

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.378 OF 2001

The State of Maharashtra	Appellant
Versus	
Dharmabai Balkrishna Gondhali & Ors.	Respondents

**WITH
INTERIM APPLICATION NO.2462 OF 2026
IN
FIRST APPEAL NO.378 OF 2001**

The City And Industrial Development Corporation Of Maharashtra Limited	Applicant
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IN THE MATTER BETWEEN

The State of Maharashtra	Appellant
Versus	
Dharmabai Balkrishna Gondhali & Ors.	Respondents

**WITH
FIRST APPEAL NO.721 OF 2004**

The State of Maharashtra	Appellant
Versus	
Hari Kachar Waskar & Ors.	Respondents

**WITH
FIRST APPEAL NO.719 OF 2004**

The State of Maharashtra	Appellant
Versus	
Smt. Dharmabai Balkrishna Gondhali is Deleted as expired Rsp Nos. 2 To 5 Lr	Respondents

WITH
CIVIL APPLICATION NO.103 OF 2004
IN
FIRST APPEAL NO.719 OF 2004

The State of MaharashtraApplicant

IN THE MATTER BETWEEN

The State of MaharashtraAppellant

Versus

Smt. Dharmabai Balkrishna Gondhali
is Deleted as expired

Rsp Nos. 2 To 5 LrRespondents

WITH
INTERIM APPLICATION (ST) NO.8951 OF 2026
IN
FIRST APPEAL NO.719 OF 2004

The City And Industrial Development
Corporation Of Maharashtra LimitedApplicant

IN THE MATTER BETWEEN

The State of MaharashtraAppellant

Versus

Smt. Dharmabai Balkrishna Gondhali
is Deleted as expired

Rsp Nos. 2 To 5 LrRespondents

WITH
CIVIL APPLICATION NO.4529 OF 2008
IN
FIRST APPEAL NO.719 OF 2004

The State of MaharashtraApplicant

IN THE MATTER BETWEEN

The State of MaharashtraAppellant

Versus

Smt. Dharmabai Balkrishna Gondhali
is Deleted as expired

Rsp Nos. 2 To 5 LrRespondents

**WITH
CROSS OBJECTION (ST) NO.29055 OF 2007
IN
FIRST APPEAL NO.719 OF 2004**

The State of MaharashtraApplicant

IN THE MATTER BETWEEN

The State of MaharashtraAppellant

Versus

Smt. Dharmabai Balkrishna Gondhali
is Deleted as expired

Rsp Nos. 2 To 5 LrRespondents

**WITH
FIRST APPEAL NO.718 OF 2004**

The State of MaharashtraAppellant

Versus

Smt. Chhindhibai Ganpat Thakur
Deceased Through Her Lrs.1

Smt. Bhimabai Bashri Masane & Ors.Respondents

**WITH
INTERIM APPLICATION (ST) NO.8943 OF 2026
IN
FIRST APPEAL NO.718 OF 2004**

The City And Industrial Development
Corporation Of Maharashtra LimitedApplicant

IN THE MATTER BETWEEN

The State of MaharashtraAppellant

Versus

Smt. Chhindhibai Ganpat Thakur
Deceased Through Her Lrs.1

Smt. Bhimabai Bashri Masane & Ors.Respondents

**WITH
FIRST APPEAL NO.720 OF 2004**

The State of Maharashtra
Versus
Hari Kacher Waskar & Anr.

....Appellant
....Respondents

Mr. A.R. Patil, Addl.G.P. for State.

Mr. S.S. Punde a/w. Deepa Punde, for Respondents.

Ms Aruna G. Koli i/b. Ganesh Koli, for Respondent Nos.2 to 4.

**Mr. G.S. Hegde, Sr. Counsel a/w. Ms P.M. Hansali, for Respondent-
CIDCO.**

Adv. Shriram Kulkarni, for Land Losers.

CORAM: SOMASEKHAR SUNDARESAN, J.

RESERVED ON: APRIL 18, 2026

PRONOUNCED ON : OCTOBER 1, 2026

JUDGEMENT:

Context and Background:

1. Interim Application No.2462 of 2026 (“***Impleadment Application***”) is filed by City and Industrial Development Corporation of Maharashtra Limited (“***CIDCO***”) seeking to be impleaded in the State’s First Appeal No.378 of 2001 (“***Appeal***”) on the premise that CIDCO would be vitally affected by the decision

in the Appeal and that justice, equity and good conscience require it to be heard.

2. The Impleadment Application is strongly opposed on behalf of the land losers. The same issue arises across multiple First Appeal proceedings under the Land Acquisition Act, 1894 (*“LA Act”*) in connection with the Navi Mumbai Project (*“Project”*), for which land had been acquired in the 1970s and the 1980s. The Impleadment Application and Appeal are taken as the lead matter, all the captioned proceedings being similarly placed on this issue.

3. The parties agree that a decision in the Impleadment Application would be dispositive of that issue in all the captioned proceedings, and by consent it was taken up for final hearing before the May vacation.

CIDCO’s Contentions:

4. Mr. G.S. Hegde, Learned Senior Advocate on behalf of CIDCO, submits that CIDCO is entitled to intervene and be heard in these First Appeals on the following grounds:-

A] Various parcels of land acquired by the State of Maharashtra have been vested in CIDCO, which was designated as a company that would defray the compensation payable for the land acquisition, and CIDCO would therefore foot the bill for any enhanced compensation granted either by the Reference Court or by this Court in disposal of the First

Appeal. It is contended that CIDCO must be heard, its inputs and its expertise on the value of the land being vital for a fair and appropriate adjudication of the issues arising in the First Appeals;

B] CIDCO is not merely a recipient of the land acquired by the State but also discharges a portion of the compensation for the land, particularly under the 12.5% incentive scheme (“**12.5% Scheme**”), by which CIDCO provides land losers developed land equivalent to 12.5% of the land area acquired from them under the Project. That 12.5 Scheme was formulated by Government Resolution dated March 6, 1990 (“**1990 GR**”), under which farmers from whom possession of land had been taken, but who had not accepted the compensation as of February 6, 1986 despite declaration of awards, would be allotted 12.5% of the area of land acquired from them, subject to the Land Ceiling laws. The land so provided being developed land, the cost of development having been borne by CIDCO, and the cost of developed land being approximately 33% of the land acquisition cost as judgements of the Supreme Court have held, CIDCO has a clear interest in the discharge of consideration for the land acquisitions, which gives it locus;

C] Section 50 of the LA Act envisages the role played by a local authority or company. Under Section 50(1), where the provisions of the Act are put in force for acquiring land at the cost of any fund controlled

or managed by a local authority or of any company, the charges of and incidental to such acquisition are to be defrayed from such fund or company; and under Section 50(2), such local authority or company may appear and adduce evidence, in any proceeding before the Collector or a Court, for determining the amount of compensation, though it cannot demand a reference under Section 18 of the Act. CIDCO plays such a role in respect of the 12.5% Scheme, and is therefore entitled to be heard in the course of the First Appeal;

D] In certain Special Leave Petitions filed before the Supreme Court by CIDCO, being aggrieved by the enhanced compensation granted by this Court, the Supreme Court has been pleased to remand the matters, thereby allowing CIDCO's Appeals. Once an Appeal filed at CIDCO's instance has been allowed by way of a remand, implicit in such remand is a ruling by the Supreme Court that CIDCO is entitled to be heard.

5. On these grounds, Mr. Hegde would contend that the law declared by a Learned Single Judge (*Coram: Abhay S. Oka J.*) and by a Learned Division Bench (*Coram: A.M. Khanwilkar and K.K. Tated, JJ.*) in appeal, in ***Pareira***¹, no longer holds the field, the Supreme Court having remanded subsequent matters at CIDCO's behest and thereby dealt with the entitlement of CIDCO to

¹ *Single Bench: Percival Joseph Pareira v. Special Land Acquisition Officer & Ors. - (2010) 5 Bom CR 344 and 2010 (1) Mh.L.J. 985; Division Bench: City and Industrial Development Corporation (CIDCO) v. Percival Joseph Pareira & Ors. - 2013 (4) Mh.L.J. 762 and 2013 (4) Bom.C.R. 829*

be heard in these Appeals. He would also rely on *DDA*², where the Delhi Development Authority (“*DDA*”), the authority in charge of town planning, was held to be a “*person interested*” within the meaning of Section 3(b) of the Act and thereby entitled to notice under Section 50(2), giving it an opportunity to adduce evidence when determining compensation, an omission to do so vitiating the award; the same opportunity ought to have been granted by the Reference Court and must be granted in the First Appeal. CIDCO being on par with DDA so far as Navi Mumbai is concerned, CIDCO should have a right to be heard and to adduce evidence when compensation is determined in the First Appeal.

Land Losers’ Contentions:

6. In sharp contrast, Mr. Shriram Kulkarni, Learned Advocate on behalf of the land losers, would point to the scheme of the Act, and in particular to Sections 3(b), 11, 18, 20(b) and 50, to indicate that even in the first instance, the authority determining the compensation did not consider CIDCO to be a person interested and issued no notice. He would also point out that, under the Maharashtra Regional and Town Planning Act, 1966 (“*MRTP Act*”), CIDCO was declared the New Town Development Authority in terms of Section 113(3A) to implement the regional plan for the new town known as

² *Delhi Development Authority v. Bhola Nath Sharma* - **(2011) 2 SCC 54**

Navi Mumbai. He would point to Section 113A of the MRTP Act to indicate that it is the State Government that would acquire, either by agreement or in terms of the LA Act, and the State Government that paid for such acquisition, the land so acquired merely vesting in CIDCO for purposes of this Chapter.

7. Mr. Kulkarni's submission is that CIDCO had no role whatsoever in the acquisition of the land under the LA Act, or in discharging any consideration or compensation in respect of the land so acquired. Even if the State Government directed that CIDCO would defray any enhanced compensation granted in reference or appellate proceedings, CIDCO is but an agent paying on behalf of the State, and it is the State that is the acquirer and has discharged compensation for the acquisition.

8. According to Mr. Kulkarni, the allusion to the 12.5% Scheme is a bogey, the scheme being an independent and distinct incentive scheme brought into force only in 1990, and that too in respect of acquisitions prior to February 6, 1986, where the agricultural land losers had not accepted the compensation computed under the awards. The 12.5% land is not given to the land losers free of cost; the 1990 GR expressly stipulates the terms on which consideration must be discharged by the land losers for it. The allotment is thus a distinct and independent transaction, which could never confer upon CIDCO the status of a company or an authority discharging consideration within the meaning of Section 50(1) of the LA Act.

9. Mr. Kulkarni would also submit that Sections 113 and 113A of the MRTP Act are significantly different from the provisions of the Delhi Development Authority Act, 1957 ("**DD Act**"). Under the DD Act, DDA is the entity that pays the consideration for the land acquired, and therefore has the specific role of being the person at whose instance the acquisition takes place. In sharp contrast, in all the matters under consideration it is the State Government at whose behest the acquisitions for the Project took place, with CIDCO playing no distinct, independent or separate role in the payment of compensation under the Act.

10. Mr. Kulkarni would point to the ingredients of Section 23 of the LA Act to show what factors are to be taken into consideration in computing the compensation, and would point out that none of them has any nexus whatsoever with CIDCO for CIDCO to have any role at all in respect of the compensation. He would further contend that Section 50 requires the provisions of the LA Act to have been brought into force for acquiring land at the cost of any fund controlled or managed by a local authority, or of any company at whose behest the compensation and costs incidental to the acquisition are to be defrayed.

11. The decision in *Pareira* has squarely dealt with this issue and demonstrated that it was not at the behest of CIDCO that the State Government effected any acquisition; on the contrary, the State Government

effected the acquisition and simply vested the same in CIDCO to carry out the connected activity as an agent of the State Government, without CIDCO having any interest in the title to the land acquired or in the decision to acquire. This, he would submit, was correctly dealt with in *Pareira*, and even if this Court were to take a different view, judicial discipline would require the Learned Division Bench's judgment in *Pareira* to bind this Single Bench.

12. Mr. Kulkarni would also point to the stance adopted by CIDCO in income tax proceedings, when CIDCO was called upon to pay tax on the money it received from the State Government. CIDCO there successfully argued that its dealings with the State Government were not on a principal to principal basis and that it was merely a pass through for the flow of cash and operational convenience. On that basis it was held not amenable to tax, having no role to play in respect of the land acquisition and acting merely as an operational agent for the convenience of the State Government. The Learned Division Bench in *Pareira* has therefore rightly held that CIDCO cannot approbate and reprobate by taking diametrically opposite positions in different proceedings.

13. Mr. Kulkarni would also contend that holding CIDCO to be a “*person interested*” would have far reaching consequences. If the *DDA* judgment were to be applied, although *DDA* stands on a completely different footing, CIDCO would have to be heard in each of the land references, before the Reference

Court and thereafter before this High Court, and all the acquisitions handled since the 1970s would be rendered a nullity, particularly when CIDCO had no role whatsoever in the decision making of instigating or triggering the land acquisition, in sharp contrast with *DDA*.

Coordinate Bench in Jayprakash Patil :

14. After the matter was heard and reserved, it is found that after the May vacation, a Coordinate Bench of this Court has decided the same question and all the very same issues raised by and against CIDCO. In *Jayprakash Patil*³ (*Coram: Amit Borkar J*), applications by CIDCO to be joined as party respondent in other First Appeals filed by the State against an award of the Reference Court enhancing compensation for lands at Village Bokadvira, Taluka Uran, District Raigad, acquired for the Navi Mumbai Project, have been comprehensively rejected.

15. There too, Mr. Hegde appeared for CIDCO and Mr. Shriram Kulkarni for the land losers, and the grounds urged on either side were substantially those summarised above. How *Jayprakash Patil* addresses each of those grounds is summarised below:

³ *The City and Industrial Development Corporation of Maharashtra Limited (Applicant) in State of Maharashtra v. Jayprakash Janardan Patil – Interim Application No.5184 of 2026 in First Appeal No.1987 of 2025 with Interim Application No.5185 of 2026 in First Appeal No.1983 of 2025, pronounced on July 31, 2026*

A] On the financial burden (set out at ground [A] above), **Jayprakash Patil** has accepted that an authority which has to bear a financial burden may be concerned with the result of the case, but financial burden alone cannot decide legal status. The Court must still examine whether the statute recognises such authority as a necessary or at least a proper party. In any case, acquisition expenses are borne by the State, and CIDCO only receives administrative charges. Therefore, CIDCO does not get the status of necessary or proper party on the basis of this contention (Paragraphs 37 and 52);

B] On the 12.5% Scheme (set out at ground [B] above), **Jayprakash Patil** recorded the submission of CIDCO that **Pareira** had not considered the burden of giving developed land under the 12.5% Scheme and the 1990 GR and also the submission of the land losers that the allotment is an additional benefit for consideration separate from the statutory compensation payable to the land losers, under the policy of the State Government recorded in the 1990 GR, which CIDCO merely implements as an agent. CIDCO has been held to not be a “*person interested*” merely because it develops the acquired lands or that the developed land is offered to the land losers (Paragraphs 10, 16 and 60);

C] On Section 50 of the LA Act (set out in ground [C] above), after setting out the second proviso to Section 6(1) and *Explanation 2* thereto,

Section 3(b) and Section 50, **Jayprakash Patil** has held that Section 50 is attracted only where the acquisition is “*at the cost*” of the local authority or company concerned, which cannot be assumed merely because an authority spends money. The finding in **Pareira** that the Section 6 notification records acquisition at the instance and at the cost of the State Government remains in place. No fund controlled or managed by CIDCO bore that land acquisition cost, and the considerations underlying the decision in **Pareira** are not displaced and continue to operate (Paragraphs 30 to 34 and 43 to 47);

D] On the ground of implications of remand by the Supreme Court (set out in ground [D] above), **Jayprakash Patil** held that those orders direct a fresh hearing and reconsideration of the issues involved and nowhere hold CIDCO to be a “*person interested*” or a necessary or proper party. It is found that the power under Article 136 of the Constitution of India on whether to grant leave to appeal is discretionary, and the disposal of the special leave petitions is not a declaration of law on the issue of CIDCO being a necessary or proper party (Paragraphs 19 and 38);

E] On parallels drawn by Mr. Hegde with **DDA**, **Jayprakash Patil** has held that **DDA**, and indeed other judgements **Neyveli Lignite**

*Corporation*⁴, *Himalayan Tiles*⁵ and *U.P. Awas Evam Vikas Parishad*⁶, all proceed on the basis that the authority claiming the right is the beneficiary for whose benefit the land is acquired or the authority actually bears the liability of acquisition unlike CIDCO, within the meaning of Section 50 of the LA Act. For the reasons alluded to above, this foundation is held to be absent in the instant case because, under Section 113(3A) of the MRTP Act, CIDCO functions as an agent of the State Government and not as the acquiring body; A decision of the Karnataka High Court holding the beneficiary to be a necessary party was distinguished, the controversy here being governed by the MRTP Act and the judgements interpreting it (*Paragraphs 53 to 58*);

F] On the stance taken before the income tax authorities and judicial discipline, *Jayprakash Patil* has noticed the reference by the Learned Division Bench in *Pareira* to the position taken by CIDCO before the Income Tax Appellate Authority that it acted only as an agent, and held that CIDCO cannot claim a different character. It has been held that, in the absence of any change in the statutory provisions or any later pronouncement overruling them, *Pareira* would continue to govern the issue (*Paragraphs 39, 52, 60 and 61*); and

⁴ *Neyvely Lignite Corporation Limited Vs. Special Tahsildar (Land Acquisition)*, Neyvely – **(1995) 1 SCC 221**

⁵ *Himalayan Tiles and Marble (P) Limited Vs. Francis Victor Coutinho* – **(1980) 3 SCC 223**

⁶ *U.P. Awas Evam Vikas Parishad Vs. Gyan Devi* – **(1995) 2 SCC 326**

G] On the material said to be held by CIDCO on valuation, it was held in ***Jayprakash Patil*** that CIDCO may possess relevant records regarding development of the project, but possession of useful evidence confers no statutory right of impleadment. Going by the governing provisions of statute and the status of the person concerned, CIDCO would not have the right to be impleaded as a party to the proceedings (Paragraph 59).

16. Consequently, the operative order in ***Jayprakash Patil*** (Paragraph 62) rejects CIDCO's applications holding that it is neither a necessary party nor a proper party.

17. I have to say that not only have all the issues presented before this Bench been comprehensively answered in ***Jayprakash Patil***, but also that I completely concur with the analysis made in it. I have no reason to disagree with the well-reasoned erudite exposition, which I wholeheartedly endorse and adopt. In the interest of brevity, I see no point in a prolix replication of the reasoning that resonates with me, which is why I have summarised the findings on the grounds presented before me, as above.

Ruling in Shraichi Burdwan:

18. Before parting with this Order, I must place on record the Court's sincere appreciation of the contribution by Mr. Aseem Naphade, Learned Amicus Curiae who provided clear and articulate submissions on the issue.

Suffice it to say the submissions made by Mr. Naphade align with the outcome in *Jayprakash Patil* even while further nuance and detail was presented by him. It is only because it is unnecessary for the outcome that I am refraining from listing out all his submissions here, save one, which merits attention and further reinforces my view.

19. Mr. Naphade placed before me the judgement of a Learned Division Bench of the Calcutta High Court in *Shrachi Burdwan*⁷ (*Coram: Sanjib Banerjee and Suvra Ghosh, JJ.*), which has since been affirmed by the Supreme Court. Land at Burdwan was acquired by the State of West Bengal at the instance of the Burdwan Development Authority (“*BDA*”), a development authority constituted under the West Bengal Town and Country (Planning and Development) Act, 1979, for a satellite township. Before the acquisition was set in motion, BDA had selected a private partner to develop the township, and Shrachi Burdwan Developers Pvt. Ltd. (“*SBDPL*”), which stepped into the shoes of that partner, was under its agreement with BDA, obligated to bear the entire cost of the acquisition, including any enhancement awarded in references under Section 18 of the LA Act.

20. Compensation was substantially enhanced in the land references. SBDPL neither applied to be impleaded in them nor preferred any appeal, but moved a writ petition over two years later to have the enhancements set aside

⁷ *Abdul Aziz & Ors v. Shrachi Burdwan Developers Private Limited & Ors* – **2019 SCC OnLine Cal 4348** (FMA 887 of 2019, decided on September 11, 2019)

for want of notice to it, which the Single Bench allowed by remanding the references. In the appeal by the land losers, the Learned Division Bench of the Calcutta High Court framed the following four questions:

- A] Whether the person implementing the public project under an agreement with the requiring body is a “*person interested*” within the meaning of Section 3(b) of the LA Act;
- B] Whether in that status it was entitled to be a party to the reference under Section 18;
- C] Whether the Reference Court or the land losers were obliged to give it notice or implead it before enhancing compensation; and
- D] Whether the writ petitioners were entitled to the order they had obtained.

21. On the facts, the Learned Division Bench found that the land had been acquired at the behest of BDA and not for the benefit of SBDPL, whose role was to develop the land, the public purpose being the township itself, and that SBDPL could neither assert an identity independent of BDA nor upstage it (Paragraphs 37, 50 and 52). What is decisive, it was held, is the character or status of the person asserting the interest and the nature of its association with the land, and not the timing of that association. A person does not become a person interested merely because the price it pays is linked to the

compensation, or because it ultimately bears that compensation (*Paragraphs 50 and 51*).

22. *Himalayan Tiles* and *U.P. Awas Evam Vikas Parishad* and the other authorities relied upon⁸ were each read as conferring the right of participation on the requiring body, or on the person at whose behest and for whose benefit the acquisition was made. This was held to be incapable of extension to a person standing behind the requiring body. The line of decisions holding that an allottee of acquired land is not a person interested unless the land was acquired for its benefit was applied (*Paragraphs 32, 37 and 39 to 44*). The Learned Division Bench also drew a distinction between “*person interested*” in Section 3(b) and “*any person interested*” in Section 18, the latter being tempered by the proviso to Section 50 (*Paragraph 44*).

23. The four questions framed by the Learned Division Bench were answered as follows:

A] It is doubtful that SBDPL was a person interested at all, although no conclusive answer was necessary because its conduct in not pursuing the proceedings available to it at the appropriate stage disentitled it to relief;

⁸ *Union of India v. Sher Singh* – (1993) 1 SCC 608; *Abdul Rasak Vs. Kerala Water Authority* – (2002) 3 SCC 228; *Hindu Kanya Maha Vidyalaya, Jind Vs. Municipal Committee, Jind* – 1988 Supp SCC 719; *Peerappa Hanmantha Harijan Vs. State of Karnataka* – (2015) 10 SCC 469; and *Satish Kumar Gupta Vs. State of Haryana* – (2017) 4 SCC 760

- B] SBDPL did not appear to be entitled to be a party to the reference;
- C] Neither the Reference Court nor the land losers were obliged to give SBDPL notice of the reference proceedings; and
- D] SBDPL as a writ petitioner was entitled to no relief.

24. The appeal was allowed, the writ petition dismissed with costs, and SBDPL was left free to pursue such other remedies as may be available to it.

25. I endorse this reasoning by the Learned Division Bench of the Calcutta High Court. I find it to fit squarely with the issues raised before me. The test applied is one of status and not of who ultimately foots the bill. The enquiry is into who required the land and for whose benefit the land was acquired. The question of whether the person claiming to be the beneficiary and thereby the interested party, necessitating notices to such person in the first instance by the Reference Court has also been articulated. Mr. Kulkarni's contention that the necessary corollary would be to vitiate all reference proceedings prior to the First Appeal is evidently correct.

26. I agree that the answer to the enquiry is not altered by an arrangement under which some other entity bears the cost. That is the very distinction on which *Pareira* proceeded, and which *Jayprakash Patil* too has since reiterated. CIDCO, functioning under Section 113(3A) of the MRTP Act as an agent of the State Government, stands in no better position than SDBPL, the implementing

partner in *Shrachi Burdwan*. Its role in discharge of compensation or financial impact on some element of the outcome in the reference and appeal cannot clothe it with a status independent of the State.

Conclusion:

27. For the aforesaid reasons, I follow the ruling in *Jayprakash Patil* and indeed in *Pareira* and *Shrachi Burdwan* to *dismiss* CIDCO's Impleadment Application and its contentions about it being a necessary or even a proper party in the First Appeals. All other similar applications filed the captioned First Appeals also stand *dismissed*.

28. The First Appeals in which these Impleadment Applications were filed, shall be placed before the Bench in whose roster these appeals fall. Liberty to the parties to mention them before the Roster Bench.

29. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN J.]