. Her submission is that all necessary ingredients in regard to acquisition of the land, namely, issuance of notification under Section 32 of the MID Act and the consequential steps taken thereunder of the possession being taken under such acquisition are absent in the present case. It is her submission that the petitioner's case from the record is to the effect that the acquisition of the land was not complete, as no award was published and no compensation was paid, as there is no record available indicating the payment of compensation or the award and therefore, necessarily there is a presumption that the acquisition has lapsed. It is submitted that the land in question, as stated to be the subject matter of acquisition, is surrounded by a residential area and for such reason, the relief as prayed for by the petitioner is required to be granted. In support of her contention, Ms. Agarwal has placed reliance on the decision of the Supreme Court in **Kolkata Municipal Corporation & Anr. Versus Bimal Kumar Shah & Ors.**[2].

2Civil Appeal No. 6466 of 2024, decided on 16 May 2024.

G. Submissions on behalf of MIDC (Respondent No.2):-

28. On the other hand, Mr. Prashant Chawan, learned senior counsel for the respondent-MIDC, at the outset, has submitted that the petition is an abuse of the process of law, inasmuch as, it is filed after an unexplained delay of 38 years from the possession of the land being taken over by the State Government and handed over to the MIDC for public purpose. It is his submission that there is not a whisper of explanation in the memo of writ petition, much less any justification on such gross delay of the petitioner in approaching this Court, when in a wholesome manner the acquisition, which had taken place in the year 1971, is the subject matter of challenge in the present petition and more particularly as seen from the amended prayers. It is next submitted that the predecessor-in-title of the land, namely, the petitioner's father during his lifetime i.e. upto 25 August 2002, never questioned the acquisition nor did he have any grievance of compensation not being paid. It is also his submission that the cause of action being urged on behalf of the petitioner, that merely because the petitioner came to know that in the revenue records, the acquired land was shown in the name of the Government, can hardly be any cause to maintain this petition as consequent to the acquisition of the land, the Government's name has continued to remain on the revenue's record since the year 1971 when the land was acquired. Mr. Chawan would thus submit

that the entire basis for the petitioner to approach this Court on such cause of action is nothing but a frivolous plea being advanced by the petitioner.

29. Mr. Chawan would next submit that the petitioner's case in the writ petition is a false case, when the petitioner has attributed all the events in the petition to his personal knowledge that too when he was a minor. This more particularly when the petitioner has no justification whatsoever to wriggle out of the binding orders passed by this Court under the Consent Terms dated 03 December 1968 (supra), in terms of which the petitioner's father's Special Civil Application No. 767 of 1966 was disposed of, wherein the petitioner's father had furnished an undertaking to the Court that he had agreed to the acquisition of land in question i.e. Survey No. 137, admeasuring 4 acres and 15 gunthas also, as clearly set out in paragraph 2 of the consent terms, the petitioner's father had undertaken to the Court not to raise an objection in regard to such acquisition. It is also Mr. Chawan's submission that the petitioner cannot exploit the passage of time and as a result of which, the non-availability of the record with the SLAO, to his advantage to assert such falsity that the land of the petitioner was not acquired and more so in the teeth of the orders passed by this Court and the agreement of the petitioner's father to such acquisition even before this Court. It is his submission that the principle of delay and laches as applicable to this case is of paramount importance which is intended to

prevent parties to raise such frivolous pleas and resurrect, concluded issues involving state authorities. It is hence submitted that no sanctity can be attributed to such plea as raised by the petitioner in challenging the acquisition.

30. Mr. Chawan would next submit that the plea as urged on behalf of the petitioner is in fact in the teeth of the provisions of Section 32 of the MID Act, namely, that by issuance of the notification and the possession of the land being taken over, the land unquestionably had stood vested with the State Government, and in the present case the things proceeded further to the effect that the possession of the land was taken over as recorded in the panchanama, which were never questioned by the petitioner's father since the year 1972. It is submitted that this brings about a clear situation that the acquisition of the land in question had attained finality. It is his submission that once in law the land had stood vested with the State Government, there was no question of the acquisition proceedings being rendered illegal and that too after almost four decades from the conclusion of the acquisition proceedings. Mr. Chawan would thus submit that once the vesting of the land with the MIDC as acquired itself was complete, there is no question of the Court granting any relief to the petitioner as ambitiously prayed.

31. Mr. Chawan would also submit that the original frame of the petition as filed in the year 2010 if seen, the petition warranted dismissal. It is his submission that the petitioner, however, exploited the pendency of the petition by knocking the doors of different authorities and generated materials which includes gathering internal notings of the petitioner's plea, more particularly the authorities recording on the petitioner's demand for a copy of the award and/or details of the compensation being not made available. According to Mr. Chawan, this is the main plank of the petitioner's case in support of the contention that there is no acquisition whatsoever in law.

32. Mr. Chawan would next submit that the pleas as raised by the petitioner are bogus pleas. In this context, it is his submission that the High Court in its writ jurisdiction under Article 226 of the Constitution would not delve on inquiries into the old records and/or any factual disputes on the availability of the record etc. and/or adjudicate on any internal notings, which are contemporarily generated so as to come to a conclusion that the land is not acquired. Mr. Chawan, in support of his contention on the interpretation of the provisions of the scheme of the MID Act and more particularly Section 32 of the MID Act, has placed reliance on a decision in case of **The Special Land Acquisition Officer,**

Kiadb, Mysore & Anr. Versus Anasuya Bai (D) by Lrs. & Ors.[3] as also followed by a co-ordinate Bench of this Court in **M/s. Super Electrical and Engineering versus The Collector, Pune & Ors.**[4]. Mr. Chawan would accordingly submit that the petition deserves to be dismissed.

H. Submissions on behalf of State Government and SLAO (Respondent Nos.1 & 3):-

33. Mr. Kankal, learned AGP has adopted the submissions of Mr. Chawan. He would also draw the Court's attention to the reply affidavit, to submit that the present petition is an abuse of the process of law and on the count of being barred by delay and laches, deserves to be dismissed. It is submitted that the petitioner's father never questioned the acquisition from the year 1972 till he passed away in the year 2002. It is submitted that the petitioner's mother, who is stated to have purportedly succeeded in the interest of the petitioner's father, never questioned the acquisition. Mr. Kankal would also submit that the entire basis for the petitioner to file this petition on the mere knowledge of the revenue records/ record of rights, can by no stretch of imagination constitute any cause of action to maintain a petition under Article 226 of the Constitution and to challenge acquisition proceedings in respect of the land in question which according to him, commenced from 1963 and attained finality after the consent terms

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3 2017 (3) SCC 313

4 Writ Petition No. 3564 of 2013, decided on 11 July 2017

were filed before this Court on 03 December 1968 in the proceedings initiated by the petitioner's father. It is submitted that thereafter the notifications were issued under Section 32 of the MID Act on 05 January 1971 and 16 October 1971, which concluded the acquisition which was never questioned by the petitioner's father. It is hence submitted that the petitioner has no locus to maintain this petition. Mr. Kankal would accordingly submit that the petition be dismissed with compensatory costs.

I. Analysis:-

34. We have heard learned Counsel for the parties, with their assistance we have perused the record. At the outset, the relevant provisions insofar as the acquisition and disposal of the land under the MID Act are required to be discussed and noted.

35. Chapter VI of the MID Act deals with the 'Acquisition and Disposal of Land'. The relevant provisions being Section 31 which deals with 'Application'; Section 32 providing for 'Compulsory acquisition'; Section 33 providing for 'Compensation'; Section 34 provides for an 'Appeal to Authority', Section 35 deals with 'Disputes as to apportionment' and Section 36 deals with 'Payment of compensation'. We may note the provisions of Section 31 to Section 34 which read thus:-

"**31. Application.** - The provisions of this Chapter shall apply to such areas from such dates as have been notified by the State Government under sub-section (3) of section 1.

32. Compulsory acquisition.- (1) If, at any time in the opinion of the State Government, any land is required for the purpose of development by the corporation, or for any other purpose in furtherance of the objects of this act, the State Government may acquire such land by publishing in the Official Gazette a notice specifying the particular purpose for which such land is required, and stating therein that the State Government has decided to acquire the land in pursuance of this section.

(2) Before publishing a notice under sub-section (1), the State Government shall by another notice call upon the owner of the land and any other person who in the opinion of the State Government may be interested therein, to show cause, within such time as may be specified in the notice, why the land should not be acquired. [The State Government shall also cause public notice to be given in the manner laid down in section 53 and in the Official Gazette]

[Provided that, if the land proposed to be acquired falls within a scheduled Area then the State Government shall before such acquisition consult,--

(i) the Gram Sabha and the Panchayat concered if the land is falling within the area of one Panchayat;

(ii) the concerned Gram Sabhas and the Panchayat Samiti if the land falling within the area of more than one Panchayats in the Block concerned;

(iii) the concerned Gram Sabhas and the Zilla Parishad if the land is falling within the area of more than one Block in the district concerned;

such consultation shall be carried out in the manner as may be !aid down by the State Government by issuing a general or special order in this behalf:

Provided that the decision taken by the majority of the Gram Sabhas concerned by passing a resolution in the above matters shall be binding on the concerned Panchayat Samiti or the Zila Parishad as the case may be.

Explanation. - For the purposes of these provisos,-

(i) the expressions "Gram Sabha" or "Panchayat" and "Scheduled Areas" shall have meanings, respectively, assigned to them in the Bombay Village Panchayats act, 1958;

(ii) the expressions "Panchayat Samiti" and "Zilla Parishad" shall have the meaning, respectively, assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.]

(3) After considering the cause, if any, shown by the owner of the land and by any other person interested therein, and after

giving such owner and person an opportunity of being heard, the State Government may pass such orders as it deems fit.

(4) When a notice under sub-section (1) is published in the Official Gazette, the land shall, on and from the date of such publication, vest absolutely in the State Government free from all encumbrances:

[Provided that, if, before actual possession of such land is taken by or on behalf of the State Government, it appears for the State Government that the land is no more required for the purposes of this Act, the State Government may, by like notice, withdraw the land from acquisition and on the publication of such notice in the Official Gazette, the land shall revest with retrospective effect in the person in whom it was vesting immediately before the publication of the notice under sub-section (1) subject to such encumbrances, if any, as may be subsisting at that time. The owner and other persons interested shall be entitled to compensation for the damage, if any, suffered by them in consequence of the acquisition proceedings as determined in accordance with the provisions of section 33.]

(5) Where any land is vested in the State Government under sub-section (4) the State Government may, by notice in writing, order any person who may be in possession of the land to surrender or deliver possession thereof to the State Government or any person duly authorised by it in this behalf within thirty days of the service of the notice.

(6) if any person refuses or fails to comply with an order made under sub-section (5), the State Government may take possession of the land and may for that purpose use such force as may be necessary.

(7) [where the land has been acquired for the corporation or any local authority, the State Government shall, after it has taken possession thereof, by notification published in the Official Gazette, transfer the land to the Corporation or that local authority, as the case may be, for the purpose for which it was acquired, and the provisions of section 43-1A shall apply to any land so transferred]

33. Compensation (1)Where any land is acquired by the State Government under this Chapter, the State Government shall pay for such acquisition compensation the amount of which shall be determined in accordance with the provisions of this section.

(2) Where the amount of compensation has been determined by agreement between the State Government and the person to be compensated, it shall be determined in accordance with such agreement.

(3) Where no such agreement can be reached, the State

Government shall refer the case to the Collector for determination of the amount of compensation to be paid for such acquisition as also the person or persons to whom such compensation shall be paid:

[Provided that, no compensation exceeding such amount as the State Government may by general order specify, to be paid for such acquisition shall be determined by the Collector without the previous approval of the State Government or such officer as the State Government may appoint in this behalf.]

[Provided further that, the State Government while issuing the general order under the preceding proviso shall adhere to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) relating to the determination of amount of compensation in accordance with the First Schedule, and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families.]

[(3A) Notwithstanding anything contained in sub - section (3) if, after the case is referred to the Collector under that sub-section but before he has finally determined the amount of compensation, such amount is determined by agreement between the State Government and the person to be compensated, the compensation shall be determined by the Collector in accordance with such agreement.]

[Sub-section (3A) was inserted by Maharashtra 18 of 1975, Section 13.]

(4) Before finally determining the amount of compensation, the Collector shall give an opportunity to every person to be compensated to state his case as to the amount of compensation.

[(5) In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 26 to 30 and other relevant provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, subject to the modifications that, the reference in section 26 to " the date on which notification has been issued under section 11 ", shall be the reference as " the date of the service of publication of the notice under sub-section (2) of section 32 of this Act in the manner for the time being laid down under this Act ", and the reference in section 28 to " the time of the publication of the declaration under section 19 " shall be the reference as " the date of the publication of the notice under sub-section (1) of section 32 of this Act in the Official Gazette.]

(6) For the purpose of determining the amount of compensation-

(a) the Collector shall have power to require any

person to deliver to him such returns and assessments as he considers necessary;

(b) the Collector shall also have power to require any person known or believed to be interested in the land to deliver to him a statement containing, as far as may be practicable, the name of every other person having any interest in the land as co-owner, mortgagee, tenant, or otherwise, and the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(7) Every person required to deliver a return, assessment or statement under sub-section (6) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

(8) The Collector may hear expert witnesses if it be necessary to do so in any particular case.

(9) The Collector or any officer authorised by him in this behalf shall be entitled to enter on and inspect any land which is subject to proceedings before him.

(10) The Collector shall dispose of every case referred to him under sub-section (3) for determination of compensation as expeditiously as possible and in any case within such time as may be prescribed by rules.

(11) The Collector shall determine the amount of cost incurred in any case disposed of by him under the section, and by what persons and in what proportions they are to be paid.

[(12) Where any case is referred to any Collector under sub-section (3), the State Government may, at any stage, by order in writing and for reasons to be recorded therein, transfer it to any other Collector, and upon such transfer, unless some special directions are given in the order, the Collector to whom the case is transferred may hear and dispose of the case from the stage at which it was transferred, or the case may be heard and disposed of by him de novo.]

34. Appeal to Court. - [(1) Any person aggrieved by the decision of the Collector determining the amount of compensation may, within sixty days from the date of such decision, so far as it affects him, by written application to the Collector require that the matter be referred by him for determination of the Authority and when any such application is made, the provisions of Chapter VIII of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, shall mutatis mutandis apply to further proceedings in respect thereof.]

(2) The decision of the [Authority] [on such reference] and

> subject only to such decision, the decision of the Collector determining the amount of the compensation, shall be final."

Discussion on the provisions (paragraphs 36 and 37):-

36. On a plain reading of Section 32 of the MID Act, it is seen that the provision pertains to compulsory acquisition of land, which in the opinion of the State Government, is required for the purpose of development by the Maharashtra Industrial Development Corporation or for any other purpose in furtherance of the objects of the Act. To acquire such land, the State Government would publish in the Official Gazette a notice specifying the particular purpose for which such land is required and stating therein, that the State Government has decided to acquire the land in pursuance of this provision. Sub-section (2) contemplates that before publishing a notice under sub-section(1), the State Government shall by another notice call upon the owner of the land and any other person who in the opinion of the State Government may be interested therein, to show cause, within such time as may be specified in the notice, why the land should not be acquired. It also provides that the State Government may cause public notice to be given in the manner laid down in Section 53 and in the Official Gazette. A "proviso" came to be inserted in sub-section (2) by the Maharashtra Act No. 11 of 1967, which ordains that if the land proposed to be acquired falls within a Scheduled Area, then the State Government shall before such acquisition consult the bodies as set out in Clauses (i) to (iii). Sub-section

(3) provides that after considering the cause, if any, shown by the owner of the land and by any other person interested therein, and after giving such owner and person an opportunity of being heard, the State Government may pass such orders as it deems fit. Sub-section (4) provides that when a notice under sub-section (1) is published in the Official Gazette, the land shall, on and from the date of such publication, vest absolutely in the State Government free from all encumbrances. Proviso to sub-section (4) was inserted by Maharashtra Act No. 18 of 1975, which ordains that before actual possession of such land is taken by or on behalf of the State Government, if it appears for the State Government that the land is no more required for the purposes of the Act, the State Government may, by like notice, withdraw the land from acquisition and on the publication of such notice in the Official Gazette, a consequence of which the land shall revest with retrospective effect in the person in whom it was vesting immediately before the publication of the notice under sub-section (1), subject to such encumbrances, if any, as may be subsisting at that time. Such proviso is akin to the provisions of section 48 of the Land Acquisition Act, 1894. Further sub-section (5) provides that where any land is vested in the State Government under sub-section (4), the State Government may, by notice in writing, order any person who may be in possession of the land to surrender or deliver possession thereof to the State Government or any

person duly authorized by it in this behalf, within thirty days of the service of the notice. Sub-section (6) provides that if any person refuses or fails to comply with an order made under sub-section (5), the State Government may take possession of the land, and may for that purpose use such force as may be necessary. Sub-section (7) provides that where the land has been acquired for the Corporation or any local authority, the State Government shall, after it has taken possession thereof, transfer the land to the Corporation or that local authority, as the case may be, for the purpose for which it was acquired and the provisions of Section 43-A shall apply to any land so transferred. Thus, Section 32 provides for a complete scheme under which on issuance of a notice under sub-section (1) of Section 32, the land shall vest absolutely in the State Government free from all encumbrances.

37. Section 33 of the MID Act is another relevant provision, providing that where any land is acquired by the State Government under Chapter VI of the MID Act, the State Government shall pay for such acquisition compensation the amount of which shall be determined in accordance with the provisions of the section. Sub-sections (2) to (12) of Section 33 provides for a complete scheme in regard to the determination of compensation. Section 34 provides for Appeal to Appellate Authority in the event a person is aggrieved by the decision of the Collector determining

the amount of compensation. Section 35 provides for 'Disputes as to apportionment'. Section 36 provides for 'Payment of Compensation' where the amount of compensation is determined under an agreement. The other provisions of Chapter VI need not be discussed, as they may not be relevant in the context in hand, suffice it to observe that Chapter VI appears to be a code in itself applicable to the acquisition of land under the MID Act.

38. Insofar as the present proceedings are concerned, it is not in dispute that a notification under section 32(1) of the MID Act was issued on 16 October, 1971. By virtue of such notification, land had stood vested with the State of Maharashtra and thereafter physical possession of the land was also taken over on 28 January, 1972 as evidenced by the panchanama as also the subsequent mutation entries, which came to be made in the revenue records namely the 7/12 extracts. The only method by which the land which stood acquired, to be withdrawn from the acquisition, could be by a procedure as stipulated under the proviso below sub-section (4) of Section 32 as discussed hereinabove, which came to be inserted under the Maharashtra Act No. 18 of 1975, which was not available at the relevant time when the notification under section 32(1) was issued and the possession of the petitioner's land was not on the statute book. Thus, it is from such legal perspective if the present proceedings are considered in the context of the prayers as made by the petitioner, there appears to be no

doubt that the said land stood acquired and vested with the State Government and handed over to the MIDC.

39. Apart from what has been observed hereinabove, what is most significant and imperative, is the objection as raised by the respondents on the petition being barred by delay and laches. We find that there is substance in the contentions as urged on behalf of the respondents, for more than one reason, which we set out hereunder:

(i) There is no averment whatsoever in the petition to explain or justify the delay in filing of the petition when the legal consequences of the land having stood vested with the State Government had occurred on 16 October, 1971 when notice under Section 32(1) of MID Act came to be issued.

(ii) At no point of time during the lifetime of the petitioner's father, who passed away on 25 August 2002, did he ever raise any objection much less a challenge in a manner known to law. He also never raised any issue on the compensation.

(iii) The petitioner's mother, who is stated to have been bequeathed the petitioner's father interest in the property, also never asserted anything in regard to this acquisition till her lifetime, i.e., upto 23 November 2009.

40. Having noted the aforesaid major reasons, we may observe that there is no dispute whatsoever on the petitioner's father giving an undertaking to this Court in the Consent Terms filed by him in the proceedings of Special Civil Application No. 767 of 1966 when he agreed to the acquisition of the land in question (Survey No. 137, area admeasuring 4 acre 15 gunthas), and it was in lieu of certain other lands of the petitioner being deleted from acquisition. This petition as filed originally (before amendments) was only on the basis of three documents, namely, consent terms, panchanama and copies of revenue records and without any assertion on any dispute being raised either by the petitioner's predecessor in title or by the petitioner. However, the pendency of the petition was sought to be utilized by the petitioner to his advantage, inasmuch as, the petitioner knocked the doors of other authorities so as to gather and/or generate documents, and on obtaining such materials, has tried to support the prayers to raise a specious plea that as no record of the acquisition is available, it needs to be presumed that the said land was never acquired and compensation not paid.

41. As rightly contended on behalf of the respondents, this was a well thought of *modus operandi,* as this made it possible for the petitioner to raise a plea that no record of acquisition was available with the respondents, hence, a contention could be raised of the land being not acquired. If such plea is accepted, every acquisition which had taken place about 30-50 years

back for want of record would be required to be held illegal. This is too much of expectation of the petitioner and in fact a frivolous plea.

42. In our opinion, the record clearly shows that much water had flown under the bridge since the time the land had stood vested with the State Government, i.e., on the publication of notice under section 32(1) of the MID Act on 16 October 1971 and the clear position on record that the possession of the land was taken over and consequential revenue entries being made in the record of rights recognizing the acquisition, which is also being disputed by the petitioner.

43. We may observe that in respect of old concluded acquisitions, it is certainly not possible for the State Government to preserve documents in respect of hundreds of acquisitions which take place long-long years back, as in the present case. The acquisition in question is not a contemporary acquisition, which could be said to have happened in the near past, and it is for such reason the State Government on affidavit has stated that it is not in a position to provide any documents of compensation being paid to his father, who had never asserted for compensation and possibly nay imminently for the reason that he has received compensation more significantly when he was a person so conscious of his legal rights, even to knock the doors of this Court questioning the acquisition in the

proceedings of Special Civil Application no. 767 of 1966 and thereafter compromising the said proceedings.

44. If the contention as urged on behalf of the petitioner to reopen such past acquisitions, which are very old acquisitions, is to be accepted, it would bring about a chaotic situation, inasmuch as, concluded land acquisitions would be required to be reopened on such ground, when record of such acquisitions and compensations or other record in relation to the acquisition is not available, on a presumption that the land was not acquired. Thus, such contention looked from any angle needs to fail. The reason being that non-existent or dead legal rights to assert such contentions cannot be resurrected as any right to question such acquisition as in the present case had certainly stood lapsed and deeply buried about 40 years back.

45. If at the relevant time a legitimate grievance was raised and redressed, the party who was to be aggrieved could have taken recourse to appropriate remedy available in law. Thus, the acceptance of the petitioner's arguments would also lead to a complete absurdity inasmuch as all such rights, which stood concluded during the lifetime of the petitioner's father without the petitioner's father asserting the same, cannot now be reopened. To accept the petitioner's contention, the well-settled principles of estoppel and the principles of doctrine of delay and laches would be

required to be discarded to entertain such plea. In our considered opinion, the respondent's contention of this petition being barred by delay and laches deserves total acceptance. The legal principles on delay and laches can be discussed.

46. In **Mutha Associates & Ors. vs. State of Maharashtra & Ors.**[5], the Supreme Court in the context of the provisions of Section 48(1) read with Sections 4 and 6 of the Land Acquisition Act, 1894 had an occasion to consider the principles of delay and laches, when it was held that the appellants therein ought to have challenged the acquisition proceedings without any loss of time and having failed to do so, they were not entitled to claim any relief in the extraordinary jurisdiction exercised by the High Court under Article 226 of the Constitution. Referring to several decisions on such issue, the Supreme Court observed that the common thread running through all such decisions, was to the effect that in order to succeed in a challenge to the acquisition proceedings, the interested person must remain vigilant and watchful. It was observed that if instead of doing so, the interested person allows the grass to grow under his feet, he cannot invoke the powers of judicial review exercisable under Article 226 of the Constitution. It was observed that the failure of the interested persons to seek redressal at the appropriate stage and without undue delay, in such

5 (2013) 14 SCC 304

cases would give rise to an inference that they have waived of their objections to the acquisitions. It was held that the High Court can legitimately decline to invoke its powers of judicial review to interfere with the acquisition proceedings under Article 226 of the Constitution if the challenge to such proceedings is belated and the explanation offered a mere moonshine. The observations as made by the Supreme Court are required to be noted, which reads thus:

> "21. The position is no different in the instant case. The appellant owners or Mutha Associates, the builders did not file any objections or move their little finger till the making of the award by the Collector. Instead of filing of the objections, opposing the proposed acquisition before the Collector and seeking redress at the appropriate stage they remained content with making representations to the Minister which was not a remedy recognised by the statute. It was only after the Collector had made his award and after notice for taking over possession was issued by the appellants that they rushed to the civil court with a suit in which too they did not assail the validity of the declaration under Section 26(2) of the MRTP Act read with Section 6 of the Land Acquisition Act. The remedy by way of a suit was clearly misconceived as indeed this Court declared it to be so in *State of Bihar* v. *Dhirendra Kumar* [(1995) 4 SCC 229] . The appellants could and ought to have challenged the acquisition proceedings without any loss of time. Having failed to do so, they were not entitled to claim any relief in the extraordinary jurisdiction exercised by the High Court under Article 226 of the Constitution.
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> 22. The view taken by the Constitution Bench in *Aflatoon case* [*Aflatoon* v. *Lt. Governor of Delhi*, (1975) 4 SCC 285] has been reiterated by another Constitution Bench decision in *Indrapuri Griha Nirman Sahakari Samiti Ltd.* v. *State of Rajasthan* [(1975) 4 SCC 296] . To the same effect are the decisions of this Court in *Municipal Corpn. of Greater Bombay* v. *Industrial Development Investment Co. (P) Ltd.* [(1996) 11 SCC 501], *Ramjas Foundation* v. *Union of India* [1993 Supp (2) SCC 20] and *Larsen & Toubro Ltd.* v. *State of Gujarat* [*Larsen & Toubro Ltd.* v. *State of Gujarat*, (1998) 4 SCC 387 : AIR 1998 SC 1608] . The common thread that runs through all these decisions is that in order to succeed in a challenge to the acquisition proceedings the

> interested person must remain vigilant and watchful. If instead of doing so, the interested person allows grass to grow under his feet, he cannot invoke the powers of judicial review exercisable under Article 226 of the Constitution. The failure of the interested persons to seek redress at the appropriate stage and without undue delay would in such cases give rise to an inference that they have waived of their objections to the acquisitions. The bottom line is that the High Court can legitimately decline to invoke their powers of judicial review to interfere with the acquisition proceedings under Article 226 of the Constitution if the challenge to such proceedings is belated and the explanation offered a mere moonshine as is the position in the case at hand. The High Court has in the fact situation of this case rightly exercised its discretion in refusing to interfere with the acquisition proceedings."

47. The applicability of the decision of the Supreme Court in **State of Maharashtra vs. Digambar**[6] is apt insofar as the present proceedings are concerned, inasmuch as, on an undue delay of 20 years on the part of writ petitioner in invoking the High Court's jurisdiction under Article 226 of the Constitution for grant of compensation of the land alleged to have been taken by the Government agencies, it was contended that the land was not at all taken. The Supreme Court observed that it could not be overlooked that it was easy to make such kind of allegations against anybody and that too against the State and in respect of the event which had occurred 20 years earlier, when the State may not at all be in a position to dispute such allegation, having regard to the manner in which it would be required to carry on its governmental functions. The Supreme Court accordingly set aside the order passed by the High Court. The observations of the Supreme Court are required to be noted, which reads thus:

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6 (1995) 4 SCC 683

"19. Power of the High Court to be exercised under Article 226 of the Constitution, if is discretionary, its exercise must be judicious and reasonable, admits of no controversy. It is for that reason, a person's entitlement for relief from a High Court under Article 226 of the Constitution, be it against the State or anybody else, even if is founded on the allegation of infringement of his legal right, has to necessarily depend upon unblameworthy conduct of the person seeking relief, and the court refuses to grant the discretionary relief to such person in exercise of such power, when he approaches it with unclean hands or blameworthy conduct.

20. Laches or undue delay, the blameworthy conduct of a person in approaching a court of equity in England for obtaining discretionary relief which disentitled him for grant of such relief was explained succinctly by Sir Barnes Peacock, long ago, in *Lindsay Petroleum Co.* v. *Hurd* [(1874) 5 PC 221] thus:

> "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 or 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 it relates to the remedy."

21. Whether the above doctrine of laches which disentitled grant of relief to a party by equity court of England, could disentitle the grant of relief to a person by the High Court in exercise of its power under Article 226 of our Constitution, when came up for consideration before a Constitution Bench of this Court in *Moon Mills Ltd.* v. *M.R. Meher, President, Industrial Court* [AIR 1967 SC 1450 : (1967) 2 LLJ 34] , it was regarded as a principle that disentitled a party for grant of relief from a High Court in exercise of its discretionary power under Article 226 of the Constitution.

22. A three-Judge Bench of this Court in *Maharashtra SRTC* v. *Shri Balwant Regular Motor Service* [(1969) 1 SCR 808 : AIR 1969 SC 329] reiterated the said principle of laches or undue delay as that which applied in exercise of power by the High Court

under Article 226 of the Constitution.

23. Therefore, where a High Court in exercise of its power vested under Article 226 of the Constitution issues a direction, order or writ for granting relief to a person including a citizen without considering his disentitlement for such relief due to his blameworthy conduct of undue delay or laches in claiming the same, such a direction, order or writ becomes unsustainable as that not made judiciously and reasonably in exercise of its sound judicial discretion, but as that made arbitrarily.

24. Since we have held earlier that the person seeking grant of relief under Article 226 of the Constitution, even if it be against the State, is required to satisfy the High Court that he was not guilty of laches or undue delay in approaching it for relief, need arises for us to consider whether the respondent in the present appeal (writ petitioner in the High Court) who had sought for relief of compensation on the alleged infringement of his legal right, had satisfied the High Court that he was not guilty of undue delay or laches in approaching it for relief. The allegation of the petitioner in the writ petition, as becomes clear from the judgment under appeal, was that although a certain extent of his land was taken away in the year 1971-72 by the agency of the State for the scarcity relief road works undertaken by the State Government in the year 1971-72, to find work for small agriculturists and agricultural labourers in the then prevailing severe drought conditions, without his consent, he was not compensated therefor, despite requests made to the State Government and various agencies in that regard ever since till the date of filing of the writ petition by him.

25. In our view, the above allegation is in no way sufficient to hold that the writ petitioner (respondent here) has explained properly and satisfactorily the undue delay of 20 years which had occurred between the alleged taking of possession of his land and the date of filing of writ petition in the High Court. We cannot overlook the fact that it is easy to make such kind of allegations against anybody that too against the State. When such general allegation is made against a State in relation to an event said to have occurred 20 years earlier, and the State's non-compliance with petitioner's demands, the State may not at all be in a position to dispute such allegation, having regard to the manner in which it is required to carry on its governmental functions. Undue delay of 20 years on the part of the writ petitioner, in invoking the High Court's extraordinary jurisdiction under Article 226 of the Constitution for grant of compensation to his land alleged to have been taken by the governmental agencies, would suggest that his land was not taken at all, or if it had been taken it could not have been taken without his consent or if it was taken against his

> consent he had acquiesced in such taking and waived his right to take compensation for it.
>
> 26. Thus, when the writ petitioner (respondent here) was guilty of laches or undue delay in approaching the High Court, the principle of laches or undue delay adverted to above, disentitled the writ petitioner (respondent here) for discretionary relief under Article 226 of the Constitution from the High Court, particularly, when virtually no attempt had been made by the writ petitioner to explain his blameworthy conduct of undue delay or laches. The High Court, therefore, was wholly wrong in granting relief in relation to inquiring into the allegation and granting compensation for his land alleged to have been used for scarcity relief road works in the year 1971-72. As seen from the judgment of the High Court, the allegation adverted to above, appears to be the common allegation in other 191 writ petitions where judgments are rendered by the High Court following the judgment under appeal and which are subject of SLPs in this Court that are yet to be registered. We have, therefore, no hesitation in holding that the High Court had gone wholly wrong in granting the relief which it has given in the judgment under appeal, and judgments rendered following the said judgment in other 191 writ petitions, said to be the subject of SLPs or otherwise. All the said judgments of the High Court, having regard to the fact that they were made in writ petitions with common allegation and seeking common relief, are liable to be interfered with and set aside in the interests of justice even though only learned counsel appearing for a few writ petitioners were heard by us."

48. In **Chennai Metropolitan Water Supply and Sewerage Board & Ors. vs. T.T. Murali Babu**[7]**,** the Supreme Court explained the importance of the doctrine of delay and laches and what it observed that the principles of delay and laches cannot be brushed aside and that a writ Court is required to weigh the explanation offered and the acceptability of the same in a case which had four years of delay although not in the context of land acquisition. The observations of the Court on the principle of law would apply with full vigour in the facts of the present case. The Supreme Court

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7(2014) 4 SCC 108

held thus:

> 13. First, we shall deal with the facet of delay. In *Maharashtra SRTC* v. *Balwant Regular Motor Service* [AIR 1969 SC 329] the Court referred to the principle that has been stated by Sir Barnes Peacock in *Lindsay Petroleum Co.* v. *Hurd* [*Lindsay Petroleum Co.* v. *Hurd*, (1874) LR 5 PC 221], which is as follows : (*Balwant Regular Motor Service case* [AIR 1969 SC 329] , AIR pp. 335-36, para 11)
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> > "*11*. … '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.' (*Lindsay Petroleum Co. case* [*Lindsay Petroleum Co.*v. *Hurd*, (1874) LR 5 PC 221] , PC pp. 239-40)"

14. In *State of Maharashtra* v. *Digambar, (1995) 4 SCC 683* while dealing with exercise of power of the High Court under Article 226 of the Constitution, the Court observed that : (SCC p. 692, para 19)

> "*19*. Power of the High Court to be exercised under Article 226 of the Constitution, if is discretionary, its exercise must be judicious and reasonable, admits of no controversy. It is for that reason, a person's entitlement for relief from a High Court under Article 226 of the Constitution, be it against the State or anybody else, even if is founded on the allegation of infringement of his legal right, has to necessarily depend upon unblameworthy conduct of the person seeking relief, and the court refuses to grant the discretionary relief to such person in exercise of such power, when he approaches it with unclean hands or blameworthy conduct."

15. In *State of M.P.* v. *Nandlal Jaiswal* [(1986) 4 SCC 566 the Court observed that : (SCC p. 594, para 24)

> "*24.* … it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic."

It has been further stated therein that : (*Nandlal Jaiswal case,* [(1986) 4 SCC 566, SCC p. 594, para 24)

> "*24.* … If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction."

Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

17. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinise whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of

> justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons — who compete with "Kumbhakarna" or for that matter "Rip Van Winkle". In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."
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> (emphasis supplied)

49. In **Baljeet Singh (Decd.) through LR and Ors. vs. State of Uttar Pradesh & Ors.**[8], the Supreme Court in considering the doctrine of delay and laches in the context of the Land Acquisition Act, made the following observations:

> "7. **The matter requires examination from another aspect viz. laches and delay. It is a very recognised principle of jurisprudence that a right not exercised for a long time is non-existent. Even when there is no limitation period prescribed by any statute relating to certain proceedings, in such cases, courts have coined the doctrine of laches and delay as well as doctrine of acquiescence and non-suited the litigants who approached the court belatedly without any justifiable explanation for bringing the action after unreasonable delay. In those cases, where the period of limitation is prescribed within which the action is to be brought before the court, if the action is not brought within that prescribed period, the aggrieved party loses remedy and cannot enforce his legal right after the period of limitation is over, however, subject to the prayer for condonation of delay and if there is a justifiable explanation for bringing the action after the prescribed period of limitation is over and sufficient cause is shown, the court may condone the delay.** Therefore, in a case where the period of limitation is prescribed and the action is not brought within the period of limitation and subsequently proceedings are initiated after the period of limitation along with the prayer for condonation of delay, in that case, the applicant has to make out a sufficient cause and justify the cause for delay with a proper explanation. It is not that in each and every case despite the sufficient cause is not shown and the delay is not properly explained, the court may condone the delay. To make out a case for condonation of delay, the applicant has to make out a sufficient cause/reason which prevented him in initiating the proceedings

8 (2019) 15 SCC 33

> within the period of limitation. Otherwise, he will be accused of gross negligence. **If the aggrieved party does not initiate the proceedings within the period of limitation without any sufficient cause, he can be denied the relief on the ground of unexplained laches and delay and on the presumption that such person has waived his right or acquiesced with the order. These principles are based on the principles relatable to sound public policy that if a person does not exercise his right for a long time then such right is non-existent**."
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> (emphasis supplied)

50. In a recent decision of the Division Bench of this Court in **Dnyanu Bhiku Tanpure (Since deceased) through LR's Suresh Dnyane Tanpure vs. Deputy Collector, Rehabilitation, Pune & Ors.**[9], to which one of us (Justice G.S. Kulkarni) was a member, the petitioner had approached this Court almost after a period of 33 years of the land acquisition award being passed to assail the acquisition. The Court dismissing the petition made the following observations:

> "**9.** On a perusal of the averments as made in the petition, there is not a whisper in regard to such gross and inordinate delay of more than 33 years in filing present proceedings of both these petitions. In any event, such a prayer which is on the basis that no notice under Section 16(2)(a) was received at the relevant time in the year 1989, is itself a disputed question of fact as the original land owners/predecessors of the petitioners appear to have not raised such issue, if that be so the petitioners are precluded from raising the same for the first time that too after such long long lapse of time. Thus, such issue cannot be gone into the present proceedings. It could not have also been agitated in a civil suit after such a long lapse of 33 years of which the petitioners are aware and for such reason, this is a chance litigation, a total abuse of the process of law. Even otherwise, it is beyond one's imagination as to how such plea as taken in the petition can at all be entertained as the plea is that the predecessor of the petitioner had not received a notice. The successor cannot maintain such assertion and a claim."

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9 2023 SCC OnLine Bom 2017

51. In similar circumstances, in **Tatoba Rama Chavan, through her legal heir Sou. Nanda Balkrishna Mane vs. Collector & Ors.**[10], the Court observed that the petition was blissfully silent on several basic requirements in maintaining a Writ Petition under Article 226 of the Constitution, wherein the process of acquisition which had stood concluded in the year 1983 was sought to be reopened. It was held that the petition which was filed after an inordinate delay of almost 38 years was not maintainable. The following observations of the Court are required to be noted, which reads thus:

> "9. We have come across some proceedings where, as a matter of course, the petitioners whose land was acquired ages back like in the present case. It appears to be a tendency to approach this Court seeking orders that their belated representations be considered. We may observe that when such petitioners have no legal rights, they cannot invoke equity or sympathy that they are project affected persons. This more particularly as the jurisdiction of this Court to issue writs although may be equitable jurisdiction, however, the same is on a foundation of an existing and a live claim on which a litigant may seek a relief on a grievance of infringement of any of his legal rights. If what is being canvassed by the petitioners is accepted, it would result in the Court acting contrary to the mandate of law in issuing directions to the Government to re-open dead cases and make allotment of lands irrespective of the statutory scheme under the enactment, which was prevalent at the relevant point of time and as noted by us above. In our considered opinion, a loud and clear message has to go to such litigants who in fact attempt to abuse the process of law to approach the Court in belated claims. The present case is one such classic example of such dead claim being pursued. The only consequence is that such petitions are required to be, at the threshold, kept away from crowding the Courts, as they are clearly an abuse of the

10 2023 SCC OnLine Bom 1520

process of law.

> **10.** Thus, in our view, the present petition is not maintainable under Article 226 of the Constitution of India. The Petitioner has approached this Court after an inordinate delay of almost 38 years from the date of the land having being acquired. The petitioner has not bothered to explain the delay of almost 37 years in making an application in the year 2020 to enforce the award passed in the year 1983. Even if the year 1999, when the Maharashtra Project Affected Persons Rehabilitation Act, 1999, came into existence is considered, even then the petitioner's application dated 17th January 2020 seeking allotment of the land is filed after a period of more than 20 years and there is no explanation for the delay of 20 years. In our view, as the petition is filed after gross delay and laches and such a Petitioner, who slept over his/her rights for almost three decades, cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, moreso, when there is no averment in the petition explaining the delay."

52. In **Sureshkumar Shrikisan Bhayya & Anr. vs. State of Maharashtra, through Secretary, Urban Development Dept. & Ors.**[11], a Division Bench of this Court, to which one of us (Justice G.S. Kulkarni) was a member, was dealing with a case where the cause of action was being espoused after a delay of 12 years in respect of the land which had stood vested with the Municipal Corporation. Considering the objection of delay and laches in maintaining a Writ Petition, the Court observed that the petitioners have slept over their rights for a period of 12 years. The Court held that the petition being barred by the principles of delay and laches considering the principles of law as discussed in the decision of this Court in **Sansar Texturisers Pvt. Ltd. vs. Union of India & Ors.**[12] and the decisions of the

11 Writ Petition No. 638 of 2021 decided on 29 February, 2024

12 2024 SCC OnLine Bom 235

Supreme Court in **Shiv Dass vs. Union of India**[13], **Chennai Metropolitan Water Supply and Sewerage Board vs. T.T. Murali Babu** *(supra)*, **Baljeet Singh (dead) through Legal Representatives vs. State of Uttar Pradesh** *(supra)* and **Union of India vs. N. Murugesan**[14] when it was held that the petition being filed with an inordinate delay was not maintainable.

53. Thus, adverting to the well-settled principles of law on the doctrine of delay and laches as applied to the facts of this case, it would be unconscionable that this Court nonetheless exercise jurisdiction under Article 226 of the Constitution to entertain a plea against the acquisition of the land in question, which had taken place in the year 1971 and 1972 and grant reliefs to the petitioner. Thus, the reliefs as prayed for, in our opinion, surpass all cannons of judicial principles which are required to be adhered by the Court in exercising its extraordinary jurisdiction under Article 226 of the Constitution.

54. Although we have come to the aforesaid conclusion, for the sake of completeness, we deal with the other contentions as urged by the petitioner. The petitioner's contention that the acquisition is not completed, as there is no award passed or no compensation is paid, needs to be outrightly rejected. As observed above, the petitioner is estopped from raising such contention after 38 years of the land having stood vested with the State

13 (2007) 9 SCC 274

14 (2022) 2 SCC 25

Government in regard to which there is no dispute and on which the petitioner or predecessor-in-title of the petitioner till filing of this petition, had never made any representation and/or had accepted the acquisition in its totality. Insofar as the petitioner's contention that the possession of the land is with the petitioner, we may observe that the same is wholly untenable and contrary to the panchanama and the record of the acquisition under which the possession of the land was handed over by the State Government to the MIDC. Any issue the petitioner may raise in disputing the panchanama or to assert the fact that the petitioner despite this document has remained in possession, are issues in the realm of disputed questions of facts which cannot be gone into in exercise of the writ jurisdiction of this Court under Article 226 of the Constitution. In any event, if the possession is with the petitioner, the petitioner never filed a civil suit for any declaratory relief and possibly because such suit itself would be barred by limitation and for such reason has chosen to file the present writ petition. Thus, looked from any angle, the petition needs to fail.

55. On the proposition that there cannot be lapsing of acquisition under the MID Act, Mr. Chawan has placed reliance on the decision of the Supreme Court in **The Special Land Acquisition Officer, Kiadb, Mysore & Anr. vs. Anasuya Bai (D) by Lrs. & Ors**. (supra) to contend that the Court

in such case was dealing with Karnataka Industrial Areas Development Act, 1966 (for short the "**KIAD Act**"), the provisions of which are akin to the MID Act, with which the present proceedings are concerned. The Supreme Court held that insofar as the acquisition under the KIAD Act is concerned, the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 ('**2013 Act**'), were not applicable. One of the questions considered by the Court was whether the provisions of the 2013 Act was applicable when the land was acquired under the provisions of KIAD Act namely whether by virtue of Section 24(2) of the 2013 Act, the acquisition proceedings under the KIAD Act had lapsed, as there being no award within the stipulated time. This issue was answered in the negative. The Supreme Court observed thus:

> "The undisputed facts which emerge on record, are the following: On 15-9-2000, a preliminary notification under Section 28(1) of the KIAD Act was published. It was followed by final notification dated 15-6-2005 under Section 28(4) of the KIAD Act. With the issuance of notification under Section 28(4) of the KIAD Act, the land stood vested absolutely in the State Government, free from all encumbrances (See Section 28(5) of the KIAD Act).
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> 21. Next step was to take the possession of the land as per the procedure stated in sub-sections (6) and (7) of Section 28 of the KIAD Act and to pay the compensation as provided under Section 29 of the KIAD Act. The State Government had constituted the Advisory Committee consisting of 8 persons which deliberated with the land owners in order to arrive at consensual figure of the compensation. Notice dated 23rd August, 2005 was issued in this behalf fixing the date of meeting as 9th September, 2005 with request to the land owners to attend the said meeting. Appellants have placed on record proceedings of the said meeting held on 9th September, 2005 as per which consent agreement was arrived at whereby compensation was fixed at Rs.6,50,000/- per acre.
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> …. …. …. ….

> 29. This approach of the High Court, we find, to be totally erroneous. In the first instance, matter is not properly appreciated by ignoring the important aspects mentioned in para 24 above. Secondly, effect of non- applicability of Section 11A of the Old LA Act is not rightly understood. The High Court was not oblivious of the judgment of this Court in M. Nagabhushana's case which is referred by it in the aforesaid discussion itself. This judgment categorically holds that once the proceedings are initiated under the KIAD Act, Section 11A of the Old LA Act would not be applicable. Such an opinion of the Court is based on the following rationale: (M. Nagabhushana v. State of Karnataka, (2011)3 SCC 408, SCC pp.420-22, paras 29-36)
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> ….. .. … … …
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> 30. Having regard to the aforesaid raison d'etre for non-application of the Old LA Act, on the parity of reasoning, provision of Section 24(2) of the New LA Act making Section 11A of the Old LA Act would, obviously, be not applicable. We would like to refer to the judgment in the case of State of M.P. Vs. M.V.Narasimhan (1975)2 SCC 377 in this behalf where following proposition is laid down:
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> "Where a subsequent Act incorporates provisions of a previous Act, then the borrowed provisions become an integral and independent part of the subsequent Act and are totally unaffected by any repeal or amendment in the previous Act. This principle, however, will not apply in the following cases:
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> (a) where the subsequent Act and the previous Act are supplemental to each other;
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> (b) where the two Acts are in pari materia;
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> (c) where the amendment in the previous Act, if not imported into the subsequent Act also, would render the subsequent Act wholly unworkable and ineffectual; and where the amendment of the previous Act, either expressly or by necessary intendment, applies the said provisions to the subsequent Act."

56. Thus, even if the petitioner's contention of there being no award or payment of compensation qua the land in question is to be accepted (which cannot be asserted under any imagination), there cannot be any lapsing of acquisition, so as to entertain such prayers as made by the petitioner.

57. The decision of the Supreme Court in **The Special Land Acquisition Officer, Kiadb, Mysore & Anr. vs. Anasuya Bai (D) by Lrs. & Ors**. (supra) was considered by the Division Bench of this Court in **M/s. Super Electrical and Engineering vs. The Collector, Pune & Ors**. (supra) wherein the Court

repelled the proposition that there was any lapsing of the acquisition proceedings under the provisions of the MID Act. The following observations are required to be noted which read thus:

> "5…. .. … Similar question came up for consideration in the case of Special Land Acquisition Officer KIADB Mysore and Anr vs. Anasuya Bai (Dead) by Legal Representatives and Ors., (2017) 3 SCC 313, wherein, the contention before the Apex Court was that if an award was not passed within two years from the date of final notification under section 6 of the Land Acquisition Act, 1894, such award, if passed, will be non-est in the eyes of law and the land acquisition proceeding lapses under sub-section (2) of section 24 of the Act 30 of 2013. The question which came up for consideration was whether the provisions of the Act 30 of 2013 were applicable in the instant case when the land is acquired under the provisions of the Karnataka Industrial Area Development Act, 1966.
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> 6. On a reading of the provisions i.e. sub-section (5) of section 33 of the Maharashtra Industrial Development Act, 1961, it is apparent that a reference is made to the Land Acquisition Act, 1894 so far as sections 24 and 27 are concerned, only for the purpose of adopting a formula to determine compensation by the Collector, instead of a different formula under the Maharashtra Industrial Development Act, 1961, sub-section (5) says that the formula enumerated under sections 23 and 24 and other relevant provisions of the Land Acquisition Act, 1894 could be adopted for arriving at the quantum of compensation. By any stretch of imagination, one cannot say that it could be understood as every provision of the Land Acquisition Act, 1894 would be applicable to the Maharashtra Industrial Development Act, 1961 and the Rules, which only mandates that the Collector has to pass an award as expeditiously as possible i.e. within one year or within a further period of 12 months as the State Government may allow, depending upon the case or class of cases. This provides an obligation on the part of the Collector to complete the determination of quantum of compensation normally within one year, but under exceptional cases, within two years, as provided in the Rules. There is no mentioning of lapse of any proceedings positively either under the statute i.e. sub-section (10) of section 33 or under the Rules. In the absence of such provision, one cannot infer that if the determination of compensation, even in the exceptional cases, were to be made within two years, after two years, the proceedings would lapse. Our opinion is further strengthened by the provision of payment of interest vide section 38 of the Maharashtra Industrial Development Act, 1961, where, it says that if the amount of such compensation is not paid or

> deposited on or before taking possession of the land, the Government shall pay the amount of compensation determined with interest thereon at the rate of 4% from the time of taking possession until it shall have been paid or deposited. Such an embargo is foisted on the mechanism so that the Collector would determine the compensation within two years and it cannot be understood as lapsing of proceedings of acquisition."
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> (emphasis supplied)

58. For the aforesaid reasons, we are not inclined to accept the contentions as raised on behalf of the petitioner and that too on a disputed assertion that the possession of the land, *albeit* taken over by the State Government and handed over to the MIDC in the year 1972, has continued to remain with the petitioner and for such reason, there is no acquisition of the land and/or the acquisition has lapsed, although wholly acquiesced and consented by the petitioner's late father in the proceedings of Special Civil Application No. 767 of 1966 filed before this Court. We are also not inclined to accept the petitioner's case that the principles of law as laid down by the Supreme Court in **Kolkata Municipal Corporation & Anr. Versus Bimal Kumar Shah & Ors.** (supra) would become applicable in the facts and circumstances of the present case. The principles of law as laid down in the said decision are salutary. However, in the facts and circumstances of the case where the acquisition had stood concluded in the year 1972, it is too late for the petitioner to raise any contention on the principles as enunciated by the Court in such decision, to reopen the concluded acquisition.

59. In the light of the above discussion, we are of the clear opinion that the present petition is an abuse of the process of law. In fact by such proceedings, the petitioner has intended to speculate and/or tincker with the process of law so as to take a chance. In fact, the petitioner utilised the present proceedings to gather materials by making RTI applications knowing well the pendency of this petition. This is as clear from the variety of documents obtained by him under the garb of pendency of this petition, including to approach the Hon'ble Minister. The record indicates that the petitioner was successful in generating variety of correspondence which was sought to be used to support his contention that as the record of the acquisition was not available, it is deemed, that the land in question was not acquired. As a constitutional Court, all these things cannot be overlooked by us.

60. Considering the reasons which we have recorded as also the position in law, we are certain that this petition is a gross and patent abuse of the process of law. It cannot be dismissed simplicitor. It is thus dismissed with cost quantified at Rs.1,00,000/- (Rupees One lakhs only) which shall be deposited by the petitioner with the National Association for the Blind, Mumbai, within a period of two weeks from today.

61. Dismissed.

62. At this stage, a prayer is made that the order be stayed. Considering the facts of the case, we reject the prayer.

(ADVAIT M. SETHNA, J.) (G. S. KULKARNI, J.)