

(hereinafter referred to as the 'Highways Act') are not covered under the provisions of the Act of 2013. It is contended that even on facts, it can be demonstrated that the petitioners cannot take shelter of Section 94 of the Act of 2013, to thwart the construction work of Vadodara Mumbai Expressway, in respect of which maximum work has been completed, but for the stretch concerning Village - Bhoirgaon, Taluka - Bhiwandi, District - Thane.

2. It would be necessary to briefly refer to the chronology of events, in the backdrop of which the aforesaid competing claims made by the parties are to be decided.

3. The petitioners are owners of some *galas* in Godown L1 located at Village - Bhoirgaon, Taluka - Bhiwandi, District - Thane. The petitioners have placed on record copies of Index-II and other such documents to demonstrate their ownership in the respective *galas*. According to the petitioners, when they came across a demolition drive undertaken in respect of structures in the vicinity of Godown L1, they became aware about the acquisition of lands undertaken by the respondent No.4 - Competent Authority of the State for the purposes of the said expressway. On further enquiries, the petitioners became aware about the land acquisition award dated 24.11.2023, passed by the Competent Authority for land acquisition in order to make land available to the NHAI for construction of the said expressway as part of a National Highway Project.

4. In this backdrop on 30.10.2025, the petitioners through their advocates sent a representation to the respondent No.3 - Collector, Thane, claiming rights under Section 94 of the Act of 2013. It was submitted that since the petitioners are also owners of *galas* in Godown L1, they have a right to raise objection under Section 94 of the Act of 2013, which stipulates that when a part of any house, manufactory or

building is acquired and the owner desires that the whole of such house, manufactory or building should be acquired and if dispute arises in that context, the Collector is bound to refer such dispute to the 'Authority' as defined under Section 3(f) of the Act of 2013. It was claimed that since the respondents had unilaterally acquired part of Godown L1 and steps were sought to be taken for demolition of that part, which would adversely affect the petitioners also, the process of demolition ought not to be undertaken till the claim under Section 94 of the Act of 2013 is decided.

5. On 19.11.2025, the petitioners, through their advocates, sent a representation to the respondent No.2 - NHAI through its Project Director, PIU Thane, claiming to be affected persons under Section 3-G of the Highways Act. On this basis, they claimed compensation and further submitted that before the process of demolition of adjoining portion was undertaken, the rights of the petitioners under Section 3-G of the Highways Act ought to be decided.

6. The petitioners claim that during this process, they came across the impugned letter dated 15.11.2025 issued by the respondent No.2 - NHAI through its Project Director, asserting that a report given by the Department of Civil Engineering, Indian Institute of Technology (IIT) Bombay demonstrated that dismantling part of Godown L1 would not affect the overall structural stability, safety or integrity of the remaining portion. According to the petitioners, this gave cause of action for them to file the present petition in November 2025, praying for the reliefs indicated hereinabove. The petitioners have invoked their constitutional right under Article 300-A of the Constitution of India, amongst other rights, in support of the prayers made in the petition.

7. On 11.12.2025, this Court heard the contentions raised on behalf of the petitioners and took note of the specific contention raised under

Section 94 of the Act of 2013. This Court granted opportunity to the respondents to file their reply affidavits. In the said order, a statement was recorded on behalf of the respondent No.2 - NHAI that till the adjourned date, the NHAI would not take any coercive measures. It is an undisputed fact that the said statement continued to operate till the writ petition was heard. While closing the petition for orders upon finally hearing the learned counsel for the parties, on 03.02.2026, this Court directed that the aforesaid statement made on behalf of the respondent No.2 - NHAI would continue to operate till the pronouncement of judgement in the petition.

8. The respondent No.2 - NHAI filed its reply affidavit, placing on record a copy of the land acquisition award dated 24.11.2023. Reliance was placed on the contents thereof to assert that sufficient notices were issued as required under the provisions of the Highways Act and there was no reason for the petitioners to claim ignorance about the proposed acquisition. Reliance was also placed on the aforementioned report forwarded by IIT Bombay on 22.09.2025, *inter alia*, recording that acquisition of part of Godown L1 and its demolition would not adversely affect the remaining portion. On the basis of the said report, it was claimed that the petitioners can have no grievance. It was submitted that Section 94 of the Act of 2013 cannot apply to the facts of the present case. The petitioners filed rejoinder affidavit to refute the claims made on behalf of the respondent No.2 - NHAI. Thereafter, on an order passed by this Court, the respondent No.2 - NHAI filed an additional affidavit, specifically stating that Section 94 of the Act of 2013 does not apply to acquisitions under the Highways Act and that, in any case, the petitioners are merely owners of independent *galas* within Godown L1 and they cannot claim any relief under the said provision. A map was annexed to the said additional affidavit to bring to the notice of this Court that the acquisition, in any case, affected only part of Godown L1

and that the *galas* belonging to the petitioners are clearly located outside the affected portion.

9. Mr. S. B. Deshpande, learned senior counsel appearing for the petitioners submitted that the petitioners, being co-owners of the 'building' i.e. Godown L1, are clearly entitled to invoke Section 94 of the Act of 2013. Before going into the interpretation of Section 94 of the Act of 2013, the learned senior counsel appearing for the petitioners sought to dispel the impression created by the respondent No.2 - NHAI that as per Section 105 of the Act of 2013, the provisions of the Act of 2013 do not apply to acquisitions under the Highways Act. It was submitted that the Central Government had admittedly issued a Notification dated 28.08.2015, exercising power under Section 105(3) of the Act of 2013, directing that provisions relating to determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule to the Act of 2013 shall apply to acquisitions under the Highways Act. It was submitted that even if Section 94 of the Act of 2013 was not referred to in the Notification, since any decision under Section 94 of the Act of 2013 concerns claim of compensation of the claimants, it cannot be said that the petitioners are prevented from invoking Section 94 of the Act of 2013.

10. On this basis, it was submitted on behalf of the petitioners that being co-owners of some of the *galas* in one and the same building i.e. Godown L1, the petitioners are clearly entitled to raise their desire that the whole of the building i.e. Godown L1 must be acquired. If the respondent No.2 - NHAI disputes the claim of the petitioners, as per *proviso* to Section 94 of the Act of 2013, the respondent No.3 - Collector is bound to refer such a question for determination of the 'Authority'. On this basis, it was submitted that since the aforesaid course of action

has not been followed in the present case, the petition deserves to be allowed. It was submitted that any coercive action taken by the respondent No.2 - NHAI, without resolution of the question posed on behalf of the petitioners under Section 94 of the Act of 2013, would not only violate the statutory right of the petitioners but it would also violate their constitutional right to property under Section 300-A of the Constitution of India.

11. It was submitted that the petitioners are ready for acquisition of their property as they do not wish to obstruct the development activity being undertaken by the respondent No.2 - NHAI, but their rights cannot be trampled upon and it is only after their property is acquired and just and fair compensation is paid that further action can be permitted on behalf of the respondents.

12. In support of the aforesaid contentions, reliance was placed on the judgement of the Supreme Court in the case of *State of Maharashtra and others Vs. Reliance Industries Limited and others*, **(2017) 10 SCC 713**, as the said case dealt with Section 49 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'L.A. Act'). It was submitted that the only difference between the said provision and Section 94 of the Act of 2013 is that, the question or dispute arising between parties, instead of being referred to an Authority, was required to be referred to the Court. It was submitted that the observations made by the Supreme Court in the said judgement inured to the benefit of the petitioners.

13. Further, reliance was placed on the judgement of the Supreme Court in the case of *Union of India and another Vs. Tarsem Singh and others*, **2019 (9) SCC 304**, contending that there cannot be discrimination in the matter of acquisition, depending upon the legislation under which land is being acquired. Reliance was also placed on the judgement of the Full Bench of Kerala High Court in the case of

Saramma Itticheriya Vs. State of Kerala and others, 2008 (1) K.L.T. 6, as also order dated 13.01.2026 passed by the Supreme Court in **SLP (Civil) Diary No.26933 of 2025** (*M/s. Riar Builders Pvt. Ltd. and another Vs. Union of India and others*).

14. On the other hand, Mr. Anil Singh, learned Additional Solicitor General (ASG) appearing on behalf of respondent No.2 - NHA I submitted that there is no substance in the contentions raised on behalf of the petitioners, *inter alia*, for the reason that Section 94 of the Act of 2013 is not available for persons, whose lands are acquired under the Highways Act. In this regard, specific reliance was placed on Section 105 of the Act of 2013 read with the Fourth Schedule thereof, which, at item 7, lists the Highways Act as one of the Statutes to which the provisions of the Act of 2013 are not applicable. On this short ground, it was submitted the petition deserves to be dismissed.

15. It was further submitted that the Notification dated 28.08.2015 issued by the Central Government under Section 105(3) of the Act of 2013, cannot come to the rescue of the petitioners, for the reason that the said Notification merely applies provisions of the Act of 2013 relating to determination of compensation as per the First Schedule as also rehabilitation and resettlement as per the Second Schedule and infrastructural amenities as per the Third Schedule to the acquisitions undertaken under the Highways Act. The aforesaid Notification does not apply any other provisions of the Act of 2013 to the acquisitions under the Highways Act, much less Section 94 thereof.

16. Apart from this, it was submitted that the acquisition proceeding undertaken by the competent authority, as per the provisions of the Highways Act, followed all the statutory requirements, including issuance of Notifications under Section 3-A of the Highways Act, being published in local newspapers, as also carrying out survey in terms of

Section 3-B thereof and granting hearing to persons interested for any objections as per Section 3-C thereof. It was submitted that thereupon, the Competent Authority pronounced the acquisition award, determining compensation payable to all interested persons. It was submitted that the petitioners never came forward to raise any objection, despite the public notices. The persons, whose *galas* are directly affected in building i.e. Godown L1, had taken necessary steps. The petitioners were throughout aware about the acquisition proceedings, till the pronouncement of award on 24.11.2023 and yet, they did not raise their claims at any point in time.

17. It was submitted that after about 2 years of the award being pronounced, the petitioners, for the first time in October 2025, submitted their representation before respondent No.3 - Collector, invoking Section 94 of the Act of 2013 and in November 2025, they approached respondent No.2 - NHAI, through its Project Director, claiming for the first time that they were moving a representation under Section 3-G of the Highways Act. For the aforesaid reason also, the petition does not deserve any consideration before this Court.

18. The learned ASG specifically relied upon the report forwarded by IIT, Bombay on 22.09.2025, to contend that there was no question of any structural distress or adverse effect to the *galas* of the petitioners located in that portion of the building i.e. Godown L1, which was not the subject matter of acquisition. It was submitted that this Court in writ jurisdiction, could not sit in appeal over the opinion of an expert body. It was further submitted that in any case, Section 94 of the Act of 2013 would not apply to the facts pertaining to the present case. It was submitted that even in the judgment of the Supreme Court, upon which the petitioners have placed reliance i.e. **State of Maharashtra and others vs. Reliance Industries Limited and others** (*supra*), it was

observed that in a building, when a particular floor can be sold, there was no reason why a particular floor could not be acquired for public purpose. On this basis, it was submitted that the said judgment does not support the contention raised on behalf of the petitioners. It was further submitted that in the present case, the petitioners are owners of independent *galas* and they cannot invoke Section 94 of the Act of 2013, without prejudice to the submission made on behalf of respondent No.2 - NHAI that Section 94 of the Act of 2013 is not available for the petitioners.

19. As regards the Full Bench judgment of the Kerala High Court in the case of **Saramma Itticheriya vs. State of Kerala and others** (*supra*), it was submitted that the same concerned Section 49 of the L.A. Act and the findings rendered in the said judgment were limited to the nature of controversy involved therein, which cannot have direct application to the facts of the present case. As regards the order dated 13.01.2026 passed by the Supreme Court in the case of **M/s. Riar Builders Pvt. Ltd. and another vs. Union of India and others** (*supra*), it was submitted that in the said order, the Supreme Court observed that the issue with regard to the alleged discrimination suffered by the land owners, whose lands were acquired under the Highways Act, primarily falls within the domain of the Legislature for which appropriate steps could be taken.

20. On the other hand, reliance was placed on the orders passed by a Division Bench of the Kerala High Court in the case of *NHAI vs. K. Raveendran and others* (**orders dated 28.10.2024 and 18.02.2025 in Writ Petition No.763 of 2024**), to contend that no broad proposition of law could be laid down that Section 94 of the Act of 2013 is applicable to acquisitions under the Highways Act.

21. Attention of this Court was invited to the additional affidavit filed

on behalf of respondent No.2 - NHAI and the map at Exhibit 'A' annexed thereto, to impress upon this Court that the petitioners are the owners of independent *galas* situated clearly within that part of Godown L1, which is wholly unaffected by the acquisition, thereby indicating that the petitioners are not entitled to any relief, particularly because of the belated manner in which they have approached this Court. It was submitted that the petitioners cannot claim any violation of their right to property under Article 300-A of the Constitution of India, for the simple reason that they are not being deprived of their rights without the process of law being followed.

22. It was reiterated that the public notices were issued as per Section 3-A of the Highways Act, including in local newspapers. But, the petitioners did not raise any objection that could have been heard under Section 3-C of the Highways Act. The acquisition continued in accordance with law, culminating into award dated 24.11.2023. After about 2 years, the petitioners have rushed to this Court seeking relief, which cannot be granted in the eyes of law. On this basis, it was submitted that the writ petition deserves to be dismissed and the respondent No.2 - NHAI ought to be relieved from the statement made on its behalf about refraining from taking coercive action in the matter. It was asserted that in any case, the proposed action does not adversely affect the interest of the petitioners at all and therefore, the writ petition deserves to be dismissed.

23. Ms. Bane, learned AGP appeared on behalf of respondent Nos.3 and 4 and supported the contentions raised by the learned ASG.

24. In order to consider the rival submissions, particularly in the light of the main contention raised on behalf of the petitioners pertaining to Section 94 of the Act of 2013, it would be appropriate to refer to some admitted positions on facts.

25. The respondent No.4, being the competent authority for undertaking the exercise of acquisition of land for the aforesaid expressway, took steps in accordance with the provisions of the Highways Act, in pursuance of issuance of statutory Notification under Section 3-A of the Highways Act. There is no dispute about the fact that the respondent No.4 as the competent authority undertook all necessary steps for carrying out the exercise of acquisition of land. The record shows that the Central Government issued Notification dated 18.12.2020 under Section 3-A of the Highways Act for acquisition of lands including the land at Mauje - Bhoirgaon, Taluka - Bhiwandi, District - Thane for the said expressway between Mumbai and Vadodara. There is also no dispute about the fact that such Notification was published in local newspapers, one of which was in Marathi language. Thereupon, appropriate exercise of carrying out survey was undertaken under Section 3-B of the Highways Act and opportunity of hearing objections as per Notification issued under Section 3-A of the Highways Act was granted in terms of Section 3-C thereof. It is recorded that no objection was raised at that point in time. Thus, the petitioners did not respond to such public notices being issued in local newspapers, including Marathi newspaper '*Sakal*' and English newspaper '*The Free Press Journal*', dated 16.01.2021.

26. Thereupon, declaration under Section 3-D of the Highways Act was issued. As a consequence, the land proposed to be acquired vested absolutely in the Central Government, free from all encumbrances. On 05.01.2022, notices were issued in Marathi newspaper '*Sakal*' and English newspaper '*The Free Press Journal*' under Section 3-G(3) of the Highways Act, calling upon all persons interested to raise their claims in the context of the proposed acquisition of the land. Certain objections were raised and demand was made for payment of appropriate compensation. The objectors were informed that compensation shall be

paid in accordance with law and hence the said objections were also accordingly dealt with. It is an admitted position that even at that stage, the petitioners did not raise any claim or objection in response to the public notices issued under Section 3-G(3) of the Highways Act.

27. The respondent No.4 - Competent Authority proceeded to determine the quantum of compensation and pronounced the land acquisition award on 24.11.2023. It was for the first time, on 30.10.2025, almost two years after the land acquisition award was pronounced, that the petitioners submitted a representation to the respondent No.3 - Collector, invoking Section 94 of the Act of 2013. They claimed that they became aware about the land acquisition proceedings when they noticed demolition of godowns / warehouses in the vicinity. Further, on 19.11.2025, the petitioners sent a representation, for the first time, to the respondent No.2 - NHAI, purportedly under Section 3-G of the Highways Act, claiming that their right to enjoy part of building i.e. Godown L1 would be affected by the acquisition, further claiming that their easementary rights were likely to be affected. On this basis, it was claimed that they had a right to compensation. They further requested for refraining from demolishing part of Godown L1, till their claim of compensation was decided. Thereafter in November 2025, the petitioners filed the present writ petition, challenging the aforesaid communication dated 15.11.2025 issued by the respondent No.2 - NHAI, wherein the said respondent had expressed its intention to proceed with dismantling of godowns, that were coming in the right of way (ROW) so that the work of the expressway could proceed further. The petitioners invoked Section 94 of the Act of 2013 and stated that they were desirous that the entire building i.e. Godown L1 should be acquired, and that till that time, *status-quo* be maintained. The petitioners have also invoked Article 300-A of the Constitution of India, claiming that their right to property is being violated and that therefore,

they are entitled to appropriate relief from this Court.

28. Article 300-A of the Constitution of India provides that no person shall be deprived of property save by authority of law. The right protected under the said Article obviously requires that if a person is to be deprived of property, he or she has to be compensated in accordance with law. If the contentions raised on behalf of the petitioners are to be accepted then this Court will have to reach a conclusion that their rights have been violated, amounting to depriving them of their properties, without the authority of law. The admitted position on facts, referred to hereinabove, does show that the respondents followed all the requirements of law as per the provisions of the Highways Act under which the subject acquisition was undertaken and appropriate opportunities were available for all interested persons to raise their objections and their claims while the process of acquisition was undertaken. It cannot be said that the respondents, in the facts of the present case, proceeded to acquire the land without following the procedure laid down in the Highways Act.

29. To that extent, we do not find any fault on the part of the respondents and on the contrary, we find that the petitioners failed to avail of the opportunities when Notification under Section 3-A(1) of the Highways Act was published in English and Marathi newspapers, as far back as on 16.01.2021. They also failed to avail of the opportunity to raise their claims when notices under Section 3-G(3) of the Highways Act were published in Marathi and English newspapers on 05.01.2022. It cannot lie in the mouth of the petitioners that they were blissfully unaware about the proposed acquisition of part of building i.e. Godown L1, in respect of which exercise pertaining to survey, measurements, etc. was also undertaken, along with all other such godowns and structures, in the vicinity, coming in the ROW. The process of determination of

compensation by the Competent Authority commenced from 18.12.2020 when the Notification was issued under Section 3-A(1) of the Highways Act and it continued and culminated in the aforesaid award dated 24.11.2023. It is not believable that all through this period of about three years, the petitioners were not aware about the steps taken by the Competent Authority as per the requirements of the Highways Act under which the acquisition was being undertaken. Even thereafter, for a period of almost about two years, the petitioners did not care to take any step towards raising their claims. In the meantime, as informed by the respondent No.2 - NHAI, major portion of work of the aforesaid expressway was completed and when it came to the stage of demolition of part of the said building i.e. Godown L1, suddenly the petitioners were galvanized into sending their representations, invoking Section 94 of the Act 2013 and also their purported claims under Section 3G of the Highways Act. There was not a whisper in the representations as to why the petitioners failed to respond to the publication of Notification and notices, as statutorily required under the Highways Act, to raise their objections or claims. It was merely stated that when demolitions commenced in the vicinity, the petitioners became aware about the acquisition pertaining to the construction of the expressway.

30. We are not convinced by the explanation given by the petitioners about their failure in responding to the opportunities repeatedly granted in the public domain by the Competent Authority as per the requirements of the Highways Act. In fact, there is no explanation on record, other than stating that the petitioners gathered knowledge only when demolition was undertaken in the vicinity. It is in this backdrop that the contentions raised on behalf of the petitioners are required to be considered.

31. The foremost contention raised on behalf of the petitioners

pertains to Section 94 of the Highways Act. It is claimed that since the petitioners are the co-owners of the building i.e. Godown L1 as they own certain *galas* therein, they are entitled to invoke Section 94 of the Highways Act to express their desire that the entire building i.e. Godown L1 be acquired and that the detailed procedure prescribed under the said provision be followed. It was further claimed that until the procedure reaches finality, the respondents must maintain *status-quo*. The respondents have raised serious objection to the applicability of Section 94 of the Highways Act to the acquisition in the present case by relying upon Section 105 of the Act of 2013 read with the Fourth Schedule. It is submitted that although under Section 105(3) of the Highways Act, the Central Government has indeed issued Notification dated 28.08.2015, specifically applying the First, Second and Third Schedules of the Act of 2013 to the acquisitions even under the Highways Act, since the said Schedules pertain only to the manner of determining compensation as also rehabilitation and resettlement along with infrastructure amenities, Section 94 of the Act of 2013 covered under the Chapter of *Miscellaneous Provisions* cannot apply to the acquisitions under the Highways Act.

32. The petitioners seek to counter the said contention by claiming that since Section 94 of the Act of 2013 ultimately pertains to the concept of compensation payable, there could be no impediment in applicability of the same to the acquisitions under the Highways Act. In this context, rival submissions were made with regard to the definition of 'person interested' in the Act of 2013, as also other provisions along with relevant provisions of the Highways Act. Before examining the rival contentions, it would be appropriate that the relevant provisions of the Highways Act and the Act of 2013 are reproduced.

33. The relevant provisions of the Highways Act read as follows:-

“3. Definitions.- In this Act, unless the context otherwise requires,-

- (a) ...
- (b) “land” includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth.

3-A. Power to acquire land, etc.--(1) Where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land.

(2) Every notification under sub-section (1) shall give a brief description of the land.

(3) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

3-B. Power to enter for survey, etc.--On the issue of a notification under sub-section (1) of section 3A, it shall be lawful for any person, authorised by the Central Government in this behalf, to--

- (a) make any inspection, survey, measurement, valuation or enquiry;
- (b) take levels;
- (c) dig or bore into sub-soil;
- (d) set out boundaries and intended lines of work;
- (e) mark such levels, boundaries and lines placing marks and cutting trenches; or
- (f) do such other acts or things as may be laid down by rules made in this behalf by that Government.

3-C. Hearing of objections.--(1) Any person interested in the land may, within twenty-one days from the date of publication of the notification under sub-section (1) of section 3A, object to the use of the land for the purpose or purposes mentioned in that sub-section.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent

authority thinks necessary, by order, either allow or disallow the objections.

Explanation.-- For the purposes of this sub-section, "legal practitioner" has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961).

(3) Any order made by the competent authority under sub-section (2) shall be final.

3-D. Declaration of acquisition.--(1) Where no objection under sub-section (1) of section 3C has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification in the Official Gazette, that the land should be acquired for the purpose or purposes mentioned in sub-section (1) of section 3A.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 3A for its acquisition but no declaration under sub-section (1) has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect:

Provided that in computing the said period of one year, the period or periods during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of section 3A is stayed by an order of a court shall be excluded.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority.

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3-G. Determination of amount payable as compensation.--

(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right

of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration--

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.”

34. The relevant provisions of the Act of 2013 read as follows:-

“3. **Definition.**- In this Act, unless the context otherwise requires,-

(a) to (w) ...

(x) 'person interested' means -

- (i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;
- (ii) the Scheduled Tribes and other traditional forest dwellers, who have lost any forest rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
- (iii) a person interested in an easement affecting the land;
- (iv) persons having tenancy rights under the relevant State laws including share-croppers by whatever name they may be called; and
- (v) any person whose primary source of livelihood is likely to be adversely affected;

28. Parameters to be considered by Collector in determination of award.- In determining the amount of compensation to be awarded for land acquired under this Act, the Collector shall take into consideration—

firstly, the market value as determined under section 26 and the award amount in accordance with the First and Second Schedules;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops and trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, in consequence of the acquisition of the land by the Collector, the person interested is compelled

to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

sixthly, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 19 and the time of the Collector's taking possession of the land; and

seventhly, any other ground which may be in the interest of equity, justice and beneficial to the affected families.

94. Acquisition of part of house or building.

(1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:

Provided that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Authority concerned and shall not be taken possession of such land until after the question has been determined.

(2) In deciding on such a reference made under the proviso to sub-section (1), the Authority concerned shall have regard to the question whether the land proposed to be taken, is reasonably required for the full and unimpaired use of the house, manufactory or building.

(3) If, in the case of any claim under this Act, by a person interested, on account of the severing of the land to be acquired from his other land, the appropriate Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(4) In the case of any acquisition of land so required no fresh declaration or other proceedings under sections 11 to 19, (both inclusive) shall be necessary; but the Collector shall without delay furnish a copy of the order of the appropriate Government to the person interested, and shall thereafter proceed to make his award under section 23.”

105. Provisions of this Act not to apply in certain cases or to apply with certain modifications.- (1) Subject to sub-

section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule.

(2) Subject to sub-section (2) of section 106, the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.

(3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination 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, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.”

35. Relevant portion of the Notification dated 28.08.2015 issued by the Central Government under Section 105(3) of the Highways Act reads as follows:-

“ Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 113 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:-

1. (1) This Order may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015.

(2) It shall come into force with effect from the 1st day of September, 2015.

2. The provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to all cases of land acquisition under the enactments specified in the Fourth Schedule to the said Act.”

36. Proper reading of the definitions of 'person interested' and 'land' in the Act of 2013 and the Highways Act respectively, in conjunction with Section 3-G(3) and (4) of the Highways Act shows that the petitioners should have responded to the public notices issued by the Competent Authority in Marathi and English newspapers, both, at the stage of making public the Notification under Section 3-A(1) of the Highways Act and also public notices as per Section 3-G(3) thereof. If the petitioners claimed that although their *galas*, forming part of building i.e. Godown L1, were not being acquired and yet their interest would be adversely affected, they should have responded to the public notices. But, they failed to do so. In such a situation, they are not entitled to claim that their interests are being adversely affected without proper procedure being followed.

37. As noted hereinabove, the petitioners invoked Section 3-G of the Highways Act almost two years after the award was pronounced and when the respondents proceeded to take consequential steps concerning building and construction of the expressway, with a large portion thereof already having been constructed. In the facts and circumstances of the present case, it cannot be said that the process of acquisition has been undertaken without proper procedure being followed.

38. As regards the invocation of Section 94 of the Act of 2013, again

after almost two years, we are unable to accept the contention raised on behalf of the petitioners that the said provision would be applicable to acquisitions undertaken as per the Highways Act. Section 94 of the Act of 2013 is one of the provisions found in the Chapter pertaining to *Miscellaneous Provisions* and even the above-quoted Notification dated 28.08.2015 issued by the Central Government does not specifically state that the said provision is made applicable to acquisitions under the Highways Act. It is to be noted that the Notification carves out specific exceptions to the general rule under the Act of 2013 that its provisions do not apply to acquisitions under the Highways Act. The exceptions carved out under the Notification dated 28.08.2015 have to be read strictly. As noted hereinabove, they pertain only to the First, Second and Third Schedules to the Act of 2013, concerning determination of compensation, rehabilitation and resettlement as also infrastructure amenities. In other words, only the provisions and principles pertaining to the said aspects of the matter apply to persons entitled to relief under the Highways Act. The principles, pertaining to determination of compensation, as indicated in the Act of 2013, apply to persons whose lands are acquired under the Highways Act.

39. In this context, it would be appropriate to refer to the judgement of the Supreme Court in the case of **Union of India and another Vs. Tarsem Singh and others** (*supra*). In the said case, the Supreme Court reiterated the position of law recognized in its earlier judgements in the cases of *P. Vajravelu Mudaliar Vs. Special Deputy Collector for Land Acquisition*, **AIR 1965 SC 1017** and *Nagpur Improvement Trust Vs. Vithal Rao*, **1973 (1) SCC 500**, to the effect that allowing different principles and yardsticks for determining the quantum of compensation depending upon the Statute under which the acquisition was undertaken, would amount to discrimination. It was reiterated that the landowner, whose land is acquired, suffers the same fate, particularly during

compulsory acquisition, notwithstanding the purpose for which the land is acquired or the Statute under which such acquisition takes place. It is in this context that the Supreme Court in the case of **Union of India and another Vs. Tarsem Singh and others** (*supra*) held that solatium and interest would be payable to the landowners whose lands are acquired under the Highways Act also.

40. The whole discussion and reference to the aforesaid Notification dated 28.08.2015 issued by the Central Government under Section 105(3) of the Act of 2014 in the aforesaid judgement pertained to uniformity with regard to the principles concerning determination of quantum of compensation payable to the landowners. While referring to the provisions of the Highways Act, the Supreme Court in the said judgement in the case of **Union of India and another Vs. Tarsem Singh and others** (*supra*) observed that one of the objects of the amendments brought about in the Highways Act in 1997 was speedy acquisition of lands for the purpose of national highways. We find that if the said object is taken into consideration, while there cannot be any discrimination with regard to applicability of principles for determining quantum of compensation payable to land owners, any and every provision of the Act of 2013 cannot be made applicable to acquisitions under the Highways Act and it would also operate in the teeth of Section 105 of the Act of 2013 itself, read with the Fourth Schedule.

41. We find that Section 94 of the Act of 2013 is a miscellaneous provision available in the aforesaid general Statute pertaining to acquisition. The procedure prescribed under the said provision i.e. Section 94 of the Act of 2013, necessarily entails reference by the Collector to the 'authority' on a question arising upon claim made by the land owner for acquiring the whole house, manufactory or other building, which would obviously be time-taking and till the

determination of the question, the possession of the land cannot be taken.

42. We are unable to agree that although Section 105 of the Act of 2013 read with the Fourth Schedule thereof expressly excludes application of the provisions of the Act of 2013 to acquisitions under the Highways Act and only specific exceptions have been carved out by the Notification dated 28.08.2015 issued by the Central Government under Section 105(3) of the Act of 2013, we can stretch the applicability of other provisions not specified in the said Notification, including Section 94 of the Act of 2013. Much emphasis was placed on behalf of the petitioners on the assertion that since a decision on Section 94 of the Act of 2013 would ultimately have an effect on compensation, this Court ought to hold that the said provision can be made applicable even to acquisitions under the Highways Act. We are unable to accept the said contention for the reason that the exceptions carved out by the Notification dated 28.08.2015 issued by the Central Government are specific and they pertain only to the First, Second and Third Schedules, providing for determination of quantum of compensation and other such reliefs available to persons affected by the process of acquisition.

43. In the case of **Union of India and another Vs. Tarsem Singh and others** (*supra*) also, the Supreme Court emphasized that when it comes to determination of compensation to be paid to affected persons due to acquisition of lands, there ought not to be any discrimination against landowners whose lands are acquired under the Highways Act. Section 94 of the Act of 2013 concerns the claim of owner of a house, manufactory or other building who expresses his or her desire for acquisition of the entirety of such structure. But, it has nothing to do with the principles for determining the quantum of compensation including factors such as interest, solatium, etc. As noted hereinabove,

the Supreme Court in the case of **Union of India and another Vs. Tarsem Singh and others** (*supra*) specifically took into consideration the object for which the Highways Act was amended in the year 1997 i.e. speedy acquisition of lands for the purpose of national highways. It was held that factors such as interest and solatium, while determining the quantum of compensation had no relation to the said object, and therefore, the landowners whose lands are acquired under the Highways Act cannot be discriminated against, even if the object of introducing the provisions pertaining to acquisition of lands in the Highways Act, is taken into consideration. Thus, the entire emphasis while dealing with the argument pertaining to discrimination in the case of **Union of India and another Vs. Tarsem Singh and others** (*supra*) was on determination of the quantum of compensation.

44. If the contention raised on behalf of the petitioners is accepted, the specific statutory mandate in Section 105 of the Act of 2013 read with the Fourth Schedule, as also read with the Notification dated 28.08.2015 issued by the Central Government, would be rendered meaningless if provisions other than those specified in the Notification are casually made applicable to acquisitions under the Highways Act. Hence, the contention raised on behalf of the petitioners regarding applicability of Section 94 of the Act of 2013 to the acquisitions under the Highways Act, is rejected. As a consequence, the other arguments advanced on behalf of the petitioners on the basis that Section 94 of the Act of 2013 is applicable to their case, do not deserve consideration.

45. In this context, we find that the Division Bench of Kerala High Court in the case of **NHAI vs. K. Raveendran and others** (*supra*) also proceeded on the basis that there cannot be any absolute proposition of law that Section 94 of the Act of 2013 is mandatory and binds the authorities concerning national highways and the competent authorities

while undertaking acquisition under the Highways Act. The petitioners have placed reliance on the judgement of Full Bench of Kerala High Court in the case of **Saramma Itticheriya vs. State of Kerala and others** (*supra*). It pertains to Section 49 of the L.A. Act, which is similar to Section 94 of the Act of 2013. But, the findings rendered therein, including the finding that if desire is expressed by the owner of an entire building for acquisition and the same is not acceptable to the acquiring body then the only option available is to withdraw from the acquisition, is based on a situation where Section 49 is found to be applicable. In the light of our finding hereinabove that Section 94 of the Act of 2013 does not apply to the case of the petitioners, the said judgement can be of no avail to the petitioners.

46. We also find that reliance placed on behalf of the petitioners on the judgement of the Supreme Court in the case of **State of Maharashtra and others Vs. Reliance Industries Limited and others** (*supra*) can also not take their case much further. In the said case also, the Court was concerned with Section 49 of the L.A. Act. The petitioners have relied upon certain observations made in the said judgement on the basis of the language of Section 49 of the L.A. Act. But, it is relevant to note that in the very same judgement, the Supreme Court has also observed that when flats can be sold independently, obviously, they can be acquired also. It is relevant to note that, in the present case, even as per the case of the petitioners themselves, they are the owners of independent *galas* in building i.e. Godown L1 and it is not even their case that they are the owners of the entire building. Thus, the said judgement can also not come to the aid of the petitioners.

47. As regards reliance on the order passed by the Supreme Court on 13.01.2026 in the case of **M/s. Riar Builders Pvt. Ltd. and another vs. Union of India and others** (*supra*), the observations made therein

demonstrate the concern of the Court with regard to rights of landowners as regards determination of quantum of compensation. In the said order, in paragraph 12, the Supreme Court has clearly observed that primarily the issue falls within the domain of Legislature and hence, the Court refrained from expressing any final opinion in the matter. We find that the manner in which acquisition of lands under the Highways Act was being undertaken and landowners were being discriminated against to the extent of deprivation of interest and solatium while determining the quantum of compensation, the Supreme Court in the case of **Union of India and another Vs. Tarsem Singh and others** (*supra*) has laid down the law in clear terms. As noted hereinabove, the said position of law clarifies that, when the question of determination of quantum of compensation arises, there can be no double standards.

48. We have already noted hereinabove that the petitioners failed to respond to the Notification under Section 3A(1) and also notices under Section 3G(3) of the Highways Act being published in the newspapers. To that extent, we find that no fault can be found with the respondent authorities in going ahead with the process of acquisition and passing the award dated 24.11.2023. We also find that the authorities cannot be restrained from proceeding ahead with taking possession of the lands and buildings acquired, for which compensation has been determined under the said award. The construction of Vadodara Mumbai Expressway cannot be stalled at the behest of the petitioners, who have chosen to approach the authorities after almost two years of the acquisition award being passed.

49. Yet, as a Writ Court, we find that if the petitioners can be said to be 'persons interested', although their property has not been acquired, their grievance cannot be completely ignored, even though belatedly raised, of being reasonably compensated in the event they are able to

demonstrate that their rights have been affected. In this context, the definition of ‘affected family’ under Section 3(c) of the Act of 2013 and particularly clause (vi) thereof is relevant, which reads as follows:-

“3(c) ‘affected family’ includes-

(i) to (v) ...

(vi) a family residing on any land in the urban areas for preceding three years or more prior to the acquisition of the land or whose primary source of livelihood for three years prior to the acquisition of the land is affected by the acquisition of such land;”

50. The definition of ‘person interested’ as per Section 3(x) of the Act of 2013, has already been quoted hereinabove. Clause (v) thereof includes any person whose primary source of livelihood is likely to be adversely affected. It is relevant to note that Section 28 of the Act of 2013, pertaining to parameters to be considered by the Collector in determination of award (quoted hereinabove), refers to various situations in respect of damage sustained by a person interested by the act of taking possession of the land and clause 7 thereof refers to any other ground, which may be in the interest of equity, justice and beneficial to affected families. The same is a ground for consideration while determining the amount of compensation. Section 3-G(2) of the Highways Act, also quoted hereinabove, specifically refers to the right of user or any right in the nature of an easement being affected and it provides for payment of an amount to the person whose enjoyment of such right is affected by the acquisition. Considering the aforementioned provisions of the Act of 2013 and the Highways Act, particularly because they are relevant for determining the quantum of compensation, we are of the opinion that the right of the petitioners to that limited extent can be considered and examined by the Competent Authority. Consideration of such right of the petitioners and thereupon determination of quantum of compensation, if any, can be undertaken without, in any manner, restraining the respondent No.2 - NHAI from proceeding to take possession of the

acquired lands and buildings and facilitating speedy construction of the national highway.

51. In this context, reference to the report submitted by IIT, Bombay, dated 22.09.2025, pertaining to the subject building i.e. Godown L1 shows that while it is opined that the structural stability of the remaining portion of the building with which the petitioners are concerned would not be adversely affected, at the same time, there is reference to integrity of the building requiring certain degree of rework. We cannot sit in appeal over the findings given by an expert body like the IIT. But, at the same time, when the Competent Authority considers the claim of the petitioners for being reasonably compensated for their rights, if any, with regard to their business being adversely affected, the report of IIT can be taken into consideration and opportunity can also be granted to the petitioners to place their own material on record while raising their claims for compensation payable, if any, due to the alleged adverse effect on their right to user of their respective *galas*. We are not expressing any opinion, either way, on that aspect of the matter.

52. In view of the discussion hereinabove, although we find that the reliefs claimed by the petitioners in this petition by relying upon Section 94 of the Act of 2013 cannot be granted and that the respondent authorities proceeded in accordance with law while undertaking the process of acquisition, to the limited extent indicated hereinabove, the petitioners can be granted relief of consideration of their claim of adverse effect on their right of user of their respective *galas* due to acquisition and demolition of part of the building i.e. Godown L1.

53. Accordingly, the writ petition is disposed of in the following terms:-

- A. The contention of the petitioners seeking relief by relying upon Section 94 of the Act of 2013 is rejected as it is held

that the said provision is not applicable to the case of the petitioners;

- B. The petitioners are permitted to approach the competent authority for consideration of their claim of adverse effect on their business and right of user, if any, due to acquisition and demolition of the acquired part of the building i.e. Godown L1;
- C. The respondent No.4 - Competent Authority is directed to consider the claim of the petitioners limited to the extent indicated hereinabove in accordance with law. Accordingly, the respondent No.4 - Competent Authority shall complete the exercise within a period of six months from today. This Court is not expressing any opinion on the merits of the claim of the petitioners;
- D. It is made clear that the aforesaid exercise, to be carried out by the respondent No.4 - Competent Authority, shall not be an impediment or come in the way of the respondent No.2 - NHAI to proceed with taking physical possession and demolishing the acquired part of building i.e. Godown L1 for speedy construction of Vadodara Mumbai Expressway;
- E. The respondent No.2 - NHAI is relieved of the statement made on its behalf, as recorded in the order dated 11.12.2025;

54. Pending applications, if any, stand disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)