

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3702 OF 2005

Chirag Shashikant Shah and others ... Petitioners

Vs.

State of Maharashtra and others ... Respondents

WITH
INTERIM APPLICATION NO.15159 OF 2024
IN
WRIT PETITION NO.3702 OF 2005

Mr. Kailas Dewal a/w. Mr. Yash Dewal with Mr. Ashwin Kulkarni i/b. Mr. Kailas Dewal for Petitioners.

Mr. O. A. Chandurkar, Additional GP with Ms. G. R. Raghuwanshi, AGP for Respondent Nos.1 to 6-State.

Mr. Niranjana P. Shimpi for Respondent No.7.

**CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.**

Reserved on : **AUGUST 07, 2026**
Pronounced on: **SEPTEMBER 07, 2026**

JUDGEMENT : (Per Justice Manish Pitale)

. The petitioners herein seek directions against the respondents to initiate proceedings for acquisition of 6900 sq.mtrs. land at CTS No.1917 (Old Survey No.37), in Village Bhayander, Mumbai. It is an admitted position that the said land is in possession of respondent No.7 - Mahanagar Telephone Nigam Limited (MTNL) since the year 1989. MTNL has constructed its building and it has been utilizing the said land from the year 1989. The chronology of events narrated hereinbelow would show two sets of proceedings concerning the subject land, one under the Urban Land (Ceiling and Regulation) Act, 1976 (ULC Act) and the other under the Land Acquisition Act, 1894 (LA Act). It is the case of the petitioners that although the said land admeasuring 6900

sq.mtrs. has been utilized by respondent No.7 MTNL for all these years, the petitioners have not been paid compensation and no acquisition proceedings were undertaken in respect of the said land.

2. The writ petition was initially filed by Mrs. Evelyn Paul Pereira and others. Due to passage of time, some of the original petitioners were deleted and upon the demise of Mrs. Evelyn Paul Pereira, her legal representatives were brought on record. Subsequently, the said petitioners on record of this writ petition executed a registered deed of transfer of actionable claims. On the basis of the said document, an application was moved for substitution of the said original petitioners by the present petitioners in whose favour the said document was executed. By an order dated 20.02.2026, the said application was allowed. Accordingly, the present petitioners came on record. Hence, reference to petitioners in this judgment and order in the chronology of events at relevant places is to be taken as reference to the predecessor of the petitioners. The petitioners were owners of lands in Village Bhayander, District Thane, including the said land admeasuring 6900 sq.mtrs. The said lands were notified for acquisition in the year 1982. Notification under Section 4 of the LA Act was issued on 10.11.1982 and Declaration under Section 6 thereof was issued on 28.11.1985.

3. While these proceedings were undertaken parallelly, proceedings under the ULC Act were also undertaken from the year 1976 onwards. Accordingly, returns under Section 6(1) of the ULC Act were submitted in respect of lands owned in Village Bhayander. On 26.10.1984, the Deputy Collector and Competent Authority under the ULC Act passed an order declaring land to the extent of 29,939 sq.mtrs. as surplus. A revision proceeding was initiated before the State Government in that regard.

4. In the meanwhile, suits were filed challenging the Notification

under Section 4 and Declaration under Section 6 of the LA Act. This included Regular Civil Suit No.1050 of 1985 filed in respect of the lands of the petitioners. In the said suit, written statement was filed on behalf of the State authorities. The acquisition, *inter alia*, was for the benefit of MTNL. Hence, in 1987, MTNL deposited an amount of Rs.9,13,996/- with the Special Land Acquisition Officer (SLAO). In the said suit, an order of *status-quo* was operating and therefore, in 1988, MTNL filed an application for vacating the order of *status-quo* in respect of the subject land admeasuring 6900 sq.mtrs. The petitioners placed their say on record, stating that if acquisition was withdrawn from the remaining portion, possession of 6900 sq.mtrs. land could be handed over to MTNL. On 21.12.1988, the concerned Civil Court at Thane, considering the said suit, vacated the order of *status-quo* in respect of 6900 sq.mtrs. of land, which is subject matter of the present writ petition, in view of undertaking given by the respondents i.e. the State authorities that they would withdraw acquisition in respect of the remaining land notified for acquisition.

5. In this backdrop, on 17.04.1989, the petitioners handed over possession of the subject land admeasuring 6900 sq.mtrs. to MTNL. There is no dispute about the said fact. In the proceedings under the ULC Act, the revision proceeding was disposed of by the State Government, taking note of the subsequent event of possession of 6900 sq.mtrs. of land being handed over to MTNL and thereupon, setting aside the order dated 26.10.1984 to remand the matter back to the competent authority under the ULC Act.

6. Upon remand, the competent authority under the provisions of the ULC Act passed an order on 24.01.1990, declaring surplus land of 18,941 sq. mtrs. excluding 6900 sq.mtrs. i.e. the subject land from the surplus land. The respondent State Government directed the competent

authority under Section 35 of the ULC Act to revise the said order dated 24.01.1990. Accordingly, on 20.08.1991, the competent authority passed an order under Section 45 of the ULC Act reversing its own view taken in the order dated 24.01.1990, to hold that the subject land admeasuring 6900 sq.mtrs. was part of the surplus land. Aggrieved by the said order, one of the original owners filed an appeal under Section 33 of the ULC Act. During this period, on 04.03.1992, the respondent No.5 Collector, Thane informed respondent No.7 MTNL that the land acquisition proposal stood cancelled due to declaration of the subject land as surplus under the ULC Act.

7. On 23.03.1992, the appellate authority dismissed the appeal, holding that the owners could claim compensation only under the ULC Act and not under the LA Act. Aggrieved by the said order, the petitioners filed Writ Petition No.3891 of 1992 before this Court to challenge the said order passed by the appellate authority. In the said pending Writ Petition No.3891 of 1992, the respondent No.7 MTNL, which was also added as a party, moved an application bearing Civil Application No.5510 of 1993 for a direction that its name should be recorded in the property card. On 08.02.1994, this Court allowed the application and accordingly, the name of MTNL was reflected in the property card.

8. On 10.12.1999, the respondent SLAO informed MTNL that since it was no longer necessary to acquire the subject land under the provisions of the LA Act, the aforesaid amount deposited by MTNL was refunded. Accordingly, Rs.9,08,784/- deposited by MTNL was refunded to it after deducting amount of Rs.5,212/- towards government establishment charges, joint measurement charges and newspaper advertisement bills. The respondents in Writ Petition No.3891 of 1992 filed their affidavits and the writ petition was taken up for consideration.

9. By an order dated 04.02.2003, this Court allowed the said writ petition and remanded the matter to the competent authority. It was directed that order dated 20.08.1991 would be treated as notice. On 21.10.2003, the competent authority passed its order confirming the order dated 24.01.1990, thereby excluding the subject land from surplus land under the provisions of the ULC Act. Hence, on 03.04.2004, the petitioner issued notice to the respondent to initiate land acquisition proceedings concerning the subject land admeasuring 6900 sq.mtrs. or in the alternative, to return the said land. In this backdrop, on 06.05.2005, the present petition was filed. The petitioners prayed for direction to the respondent Nos.1 to 6 to initiate acquisition proceedings under the LA Act to acquire the subject land. In the alternative, the petitioners prayed for a direction to the respondents to handover vacant and peaceful possession of the subject land after demolishing the structures standing thereon. The respondents filed their reply affidavits in the writ petition. On 21.07.2006, this Court directed respondent No.7 MTNL to deposit an amount of Rs.5 lakhs for the time being towards compensation for acquisition of the subject land admeasuring 6900 sq.mtrs. The said amount was indeed deposited by MTNL in this Court and it has been earning interest. On 29.09.2006, this Court granted *Rule* in the writ petition. As noted hereinabove, by order dated 20.02.2026, the present petitioners substituted the original petitioners and they have pursued the present writ petition.

10. Mr. Kailas Dewal, learned counsel appearing for the petitioners submitted that this was a classic case of violation of right to property of the petitioners guaranteed under Article 300A of the Constitution of India. It was submitted that the Supreme Court in the cases of *Kolkata Municipal Corporation and another Vs. Bimal Kumar Shah and others*, (2024) 10 SCC 533 and *Bernard Francis Joseph Vaz and others Vs. Government of Karnataka*, (2025) 7 SCC 580 recognized right to

property as a human right and seven valuable sub-rights were also recognized therein. It was submitted that the approach of the respondents, in the present case, demonstrates violation of such valuable rights of the petitioners.

11. It was submitted that although possession of the subject land admeasuring 6900 sq.mtrs. was taken as far back as on 17.04.1989, till date, no compensation has been paid and no effort has been made to acquire the said piece of land. It was submitted that the parallel proceedings under the LA Act and the ULC Act undertaken by the respondent authorities in respect of the subject land, had resulted in a situation where the petitioners stood deprived of valuable land in lieu of which no compensation has been paid till date. MTNL has utilized the said land by making constructions and even earning substantial amounts of money by giving out parts of the structures on rent and lease, while the petitioners have been continuously deprived of their valuable rights.

12. Since the petitioners were pursuing their remedies under the ULC Act diligently, which culminated in the said order dated 21.10.2003 and they ultimately pursued their claim for payment of compensation by acquisition of the subject land, it cannot be said that their claim is hit by delay and / or laches. It was highlighted that although the respondents claimed that an appeal had been filed against the said order dated 21.10.2003 of the competent authority under the ULC Act, no details were forthcoming and the petitioners were never put to notice thereof. In any case, upon repeal of the ULC Act in the State of Maharashtra from 29.11.2007, as per Section 3 of the Repealing Act, all pending proceedings stood abated. On this basis, it was submitted that the order dated 21.10.2003 passed by the competent authority under the ULC Act in favour of the petitioners continued to operate, thereby indicating that the petitioners are entitled to pursue their prayers made in the present

writ petition. In support of the aforesaid contentions, reliance was placed on the judgement of the Supreme Court in the case of *Vidya Devi Vs. State of Himachal Pradesh and others*, **(2020) 2 SCC 569** and judgement of this Court in the case of *Voltas Limited and another Vs. Additional Collector and Competent Authority, Thane and others*, **2008 (5) ALL MR 537**.

13. It was further submitted that in the face of such admitted facts, the respondents are not entitled to challenge the correctness and veracity of the said order dated 21.10.2003 passed by the competent authority under the ULC Act as the said order had become final and binding on all parties. The respondents are not entitled to claim that the said order is bad on merits or that, it is a nullity. In support of this contention, reliance was placed on judgement of the Supreme Court in the case of *V. S. Charati Vs. Hussein Nhanu Jamadar (dead) by LRs*, **(1999) 1 SCC 273**. On this basis, it was submitted that the contentions raised on behalf of the respondents in that regard do not deserve to be considered.

14. It was submitted that the respondents did not take any steps even during pendency of the petition to initiate land acquisition proceedings, while respondent No.7 MTNL continued to enjoy the said property. The amount deposited by MTNL towards compensation for acquisition of the subject land was also refunded by the respondent SLAO and therefore, MTNL has enjoyed the land free of cost at the expense of the petitioners. On this basis, it was submitted that the respondents ought to be directed to initiate acquisition proceedings in respect of the subject land admeasuring 6900 sq.mtrs. It was submitted that the acquisition ought to be undertaken under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Act of 2013). It was further submitted that the petitioners need to be compensated for being deprived of possession from 17.04.1989 onwards

in a suitable manner, in the interest of justice. It was also submitted that alternatively, the subject land ought to be restored to the petitioners with a direction to the respondents to demolish the structures constructed thereon.

15. Mr. Chandurkar, learned Additional Government Pleader as also Ms. Raghuwanshi, learned AGP appearing for respondent Nos.1 to 6-State relied upon the reply affidavits filed on behalf of the said respondents in this writ petition. It was submitted that the petitioners and the respondent No.7 MTNL had mutually agreed as regards possession of the subject land being handed over to MTNL during the pendency of the said suit. This resulted in the land acquisition proposal itself being withdrawn. It was emphasized that the said decision and actions were not taken by the SLAO and the State authorities. On this basis, it was submitted that if there is any liability to pay compensation to the petitioners, it is squarely that of respondent No.7 MTNL. It was further submitted that if a land acquisition proposal was submitted afresh, the matter could be considered accordingly.

16. Mr. Shimpi, learned counsel appearing for respondent No.7 MTNL vehemently opposed the present petition. He raised objection of gross delay and laches on the part of the petitioners. It was submitted that when possession was handed over, as far back as on 17.04.1989, filing of the present petition in May 2005 i.e. after 16 years, demonstrates that the petitioners cannot be allowed to agitate their grievances after such a long period of time. It was submitted that during the interregnum, the petitioners never raised any grievance with regard to compensation for the subject land admeasuring 6900 sq.mtrs. The respondent No.7 MTNL has been in continued possession of the subject land since April 1989, several structures have been constructed and a number of third parties are in possession of such structures. In that light,

it was submitted that there was no question of returning the vacant possession of the subject land to the petitioners.

17. It was further submitted that the present petition also raised disputed questions of facts, which cannot be decided in writ jurisdiction. According to the respondent No.7 MTNL, the disputed questions of facts included the nature of out of court settlement between the petitioners and MTNL with regard to the subject land admeasuring 6900 sq.mtrs. It was submitted that the contents of the application filed by MTNL in the aforementioned suit wherein *status-quo* was operating, the say of the petitioners therein and the order dated 21.12.1988 passed by the concerned Civil Court, clearly indicate that there are number of versions with regard to the nature of negotiations between the parties, which ultimately led to possession of the subject land being handed over to MTNL. In such a scenario, it was submitted that the petitioners cannot be permitted to unsettle the status of the claim of the respondent MTNL in the subject land. The writ petition itself was filed after more than 16 years of handing over of possession and today, after 37 years of the possession having been handed over, no relief can be granted to the petitioners. It was further submitted on behalf of the respondent No.7 MTNL that in such a scenario, the petitioners can be said to have waived their rights, if any, in the subject land.

18. It was submitted that the petitioners cannot be permitted to take advantage of the fortuitous circumstance of the ULC Act being repealed during the pendency of the present petition. The petitioners can also not be permitted to take advantage of the fact that the LA Act also stood repealed during the pendency of the present writ petition and they cannot be permitted to now invoke the Act of 2013 for seeking compensation in respect of the subject land. It was submitted that in such a situation, the writ petition deserved to be dismissed. If any relief is granted to the

petitioners, it would amount to dual benefit to them as the subject land stood excluded from surplus land under the ULC Act and the petitioners would end up enjoying compensation under the acquisition process. This was an additional ground invoked on behalf of respondent No.7 to seek dismissal of the petition.

19. Having considered the rival submissions, this Court finds that the peculiar circumstances created by the turn of events in the present case, have resulted in respondent No.7 MTNL retaining possession of the subject land admeasuring 6900 sq.mtrs. from 17.04.1989 onwards, with structures being constructed thereon and third parties also being in possession of parts thereof. In such a situation, the alternative relief sought by the petitioners of a direction to the respondents, particularly respondent No.7 MTNL to handover vacant and peaceful possession of the subject land after demolishing the structures standing thereon is clearly impractical and hence does not deserve consideration. But, the question as to whether the petitioners can be compensated and if so, in what manner, certainly deserves consideration.

20. The parallel proceedings under the ULC Act and the LA Act initiated in respect of the subject land has led to a situation where the petitioners stood deprived of enjoyment of the subject land from 17.04.1989 onwards. The admitted facts in the present case indeed indicate that the exercise of determining quantum of compensation and payment thereof to the petitioners was not undertaken. Such admitted facts include initiation of land acquisition for larger pieces of land in Village Bhayander, District Thane belonging to the petitioners, which stood challenged before the Civil Court wherein an order of *status-quo* had the effect of possession of the lands, including the subject land, being retained by the petitioners. Respondent No.7 MTNL was interested in the subject land admeasuring 6900 sq.mtrs. and therefore, it

had deposited an amount of Rs.9,13,996/- with the respondent SLAO. As a result of the order dated 21.12.1988 passed by the said Civil Court in Regular Civil Suit No.1050 of 1985, possession of the subject land was handed over to the respondent No.7 MTNL while in the backdrop, the proceedings under the ULC Act continued. Eventually, the acquisition proceeding itself was withdrawn by the SLAO and accordingly, on 10.12.1999, the aforesaid amount deposited by MTNL was refunded to it. Thus, MTNL has continued to remain in possession of the subject land without payment of any amount towards compensation to the petitioners.

21. It is also an admitted position on facts that although the order dated 24.01.1990 passed by the competent authority under the ULC Act, excluding the subject land admeasuring 6900 sq.mtrs. from the surplus land, was set aside by the Revising Authority and the appeal there against was dismissed, such orders were set aside by this Court by order dated 04.02.2003, allowing Writ Petition No.3891 of 1992 filed by the petitioners. Upon remand, the competent authority, by its order dated 21.10.2003, confirmed the earlier order dated 24.01.1990, as a consequence of which, the subject land stood excluded from surplus land under the ULC Act. This is a crucial fact in the present case. Although the respondents claim that an appeal against the said order dated 21.10.2003 passed by the competent authority under the ULC Act was filed, the said appeal remained pending without any orders thereon.

22. We find substance in the petitioners placing reliance on the judgement of this Court in the case of **Voltas Limited and another Vs. Additional Collector and Competent Authority, Thane and others** (*supra*), wherein it was held that upon the Repealing Act having its effect from 29.11.2007 in Maharashtra, whereby the ULC Act stood repealed, by operation of Section 3 of the Repealing Act, all pending

proceedings under the ULC Act stood abated. Therefore, the order dated 21.10.2003 passed by the competent authority, confirming the earlier order dated 24.01.1990 excluding the subject land from surplus land, stood undisturbed and the benefit thereof must accrue to the petitioners.

23. The respondents, particularly respondent No.7 MTNL, have raised a serious objection with regard to gross delay and laches on the part of the petitioners as also the aspect of waiver of rights with efflux of time. It is claimed that with passage of time and gross delay on the part of the petitioners to seek relief in an appropriate manner, the possession of MTNL acquired legitimacy.

24. The admitted position on facts recorded in the form of chronological sequence of events hereinabove shows that after the competent authority had passed its order dated 21.10.2003 upon remand from this Court, the earlier order dated 24.01.1990, excluding the subject land admeasuring 6900 sq.mtrs. from the surplus land, stood confirmed. Till such time that the said order was passed, the matter was in a state of flux for the petitioners. The appeal filed on their behalf had been dismissed by the appellate authority and the subject land was categorized as 'surplus' under the ULC Act. So long as the aforesaid status remained, the petitioners could not have agitated their claim for compensation under the LA Act with regard to the possession of the subject land being handed over to MTNL on 17.04.1989. The order dated 21.10.2003 passed by the Competent Authority re-confirmed the status of the subject land as not being surplus. It is a matter of record that within reasonable time from the order dated 21.10.2003 i.e. on 03.04.2004, the petitioners sent a legal notice through their advocate to the respondents calling upon them to compute and pay compensation for the subject land, failing which, the respondents were called upon to handover vacant and peaceful possession of the subject land after

demolishing the structures constructed thereon.

25. Thereafter, on 06.05.2005, the petitioners filed the present writ petition claiming the aforesaid reliefs in the context of the subject land. Considering the sequence of events, which is not disputed by the respondents, it becomes clear that the petitioners pursued the remedies available to them under the ULC Act and also as regards their claim for payment of compensation in the light of the possession of the subject land being handed over to MTNL on 17.04.1989. In the facts of the present case, it cannot be said that the claim of the petitioners agitated in the present writ petition suffers from delay and / or laches. It can also not be said that the petitioners waived their rights because of the fact that they filed the present writ petition in the year 2005. The fact that the present writ petition filed as far back as in the year 2005, wherein *Rule* was issued as far back as on 29.09.2006, could not be taken up for consideration and final disposal for 21 years, cannot be a ground to deprive relief to the petitioners, if they have otherwise made out the case in their favour. Hence, the arguments of the respondents pertaining to delay and laches as also waiver are rejected.

26. Although the right to property is no longer a fundamental right and it is a constitutional right under Article 300A of the Constitution of India, the Supreme Court in a number of judgements, including in the cases of **Kolkata Municipal Corporation and another Vs. Bimal Kumar Shah and others** (*supra*) and **Bernard Francis Joseph Vaz and others Vs. Government of Karnataka** (*supra*), has held that the said right is a human right, which cannot be casually denied to the owners of the land. In the case of **Kolkata Municipal Corporation and another Vs. Bimal Kumar Shah and others** (*supra*), the Supreme Court has recognized seven sub-rights in the right to property, which include the right to notice, the right to be heard, the right to a reasoned

decision, duty to acquire only for public purpose, the right of restitution or fair compensation, the right to an efficient and expeditious process and the right of conclusion.

27. In the present case, these rights have to be construed in the backdrop of the fact that possession of the subject land admeasuring 6900 sq.mtrs. was taken as far back as on 17.04.1989. The beneficiary of the said land i.e. respondent No.7 MTNL had deposited amount of Rs.9,13,996/- towards compensation payable to the claimants with the SLAO. In the affidavit in reply dated 24.09.2002 filed by the SLAO in the aforementioned Writ Petition No.3891 of 1992, it was specifically stated that the said amount was towards 80% of the compensation amount. In the very same affidavit, the SLAO stated that by a demand draft dated 10.12.1999, amount of Rs.9,08,784/- was refunded to MTNL after deducting amount of Rs.5,212/- towards government establishment charges, joint measurement charges and newspaper advertisement bills. Thus, payment of compensation in lieu of utilization of the subject land admeasuring 6900 sq.mtrs. was always recognized and contemplated by the respondents themselves.

28. The exercise of withdrawing from acquisition was undertaken by the SLAO by stating that it was no longer necessary to acquire the land under the LA Act. This was perhaps because the proceedings under the ULC Act, at the relevant time i.e. in the year 1999, were at the stage of challenge raised by the petitioners in Writ Petition No.3891 of 1992 to the order of the appellate authority dismissing the appeal and confirming the order of the competent authority, including the subject land admeasuring 6900 sq.mtrs. in surplus land. But, the order passed by this Court on 04.02.2003 in Writ Petition No.3891 of 1992 changed the picture as the said order of the competent authority was set aside and the matter was remanded for consideration afresh. The subsequent order of

the competent authority dated 21.10.2003 was in favour of the petitioners as the original order dated 24.01.1990, excluding the subject land admeasuring 6900 sq.mtrs. from surplus land, stood confirmed.

29. As noted hereinabove, the petitioners moved with alacrity, issued a legal notice to the respondents and promptly filed the present writ petition in May 2005 for the aforesaid relief. Thus, there is no impediment in considering the claim of the petitioners on merits as regards their entitlement to be compensated for utilization of the subject land and if the said compensation is denied then their right towards restoration of the land in their favour. We find substance in reliance placed on behalf of the petitioners on the judgement of the Supreme Court in the case of **V. S. Charati Vs. Hussein Nhanu Jamadar (dead) by LRs** (*supra*), wherein it was held that a decision rendered by tribunal or a court becomes final and binding on the parties when it is not challenged and even if the decision is wrong, it does not amount to a nullity.

30. In the present case, though respondent No.7 MTNL, in its affidavit in reply in the present petition, claimed that the respondents had challenged the said order dated 21.10.2003 passed by the competent authority in favour of the petitioners, no further details were forthcoming. In any case, by operation of Section 3 of the Repealing Act, which repealed the ULC Act in Maharashtra with effect from 29.11.2007, a proceeding, if any, to challenge the said order of the competent authority, stood abated. Thus, the order dated 21.10.2003 attained finality and the respondents cannot be permitted to claim that it was a nullity, even if for the sake of arguments, it could be said to be wrong. Thus, the petitioners have successfully made out their case for claiming compensation for the subject land utilized by respondent No.7 MTNL. We find that the alternative prayer made on behalf of the

petitioners for restoration of possession of the said land with structures standing thereon being demolished, would lead to grave inconvenience and it would be impractical. Therefore, the only relief that can be considered is an appropriate direction for determination and payment of compensation for the subject land admeasuring 6900 sq.mtrs.

31. We find support in the judgements of the Supreme Court rendered in similar circumstances, where granting relief of restoration of land to the claimants, was found to be impractical, as the subject land already stood utilized for public purpose. In the case of *Competent Authority vs. Barangore Jute Factory and others*, (2005) 13 SCC 477, the Supreme Court found that the impugned notification was liable to be quashed, the consequence of which would be restoration of land to the claimants. But, upon finding that the subject land was already utilized for public purpose of construction of a national highway, the Supreme Court found that no useful purpose would be served by considering the consequential relief of restoration of possession of the land to the claimants. In that light, the Supreme Court proceeded to direct the authorities to determine compensation from a future date, so that justice was done to the claimants/land owners.

32. In a recent judgement rendered in the case of **Bernard Francis Joseph Vaz and others vs. Government of Karnataka** (*supra*), the Supreme Court adopted a similar approach. After referring to the said judgement in the case of **Competent Authority vs. Barangore Jute Factory and others** (*supra*), the Supreme Court further took note of a series of judgements, recognizing the right to property under Article 300A of the Constitution as a human right. In the said judgment, the Supreme Court also referred to the judgements concerning the question of delay and laches, including judgement of the Supreme Court in the case of **Vidya Devi vs. State of Himachal Pradesh and others** (*supra*).

33. After referring to a number of judgements on the nature of right under Article 300A of the Constitution of India, in the case of **Bernard Francis Joseph Vaz and others vs. Government of Karnataka** (*supra*), the Supreme Court observed as follows:

- “43. Right to property ceased to be a fundamental right by the Constitution (Forty-fourth Amendment) Act, 1978, however, it continues to be a human right in a welfare State, and a constitutional right under Article 300-A of the Constitution.
44. Article 300-A of the Constitution provides that *no person shall be deprived of his property save by authority of law*. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law.
45. This Court in the aforesaid case of *Vidya Devi* [(2020) 2 SCC 569 : (2020) 1 SCC (Civ) 799] observed that in a democratic polity governed by the rule of law, the State could not have deprived a citizen of their property without the sanction of law. It was further observed that the State being a welfare State governed by the rule of law cannot arrogate to itself a status beyond what is provided by the Constitution.
46. Recently, this Court in the aforesaid case of *Ultra-Tech Cement Ltd. v. Mast Ram*, [(2025) 1 SCC 798 : (2025) 1 SCC (Civ) 379 : (2025) 253 Comp Cas 1] observed that the Government as a welfare State ought to have proactively intervened in the matter with a view to ensure that the requisite amount towards compensation is paid at the earliest. It was further observed that the State cannot abdicate its constitutional and statutory responsibility of payment of compensation by arguing that its role was limited to initiating acquisition proceedings. It was, therefore, observed that the delay in the payment of compensation, in accordance with law, to the landowners after taking away ownership of the subject land from them is in contravention to the spirit of the constitutional scheme of Article 300-A and the idea of a welfare State.
47. In the aforesaid case of *Ultra-Tech Cement*, this Court further observed that acquisition of land for public

purpose is undertaken under the power of eminent domain of the Government much against the wishes of the owners of the land which gets acquired. It was, therefore, observed that when such a power is exercised, it is coupled with a bounden duty and obligation on the part of the government body to ensure that the owners whose lands get acquired are paid compensation/awarded amount as declared by the statutory award at the earliest.

48. It will also be appropriate for the purpose of the present discussion to refer to the judgment of this Court in *K. Krishna Reddy v. Collector (LA)* [(1988) 4 SCC 163], specifically in para 12, it was observed thus: (SCC pp. 166-67)

‘12. We can very well appreciate the anxiety and need of claimants to get compensation here and now. No matter what it is. The lands were acquired as far back in 1977. One decade has already passed. Now the remand means another round of litigation. There would be further delay in getting the compensation. After all money is what money buys. What the claimants could have bought with the compensation in 1977 cannot do in 1988. Perhaps, not even one half of it. It is a common experience that the purchasing power of rupee is dwindling. With rising inflation, the delayed payment may lose all charms and utility of the compensation. In some cases, the delay may be detrimental to the interests of claimants. The Indian agriculturists generally have no avocation. They totally depend upon land. If uprooted, they will find themselves nowhere. They are left high and dry. They have no savings to draw. They have nothing to fall back upon. They know no other work. They may even face starvation unless rehabilitated. In all such cases, it is of utmost importance that the award should be made without delay. The enhanced compensation must be determined without loss of time. The appellate power of remand, at any rate ought not to be exercised lightly. It shall not be resorted to unless the award is wholly unintelligible. It shall not be exercised unless

there is total lack of evidence. If remand is imperative, and if the claim for enhanced compensation is tenable, it would be proper for the appellate court to do modest best to mitigate hardships. The appellate court may direct some interim payment to claimants subject to adjustment in the eventual award.'

49. It cannot be gainsaid that the appellants herein have been deprived of their legitimate dues for almost 22 years ago. It can also not be controverted that *money is what money buys*. The value of money is based on the idea that money can be invested to earn a return, and that the purchasing power of money decreases over time due to inflation. What the appellants herein could have bought with the compensation in 2003 cannot do in 2025. It is, therefore, of utmost importance that the determination of the award and disbursal of compensation in case of acquisition of land should be made with promptitude."

34. In the light of the said position of law clarified and reiterated by the Supreme Court in a number of judgements, we find that in the facts of the present case, the petitioners have made out a case for appropriate directions to the respondents to determine and pay compensation to the petitioners for utilization of the subject land admeasuring 6900 sq.mtrs. It is undisputed that the said land has been utilized by respondent No.7 MTNL and that possession of the land was handed over to the said respondent as far back as on 17.04.1989. The said respondent constructed buildings on the subject land and utilized the same for its purpose. Parts of the constructed portions have been let out on rent/lease by the said respondent, thereby showing that it has utilized and enjoyed the subject property from the year 1989 onwards.

35. On the other hand, the petitioners have been deprived of enjoyment of the subject land from the year 1989 and till date, nothing has been paid towards compensation. Amongst the seven sub-rights recognized by the Supreme Court in the case of **Kolkata Municipal**

Corporation and another vs. Bimal Kumar Shah and others (*supra*), the petitioners have been deprived of the right to fair compensation, the right to an efficient and expeditious process for determination and payment of compensation and the right to conclusion. Thus, we find that the right of the petitioners under Article 300A of the Constitution, has been violated in the facts and circumstances of the present case.

36. The only question which remains to be addressed is the manner in which the petitioners are to be compensated for violation of the aforesaid right. The chronology of events noted hereinabove shows that while respondent No.7 MTNL had deposited an amount of Rs.9,13,996/- with the SLAO in July 1987, specifically for the purpose of the subject land admeasuring 6900 sq.mtrs., the said amount was never paid to the petitioners. Instead, in December 1999, the SLAO refunded an amount of Rs.9,08,784/- to the said respondent, after deducting a smaller amount towards expenses, as it was found that acquisition of the subject land was not necessary. Thus, from the very beginning, the respondent authorities as well as respondent No.7 MTNL were aware about the fact that if the petitioners were to be deprived of the subject land, they deserved to be adequately compensated, in accordance with law.

37. But, till date, the petitioners have not been paid any amount towards compensation, despite the fact that they stood deprived of possession of the subject land as far back as on 17.04.1989. We are of the opinion that in such circumstances, the petitioners deserve fair compensation by recognizing their right under Article 300A of the Constitution. While determining the specific date as reference point and basis for determination of quantum of compensation, the chequered history and chronology of events of the present case, need to be considered.

38. On 17.04.1989, when possession of the subject land admeasuring

6900 sq.mtrs. was taken by MTNL, during pendency of Regular Civil Suit No.1050 of 1985, as per order of the competent authority, under ULC Act dated 26.10.1984, the subject land was included in surplus land of the petitioners. Subsequently, when the State Government remanded the matter to the competent authority under ULC, by the aforesaid order dated 24.01.1990, the competent authority excluded the subject land admeasuring 6900 sq.mtrs. from surplus land of the petitioners. But, by this time, possession of the same was already taken by the MTNL.

39. Thereafter, the proceedings under the ULC Act continued, as the order dated 24.01.1990 was revised and on 20.08.1991, the competent authority reversed its own order and held the subject land again as part of the surplus land of the petitioners under the ULC Act. The said order was challenged in appeal, which was dismissed on 23.03.1992 and the order of the appellate authority was challenged in the said Writ Petition No.3891 of 1992. Eventually, on 04.02.2003, this Court partly allowed the writ petition, set aside the orders of the competent authority, revising its earlier order, as also the order of the appellate authority and remanded the matter back to the competent authority for consideration afresh.

40. On 21.10.2003, the competent authority passed its order, confirming its own earlier order dated 24.01.1990, whereby the said land was excluded from surplus land. As noted hereinabove, even though MTNL claims that the respondents had challenged the said order, in the light of the Repeal Act, which repealed the ULC Act in the State of Maharashtra with effect from 29.11.2007, the challenge, if any, raised to the order of the competent authority dated 21.10.2003, abated. As noted hereinabove, the petitioners, in this backdrop, issued a legal notice to the respondents, claiming reliefs and eventually, on 06.05.2005, they filed the present writ petition before this Court.

41. This Court is of the opinion that till the proceedings under the

ULC Act culminated in the order dated 21.10.2003 passed by the competent authority, confirming its earlier order dated 24.01.1990, excluding the surplus land of the petitioners, the question as to whether the petitioners continued to have rights in the subject land, was in a flux. Till the order dated 21.10.2003 was passed by the competent authority under the ULC Act, which led to the filing of the present writ petition on 06.05.2005, it could be said that the petitioners would have found it difficult to assert their right of compensation for deprivation of enjoyment of the subject land. Therefore, we are of the opinion that if a specific date is to be ascertained for determination of market value payable towards compensation to the petitioners in a just and fair manner, by balancing the interests of all the parties to this litigation, it would be appropriate that the date of filing of this petition i.e. 06.05.2005, is fixed as the date for determination of market value for payment of compensation to the petitioners.

42. In the case of **Bernard Francis Joseph Vaz and others vs. Government of Karnataka** (*supra*), the Supreme Court, while referring to earlier precedents, has recognized power in the High Court under Article 226 of the Constitution of India, to shift or postpone the date of preliminary notification for acquisition to a later date. Although in the present case, the SLAO concluded in the year 1999 that acquisition of the subject land was not necessary and refunded the amount deposited by MTNL, we find that the said action was undertaken at a point in time when challenge to the order of the competent authority under the ULC Act, holding the subject land as part of surplus land, was still in vogue. It cannot be ignored that notification under Section 4 of the LA Act for acquisition of large pieces of land of the petitioners including the said land, was issued as far back as on 10.11.1982 and that declaration under Section 6 of the LA Act was issued on 28.11.1985. It appears that the said notifications did not survive, in the light of the sequence of events,

including filing of Regular Civil Suit No.1050 of 1985 and the approach adopted by the parties, leading to possession of the subject land admeasuring 6900 sq.mtrs. being handed over to MTNL on 17.04.1989.

43. The relevant portion of the judgement of the Supreme Court in the case of **Bernard Francis Joseph Vaz and others vs. Government of Karnataka** (*supra*), reads as follows:

“15. It can thus be seen that the learned Single Judge of the High Court, upon appreciation of the material placed on record, was of the view that insofar as the opinion of the learned Advocate General with regard to shifting of the date of the preliminary notification to a later date is concerned, the said opinion was beyond the scope and ambit of the query put forth to him and consequently, the said opinion could not have been made the basis by the SLAO to pass the award. It is further to be seen that the learned Single Judge of the High Court after considering the provisions of the 1894 LA Act, the KIAD Act and various decisions of this Court, observed that the market value of the acquired land has to be taken as on the date of the preliminary notification as contemplated under Section 11 of the 1894 LA Act. Further, the learned Single Judge of the High Court observed that only in exceptional circumstances, where either this Court or the High Court comes to the conclusion that the acquisition proceedings themselves were liable to be quashed on account of certain illegalities or infirmities in the acquisition process/procedure, it was permissible only for this Court in exercise of its powers under Article 32/142 or the High Courts under Article 226 of the Constitution of India to shift the date to a later/subsequent date. It was further observed that this power to shift the date is available only to either this Court or the High Courts and not definitely/certainly to the SLAOs or the State Government.

16. We are in agreement with the findings of the learned Single Judge of the High Court, inasmuch as the SLAO cannot shift/postpone the date of preliminary notification. In case, upon appreciation of the material placed on record if this Court or the High Court, in exceptional circumstances, came to the conclusion that the acquisition proceedings themselves were liable to be quashed only then by exercising inherent powers this

Court under Article 32/142 or the High Courts under Article 226 of the Constitution of India, respectively, can shift/postpone the date of preliminary notification to a later date. In our considered opinion, therefore, the learned Single Judge of the High Court rightly came to the conclusion that the award dated 22-4-2019 be quashed and set aside and ordered accordingly.”

44. We are of the opinion that following the position of law laid down by the Supreme Court in the aforementioned judgements, while exercising power under Section 226 of the Constitution, this Court can fix a specific date for determination of market value, which would then be the basis for payment of compensation to the petitioners. In the facts and circumstances of the present case, we are not inclined to grant the relief of restoration of possession of the subject land to the petitioners and therefore, the only exercise that can be carried out is the determination of quantum of compensation, which would amount to just, fair and reasonable compensation in recognition of the right of petitioners under Article 300A of the Constitution. To that extent, we are inclined to treat this as a case where acquisition was initiated under the LA Act, but no award was made.

45. In this context, we make a reference to Section 24(1)(a) of the Act of 2013, to apply the provisions of the said Act insofar as they relate to determination of quantum of compensation. In that light, the date of filing of this writ petition i.e. 06.05.2005, is fixed as the date for determining the market value of the subject land admeasuring 6900 sq.mtrs. Thereupon, the quantum of compensation shall be determined, by applying the provisions of the Act of 2013 and all statutory benefits payable under the said Act, shall be paid to the petitioners. Since the petitioners have been deprived of possession of the subject land for the period between 17.04.1989 and 05.05.2005, the respondents shall pay rental compensation to the petitioners as per policy of the State. Since

MTNL has been enjoying the said property, the financial burden of the reliefs being granted to the petitioners in this petition, shall be borne by the MTNL. The amount of Rs.5 lakhs deposited in this Court in terms of order dated 21.07.2006, shall be disbursed to the petitioners along with accrued interest and it shall be adjusted in the quantum of compensation that shall be determined, in terms of directions being issued in the present writ petition. We find that such directions would meet the ends of justice, in the facts and circumstances of the present case.

46. In view of the above, the writ petition is allowed in the following terms:

- (a) The respondent No.6 – Special Land Acquisition Officer is directed to forthwith initiate the exercise of determination of quantum of compensation payable to the petitioners by fixing the date 06.05.2005 as the date for determination of market value of the subject land admeasuring 6900 sq.mtrs.;
- (b) the quantum of compensation shall be determined under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013;
- (c) the said compensation shall include all statutory benefits payable under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013;
- (d) the said exercise of determination of quantum of compensation shall be initiated forthwith by respondent No.6 – Special Land Acquisition Officer, without waiting for deposit of any amount by respondent No.7 – MTNL

and the same shall be completed within a period of six months from the date of this order;

- (e) thereupon, within one week of determination of such quantum of compensation, the said respondent shall intimate respondent No.7 – MTNL, who shall deposit such amount of compensation with SLAO within two weeks of receipt of intimation. Respondent No.6 – SLAO in turn, shall disburse the amount to the petitioners within one week of receiving the same from MTNL;
- (f) the amount of Rs.5 lakhs deposited in this Court in terms of order dated 21.07.2006 along with accrued interest, shall be disbursed to the petitioners within two weeks of the date of this order. The Registry to take necessary steps accordingly;
- (g) the aforesaid amount disbursed by the Registry to the petitioners, shall be adjusted at the time of payment of compensation to the petitioners, to be determined in terms of the directions given hereinabove;
- (h) the respondent No.5 – Collector is directed to forthwith initiate the exercise of determination of rental compensation payable to the petitioners for the period between 17.04.1989 and 05.05.2005, in terms of the policy of respondent – State. The said exercise shall be completed within a period of eight weeks from the date of this order and the amount so determined, shall be intimated to respondent No.7 – MTNL within one week. Thereupon, MTNL shall disburse the said amount to the petitioners within two weeks.

47. In the light of the directions given hereinabove, Interim Application No.15159 of 2024 is disposed of.

48. Rule is made absolute in above terms.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)

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