



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 09th OF APRIL, 2025

WRIT PETITION No. 7124 of 2013

KESAR SINGH

Versus

***PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS***

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WITH

WRIT PETITION No. 5844 of 2013

***DIRECTOR PREMSHRI PRIME PROPERTIES PVT.LTD.INDORE
AND 4 ORS. AND OTHERS***

Versus

***PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS***

Appearance:

*Shri M.S. Bedi, on behalf of Shri Ajay Asudani, advocates for the
petitioner.*

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 6631 of 2013

RAMESH CHOUDHARY AND ANR. AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND 03 ORS. AND OTHERS

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 6633 of 2013

BABULAL AND 02 ORS. AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND 03 ORS. AND OTHERS

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 7120 of 2013

NIRMAL NAREDI AND ANR. AND OTHERS

Versus

***PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS***

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 7187 of 2013

YADUVENDRA YADAV AND ORS. AND OTHERS
Versus
PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND OTHERS

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.
Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.
Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 7193 of 2013

ASHOK AIREN AND 3 ORS. AND OTHERS
Versus
PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND OTHERS

Appearance:

Shri A.K. Chitale – learned Senior Advocate with Shri Yogesh Mittal - Advocate for the petitioner.
Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.
Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 7194 of 2013

PRAKASH CHANDRA AND ORS. AND OTHERS
Versus
PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND OTHERS

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.
Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.
Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 7196 of 2013

SATYENDRA

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 7198 of 2013

JITENDRA YADAV AND ORS. AND OTHERS

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 7200 of 2013

SMT. SUDHA DHOOT

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 7202 of 2013

BHAGWAN SINGH

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma

– Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 7205 of 2013

BABU SINGH

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma

– Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 7207 of 2013

BANE SINGH

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma

– Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 7213 of 2013

MALKHAN SINGH

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

Shri Yogesh Mittal - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 7332 of 2013

SHANKARLAL

Versus

**LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND
OTHERS**

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 7336 of 2013

SHRENIK KUMAR JAIN AND 2 OTHERS AND OTHERS

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 3 ORS. AND
OTHERS**

Appearance:

Shri Vivek Dalal- Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 7901 of 2013

JITENDRA

Versus

**LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND
OTHERS**

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 8444 of 2013

SMT.AHILYABAI

Versus

**LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND
OTHERS**

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 8449 of 2013

BAHADUR SINGH AND 5 ORS. AND OTHERS

Versus

**LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND
OTHERS**

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 8454 of 2013

MEHTAP

Versus

**LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND
OTHERS**

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 8516 of 2013

RAMGOPAL AND ANR. AND OTHERS

Versus

LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS.

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 8833 of 2013

MAHENDRA

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

*Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav
Jain - Advocate for the petitioner.*

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 8882 of 2013

PAWANSINGH AND 2 OTHERS AND OTHERS
Versus
LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND OTHERS

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.
Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.
Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 8885 of 2013

RAMIBAI
Versus
LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND OTHERS

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.
Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.
Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 8886 of 2013

PUNAJI
Versus
LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND OTHERS

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.
Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.
Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 8924 of 2013

SHAKUNTALABAI

Versus

**LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND
OTHERS**

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 9048 of 2013

GENDALAL

Versus

**LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND
OTHERS**

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 9693 of 2013

NARAYAN AND 2 ORS. AND OTHERS

Versus

**LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND
OTHERS**

Appearance:

None for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 10319 of 2013

RASHMI ANAND

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

*Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav Jain -
Advocate for the petitioner.*

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma –
Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 10321 of 2013

HUKUM SINGH

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

*Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav Jain -
Advocate for the petitioner.*

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma –
Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 10322 of 2013

SHAKUNTALA BAI

Versus

**PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND
OTHERS**

Appearance:

*Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav Jain -
Advocate for the petitioner.*

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma –
Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 10324 of 2013
PAWAN SINGH AND 6 ORS. AND OTHERS
Versus
PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND OTHERS

Appearance:

Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav Jain - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 10326 of 2013
PAWAN SINGH AND 2 ORS. AND OTHERS
Versus
PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND OTHERS

Appearance:

Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav Jain - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 10327 of 2013
SHIVNARAYAN AND ANR. AND OTHERS
Versus
PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND OTHERS

Appearance:

Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav Jain - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 10328 of 2013
PRADEEP AND 2 ORS. AND OTHERS
Versus
PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND OTHERS

Appearance:

Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav Jain - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 10329 of 2013
SMT. JYOTSANA AND ANR. AND OTHERS
Versus
PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND OTHERS

Appearance:

Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav Jain - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 10330 of 2013
BANE SINGH AND 3 ORS. AND OTHERS
Versus
PRINCIPAL SECRETARY STATE OF M.P. AND 5 ORS. AND OTHERS

Appearance:

Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav Jain - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 12454 of 2013

KALYAN SINGH AND ANR. AND OTHERS

Versus

PRINCIPAL SECRETARY STATE OF M.P. HOUSING AND ENVIRONMENT DEPARTMENT AND 5 ORS. AND OTHERS

Appearance:

Shri Veer Kumar Jain – learned Senior Advocate with Shri Vaibhav Jain - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 12837 of 2013

JITENDRA KUMAR THRU. GUARDIAN SMT. ASHABAI

Versus

LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND OTHERS

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.

WRIT PETITION No. 12840 of 2013

VIJENDRA KUMAR

Versus

LAND ACQUISITION OFFICER STATE OF M.P. AND 3 ORS. AND OTHERS

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma – Advocate for the respondent.

Shri Bhuwan Deshmukh – G.A. for respondent/State.



WRIT PETITION No. 2016 of 2014

***JYOTI BABBAR KAPOOR THRU. POWER OF ATTORNEY HOLDER
SMT. KUSUMSINGH***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Vinitijay Hardia - Advocate for the petitioner.

*Shri Sunil Jain – learned Senior Advocate with Ms. Nandini Sharma
– Advocate for the respondent.*

Shri Bhuwan Deshmukh – G.A. for respondent/State.

**HEARD ON :28.03.2025
PRONOUNCED ON :09.04.2025**

ORDER

All the petitioners being land owners have filed these present petitions under Article 226 of the Constitution of India challenging the notification dated 06.04.2012 passed under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the “L.A. Act”), orders dated 22.03.2013 & 30.03.2013 passed under Section 5A of the L.A. Act and declaration dated 04.04.2013 under Section 6 of the L.A. Act.

2. This order shall govern the disposal of aforesaid Writ Petitions. Regard being had to the similitude of the controversy involved in these petitions, they have been heard analogously and disposed of by this singular order. For the sake of convenience, facts of W.P. No. 7124 of 2013 are taken.

3. THE CASE OF THE PETITIONER

3.1. The petitioner is the owner of *Lands bearing survey no. 211 part, 215-part, 254/1 part & 255/2 total admeasuring 5 hectares of land* at village Palakhedi, Tehsil Hatod, District Indore. The petitioner got the



development permission u/s 30 of *the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973* (in short “Adhiniyam 1973”) and all other statutory permissions for the development of Residential Plots.

3.2. Respondent No. 1 is the State of M.P. through the Principal Secretary Housing & Environment Department. Respondents No. 2 to 4 are Commissioner, Collector and Upper Collector, Respondents No. 5 and 6 are the Madhya Pradesh Housing & Environment Development Board (in short: “Housing Board”) and its officers. The Housing Board is constituted under *the Madhya Pradesh Graha Nirman Mandal and Adhosanrachana Vikas Mandal Adhiniyam, 1972* (in short “Adhiniyam 1972”) and its officers are appointed under Sections 13 and 14 of Adhiniyam 1972. All the respondents are, amenable to the writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.

3.3. The Executive Engineer, of the “Housing Board”, Indore by letter dated 21.02.2011 proposed to the Deputy Commissioner, Housing Board, Indore for the acquisition of about 100 Acres of land for development of “a Residential Scheme” based on Indore Development Authority's pattern of sharing developed plot area as per 50:50 ratio between land owners and Housing Board. The Deputy Commissioner, Housing Board by his letter dated 01.06.2011 requested the Land Acquisition Officer, Housing Board, Head Office, Bhopal to seek approval from the Board of Directors of the Housing Board for the acquisition of land u/s 4 and 6 of the Land Acquisition Act, 1894 (in short L.A Act) and thereafter enter into negotiations with the land owners for sharing 50% developed plot area each in lieu of



compensation. Initially, the lands of the petitioner were not included in the proposed total of 112.62 hectares proposed to be acquired by the Housing Board.

3.4. That, by letter dated 5/7/2011 the Land Acquisition Officer, Housing Board, Bhopal directed the Deputy Commissioner, Housing Board, Indore that acquisition of 112.62 hectares of land situated at village Palakhedi, subject to the conditions.

3.5. That by letter dated 12/7/2011 the Executive Engineer, Housing Board, Indore submitted a tentative plan to develop housing scheme in 112.62 hectares of land situated at village Palakhedi in anticipation of the permissions of the Board of Directors of the Housing Board. The EE made a request for acquisition of the land to the Collector, Indore as per oral instructions given by the Deputy Commissioner, Housing Board, Indore to him on 11.07.2011 land of 119.94 instead of 112.62 hectares.

3.6. According to the petitioner vide letter dated 29/8/2011 the Deputy Commissioner, Housing Board, Indore informed the Land Acquisition Officer, Housing Board, Bhopal that the brief prepared by the Indore office for the acquisition of 112.62 hectares of land for Housing Board's scheme of residential purposes at Palakhedi may please be placed before the Board of Directors of the Housing Board for taking its policy decision and its approval and sanction for acquisition of said land.

3.7. The Collector, Indore cum Ex Officio Deputy Secretary, Revenue, published notification No. 249/Bhu Arjan/Hatod/2012 dated 22/3/2012 u/s 4 of the Land Acquisition Act (hereinafter referred to as "the LA Act ") for the acquisition of 152.98 hectares land for residential



purposes and published in local Hindi Newspaper 'Patrika' on 30/3/2012 and in Madhya Pradesh Rajpatra on 6/4/2012.

3.8. Being aggrieved by notification published u/s 4 LA Act , the petitioner within limitation filed objections under section 5A of the LA Act. According to the petitioner, it is admitted position that the housing scheme has not been framed before initiation of land acquisition proceedings and taking over possession of the land by the respondents . The Executive Engineer, Housing Board, Indore submitted a reply to objections raised by the petitioner under Section 5A of the L.A. Act before the Land Acquisition Officer, Indore.

3.9 According to the petitioner, none of the objections raised by the petitioner were replied to by the Executive Engineer, *firstly* that in law there is no restriction about requisition of lands which have already been developed under statutory permissions granted by the public functionaries, *secondly* the State of Madhya Pradesh made provision for planning and development and use of land by framing housing scheme and the lands of the petitioner in abidance to the permissions of the Director, Town & Country Planning cannot be acquired by the Housing Board, even without the existence of any scheme and permission of the Board of Directors and *thirdly* before acquisition it mandatorily required to deposit at least 10% amount of the compensation of the amount likely to be awarded by the LAO.

3.10. According to the petitioner, the Additional Collector heard the objections and prepared a detailed report to place it before the Collector, Indore for approval. The Collector Indore rejected all the objections and recommended for acquisition of private land to the Revenue



Commissioner Indore who has approved the order passed by Collector under Section 5-A of the L.A. Act. Thereafter, the declaration has been issued on 30.03.2013 under Section 6 of the L.A. Act by the State Government for the acquisition of 152.980 hectares of land for residential purposes. Thereafter, the notification u/s 6 has been published in Madhya Pradesh Gazette on 06.04.2012. Hence, these writ petitions before this Court.

4. While issuing notices in writ petitions this Court has granted the interim relief for maintaining status-quo regarding the possession of the land. These petitions have been pending since 2013, and no further proceedings have taken place by the respondents. The Housing Board has filed the detailed reply without application for vacating / modification of interim relief and the State of MP has adopted the reply filed by the Housing Board.

GROUND RAISED BY THE PETITIONER

5. The petitioners have assailed the impugned order *firstly* on the ground that the Board of Director of Housing Board did not finalize the housing development scheme before going for the acquisition of the land under the L.A. Act, *secondly* under section 5-A only the Collector is empowered to hear and decide the objections and *lastly*, the 10% amount has not been deposited before further proceedings under the L.A. Act. During the pendency of this writ petition, the Land Acquisition Act has been repealed by ***the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*** (hereinafter referred to as the “2013 LA Act”). By virtue of section 24(2) of the 2013 entire proceedings are deemed to



have lapsed as no award has been passed. Alternatively, it is also submitted that even if these proceedings initiated under Sections 4 and 6 of the L.A. Act are liable to be continued, then direction be issued to pass an award under the provisions of the new Land Acquisition Act i.e. 2013 Act.

REPLY OF THE HOUSING BOARD

6. It is submitted in the reply that looking to the rapid development in Indore city with an aim to provide housing facilities at reasonable rates to the middle-income and lower-income groups, a decision for the development of housing schemes near the Super Corridor was decided to be undertaken by the Housing Board. The Executive Engineer of the Board wrote a letter dated 01.06.2011 to the Dy. Housing Commissioner disclosing intention to acquire the land near about 100 acres by way of Land Acquisition Act near Village Palakhedi.

7. After obtaining the necessary approval by the Dy. Commissioner, the Executive Engineer prepared and submitted a tentative scheme along with the cost estimation to the Dy. Commissioner. Under the Scheme, it is decided to give 65% of the residential area would be dedicated to Economically Weaker Sections (E.W.S.), Lower Income Groups (L.I.G.) and Middle-Income Groups (M.I.G.) whereas about 30% of the area is dedicated to Higher Income Groups (H.I.G.). After due deliberations, the land proposed to be acquired for the implementation of the Board's scheme has been worked out to be 154.486 hectares, which had been approved by the Land Acquisition Officer under the orders of the Commissioner of the Board vide letter dated 08.02.2012. Thereafter, the Executive Engineer



requested the Collector to commence the process of acquisition by issuing a notification under Sections 4 and 6 of the L.A. Act. In furtherance to this, a notification under Section 4 of the L.A. Act was issued by the Collector, Indore dated 22.03.2012 and was published in the newspaper on 31.03.2012 and in the official gazette on 06.04.2012. Thereafter, the Collector invited the objections under Section 5-A of the L.A. Act. The petitioner and others have submitted objections, and all were heard and rejected by the Collector and approved by the Revenue Commissioner. The Additional Collector has only prepared the report but final decision was taken by the Collector Indore. Hence, the procedure prescribed under the L.A. Act has been followed.

8. It is further pleaded in the reply that the Collector is competent to publish notification under Section 4 and 6 as authorized by the Government vide notification dated 15.02.1999 issued by the Revenue Department, Government of M.P. The State Government also authorized the Commissioner of the Division as Ex Officio Secretary to the Government of Madhya Pradesh and Revenue Department to exercise the power conferred under Sections 5-A and 17 of the said Act. So far as the formulation of the scheme by the Board is concerned, it is submitted that the tentative scheme was framed before proceeding in this matter. The Apex Court as well as this Court has decided that even in the absence of any prior scheme the acquisition proceedings will not be vitiated even if no approval of the Board is required before starting the acquisition proceedings. So far redeposit of the 10% amount of compensation the matter was placed in the Board Meeting No.224 dated 08.03.2014 regarding payment of 10% compensation in advance



towards the acquisition and it was resolved that a request be sent to the Collector to deposit the amount at the time of passing of the award.

9. It is further pleaded in the reply that after due deliberations and taking into consideration several factors, lastly on the basis of a letter dated 27.02.2012 the notification under Sections 4 and 6 of the L.A. Act have been issued for the acquisition of 154.743 hectares of land in place of 112.62 hectares. The objections submitted by the landowners were under Section 5-A were considered by the Collector Indore . The answering respondent submitted that the Upper Collector has submitted a detailed report after hearing the objections to the Collector and thereafter the Collector after going through the entire submissions and report, approved the notification under Section 4 and recommended for issuance of notification under Section 6 of the L.A. Act. Hence, there is no substance in the writ petition and the same is liable to be dismissed.

SUBMISSIONS OF PETITIONER'S COUNSEL

10. Shri Vivek Dalal, learned counsel appearing for the petitioner in W.P. No.7336/2013 submitted that all the objections raised by the landowners were heard and considered by the Additional Collector, in place of the Collector who is a competent authority under the L.A. Act. After hearing the objections, the Additional Collector submitted a detailed report to the Collector which has been approved by a non-speaking order. Hence, the entire acquisition proceedings vitiates as the Collector did not hear and decide the objections of the landowners. Shri Vivek Dalal further submitted that till date no possession of the land has been taken from the petitioner and the Housing Board has not deposited any amount of compensation with the Land Acquisition Officer which is



a mandatory condition under the L.A. Act. It is further submitted that now by virtue of Section 24 of the New Land Acquisition Act, the proceeding stand lapsed, and the land of the petitioners is liable to be released.

11. Shri Yogesh Mittal, learned counsel appearing for the petitioner in W.P. No.7120/2013, W.P. No.7124/2013, W.P. No.7187/2013, W.P. No.7194/2013, W.P. No.7196/2013, W.P. No.7198/2013, W.P. No.7200/2013, W.P. No.7202/2013, W.P. No.7205/2013, W.P. No.7207/2013 and W.P. No.7213/2013 argued that before initiating the land acquisition proceedings, the Housing Board ought to have prepared the housing scheme as required under Section 31 of the “Adhiniyam 1972”. Section 3 provides the establishment of the Housing Board by the State Government by issuing a notification which shall be the body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property.

12. According to Shri Mittal, learned counsel that as per section 31 of the Adhiniyam 1972, it is the duty of the Board to undertake Housing and Development Schemes. As per language of Section 31, the Board may incur expenditure and undertake works in any area to which this Adhiniyam applies for the framing and execution of schemes such as Housing and Development Schemes, therefore, the Board of directors were required to frame the housing schemes before proceeding further. Under Section 33 of Adhiniyam, it is for the Board to make a decision of the acquisition to get a land for housing scheme by way of acquisition or purchase or exchange or otherwise, therefore, since no such scheme was framed by the Board, therefore, the Executing Engineer or other Officers



could not have sent a request to acquire the land by way of land acquisition. Section 49 of the Adhiniyam 1972 also provides that the Board may also take steps for the compulsory requisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the L.A. Act to be framed by the Board.

13. It is further argued by Shri Yogesh Mittal, learned counsel that the Housing Board has wrongly proceeded without preparation of the housing scheme, and without depositing the money before the Land Acquisition Officer. The petitioners submitted all these objections before the Collector under Section 5-A of L.A Act but no para wise reply was given by the Housing Board to meet out all the objections. This Court by way of interim relief has only stayed the possession but the respondents did not proceed further to complete the acquisition proceedings, hence due to the repeal of the L.A. Act now all the proceedings are deemed to have been lapsed. In alternate it is submitted by the learned counsel that if this Court comes to the conclusion that the proceedings under later so far are as per law and liable to be continued then the petitioners shall be entitled to get the value of the land on the basis of the current market rate of the land in question.

14. Shri Hardia, learned counsel for the petitioner in W.P. No. 6631/2013, W.P. No. 6633/2013, W.P. No.7332/2013, W.P. No.7901/2013, W.P. No.8444/2013, W.P. No.8449/2013, W.P. No.8454/2013, W.P. No.8516/2013, W.P. No.8882/2013, W.P. No.8885/2013, W.P. No.8886/2013, W.P. No.8924/2013, W.P. No.9048/2013, W.P. No.12837/2013, W.P. No.12840/2013 and W.P. No.2016/2013 adopted the aforesaid arguments submitted by Shri



Yogesh Mittal and Shri Vivek Dalal learned counsel. Mr. Hardia learned counsel added that the land acquisition proceedings were liable to be concluded within two years from the date of issuance of notification under Sections 4 and 6 and if the award is not passed within 2 years, then fresh proceedings for acquisition are liable to be started. In support of his contention, he has placed reliance on a judgment passed by Single Bench in the case of *Dinesh Prasad vs. State of M.P.* reported in (2000) *II M.P.W.N. 89*.

15. Shri V.K. Jain, learned Senior Counsel appearing in W.P. No.8833/2013, W.P. No.10319/2013, W.P. No.10321/2013, W.P. No.10322/2013, W.P. No.10324/2013, W.P. No.10326/2013, W.P. No.10327/2013, W.P. No.10328/2013, W.P. No.10329/2013, W.P. No.10330/2013 and W.P. No.12454/2013 submitted that the objections send by the petitioner were received in the office of the Collector but same were not considered, hence for these petitioners the order passed u/s 5-A of the L.A. Act will not apply hence the land be released from acquisition.

16. Shri A.K. Chitale learned Senior Advocate appearing for the petitioner in W.P. No.7193/2013 submitted written submissions that the notification under Section 4 of the L.A. Act does not specify any public purpose of the Madhya Pradesh Housing Board, it mentions **SARVAJANIK PRAYOJAN AWASIYA PRAYOJAN OF THE STATE GOVERNMENT** according to the notification. Consequently, the notification under Section 4 cannot be invoked for any public purpose. The provisions of the Adhiniyam, 1972 were not followed by the Housing Board and therefore, the land of the petitioner and other



petitioners cannot be compulsorily acquired by the Housing Board.

17. It is further submitted by learned senior counsel that section 34 the Adhiniyam, 1972 says that whenever the Board is of the opinion that it is expedient to provide building sites in any area, the Board may frame a land development scheme. Shri Chitale learned senior counsel further submitted that no reasons have been given by the respondents as to why the scheme was framed in advance before proceeding for acquisition of private land. It is well settled that the word "may" does not imply that the main provision can be blatantly ignored.

18. It is further submitted learned senior counsel that the Housing Board is a legal entity distinct, independent and separate from its officers. The Housing Board had not taken any statutory steps for making any scheme for compulsorily acquiring the land of the petitioner. The Government and an undertaking of the Government such as the Madhya Pradesh Housing Board are distinct and separate legal entities, and an act of the Government cannot be regarded as an act of the Housing Board. It is further submitted that the objections under Section 5-A of the L.A. Act have not been dealt with or considered by the respondents fully. The notification under Section 6 of the Land Acquisition Act based on the rejection of the objections under Section 5-A is therefore without jurisdiction. The declaration under Section 6 has been published by the State on the basis of approval given in a mechanical manner without application of mind, without recording the satisfaction of the appropriate Government that the land is needed for public purpose. The report of the L.A.O. and the Collector has been endorsed mechanically, which shows the recklessness with which the



entire issue of acquisition has been dealt with by the Commissioner by simply appending his signature on the note prepared by L.A.O. cum Upper Collector and Collector even without summoning the records of proceedings under Section 5-A of L.A Act and without considering the objections raised by the affected landowners. The declaration under Section 6 is therefore clearly in contravention of the settled ratio of law laid by the Apex Court in the case of *Surendra Singh Brar & Ors. Vs. Union of India & Ors.* reported in (2013) 1 SCC 403.

19. In support of his contention, learned Sr. Counsel heavily placed reliance on a judgment passed by the Apex Court in the cases of *Kapil Mehra v. Union of India* reported in (2015) 2 SCC 262, *Secy. Ministry of Chemicals & Fertilizers, Govt. of India vs. Cipla Ltd.*, reported in (2003)7 SCC 1, *Bharat Petroleum Corpn. Ltd. Vs. Maddula Ratnavalli* reported in (2007) 6 SCC 81, *Gujarat Electricity Board vs. Girdharlal Motilal* reported in AIR 1969 SC 267, Apex Court in the Three Judge Bench in the case of *CCE vs. Orient Fabrics (P) Ltd.* reported in (2004) 1 SCC 597, *Tata Engineering and Locomotive Co. Ltd. v. State of Bihar* reported in (1964) 6 SCR 885.

SUBMISSIONS OF RESPONDENT'S COUNSEL.

20. *Per contra*, Shri Sunil Jain learned Sr. Advocate appearing on behalf of the Housing Board contended that as per definition of 3(c) of the L.A. Act, the "Collector" means the Collector of a district, including any officer specially appointed by the appropriate Government to perform the functions of a Collector. It is further submitted that under Section 5-A every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an



opportunity of being heard and shall after hearing all such objections make a report containing his recommendation on the objection for the decision of the Government and the decision of the appropriate Government on the objections shall be final.

21. It is further submitted by Shri Jain learned senior counsel that by virtue of Section 49 of Adhiniyam 1972, the Board may also take steps for the compulsory acquisition of the land for execution of a housing scheme in the manner provided in the L.A. Act and the same shall be deemed to be an acquisition for public purpose. It is further submitted that the plan for the scheme was prepared and thereafter, the process was taken up for the acquisition of the private land. Framing of the scheme by the Board in advance is not necessary as held by the Apex Court in the case of *Karnataka Housing Board and Another vs. State of Karnataka* reported in *2022 SCC Online SC 933* . As argued by learned senior counsel, so far as the deposit of compensation amount is concerned, the Board has decided to send a request to the Collector to deposit the amount at the time of passing of the award. On this issue learned senior counsel has also placed reliance on the Division Bench judgment in the case of *Siyaram and Ors. Vs. State of M.P. and Ors.* reported in *1992 (2) M.P.L.J 714* that the acquisition of the land for a residential scheme is a public purpose and, therefore, prays for the dismissal of the writ petitions.

APPRICIATIONS AND CONCLUSIONS

22. The first contention of the petitioners is that under the Adhiniyam of 1972 it is mandatory for the Board to prepare a housing scheme before intuition of the proceedings for acquisition of the land. It



is an admitted position that the Board did not prepare any scheme and only on the basis of the letter written by the Executive Engineer the acquisition proceedings were started. Shri Jain, learned Senior Counsel argued that it is not mandatory for the Board to prepare a scheme before proceeding for land acquisition. After completion of acquisition proceedings, the scheme can be finalized by the Board. The State Government enacted the Adhiniyam 1972 to provide the Housing Board in the State of Madhya Pradesh for the purpose of taking measures and satisfying the need of housing accommodation. The Board as defined under Section 2(b) means a “M.P. Housing Board” which is now known as “M.P. Housing and Infrastructure Development Board already referred to as “Housing Board” herein above. As per Section 4 “the Board consists of Chairman, Secretary and other members appointed and nominated by the State Government”. As per Section 13(1) “There shall be a Housing Commissioner to the Board who shall be the principal executive officer of the Board and subject to the overall control of the Board and the Chairman, all officers and servants of the Board shall be subordinate to him”. The Board possess power to appoint a Chief Engineer, a Chief Accounts Officer, an Estate Manager etc. under Section 14.

23. Chapter IV deals with the “Conduct of Business of Board and its Committee”. Chapter VI provides a “Housing Scheme” and as per Section 31, it is a duty of the Board to undertake housing scheme. Section 32 defines the “Power of Board to undertake a housing scheme”. Under the Housing Scheme, the Board shall have a power to acquire, purchase, exchange or otherwise of the property necessary for



execution of the scheme. Apart from the other work provided under sub-section (a) to (e) of Section 33. Section 31 of the Adhiniyam 1972 is reproduced below:-

“31. Duty of Board to undertake Housing Schemes - Subject to the provisions of this Act and subject to control of the State Government, the Board may incur expenditure and undertake works in any area to which this Act applies for the framing and execution of such housing schemes as it may consider necessary from time to time or as may be entrusted to it by the State Government.”

24. “Housing scheme” is defined under sub-section (9) of Section 2 according to which "Housing Scheme" made under this Act as well as and development scheme prepared under section 34. Section 31 says that “subject to the provision of this Act and subject to the control of the State Government, the Board may incur expenditure and undertake works in any area to which this Act applies for framing and execution of such housing schemes as it may consider necessary from time to time. Therefore, the Board has a power to frame and execute the housing scheme. As per the scheme so prepared, the Board, the Chairman and the Housing Commissioner has a power to accord approval to estimate for incurring expenditure of any work. Section 25 gives power to the Board to decide in respect of the budget, availability of the funds or other provisions of the Act in respect of any single work or scheme for carrying out by the Board, therefore, there is no specific provision under Chapter V and Chapter VI which mandates that housing scheme has to be first prepared by the Board and thereafter put to execution. The Commissioner of the Board and the Housing Commissioner both have power to grant approval for execution of any scheme under the Act for



the Housing Board is established.

25. In the case of *Karnataka Housing Board (supra)* the constitution Bench of the Apex Court held that Section 33(2) of the KHB Act, contains no condition, either expressly or by necessary implication, that before a notification under Section 4(1) of the L.A. Act is issued proposing to acquire the land, a sanctioned and published housing scheme should be in force. Para 24, 25 and 26 are reproduced below:-

25. A conjoint reading of the afore-extracted provisions of KHB Act will unfold the duties of the KHB as to undertake housing schemes and land development schemes as it may consider necessary from time to time or as may be entrusted to it by the State Government. What are the matters to be provided for by housing schemes and land development schemes are mentioned respectively under Sections 18 and 18A. Going by Section 2(n) 'programme' means the annual housing programme and land development programme prepared by KHB under Section 19. Section 19 mandates that before the first day of December in each year, KHB shall prepare and forward a programme, a budget for the next year and a schedule of the staff of officers and servants already employed and to be employed during the next year, to the State Government. As per the said section, the said programme shall contain such particulars of the housing schemes, land development schemes and labour housing schemes which it proposes to execute whether in part or whole during the next year as may be prescribed. Under Section 20 the State Government may sanction the programme, the budget and the schedule of the staff of officers and servants forwarded to it with such modifications as it deems fit. As per Section 21, the State Government shall publish the programme sanctioned by it under Section 20 in the official Gazette. Section 22 permits submission of supplementary programme and budget in respect of which a programme and budget had been sanctioned under Section 20 and in the eventuality of submission of such a supplementary programme and budget the provisions of Sections 20 and 21 would apply.

26. Section 23 confers power on the board to vary any programme or any part thereof included in the programme sanctioned by the State Government, at any time. The bare perusal of the proviso thereunder would reveal that it is not an unfettered power. Going by the proviso, no such variation shall be made if it involves an expenditure in excess of 20 per cent of the amount as originally sanctioned for the execution of any housing scheme or land development scheme included in such



programme or affects its scope or purpose. Thus a bare perusal of the provisions under Sections 17 to 23, contained in Chapter-III of the KBH Act, would reveal that they deal with duties of KHB to undertake housing schemes and land development schemes, matters to be included in such schemes, preparation and submission of annual housing programme and land development programme, budget and establishment schedule and such other procedures to be followed ultimately unto the sanctioning of the programme and also the power of KHB to make variance of sanctioned programme and its limit.

27. Going by the scheme of the KHB Act, it deals with the subject of execution of housing schemes, land development schemes and labour housing schemes under Section 24. Bearing in mind the provisions under Sections 18-23 we will consider the scope and purport of Section 24 of the KHB Act. A careful scrutiny of sub-Sections (1) and (2) of Section 24 would bring forth their distinct differences. Section 24(1) prescribes that after the programme has been sanctioned and published by the State Government the board shall, subject to the provisions of Section 23, proceed to execute the housing scheme, land development scheme and labour housing scheme included in the programme. Thus, Section 24(1) states in unequivocal terms as to when the KHB shall proceed to execute the housing schemes, land development schemes and labour housing schemes included in the programme. Indisputably, in terms of the said statutory mandate KHB could proceed to execute any of the aforesaid schemes included in the programme only after the sanction and publication of the programme wherein the scheme concerned is included.

The language and the entire Adhiniyam 1972 is identical to the provisions of the KHB Act, therefore, the aforesaid contention of learned Sr. counsel for the petitioners is hereby rejected.

26. The second contention raised by learned counsel for the petitioners is that the objections submitted to the notification under Section 4 have not been decided by the Collector as required under sub-section 2 of Section 5A of the L.A. Act. It is correct that after issuance of the notification under Section 4 all the landowners/ petitioners submitted objections in writing before the Collector, but the Additional Collector heard all the objections, prepared a report and placed before the Collector Indore. The learned Collector after going through the



report has rejected all the objections and granted approval to the notification under Section 4 of the LA Act. Thereafter, the matter was placed before the Commissioner who has also granted approval. Section 5-A is reproduced below for ready reference : -

“5A. Hearing of objections. - (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, [within thirty days from the date of the publication of the notification], object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard [in person or by any person authorized by him in this behalf] or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government. The decision of the [appropriate Government] on the objections shall be final.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.]”.

27. As per sub-section (2) of Section 5A “every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorized by him or by pleaders”. It further provides that after hearing all such objections and after making enquiry, the collector shall prepare its report containing his recommendations on the objections and shall place before the government for decision and the decision taken by the appropriate Government on the objections shall be final. As per Section 5-A the competent authority is the Collector,



therefore, it is for the Collector to hear the objections and submit a report with its recommendations to the appropriate Government.

28. It is settled law that where a statute requires a particular act to be done in a particular manner that the Act has to be done in that manner alone. No such notification has been brought on report by the respondents whereby the State Government has delegated power to the Additional Collector to invite the objections and hear the person concerned. It is also settled law that in exercise of quasi judicial power as well as judicial power it is for an authority or a Judge who has to decide the matter should give hearing to the parties concerned. The arguments cannot be heard by one the competent authority and decided by other. It is mandatory and statutory requirement for the Collector to give a personal hearing to the person concerned, make enquiry and submit a report with its recommendation. There cannot be a delegation of authority or entrustment to the subordinate officers like Additional Collector/ Dy. Collector to hear the objections, prepare a report and submit for approval. Therefore, the objections under Section 5-A were not heard and decided by the competent authority. After grant of approval by the Commissioner, the notification under Section 6 has been issued which is also liable to be quashed.

29. The petitioner immediately rushes to this Court and by way of interim relief, the parties were directed to maintain *status-quo* in respect of the possession of the land and the said interim order is still in operation. The Housing Board has not filed any application for vacating or modification the stay. This Court has not stayed further land acquisition proceedings, therefore, the Land Acquisition Officer ought



to have proceeded for passing the award in this matter. If there was any confusion, the respondent could have sought a leave from this Court for proceedings in the matter for passing final order. This Court by interim relief has only protected the possession but land acquisition proceedings were not stayed. Hence now more than 13 years have been lapsed and land acquisition has not been completed by the respondents.

30. Despite several opportunities when the State of M.P. did not file the reply, the Court had to direct for personal presence of Collector. Finally, the reply was filed in the year 2017 i.e. after four years on 17.01.2017. Thereafter, these petitions were admitted for final hearing. Now more than 12 years have been passed, the respondents have not passed any final award under the L.A. Act.

31. Now it is required to consider by this court whether at this stage still the Hosing Board should be given opportunity to continue with the land acquisition proceedings which are held up since last 12 years. As held above, the objections submitted by the petitioners have not been decided by the Collector under Section 5A which vitiates the proceedings and the orders dated 22.03.2013 & 30.03.2013 passed under Section 5A & 6 of the L.A. Act are liable to be set aside.

32. Admittedly, the LA Act is not in force now, which has been repealed by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 w.e.f. 01.01.2014. More than 12 years have been passed neither the final award has been passed nor the possession of the land has been taken from the petitioner by the Housing Board. It is also important to mention that till date the Board has also not deposited the 10% of the amount of



the compensation. The housing scheme has also not been finalized till date therefore, except notification under Section 4, no steps have been taken in this case.

33. The similar issue came for consideration before the Apex Court in the case of ***Bernard Francis Joseph VAZ and Others vs. Government of Karnataka and Other*** reported in ***2025 INSC 3*** recently decided on ***02.01.2025***. Dealing with almost similar situation which these parties are facing, the Apex Court held that *“there is no fault on the part of the landowners and they are being deprived of their land for almost 22 years. The Karnataka Board did not take any step for acquiring the acquisition proceedings for 22 years. The Apex Court has observed that in the present case it can clearly be seen that there is no delay which can be attributed to the appellants in not getting compensation, but it was on account of the lethargic attitude of the officers of the State/ KIADB that the appellants were deprived of compensation. Only notices were issued in the contempt proceedings, then only the SLAO passed an award on 22nd April 2019 taking guideline values prevailing in the year 2011 for determining the market value of the acquired land. The Apex Court has held that the High Court in exercise of powers under Article 226 of the Constitution ought to have done the complete justice instead of relegating the appellants to again go through the rigors determination by SLAO”*.

34. The Apex Court has also observed that if on account of the inordinate delay in paying the compensation and thereby depriving the constitutional right to the appellants under Article 300-A, the land acquisition proceedings are liable to be quashed and the only recourse



available to the State/KIADB to issue a fresh acquisition notification under the 2013 L.A. Act. However, the Apex Court in exercise of powers conferred under Article 142 finds it appropriate in the interest of justice directing SLAO to determine the compensation on the basis of market value prevailing as on 22nd April 2019 because in the said case, the possession of the land was taken and award was passed but in the present cases factual situations are surmised as under :-

- (1) From the very beginning, housing scheme was not prepared and approved by the Commissioner as well as by the Housing Board.
- (2) After issuance of show cause notice under Section 4, objections were not decided by the Collector under Section (2) of Section 5A.
- (3) The land owners are still in possession and same has not been taken by the Housing Board.
- (4) The Land Acquisition Officer has not passed any award after issuance of notification under Section 6.
- (5) The Housing Board has not shown any interest in this project since last 13 years. These writ petitions are pending from 2012 and no application for vacating stay or modification of stay has been filed by the Housing Board to proceed in this matter or to get this petition decided early.
- (6) 10% amount of the compensation has also not been deposited.
- (7) The Land acquisition award has not been passed by the LAO till date.
- (8) Most importantly, the Land Acquisition Act has been repealed by new Act, 2013 of LA.

35. Therefore, now the respondents/the Housing Board cannot be



permitted to further proceed in this matter. If they desire, they may come up with the new housing scheme under the provisions of the Adhiniyam, 1972.

36. As held above, the petitioners have been deprived of their land since last more than 12 years and the Board has not shown any interest during 13 years to proceed further in this matter. Not a single application has been filed for vacating stay or for urgent hearing of this petition. The State has not filed the separate return but adopted the return filed by the Housing Board that to when this Court directed for personal presence of the Collector, therefore, for more than 13 years the petitioners are being deprived of to use their land. Hence, they are entitled for compensation of Rs. 25,000/- per petitioner with a liberty to them to claim compensation or damages by way of civil suit.

37. Accordingly, notification dated 06.04.2012 passed under Section 4 of the "L.A. Act", orders dated 22.03.2013 & 30.03.2013 passed under Section 5A of the L.A. Act and declaration dated 04.04.2013 under Section 6 of the L.A. Act and land acquisition proceedings initiated by the Housing Board are here by quashed and all these writ petitions are hereby allowed.

Let a photocopy of this order be kept in the record of connected writ petitions.

(VIVEK RUSIA)
JUDGE