

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7707 OF 2018**

- 1) Zal Sam Cooper]
Age : 53 Adult, Occupation: Business]
Huntworth, Sadar Bazar, Camp, Satara –]
415 001] ... Petitioner

Versus

- 1) The State of Maharashtra]
Through the Secretary, Revenue]
Department, Mantralaya, Mumbai.]
- 2) The Collector,]
Satara having address at: Collector]
Office, Satara 415 001.]
- 3) Special Land Acquisition Officer]
District Satara Having address at Land]
Acquisition Bhavan, Opp.]
District Treasury Office, Powai Naka,]
Satara 415 001.]
- 4) Satara Municipal Council]
(Through it's Chief Officer Having]
address at Bhavani Peth, Rajpath, Satara,]
Maharashtra.] ... Respondents.

Mr. Vishwajeet Sawant, Senior Counsel a/w Mr. Vishwanath Talkute
i/by Adv. Sugandh Deshmukh for Petitioner.

Mr. Atul P. Vanarase, AGP for the Respondent-State.

Mr. Sarang S. Aradhya a/w Adv. Dnyaneshwari Utpat, Adv. Shantanu
Gurav for Respondent No. 4.

CORAM : MRS. VRUSHALI V. JOSHI,
SANDESH D. PATIL, JJ.
RESERVED ON : 29th June, 2026.
PRONOUNCED ON : 7th July, 2026.

JUDGMENT: (PER: SANDESH D. PATIL, J).

1. **Rule.** Rule made returnable forthwith. By consent of the parties, the matter is taken up for final hearing. Learned AGP waives service for Respondent Nos. 1 to 3-State and Mr. Aradhaye waives service for Respondent No. 4.

2. The present petition is filed by the petitioner, *inter alia*, seeking directions to the respondent to acquire the petitioner's property in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "***the Act of 2013***").

3. The petitioner's predecessor-in-title was the owner of land admeasuring approximately 87,560 sq. mtrs., bearing Survey No. 465-B, situated at Sadar Bazar, Satara (hereinafter referred to as "the said property"). The petitioner's predecessor-in-title expired on 23.09.2014.

4. Out of the total area of 87,560 sq. mtrs., an area admeasuring approximately 3,388.40 sq. mtrs. was reserved for 'D.P Road' in the Draft Development Plan of Satara City published on 01.03.1977.

5. The father of the petitioner wanted to develop the said property hence the father of the petitioner preferred an application for conversion of the property from agricultural to residential use. On the application of the father, the respondent No. 2 passed an order for conversion of the property to non-agricultural use namely for residential use on 08.09.1983. Thereafter, the father of the petitioner applied for sanction of a layout which had several plots and internal road therein. The said layout was sanctioned.

6. The area admeasuring at about 3388.40 sq mtrs which was reserved under 'D.P. Road' was given a separate property card bearing survey no 465B-4, and the name of the father of the petitioner was shown as owner of the property on which the proposed 'D.P. Road' was shown. This separate property card was prepared on 03.04.1984. After sanction of the layout, the father of the petitioner wrote a letter to the respondent No. 4 thereby handing

over possession of all the internal roads and gutters for maintenance of the respondent council vide letter dated 30.06.1984. On 03.02.1999, the respondent No. 4 submitted the draft DP plan which was declared in the year 1977 to State Government for sanction.

7. On 15.09.2001, the respondent No. 1-State partly sanctioned the proposed development plan for city of Satara. On 01.11.2001 the sanctioned DP came into force. After the sanctioned DP came into force in the year 2001 the uncle of the petitioner wrote a letter to the Respondent-State on 30.10.2002 asking for compensation for the proposed 'D.P. Road'. The petitioner's father on 26.09.2005 addressed a letter/legal notice to the respondent No. 4 demanding compensation in lieu of the 'D.P. Road'.

8. It is worthwhile to notice at this juncture that the 'D.P. Road' was always being used by the respondent No. 4 as public Road and no acquisition proceedings were initiated till date. On 26.10.2005 the respondent No. 4 replied to the legal notice issued by the petitioner's father and refused to pay compensation on the ground that the public road was being used for more than 20 years and the layout is fully developed hence, question of paying

compensation would not arise.

9. The petitioner's father thereafter filed Miscellaneous Civil Application No. 261 of 2005, on 29.11.2005 under the provisions of Section 330 (3) of the Maharashtra Municipalities Act, 1965 (for short "*the said Act*") before the District Court, Satara for claiming compensation with reference to the 'D. P. Road'.

10. On 25.07.2006 a reply was filed by the respondent No. 4 in the Miscellaneous Civil Application No. 261 of 2005, *inter alia* raising the plea of maintainability of the proceedings on the ground that the area has been developed fully since more than 20 years and that the owner has directly received benefit due to increase in the land rates.

11. On 05.02.2014 the said proceedings before the District Judge were withdrawn by the father of the petitioner by filing an application below Exhibit-79 *inter alia* seeking leave to approach the District Collector under Section 64 of the Act of 2013.

12. On 23.09.2014 the father of the petitioner expired and thus the petitioner became the absolute owner of the property in question i.e. 'D. P. Road'. On 10.03.2016, the petitioner made an

application to the respondent under the provisions of Section 64 of the Act of 2013, claiming compensation for the 'D.P Road' admeasuring at about 3388.40 sq mtrs. On 25.01.2017, the petitioner received a letter from the respondent No. 4 addressed to the Assistant Director, Town Planning Scheme, Satara stating that compensation cannot be provided as per current market price.

13. On 08.03.2018, the Town Planning and Valuation Department, Satara addressed a letter to the respondent No. 2 stating that no compensation can be granted since petitioner has benefited from the 'D.P Road' at the time of selling plot adjacent to the said road. On 09.05.2018, the petitioner addressed a letter/legal notice to the respondents and called upon them to pay the compensation.

14. On 15.06.2018, since the compensation was not paid, the petitioner filed the present petition.

15. The respondent No. 4 has filed a reply to the petition. The respondent No. 4 contended that the petition was not maintainable. The respondent No. 4 contended that in lieu of the application made by the father of the petitioner in the year 1983,

Road admeasuring at about 3388.40 sq mtrs was sanctioned separately, and the rest of the area was utilised by the petitioner for purpose of separate plots. They stated that in view of the substantial size of the petitioners property area measuring at about 3388.40 sq mtrs was kept for the purpose of road. It is stated that the petitioner's father was benefited out of the said road in as much as he had an opportunity to create various plots as per the sanctioned layout. It was contended that since the year 1983, the said 'D.P Road' has been under the use and occupation of the public at large and since then the petitioner's entire land is developed by plotting.

16. The respondents categorically admitted that the Draft DP plan was declared on 01.03.1977 by the respondent No. 1. It was further stated that on 01.11.2001 the State of Maharashtra was pleased to declare sanction revised development plan for city of Satara, however the status of the petitioner's property did not change and the earlier remark of proposed 'D.P Road' remained as it is. It was stated that the said road was being used by the petitioner and the public at large. It was stated that in lieu of reservation of the 'D.P Road' the petitioner's father divided the plot and took benefit of the sanctioned layout for the road. It was contended that the road was

being put into use in the year 1983 and hence in view “doctrine of lapse” the petitioner could not claim any monetary compensation. It was stated that the petitioner's father had earlier approached the Civil Court, however, that application was withdrawn. It was stated that since 1983 the petitioner’s father never claimed any sort of compensation from the respondent No. 4. It is further stated on affidavit, that the respondent-municipal council does not want to acquire the property reserved as ‘D.P. Road’ and hence the question of payment of compensation under right to fair compensation does not arise. The respondent No. 4 filed additional affidavit and reiterated its earlier submission.

17. Mr. Sawant, learned Senior Counsel appearing for the Petitioner argued that it was illegal for the respondent No. 4 to use the property for ‘D.P. Road’ without proper acquisition and/or payment of compensation he argued that the same was violating the fundamental right guaranteed under article 21 and article 300 A of the Constitution of India. He stated that the petitioner’s property could not be used by the respondent as a public road without acquiring the same and/or without paying compensation to the petitioner. He contended that the contention of the respondents that

compensation cannot be paid on account of delay and laches on the part of the petitioner in approaching this court is totally misconceived. He stated that from the facts narrated above, it is evident that there was no delay and/or laches on the part of the petitioner to approach the Court, he had taken us to the voluminous evidence which suggest that the petitioner had not slept over his right, but was prosecuting his case/claim before various authorities as mentioned above.

18. He stated that assuming for argument purpose without admitting that there is a delay on the ground on the part of the petitioner, the objection of delay and laches cannot be raised in case of continuing cause of action. He stated that the state cannot evade its legal responsibility towards the parties from whom the property has been taken.

19. He contended that the plea of the respondent-authorities that the petitioner had voluntarily handed over the 'D.P. Road' is totally misconceived. He stated that it was the responsibility of the respondents to undertake the process of acquisition and that the respondents cannot take advantage of their own wrong. He stated

that the Corporation was duty bound to make payment towards the property which was reserved and which was not yet acquired.

20. In support of his case he relied upon the Judgment of *Sukh Dutt Ratra and another Versus State of Himachal Pradesh and others*¹, to contend that the right to property is not only a constitutional or statutory right, but also a human right. He stated that the functionaries of the state took over possession of the land belonging to the Appellant without any sanction of law. He stated that the question of condonation of delay is one of discretion and has to be decided on the basis of facts of every case. He urged that the discretion of the Court must be exercised fairly and justly so as to promote justice and not to defeat it.

21. He relied upon the Judgment of *Tukaram Kana Joshi and others Versus Maharashtra Industrial Development Corporation and others*² and argued that the Apex Court has held that the state must either comply with the procedure laid down for acquisition or requisition or any other permissible mode. He stated that no hard and fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it

1 2022 7 SCC 508

2 2013 (1) SCC 353

after considerable delay and is other way guilty of laches.

22. The learned Counsel relied upon the Judgment in the matter of *Vidya Devi Versus State of Himachal Pradesh and others*³ and contended that the petitioner could not have been forcibly dispossessed of the property without any legal sanction, without following due process of law and depriving him the payment of just compensation, being his fundamental right.

23. The learned Counsel appearing for the respondent argued that the petition be dismissed. He submitted that the development plan was published on 01.03.1977 the petitioner's father sought conversion of the land into residential use and accordingly on 08.09.1983 the Respondent No. 2 was pleased to issue no objection for the aforesaid conversion. He submitted that on 30.06.1984, the petitioner's father had voluntarily requested the Satara Municipal Council to take possession of all the internal Road from survey no. 465-B in light of the sanctioned layout. Thereafter the possession of the internal road were taken in the year 1985 itself. He submitted that the petitioner had taken advantage of the sanctioned layout and sold more than 255 plots to various persons by

3 2020 (2) SCC 569

taking advantage of the 'D.P. Road' and earned huge profit.

24. He submitted that between 1985 till 2005 at no point of time grievance were made by the father of the petitioner and that they approached the Court belatedly. It is only on 26.09.2005 for the first time that the petitioner's father had issued legal notice to the Chief Officer of the Satara Municipal Council seeking compensation pursuant to the provisions of Section 330 (1) of the said Act. He stated that the said claim was also negated by the Municipal Council. The petitioner's father thereafter approached the District Court, Satara under Section 330 (3) of the said Act. Thereafter he approached the Collector Satara seeking to pay compensation under the provisions of the Act of 2013 thus there was a massive delay. The petitioner is not entitled for any relief in light of the delays and laches.

25. The learned Counsel for the respondent relied upon the Judgment in the case of *State of Maharashtra Versus Digambar*⁴ more particularly paragraph 26 to drive home a point that when the petitioner was guilty of laches and undue delay in approaching the Court, the petitioner was dis-entitled for any discretionary writ under

4 1995 (4) SCC 683

Article 226 of the Constitution of India from the High Court.

26. He also relied upon the Judgment in the matter of *Shri. Suresh Khandsari Sugar Mills, Kannad Versus The State of Maharashtra and others* passed in Writ Petition No. 6332 of 2016 dated 07.07.2017 to contend that the Division Bench of this Court had refused to grant any relief to the petitioner therein because the claim was not alive. He stated that the father of the petitioner was aware in the year 1983 that the property in question was reserved for 'D.P. Road'. No compensation was paid to the father of the petitioner thus, the Writ Petition which was filed in the year 2016, is liable to be dismissed on the grounds of delay and laches alone.

27. Heard the learned Counsel appearing for the petitioner and the learner Counsel appearing for the respondents.

28. The entire dispute revolves around the plot of land admeasuring at about 3388.40 sq mtrs which is reserved for 'D.P. Road' in the Development Plan. The said property is bearing survey No. 465-B/4 and the said property card was created for the first time on 03.04.1984. Thus, the property cards of the layout and the 'D.P. Road' are different.

29. It is not in dispute that the father of the petitioner constructed a layout, handed over the internal roads and gutters of the layout constructed upon survey No. 565/B to the respondent No. 4. It is also not in dispute that on 03.02.1999 the respondent No. 4 submitted draft development plan to the State Government for sanction.

30. On 05.09.2001 the respondent-State partly sanctioned the proposed D.P. plan and on 01.11.2001, the final sanctioned DP plan came into force. Immediately on 30.10.2002 the uncle of the petitioner had sent a demand letter demanding compensation for the reservation, namely 'D.P. Road'. This was the first ever proceeding initiated from petitioner's side for the purpose of demanding compensation. Thereafter on 26.09.2005 legal notice was issued by the father of the petitioner, demanding compensation and thus the proceedings demanding compensation gained momentum after 26.09.2005.

31. The relief claimed by the petitioner is opposed by the Municipal Council mainly on two grounds. i) That the petitioner has already benefited by the layout which was sanctioned. ii) There is

delay and laches in approaching the Court on the part of the petitioner.

32. The property in question is undisputedly reserved as 'D.P Road' in the development plan. The draft development plan was declared for the first time on 01.03.1977. The final plan was sanctioned and came into force on 01.11.2001. The property in question admeasures at about 3388.40 sq mtrs bearing survey number 465-B/4 and is reserved for under the caption 'D.P Road' in the development plan.

33. Before adverting to the rival contentions, it is necessary to advert to the provisions of the Maharashtra Regional And Town Planning Act, 1966 (for short "M.R.T.P Act"). Chapter III of the M.R.T.P Act incorporates sections 21 and 22 which deals with development plan. Section 26 provides for preparation and publication of notice of the draft development plan. Section 28 provides for objections to the draft development plan. The draft development plan thereafter along with the list of modification or changes made in the draft development plan under Section 28(4) is forwarded to the State Government for sanction under section 30 of

the M.R.T.P. Act. Section 31 provides for sanction to the draft development plan and section 42 deals with the implementation of the plans.

34. Chapter-IV provides for restrictions on development of the land once the intention to prepare a development plan is published in the official gazette. Section 44 deals with the application for permission for development. Section 49 obligates the authorities to acquire land, once the land is declared to be reserved for a particular purpose, Section 52 of the M.R.T.P. Act provides for penalty for unauthorised development or for use, otherwise, than in conformity with the development plan. Thus, once the development plan comes into force, the person cannot use the said property for any other purpose.

35. Chapter-VII deals with land acquisition. Section 125 provides for compulsory acquisition of land needed for purpose of the regional plan, development plan or the town planning, etc. Section 126 provides that the land can be acquired either by an agreement or by granting the land owner an amount equivalent to the value of the property. In case the agreement is not reached, there is a provision

for making application to the State Government for acquiring such land under the provisions of the Act of 2013. Section 127 deals with lapsing of reservations.

36. In the case in hand, the sanctioned D.P plan came into force on 01.11.2001 immediately on 30.10.2002, the uncle of the petitioner addressed a letter to the respondent No. 1 demanding compensation for the proposed 'D.P. Road'. On 26.09.2005 legal notice was issued by petitioner's father demanding compensation.

37. On perusal of the scheme of the M.R.T.P act, which is extracted in the forgoing paragraphs it is clear that once a property is reserved for any particular purpose, the owner of the property would not have any right to use the property for any other purpose. As a matter of fact, such change in user would be penalised under the statute. The owner of the property thus loses his right to use the property. The land in question is reserved for 'D.P. Road'. The owner of the property is definitely deprived of his right over the property in question. It is not disputed by the Municipal Council at this stage that the land in question is not reserved for 'D.P. Road'. As a matter of fact, the only bone of contention of the respondents Municipal Council is

that because of the 'D.P. Road', the father of the petitioner could develop the layout and earn profit out of it. This submission of the respondent- Municipal Council is totally contrary to the scheme of the M.R.T.P. Act. Admittedly, the father of the petitioner could not have used the property admeasuring at about 3388.40 sq mtrs bearing survey No. 465-B/4 for any other purpose save and except for 'D.P. Road'.

38. In these circumstances, it was incumbent upon the authority, i.e. the respondent No. 4 in this case, to resort to provisions of Section 126 of the M.R.T.P. Act. The contention that the father of the petitioner used the 'D.P. Road' for the purpose of getting sanction layout is totally preposterous. There is a difference between sanction layout and the development plan. If the scheme of the MRTP act is perused in details, reservation of a particular property for 'D.P. Road' is totally different and independent exercise.

39. The petitioner's father applied for permission for development of the remaining land i.e. property bearing survey No. 465-B under the provisions of section 44 of the M.R.T.P. Act. The property in question was different namely survey No. 465-B. The

property which is reserved for the 'D.P Road' with which the present petition is concerned is property bearing survey No. 465-B/4. Thus, by no stretch of imagination, it can be said that because the father of the petitioner developed the property in question, got a layout, sanction, no compensation can be paid in lieu of the reservations. As a matter of fact, it was incumbent upon the municipal authorities to acquire the land in question i.e. the 'D.P Road'. The Municipal Council should have carried out that exercise immediately after the sanction D.P came into force on 01.11.2001 or soon thereafter.

40. The Municipal Council, however, failed to discharge its statutory duty which prompted the petitioner to file various proceedings and ultimately the present petition. The very first limb of the argument of the respondent for not paying the compensation and seeking dismissal of the writ petition is therefore without any substance and deserves to be thwarted.

41. The next ground which the respondent No. 4 has taken is that there are delays and laches on the part of the petitioner. Admittedly the draft development plan for the city of Satara was declared on 01.03.1977, in which the property in question was

shown to be a 'proposed D.P. Road.'

42. The respondent No. 4 on 03.02.1999 submitted the draft DP to the State Government for sanction and it is only on 01.11.2001 that the sanctioned DP came into force. The uncle of the petitioner immediately on 30.10.2002 addressed a letter to the respondent No. 1 seeking compensation and on 26.09.2005 legal notice was issued by the petitioner's father demanding compensation.

43. In our opinion, the very cause to seek compensation arose on 01.11.2001 or soon thereafter. After the year 2005, the petitioner's father was litigating before the Civil Court by filing Civil Application No. 261 of 2005 before the District Court under the provisions of section 330 (3) of the said Act. In view of enactment of the Act of 2013, the proceedings were withdrawn with liberty to file application under section 64 of the Act of 2013 before the District Collector.

44. On 05.02.2013, the District Court permitted the petitioner to withdraw the proceeding with liberty to file appropriate proceeding under section 64 of the Act of 2013. That application was made and ultimately on 27.03.2018 the petitioner was informed that

no compensation can be granted because the 'D.P. Road' is not being acquired.

45. On 15.06.2018, the petition was filed. Thus it is clear that there was no delay or laches on the part of the petitioner. It is not that the petitioner's father or his predecessor was sleeping over his right. This is a case where the cause of action was continuously operating. The petitioner's father initially chose to demand his right before the Civil Court thereafter before the District Collector and thereafter he filed the present petition.

46. The reliance of the learned Counsel appearing for the respondent on the Judgment of *State of Maharashtra Versus Digambar* (supra) is totally misplaced. In that case the Court had reached to a specific conclusion that the petitioner therein was guilty of laches and delay. In the facts of this case of *State of Maharashtra Versus Digambar* (supra), the allegation of the petitioner in the petition was that although a certain extent of his land was taken away in the year 1971-72, by the agency of the state for scarcity relief work undertaken by the State Government in the year 1971-72 to find work for small agriculturalist and agricultural labourers in the

then prevailing severe drought conditions he was not compensated despite request made to the State Government and various agencies in that regard even till the filing of the writ petition by him. The Hon'ble Apex Court dealt with with the submissions in the said petition in paragraph 25 and 26 as under:-

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

26. *Thus, when the writ petitioner (respondent here) was guilty of laches or undue delay in approaching the High Court, the principle of laches or undue delay adverted to above, disentitled the writ petitioner*

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

47. The facts of the case in hand are totally different. Here admittedly, the final development plan came into force on 01.11.2001. Thereafter, on 30.10.2002, the uncle of the petitioner addressed a letter to the respondent No. 1 demanding compensation. The cause continued thereafter. The father of the petitioner continued to seek justice by filing proceedings under section 330 (3) of the said

Act before the District Court. He withdrew that application and sought liberty to file proceedings under Section 64 of the Act of 2013. That application was pending up to the year 2018. On 27.03.2018 the petitioner was informed that the compensation cannot be granted and therefore he addressed a legal notice on 09.05.2018 and filed the present petition on 15.06.2018. Thus, at no point of time, the petitioner's father was guilty of delays and laches.

48. The Hon'ble Apex Court in the case of ***Vidya Devi Versus State of Himachal Pradesh***⁵ has held that the petitioners were pursuing their case persistently. The rights of the petitioner to the property could not have been denied by the state. Paragraph 12.14 of the said judgment is reproduced as under:

“12.14. In Tukaram Kana Joshi V. MIDC, this Court while dealing with a similar fact situation, held as follows:

11. There are authorities which state that delay and laches extinguish the right to put forth a claim. Most of these authorities pertain to service jurisprudence, grant of compensation for a wrong done to them decades ago, recovery of statutory dues, claim for educational facilities and other categories of similar cases, etc. Though, it is true that there are a few authorities that lay down that delay and laches debar a citizen from seeking remedy, even if his fundamental

5 2020 (2) SCC 569

right has been violated, under Article 32 or 226 of the Constitution, the case at hand deals with a different scenario altogether. The functionaries of the State took over possession of the land belonging to the appellants without any sanction of law. The appellants had asked repeatedly for grant of the benefit of compensation. The State must either comply with the procedure laid down for acquisition, or requisition, or any other permissible statutory mode." (emphasis supplied)

49. In the case in hand, there is no third-party interest involved. To our mind, admittedly the property in question that is survey No. 465 –B/4 is reserved for ‘D.P. Road’. Admittedly, the said property is being used by the public at large. Admittedly, the said property is reserved under the provisions of the M.R.T.P. Act, more particularly by virtue of the development plan being implemented in the city of Satara under Section 22 of the M.R.T.P. Act. We find that the predecessor of the petitioner immediately after sanction of the final development plan on 01.11.2001 knocked the doors of the respondents in the year 2002 itself and thereafter continued till filing of the petition in the year 2018. It is not as if the father of the petitioner or the petitioner were sleeping upon their right. They were always vigilant and prompt in guarding their rights.

50. The Hon'ble Apex Court in the case of *H. D. Vora Versus State of Maharashtra*⁶, had condoned a delay of 30 years in approaching the Court, where it found violation of substantive legal rights of the Applicant. In that case, the requisition of premises made by the state was assailed.

51. The judgment relied upon by the learned Counsel for the respondent in the matter of *Shri. Suresh Khandsari Sugar Mills Versus State of Maharashtra (supra)* passed by the Division Bench of this Court is distinguishable in light of the facts of those cases. A subsequent Division Bench of this Court in the case of *Damodar Toke Versus Municipal Corporation, Jalgaon and Others* [in Writ Petition No. 10301 of 2012] in its judgment and order dated 11.04.2018, was pleased to consider the judgment in the matter of *Shri. Suresh Khandsari Sugar Mills Versus State of Maharashtra (supra)*, the Division Bench of this Court in the matter of *Damodar Toke Versus Municipal Corporation, Jalgaon and Others (supra)* relied upon the judgment of the Hon'ble Apex Court in the case of *Tukaram Kana Joshi (supra)* and more particularly the following observations of the Apex Court:

6 (1984) 2 SCC 337

“12. The State, especially a welfare State which is governed by the rule of law, cannot arrogate itself to a status beyond one that is provided by the Constitution. Our Constitution is an organic and flexible one. Delay and laches is adopted as a mode of discretion to decline exercise of jurisdiction to grant relief. There is another facet. The Court is required to exercise judicial discretion. The said discretion is dependent on facts and circumstances of the cases. Delay and laches is one of the facets to deny exercise of discretion. It is not an absolute impediment. There can be mitigating factors, continuity of cause action, etc. That apart, if the whole thing shocks the judicial conscience, then the Court should exercise the discretion more so, when no third-party interest is involved. Thus analysed, the petition is not hit by the doctrine of delay and laches as the same is not a constitutional limitation, the cause of action is continuous and further the situation certainly shocks judicial conscience.”

52. Thus, every set of fact have to be considered independently. In the case in hand, the petitioner had never given up his claim for compensation. The petitioner was definitely deprived of his right of using the property in question i.e. survey No. 465-B/4 admeasuring at about 3338.40 sq mtrs. The respondents without reporting to any procedure prescribed by law, without realising that it was a welfare state, ought usurped the property of the Petitioner without following due process of law. It was the responsibility of the respondent No. 4 to acquire the land reserved for ‘D.P. Road’ immediately upon the publication of the final sanction plan, the

respondent No. 4 has not done it. The respondent No. 4 even did not try to enter into agreement as contemplated under Section 126 of the M.R.T.P Act with the owner. The respondent No. 4 drove the owner from pillar to post and denied the claim of the owner (petitioner) on an *ex-facie*, illegal and incorrect ground that the petitioner had made profit by plotting the adjacent land and using the 'D.P. Road'. The respondents clearly erred in interpreting the provisions of the M.R.T.P Act, more particularly that of Chapter-III, IV and VII of the M.R.T.P Act. Since the land of the petitioner was reserved, he could not have used the land for any other purpose than one which was reserved for. The land was used by the public. The petitioner could not be deprived of his legitimate claim. On one hand the respondents by reserving the land for 'D.P. Road' prevented the petitioner from using the said land and on the other hand the respondents are refusing to acquire the land, on flimsy ground that the petitioner's father earned profit by developing the plots which were part of the adjacent land. This approach of the respondent-Municipal Council is totally contrary to the provisions of MRTP Act.

53. At the fag end of the hearing, the learned counsel appearing for the Municipal Council submitted that if the petition is

allowed, huge financial burden will be foisted upon the Municipal Council. This argument on the part of the learned counsel appearing for the respondent-Municipal Council cannot be entertained. The respondent-Municipal Council should thank itself and its unreasonable approach, the respondents by their own conduct have invited this financial burden. In any event, only because the Municipal Council would be financially burdened would not be a ground to deny relief to the petitioner who otherwise, for the reasons mentioned above, is entitled for the relief.

54. The Apex Court in the matter of *National Highways, Authority of India vs. Tarsem Singh*⁷ held that fiscal implications of granting compensation cannot override the substantive entitlement of land – losers. There is no gainsaying that constitutional guarantee of just compensation cannot be rendered contingent upon the magnitude of the financial burden. Consequently, a mere escalation in the projected liability how significant, does not constitute, *per se* a valid ground for deny benefits to the landowners.

55. For the reasons mentioned above, we have no hesitation in holding that the respondent No. 4 is duty bound to pay

⁷ 2026 SCC OnLine SC 481

compensation to the petitioner. Hence, the following order:

::ORDER::

(a) The Petition stands allowed.

(b) The respondents are directed to acquire the property of the petitioner bearing Survey No. 465/B-4, admeasuring at about 3388.40 sq. mtrs. situated at Sadar Bazar, Satara in accordance with law. The respondents are directed to initiate this process within a period of four weeks from today.

56. With this observation, the petition stands disposed of.

57. All concerned to act on duly authenticated or digitally signed copy of this order.

(SANDESH D. PATIL, J.)

(MRS. VRUSHALI V. JOSHI, J.)

Digitally
signed by
TALLE
SHUBHAM
ASHOKRAO
Date:
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