



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3488 OF 2016

Dr. Chandrashekhar S/o. Madanlal Gattani,
Aged about 55 years, Occ. Medical Practitioner,
R/o. Gattani Compound, Camp Road, Amravati,
presently residing at Nashik.

.... **PETITIONER.**

// VERSUS //

1. State of Maharashtra, through the
Secretary, Department of Revenue &
Forest, Madam Cama Road, Mantralaya,
Mumbai.
2. District Collector, Amravati.
3. Amravati Municipal Corporation,
Raj Kamal Square, Amravati – 444 601
Through its Commissioner, Amravati.
4. The Commissioner of Police, Amravati.
5. Sub-Divisional Officer & Land Acquisition
Officer, Amravati.

.... **RESPONDENTS.**

Shri Gagan Sanghi a/w Shri Himanshu Khedikar, Advocates for Petitioner.
Shri N.S.Rao, A.G.P. for Respondent Nos.1, 2, 4 & 5.
Shri Shashibhushan Wahane, Advocate for Respondent No.3-AMC.

**CORAM : ANIL S. KILOR AND
RAJ D. WAKODE, JJ.**

DATE OF RESERVING THE JUDGMENT : 05/05/2026
DATE OF PRONOUNCING THE JUDGMENT: 13/07/2026.

JUDGMENT : (Per : Anil S. Kilor, J)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. An acquisition proceeding purportedly initiated for the 'public purpose' i.e. beautification and development of the area surrounding the statue of Dr Babasaheb Ambedkar situated at Irvin Square, Amravati, is under challenge in this petition on the ground that action is in gross violation of Article 14, and 300A of the Constitution of India and also of provisions of the Right to Fair Compensation and Transparency in Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the Act of 2013").

Brief facts of the case are as under :

4. The land in question is the land bearing Nazul Plot No. 41/1 out of Sheet No.1, admeasuring 6600 Sq.Ft. situated at Irvin Square, Amravati. The petitioner claimed to be owner of the land in question.

5. According to the revenue record, more particularly property card, the land in question is a 'B tenure' land, means the property leased to the occupant for a specific purpose.

6. The land in question is a small part of the land which came to the share of the petitioner in a family partition.

7. The land was originally owned by Shri Saranjame.

8. Shri Saranjame, before alienating the aforementioned land in favour of the father of the petitioner had leased out it to 'Burma Shell Oil and Storage India Company Limited', which was subsequently acquired by 'Bharat Petroleum Corporation Limited'.

9. The lease was then renewed by the father of the petitioner after he became the owner of the land in question.

10. After the lapse of the lease period since the aforementioned company did not hand over the possession, the petitioner filed the various legal proceedings, which culminated into receiving possession of it by him on 05/01/2012.

11. Abutting the land in question, a statue of Dr Babasaheb Ambedkar is situated since the year 1970.

12. The respondent No.3 proposed to acquire, the petitioner's land in question for beautification of the precinct of Dr Babasaheb Ambedkar's statue.

13. In the meantime, the Ministry of Law and Justice, Government of India, published Ordinance No.4 of 2015 in the Gazette of India. The Ordinance was promulgated by the President of India on 31/12/2014, in exercise of the powers conferred by Article 123(1) of the Constitution of India, to amend the Act of 2013. With the other amendments made in the Act of 2013, 'Chapter-III A' came to be added after Chapter III, making a provision for exemption from application of provisions of Chapter-II and Chapter III of the Act of 2013 for the projects mentioned in the amended section 10-A of the Act 2013, including social infrastructure.

14. The Government of Maharashtra in exercise of the powers conferred by above mentioned amended section 10A of the Act of 2013 issued a notification dated 13/03/2015, exempting all the projects mentioned in Section 10A of the Act of 2013 from the application of provisions of Chapter-II, and Chapter-III of the Act of 2013.

15. The State Government issued a notification dated 11/09/2015, in exercise of powers conferred under section 3 (e) of the Act of 2013, in relation to acquisition of land for 'public purpose' in any district for an area not exceeding 10,000 hectares.

16. Thereafter, the respondent No.2 issued preliminary notification under Section 11(1) of the Act of 2013, for the acquisition of land in dispute for the above mentioned public purpose. The aforesaid preliminary notification refers to exemption from application of provisions of Chapter-II and Chapter-III, under Section 10A of the Act of 2013.

17. The petitioner filed an objection to the said notification and requested for withdrawal of the notification on the ground that it is contrary to the provisions of the Act of 2013.

18. The aforementioned objection, as informed to the petitioner, was not accepted.

19. Then, a notification of declaration under Section 19(2) of the Act of 2013, was published on 31/05/2016, which gave a cause to petitioner to file the present petition.

20. We have heard the learned counsel for respective parties.

21. Shri Gagan Sanghi, learned advocate for the petitioner submits that Section 10A was introduced by 2014 Amendment Ordinance (No.9/2014) and re-promulgated in 2015 by Ordinance No.4/15. It is submitted that the said ordinance was lapsed on 31/08/2015. Whereas, notifications under Sections 11 and 19 of the Act of 2013 were issued after lapsing of the Ordinance. It is submitted that notifications under sections 11 and 19 were issued as if the ordinance is in force and therefore the procedure that was supposed to be followed under the provisions of Chapter II and Chapter III of the Act of 2013, was not followed and complied with. It is therefore, argued that both the notifications, namely preliminary notification under Section 11 and notification for declaration under Section 19 of the Act of 2013 vitiate. In support of his submissions, Shri Sanghi has placed reliance on the judgment of Hon'ble Supreme Court of India in the case of *Krishna Kumar Singh versus State of Bihar and oth.*, reported in **2017(3) SCC 1**.

22. It is further argued that in absence of notification issued by the State Government in the Official Gazette in exercise of the powers under Section 10A of the Act of 2013, exempting the proposed project, the

respondent No.2 is bound to comply with the provisions of Chapter-II and III of the Act of 2013. It is submitted that since such procedure was not followed, the whole acquisition proceeding vitiates.

23. He further argues that under the Act of 2013, the expression 'Public Purpose' is given a restricted meaning. It is submitted that 'public purpose' is a mandatory precondition for compulsory acquisition. It is therefore submitted that a project purely of beautification and development of an area around a statue, does not fall into any listed category under section 2(1) of the Act of 2013. i.e, 'public purpose'.

24. It is further argued that any compulsory acquisition must withstand the rigor of Article 300A of the Constitution of India. It is submitted that the objection raised by the petitioner was rejected by an unreasoned order. It is further submitted that no opportunity of hearing was granted to the petitioner. On the legal point, in support of his contention, the learned counsel for the petitioner has placed reliance on the judgments in the case of *Raghubir Singh Sherawat v. State of Haryana and others*, reported in 2012(1) SCC 792 and *Kolkata Municipal Corporation v. Bimal Kumar Shah*, 2024 (10) SCC 533.

25. Shri Sanghi, learned counsel for the petitioner states that the joint measurement was carried out without notice to the petitioner. It is argued that the area which was shown in the notification under Section 11 was increased in the final notification under Section 19 of the Act of 2013, which violates the owner's right under the statutory scheme. Such actions render the acquisition liable to be set aside as arbitrary and *ultra virus*.

26. On the other hand, Shri Rao, learned Assistant Government Pleader appearing for the State strongly opposed the present petition. It is argued that Ordinance No.5/2015, dated 30/05/2015, issued under Section 10A had lapsed on 31/08/2015, however, in the letter dated 16/03/2006, the Government of Maharashtra has made it clear that lapsing of ordinance does not impact the land acquisition procedure initiated before the said date of lapsing i.e. 31/08/2015. He, thus, submits that the respondent No.2 rightly proceeded with the acquisition and before the final notification, a cheque amounting to Rs.99,22,910/- was deposited for the purpose of acquisition. It is submitted that the above mentioned amount was deposited before lapsing of the ordinance. Accordingly, it is submitted that there is no illegality committed.

27. Shri Rao, learned AGP further argues that the proposed murals of Dr. Babasaheb Ambedkar is not a mere ornamental addition or mere beautification of the area averting to the existing statue of Dr Babasaheb Ambedkar, but it will open doors of knowledge for the future generation to explore it. Therefore, he submits that the proposed purpose for acquisition is squarely covered under the expression 'public purpose.'

28. It is further argued that as far as joint measurement is concerned, a public notice was issued and despite the same, the petitioner did not remain present for the joint measurement. It is argued that the petitioner is not pointing out what prejudice is caused to him. In fact in the said measurement, it was noticed that the land shown in the notification under Section 11 was wrongly shown less than the actual land under acquisition.

29. Shri Shashibhushan Wahane, learned counsel for the respondent No.3-Municipal Corporation reiterates the arguments of Shri Rao, learned A.G.P. and further submits that even if it is considered that Chapter-II and Chapter-III is not applicable, it will not change the fate of this case, as in the case of *Krishna Kumar Singh ..vs.. State of Bihar*, reported in (2017)3 SCC 1, the conclusion recorded by the Hon'ble

Supreme Court of India in paragraph No.105.12, if applied to this case, the rights, privileges, obligations or liabilities would survive in this case even after lapse of the Ordinance in question.

30. He further submits that in the case of *Kanaiyalal Maneklal Chinai ..vs.. State of Gujarat*, reported in **(1969) 3 SCC 456**, the Hon'ble Supreme Court while deciding the issue regarding acquisition of the land for setting up of a memorial to Mahatma Gandhi was for a 'public purpose'.

31. He further submits that in the present matter the purpose for acquisition is 'public purpose'. He has drawn attention of this Court to the judgment of the Delhi High Court in the case of *P.P. Resorts (P) Ltd. vs. Union of India*, reported in **2006 SCC OnLine Del 1563**. The learned counsel submits that the Delhi High Court has already considered this issue and held that the courts should not interfere with the Government's decision unless it is clearly arbitrary, perverse, or contrary to law. He further submits that the Delhi High Court has observed that the question of what amounts to a "public purpose" is primarily for the Government to decide, and the courts should not ordinarily substitute their own opinion for that of the Government.

32. He has further placed reliance on the judgment of the Delhi High Court in the case of *Amar Nath Sehgal vs. Union of India*, reported in **2005 SCC OnLine Del 209** pointing out that in the maintenance of historical culture the moral rights are closely meant to public interest.

33. Having considered the rival contentions and gone through the record, it is evident that the land in question is a corner triangular land admeasuring 6600 Sq.Ft. This land is a 'B' tenure land and admittedly, stands in the name of the petitioner.

34. Abutting to the land in question, a statue of Dr Babasaheb Ambedkar is in existence.

35. The respondent No.3 initiated the land acquisition proceedings through the respondent No.2-Collector, for acquisition of the land in question for a 'public purpose' namely, for constructing mural on the life of Dr. Babasaheb Ambedkar and beautification of the remaining area.

36. The submissions made by the learned counsel for the petitioner are mainly twofold, which will decide the fate of this case.

37. The first contention is that the entire acquisition is without authority of law for the reason that the preliminary notification under Section 11(1) and the declaration under Section 19 of the Act of 2013 were issued by placing reliance upon Section 10A, which had been introduced through the 2014 Ordinance which had lapsed before issuance of the aforementioned notifications.

38. The another argument is that the purpose for which the land in question is sought to be acquired does not fall within the ambit of ‘public purpose’ as defined under the Act of 2013, therefore, the acquisition proceeding is to be held unlawful.

39. We will first deal with the second contention as regards the ‘public purpose’.

40. It is pertinent to note that on finding that the definition of the expression ‘public purpose’, as given in the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”), was very wide, it has been comprehensively redefined in the Act of 2013 to restrict its scope, so that the Government’s intervention in acquisition is limited to strategic purposes, vital to the State, and for infrastructure projects where the benefits accrue to the general public.

41. The ‘public purpose’ is defined under Section 3(z) of the Act of 2013 which means that the activities specified under sub-section (1) of Section 2 of the Act of 2013.

42. Therefore, before proceeding further, let us refer to Section 2 of the Act of 2013. Section 2 of the Act of 2013 relates to applicability of the Act of 2013, which reads thus :

*“2. **Application of Act.**– (1) The provisions of this Act relating to land acquisition, compensation, rehabilitation and resettlement, shall apply, when the appropriate Government acquires land for its own use, hold and control, including for Public Sector Undertakings and for public purpose, and shall include the following purposes, namely:—*

(a) for strategic purposes relating to naval, military, air force, and armed forces of the Union, including central paramilitary forces or any work vital to national security or defence of India or State police, safety of the people; or

(b) for infrastructure projects, which includes the following, namely:—

(i) all activities or items listed in the notification of the Government of India in the Department of Economic Affairs (Infrastructure Section) number 13/6/2009-INF, dated the 27th March, 2012, excluding private hospitals, private educational institutions and private hotels;

(ii) projects involving agro-processing, supply of inputs to agriculture, warehousing, cold storage facilities, marketing infrastructure for agriculture and allied activities such as dairy, fisheries, and meat processing, set up or owned by the appropriate Government or by a farmers’ cooperative or by an institution set up under a statute;

(iii) project for industrial corridors or mining activities, national investment and manufacturing zones, as designated in the National Manufacturing Policy;

(iv) project for water harvesting and water conservation structures, sanitation;

(v) project for Government administered, Government aided educational and research schemes or institutions;

(vi) project for sports, health care, tourism, transportation or space programme;

(vii) any infrastructure facility as may be notified in this regard by the Central Government and after tabling of such notification in Parliament;

(c) project for project affected families;

(d) project for housing for such income groups, as may be specified from time to time by the appropriate Government;

(e) project for planned development or the improvement of village sites or any site in the urban areas or provision of land for residential purposes for the weaker sections in rural and urban areas;

(f) project for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by the Government, any local authority or a corporation owned or controlled by the State.

(2) The provisions of this Act relating to land acquisition, consent, compensation, rehabilitation and resettlement, shall also apply, when the appropriate Government acquires land for the following purposes, namely: -

(a) for public private partnership projects, where the ownership of the land continues to vest with the Government, for public purpose as defined in sub-section (1);

(b) for private companies for public purpose, as defined in sub-section (1):

Provided that in the case of acquisition for-

(i) private companies, the prior consent of at least eighty per cent. of those affected families, as defined in sub-clauses (i) and (v) of clause (c) of section 3; and

(ii) public private partnership projects, the prior consent of at least seventy per cent. of those affected families, as defined in sub-clauses (i) and (v) of clause (c) of section 3, shall be obtained through a process as may be prescribed by the appropriate Government:

Provided further that the process of obtaining the consent shall be carried out along with the Social Impact Assessment study referred to in section 4:

Provided also that no land shall be transferred by way of acquisition, in the Scheduled Areas in contravention of any law (including any order or judgment of a Court which has become final) relating to land transfer, prevailing in such Scheduled Areas.

Provided also that, the acquisition of land for the projects listed in section 10-A and the purposes specified therein, shall be exempted from the provisions of the first proviso to this sub-section." - Maharashtra Act 37 of 2018, S. 2 (w.e.f. 26-4-2018). (emphasis supplied)

(3) The provisions relating to rehabilitation and resettlement under this Act shall apply in the cases where, -

(a) a private company purchases land, equal to or more than such limits in rural areas or urban or urban areas, as may be prescribed by the appropriate Government, through private negotiations with the owner of the land in accordance with the provisions of section 46;

(b) a private company requests the appropriate Government for acquisition of a part of an area so prescribed for a public purpose:

Provided that where a private company requests the appropriate Government for partial acquisition of land for public purpose, then, the rehabilitation and resettlement entitlements under the Second Schedule shall be applicable for the entire area which includes the land purchased by the private company and acquired by the Government for the project as a whole."

43. It is evident from the language of Section 2(1) of the Act of 2013 that for acquisition of the land for 'public purpose', specified in the

provision of this Act relating to land acquisition, compensation, rehabilitation and resettlement shall apply.

44. It is to be noted that it is a settled constitutional principle that any construction or activity undertaken by the State which is in consonance with public interest, must be in accordance with the duties and limitations as stipulated in the Constitution of India. In this regard, it would be beneficial to peruse Article 51A of the Constitution of India, 1950.

45. Article 51A of the Constitution of India, 1950 reads thus:-

“51A. Fundamental duties. It shall be the duty of every citizen of India-

(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;

(c) to uphold and protect the sovereignty, unity and integrity of India;

(d) to defend the country and render national service when called upon to do so;

(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(f) to value and preserve the rich heritage of our composite culture;

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(i) to safeguard public property and to abjure violence;

(j) to strive towards excellence in all spheres of individual and collective

activity so that the nation constantly rises to higher levels of endeavour and achievement;
(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years."

46. Upon a careful reading of the aforesaid constitutional provisions, it is evident that it casts an obligation on every citizen to value and preserve the rich heritage of the nation's composite culture and impose a duty on the State to act as a trustee of public resources.

47. Thus, construction of structures, statues or murals to represent history, culture or achievements of eminent leaders who contributed immensely to the nation, stands as lasting symbols of values and is of great significance. The ultimate aim behind constructing statues or murals is to showcase the historical stories and contributions of the visionary personalities which motivates the citizens, primarily, the younger generations to follow important virtues and to feel responsible towards progress of the Nation.

48. Similarly, in the case of *Kanaiyalal Maneklal Chinai ..vs.. State of Gujarat*, reported in (1969) 3 SCC 456, the issue before the Hon'ble Supreme Court was in relation to the acquisition of the land for setting up

of a memorial to Mahatma Gandhi. In the said matter, similar argument was made that the acquisition was not for a 'public purpose'. The Hon'ble Supreme Court of India in the said case has held thus :

“We are clearly of the view that the notification under 4 of the Land Acquisition Act does not refer to any purpose of the Ahmedabad Municipal Corporation, nor is the acquisition for a purpose for which the Commissioner is required by the provisions of the Provincial Municipal Corporations Act, 1949, to acquire the land. The land is needed for setting up a memorial to Mahatma Gandhi at a place associated with him, and we regard, because of the universal veneration in which the memory of Mahatma Gandhi is held in our country, that the purpose was a public purpose. Counsel for the appellants has not attempted to argue that acquisition of land for setting up a memorial to Mahatma Gandhi is not a purpose for which the Commissioner is required by the Provincial Municipal Corporations Act, 1949, to acquire the land, nor is it a purpose of the Municipality under the Municipal Corporations Act. The purpose of acquisition being one which falls within the normal connotation of the expression “public purpose” within the meaning of Section 4 of the Land Acquisition Act, it is unnecessary to rely upon the extended meaning of the expression “public purpose” as provided by Section 78(1) of the Provincial Municipal Corporations Act, 1949.” (emphasis supplied)”

49. The High Court of Delhi in the case of *P.P. Resorts (P) Ltd. vs. Union of India*, reported in **2006 SCC OnLine Del 1563** had an occasion to deal with a question namely, what constitutes 'public purpose' as defined in Section 3(f) of the Land Acquisition Act. The Court has held that there may be other categories of 'public purpose' which the legislature has wisely chosen not to anticipate as these can keep expanding over the years. What constitutes public purpose should

ordinarily be left to be determined by the government itself. Unless shown to be patently perverse and therefore, unsustainable in law, the Courts would not lightly interfere with such determination.

50. In the said matter, the acquisition of the land was for the construction of a memorial to honour Guru Teg Bahadur. While holding that the purpose is a ‘public purpose’, the Delhi High Court in paragraph 34, has held thus :

“34. In the instant case, the acquisition of the land is for the construction of a memorial to honour Guru Teg Bahadur. The Preamble to the Constitution proclaims the state to be secular. The construction of a memorial to honour a great Sikh Guru, highly revered not only by the Sikhs themselves, but universally, is not only in conformity with the nature of the State as proclaimed by the Preamble but respects the sentiments of the people of this country in general and the Sikh community, which is prominent in every sphere of public life, in particular. It is the considered view of this Court that there can be no doubt at all that the purpose for which the lands have been acquired in the instant case is indeed a public purpose.”

51. In the case of *Amar Nath Sehgal vs. Union of India*, reported in **2005 SCC OnLine Del 209**, the Delhi High Court has observed thus:

“41. As opined by Mira T. Sundara Rajan in an article published in the International Journal of Cultural Property, Vol. 10. No. 1, 2001 pp. 79-94 Moral Rights and the Protection of Cultural Heritage:

“The rights of attribution and integrity are particularly apposite to the cultural domain. Apart from the interests of individual authors in maintaining their standing and reputation, these moral rights are closely linked to a public interest in the maintenance of historical truth and cultural knowledge. Moral rights also promote the development of a social attitude of respect toward individual

creativity. While authors must accept the responsibilities which accompany the privileges of creative work, it is incumbent upon both the public and the state to acknowledge the value of artists' contributions to cultural heritage."

42. The 10th Five Year Plan 2002-07 of the Government of India outlines India's Vision for Art and Culture. In Chapter 2.12. it records:

"2.12.1 India's culture is characterised by a unique pluralistic ethos that has evolved over 5,000 years. At the same time, it is constantly evolving through a process of assimilation, providing creative expression, value systems and belief patterns to society."

"2.12.2 There are three broad dimensions of culture : National Identity, Mass Media and Tangible and Intangible Heritage. National Identity revolves around questions like : Who are we? What is our national identity as Indians? What is our shared perception or history, lifestyles, values and beliefs? These are not questions of purely academic interest alone but serious questions having a bearing on the well being of the nation and its people. Mass Media comprises cinema, radio, television and print media. Tangible and Intangible Heritage includes, among other things, monuments, sites and archaeology; anthropology and ethnology; folk and tribal art; dance and drama; and visual arts in the form of painting, sculpture and graphics. (Emphasis supplied) ..."

52. In light of the above-referred observations, let us come back to the facts of our case. In the present petition, the petitioner has challenged the creation of a mural of Dr. Babasaheb Ambedkar arguing that it does not serve a 'public purpose'. However, in our considered view, the proposed mural of Dr. Ambedkar is not a mere addition of aesthetic value to the existing Dr. Babasaheb Ambedkar's statue, but it would serve a deeper purpose to open doors of knowledge for future generations. If it is not passed on to next generation, each generation is to start from zero.

53. Each generation contributes in the progress of any society. Such progress is a continuous journey. It builds upon the wisdom of the last generation. Great thinkers, leaders, reformers, scientists, writers, and philosophers create ideas that can guide humanity long after they are gone. Their ideas are not limited to their lifetime; they influence centuries. Society risks losing its direction if these ideas are not communicated, preserved, and nurtured.

54. Importance of a mural is that its a potent medium of public communication, capable of preserving history, propagating ideas, and inspiring collective consciousness. This reminds people of who we are and what we believe in.

55. Creation of the mural of Dr. Ambedkar is an investment in the intellectual and moral foundations of our future generations. Dr. Ambedkar's contributions to the nation, including his advocacy for equality, justice, and fraternity, are the foundation of the Indian constitutional framework. His message of 'educate, agitate, and organise' remains a powerful and meaningful lesson for all of us. His ideas continue to guide the nation's democratic progress.

56. As Dr. Ambedkar himself said, “Men are mortal. So are ideas. An idea needs propagation as much as a plant needs watering.”

57. A mural depicting Dr. Ambedkar will perform the crucial function of propagating his ideas in public and in an enduring manner. It shall serve as a source of inspiration to citizens, especially younger generations, and reinforce the fundamental constitutional values that he articulated. The creation of such a mural undeniably advances the general welfare of the community by giving inspiration to the present and the future generations. It, thus, satisfies the essential requirement of ‘public purpose’.

58. Having observed so, we have no hesitation to hold that the purpose of acquisition of the land in the present case is ‘public purpose’ and it falls within the ambit of Section 2 of the Act of 2013 for application of the provisions of the Act of 2013.

59. In the circumstances, we reject the contention of the petitioner that the purpose does not fall within the definition of ‘public purpose’ as defined under the Act of 2013.

60. Moving to the next issue, whether the acquisition proceedings could validly continue after the lapse of the Ordinance that inserted Section 10A into the Act of 2013, particularly when the Ordinance had lapsed before the publication of the notifications under Section 11 and the declaration under Section 19 of the Act of 2013.

61. After the 44th Constitutional amendment, Articles 19(1)(f) and 31 of the Constitution of India have been deleted and new Article 300-A has been introduced.

62. The right to property now ceases to be a fundamental right within the meaning of Part III of the Constitution of India. Now Article 300-A lays down that no person shall be deprived of his property except by authority of law. Thus, right to property is no longer a fundamental right but still it is a legal right under Article 300-A of the Constitution of India.

63. If one's property is taken away by Executive without authority of law, he would be entitled to legal relief on the ground that such action is in contravention of Article 300-A of the Constitution of India. Therefore, the right to object to acquisition of property, except in accordance with law, is a constitutional right and not a fundamental right.

64. On 31/12/2014, the President promulgated the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 (No. 9 of 2014), whereby Section 10A was inserted, empowering the appropriate Government to exempt certain categories of projects from the application of Chapters II and III of the Act.

65. The relevant portion of the said amendment ordinance reads thus:

“CHAPTER IIIA

PROVISIONS OF CHAPTER II AND CHAPTER III NOT TO APPLY TO CERTAIN PROJECTS

10A. The appropriate Government may, in the public interest, by notification, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely: -

- (a) such projects vital to national security or defence of India and every part thereof, including preparation for defence; or defence production;*
- (b) rural infrastructure including electrification;*
- (c) affordable housing and housing for the poor people;*
- (d) industrial corridors; and*
- (e) infrastructure and social infrastructure projects including projects under public private partnership where the ownership of land continues to vest with the Government. ”.*

66. On the basis of the above amendment, the Government of Maharashtra on 13/03/2015, issued a notification under Section 10A granting exemption to all the projects specified therein from the application of Chapters II and III.

67. The Ordinance No.9 of 2014 was passed in the Lok Sabha on 10/03/2015, however, it remained pending in the Rajya Sabha when the Parliament session concluded. Consequently, the Ordinance lapsed, therefore, the Ordinance was re-promulgated by Ordinance No.4 of 2015 on 03/04/2015, then the Ordinance No.5 of 2015 on 30/05/2015, both of which came into effect retrospectively from 31/12/2014. Ultimately, Ordinance No.5 of 2015 lapsed on 31/08/2015 which means that Section 10A ceased to exist from 31/08/2015.

68. On 11/01/2016, relying upon the notification dated 13.03.2015 for exemption from Chapters II and III, a preliminary notification under Section 11(1) of the Act of 2013 was issued for acquisition of the Petitioner's land.

69. The acquisition thereafter proceeded, culminating in approval for issuance of a declaration under Section 19.

70. Section 10A was subsequently inserted in the Act of 2013 on 26/04/2018 by Maharashtra Act No. XXXVII of 2018.

71. The learned counsel for the Petitioner contends that notification dated 13/03/2015 draws its power from the Ordinances which were ceased on 31/08/2015, and therefore, it cannot be relied upon to claim exemption from applicability of Chapter II and III.

72. In the present case, the notification dated 13/03/2015 was issued during the subsistence of a valid Ordinance. The notification is of a general character and does not, by itself, acquire land or divest proprietary rights. It alters the procedural framework governing certain categories of acquisition.

73. The Hon'ble Supreme Court of India, in the case of *Krishna Kumar Singh v. State of Bihar*, reported in (2017) 3 SCC 1, examined the precise consequence of an Ordinance ceasing to operate and rejected the notion of automatic obliteration of all actions taken thereunder. The relevant portion of the judgment reads thus: -

“82. What then is the effect upon rights, privileges, obligations or liabilities which arise under an Ordinance which ceases to operate? There are two critical expressions in Article 213(2) which bear a close analysis. The first is that an Ordinance "shall have the same force and effect" as an act of the legislature while the second is that it "shall cease to operate" on the period of six weeks of the reassembling of the legislature or upon a resolution of disapproval. The expression "shall have the same force and effect" is prefaced by the words "an Ordinance promulgated under this Article". In referring to an Ordinance which is promulgated under Article 213, the Constitution

evidently conveys the meaning that in order to have the same force and effect as a Legislative enactment, the Ordinance must satisfy the requirements of Article 213. Moreover, the expression "shall have the same force and effect" is succeeded by the expression "but every such Ordinance..." shall be subject to what is stated in sub-clauses (a) and (b). The preconditions for a valid exercise of the power to promulgate as well as the conditions subsequent to promulgation are both part of a composite scheme. Both sets of conditions have to be fulfilled for an Ordinance to have the protection of the "same force and effect" clause. Once the deeming fiction operates, its consequence is that during its tenure, an Ordinance shall operate in the same manner as an act of the legislature. What is the consequence of an Ordinance ceasing to operate by virtue of the provisions of Article 213(2)(a)? There are two competing constructions which fall for consideration. The expression "shall cease to operate" can on the one hand be construed to mean that with effect from the date on which six weeks have expired after the reassembling of the legislature or upon the disapproval of the Ordinance, it would cease to operate from that date. "Cease" to operate in this sense would mean that with effect from that date, the Ordinance would prospectively have no operation. The Ordinance is not void at its inception. The second meaning which can be considered for interpretation is that the expression "shall cease to operate" will mean that all legal consequences that arose during the tenure of the Ordinance would stand obliterated. According to the second construction, which is wider than the first, the consequence of an Ordinance having ceased to operate would relate back to the validity of an Ordinance.

83. Now, one of the considerations that must be borne in mind is that Article 213 has not made a specific provision for the saving of rights, privileges, obligations or liabilities that have arisen under an Ordinance which has since ceased to operate either upon the expiry of its term or upon a resolution of disapproval. Significantly, there are other provisions of the Constitution where, when it so intended, the Constitution has made express provisions for the saving of rights or liabilities which arise under a law. Under Article 352(4), every resolution for the Proclamation of an emergency has to be laid before each House of Parliament and will "cease to operate" on the expiration of one month unless it has been approved during that period by resolutions of both Houses of Parliament. Under clause (5) of Article 352, a Proclamation thus approved shall, unless it is revoked, "cease to operate" on the expiration of a period of six months. When a Proclamation of emergency is in operation

Parliament is conferred with the power to make laws even with respect to matters in the State list. Article 358(1) provides that when a Proclamation of emergency is in force, nothing in Article 19 shall restrict the power of the State as defined in Part III to make any law which the State but for the provisions of Part III would be competent to make. However, any law so made shall to the extent of its incompetency cease to have effect as soon as the Proclamation ceases to operate "except as respects things done or omitted to be done before the law so ceases to have effect". Similarly, Article 359(1) provides that during the operation of a Proclamation of emergency, the President may declare that the right to move a court for the enforcement of rights conferred by Part III (except Articles 20 and 21) shall remain suspended. However, Article 359(1-A) provides that any law made shall to the extent of the incompetency with Part III cease to have effect as soon as the order aforesaid ceases to operate "except as respects things done or omitted to be done before the law so ceases to have effect".

74. From the above referred observations it is evident that the Ordinance, if validly promulgated, has same force and effect as legislative enactment during its currency. However, upon expiry or disapproval it ceases to operate prospectively.

75. In the case of *Krishna Kumar Singh*(supra), the Hon'ble Supreme Court has at the same time recorded its conclusion, which is relevant for the purpose of this case, reads thus :

“105.12. The question as to whether rights, privileges, obligations and liabilities would survive an Ordinance which has ceased to operate must be determined as a matter of construction. The appropriate test to be applied is the test of public interest and constitutional necessity. This would include the issue as to whether the consequences which have taken place under the Ordinance have assumed an irreversible character. In a suitable case, it would be open to the court to mould the relief; and”

76. If the above principle is applied in the present matter, we are of the considered view that in this case even though the Ordinance in question has ceased to operate before issuance of notification and the declaration under Section 19 of the Act of 2013, rights, privileges, obligations or liabilities would survive, as the land is acquired for public purpose and we have already held that it is in public interest.

77. Contrary to as held herein above, even if, for a moment, it is assumed that the rights, privileges, obligations, or liabilities do not survive upon the lapse of the Ordinance in question, the effect thereof would not, in any event, be that the proceedings for acquisition of the land is lapsed.

78. It is to be understood that there are two provisions under the Act of 2013 wherein certain contingencies are given to hold that the acquisition is lapsed. None of such contingencies is argued or present in this case.

79. In the above referred backdrop, let us examine the case of the petitioner that as Section 10-A of the Act of 2013 was not in force on the date of issuance of declaration under Section 19 of the Act of 2013, the whole acquisition proceeding vitiates. Section 10-A reads thus:

“10A. Power of State Government to exempt certain projects- The State Government may, in the public interest, by notification in the Official Gazette, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely:-

(a) such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production;

(b) rural infrastructure including irrigation and electrification;

(c) affordable housing and housing for the poor people;

(d) industrial area or industrial estate set up by the State Government and its undertaking ;

(e) industrial corridor set up by the State Government and its undertaking (in which case the land shall be acquired up to one kilometre on both sides of designated railway line or roads for such industrial corridor); and

(f) infrastructure projects including projects under public-private partnership where the ownership of land continues to vest with the Government:

Provided that, the State Government shall, before issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project.”

80. From the language of Section 10-A of the Act of 2013 it is evident that the State Government may in public interest by notification in the Official Gazette, exempt any of the project specified in the said section, from the application of the provision of Chapter II and Chapter III of the Act of 2013.

81. In this case, undisputedly, on the date of declaration under Section 19, the Ordinance issued by the State under Section 10-A was not

in force. The effect of it, therefore, would be that there is no exemption from the applicability of Chapter II and III of the Act of 2013, to the acquisition in this case.

82. The crucial and most important fact is that the land in question is a small piece of the land of 6600 Sq.Ft. It is a corner triangular land abutting to the statue of Dr. Babasaheb Ambedkar which is in existence from 1970. It is further to be noted that there is nothing in between the land and the statue except a small piece of road, which is not used since long.

83. Let us, therefore, examine what would be the effect on the land acquisition in question if it is held that there is no exemption from applicability of Chapters-II and III of the Act of 2013, to this case.

84. Chapter-II is relating to Determination of Social Impact and Public Purpose. It contains Sections 4 to 9.

85. Section 4 is relating to Preparation of Social Impact Assessment Study. Sub-section (4) enumerates points for assessment amongst other matters, for social impact assessment study. Sub-section (4) of Section 4 of the Act of 2013 reads thus :

“4.Preparation of Social Impact Assessment study.-

(1) to (3) ...

(4) The Social Impact Assessment study referred to in sub-section (1) shall, amongst other matters, include all the following, namely: -

(a) assessment as to whether the proposed acquisition serves public purpose;

b) estimation of affected families and the number of families among them likely to be displaced;

(c) extent of lands, public and private, houses, settlements and other common properties likely to be affected by the proposed acquisition;

(d) whether the extent of land proposed for acquisition is the absolute bare-minimum extent needed for the project;

(e) whether land acquisition at an alternate place has been considered and found not feasible;

(f) study of social impacts of the project, and the nature and cost of addressing them and the impact of these costs on the overall costs of the project vis-a-vis the benefits of the project:

Provided that Environmental Impact Assessment study, if any, shall be carried out simultaneously and shall not be contingent upon the completion of the Social Impact Assessment study.”

86. Having gone through the above referred provision, let us examine whether in this case social impact study is needed or it would be a mere formality in the peculiar facts of this case.

87. As far as satisfaction of clause (a), this Court has already observed that the acquisition is for ‘public purpose’.

88. As regards clause (b), only one person i.e. petitioner is affected and there is no displacement of family or person.

89. For clause (c) it is on record that the land is a private land and to the extent of 6600 Sq.Ft. it is likely to be affected.

90. For the satisfaction of clause (d), there is no dispute that since it is a corner triangular land abutting to statue of Dr. Babasaheb Ambedkar, the acquisition is for absolute bare-minimum extent needed for the project.

91. Clause (e) will not apply considering that the land in question is required for beautification and for mural of Dr. Babasaheb Ambedkar for the sole reason that the land is the only land abutting to the existing statue of Dr. Babasaheb Ambedkar. Therefore, there cannot be a question for consideration of alternate place.

92. As regards clause (f), again this will not apply to the present acquisition proceedings considering the nature of acquisition and the purpose.

93. Section 5 speaks about public hearing for Social Impact Assessment. From the above referred findings recorded as regards to compliance of various points enumerated in sub-section (4) of Section 4 of the Act of 2013, the petitioner ought to have pointed out what prejudice has caused to him, if it is the case of the petitioner that he was not granted hearing.

94. Section 6 speaks about Publication of Social Impact Assessment Study which will be of no consequence in view of the findings recorded in respect of the compliance of sub-section (4) of Section 4 of the Act of 2013. Equally Sections 7, 8 and 9 of the Act of 2013 will not apply for the same reason.

95. The learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court of India in the case of *Raghubir Singh Sehrawat v. State of Haryana*, reported in (2012) 1 SCC

792. The relevant paragraphs of the said judgment read thus: -

“39. In this context, it is necessary to remember that the rules of natural justice have been ingrained in the scheme of Section 5-A with a view to ensure that before any person is deprived of his land by way of compulsory acquisition, he must get an opportunity to oppose the decision of the State Government and/or its agencies/instrumentalities to acquire the particular parcel of land. At the hearing, the objector can make an effort to convince the Land Acquisition Collector to make recommendation against the acquisition of his land. He can also point

out that the land proposed to be acquired is not suitable for the purpose specified in the notification issued under Section 4(1). Not only this, he can produce evidence to show that another piece of land is available and the same can be utilised for execution of the particular project or scheme.

40. Though it is neither possible nor desirable to make a list of the grounds on which the landowner can persuade the Collector to make recommendations against the proposed acquisition of land, but what is important is that the Collector should give a fair opportunity of hearing to the objector and objectively consider his plea against the acquisition of land. Only thereafter, he should make recommendations supported by brief reasons as to why the particular piece of land should or should not be acquired and whether or not the plea put forward by the objector merits acceptance. In other words, the recommendations made by the Collector must reflect objective application of mind to the objections filed by the landowners and other interested persons.”

96. There cannot be any dispute about the law laid down by the Hon'ble Supreme Court of India in the case of *Raghubir Singh Sherawat* (supra), however, considering the fact that the Hon'ble Supreme Court has held that hearing to the objector is necessary to convince the Land Acquisition Collector to show that the land proposed to be acquired is not suitable for the purpose specified in the notification or another piece of land is available and the same can be utilized for execution of the particular project or scheme etc. In the present matter, none of such grounds were argued or raised in the objection submitted to the Collector, which was rejected by the Collector. Thus, the said judgment is of no assistance to the petitioner.

97. The learned counsel for the petitioner has relied on another judgment of the Hon'ble Supreme Court of India in the case of *Kolkata Municipal Corpn. v. Bimal Kumar Shah*, reported in (2024) 10 SCC 533. In the said judgment in paragraph 30 the Hon'ble Supreme Court of India has held thus:

*“30. What then are these sub-rights or strands of this swadeshi constitutional fabric constituting the right to property? Seven such sub-rights can be identified, albeit non-exhaustive. These are:
(i) The duty of the State to inform the person that it intends to acquire his property — the right to notice,
(ii) The duty of the State to hear objections to the acquisition — the right to be heard,
(iii) The duty of the State to inform the person of its decision to acquire — the right to a reasoned decision,
(vi) The duty of the State to demonstrate that the acquisition is for public purpose — the duty to acquire only for public purpose,
(v) The duty of the State to restitute and rehabilitate — the right of restitution or fair compensation,
(vi) The duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings — the right to an efficient and expeditious process, and
(vii) The final conclusion of the proceedings leading to vesting — the right of conclusion.”*

98. From the findings recorded by us herein above, it is evident that the above referred points as enumerated in paragraph 30 of the judgment of *Kolkata Municipal Corpn.*(supra) have already been dealt with while discussing the requirement of sub-section (4) of Section 4 of the Act of 2013. Thus, it cannot be said that there is no compliance of the law laid down by the Hon'ble Supreme Court of India in the said case.

99. Chapter-III relates to special provisions to safeguard food security. Section 10 of the Act of 2013 will not apply to this case as the land in question is not irrigated multi-crop land.

100. We can summarise the above referred observations as regards the applicability of Chapters-II and III, that in both the situations even if it is held that there was exemption from applicability of Chapter II and III or there was no such exemption for applicability of Chapter-II or III, the fate of this case will be the same.

101. In the above circumstances, the challenge raised to the acquisition in question, in the present petition, fails. Accordingly, we pass the following order :

The Writ Petition is **dismissed**.

Rule stands discharged. In the circumstances, the parties to bear their own costs.

(RAJ D. WAKODE, J)

(ANIL S. KILOR, J)

Later On (13/07/2026):

At this stage a prayer is made on behalf of the petitioner to continue the interim relief of status quo for a further period of eight weeks.

The other side has strongly opposed the prayer.

Considering that the interim relief of status quo is in operation since long, i.e. from 24/06/2016, the said interim relief shall continue for a further period of four weeks.

Needless to mention that after lapse of four weeks, the interim relief shall stand vacated.

(RAJ D. WAKODE, J)

(ANIL S. KILOR, J)