IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11543 OF 2024

Purnima Talkies
Through Hemant Mali (Proprietor)
Dahanu Par Naka
Taluka Dahanu, District – Palghar … Petitioners

Versus

1. Chief Officer, Dahanu Nagar Parishad,
Dahanu Nagar Parishad, Dahanu.

2. Dahanu Nagar Parishad
Opposite Dahanu Road Post Office
Main Road, Dahanu Road
Taluka – Dahanu.
District: Palghar – 410 602.

3. The State of Maharashtra … Respondents

Ms. Yogita Deshmukh – Chitnis, for the Petitioners.

Mr. Kedar Dighe, Addl. GP a/w Ms. S.S. Bhende, AGP for the Respondents - State.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

JUDGMENT RESERVED ON : 6 DECEMBER 2024

JUDGMENT PRONOUNCED ON : 20 FEBRUARY 2025

JUDGMENT (Per Advait M. Sethna, J.) :

1. Rule, returnable forthwith. The respondents waive service. By consent of the parties, heard finally.

2. This petition is filed under Article 226 of the Constitution of India for the following substantive reliefs:-

> "*(b) That the Hon'ble High Court may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other writ/ Order/direction to the Respondent No.1 be directed to acquire the land of the Petitioner under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in the absence of agreement in regards to acceptance of TDR/FSI and pay them monetary compensation.*
>
> *(c)That the Hon'ble High Court may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other writ/Order/direction direct the Respondent Nos.1 to 3 not to disturb the peaceful possession of the Petitioner till the monetary compensation is paid to the Petitioner.*"

A) Issues Before the Court:

3. The legal issue which arises for consideration in this petition, revolves around the legality of the impugned order dated 23 July 2024 ("**Impugned Order**" for short) passed by respondent no. 1 whereby it refused to grant compensation to the petitioner as prayed for and holding that the petitioner is entitled only to TDR/FSI rights as set out in the impugned order. Petitioner questions the validity and legality of the rejection of the petitioner's claim to monetary compensation under provisions of the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (**"the 2013 Act"** for short) to be read with the relevant provisions of the Maharashtra Regional Town Planning Act ("**MTRP Act**" for short).

(B) Factual Matrix:

The relevant facts necessary for adjudication of the present proceedings are :-

4. The petitioner is a proprietary concern of one Shri Hemant Mali, residing at taluka Dahanu, District Palghar. The petitioner is in the business of a Cinema Talkies as the cause title indicates. The respondent no. 1 is the Chief Officer of the Dahanu Nagar Parishad. The respondent no. 2 is Dahanu Nagar Parishad. The respondent no. 3 is the State of Maharashtra.

5. The petitioner has contended that Purnima Talkies was constructed on an area admeasuring about 3027 sq. meters and situated in Survey no. 7 (**"The Subject Property/Land"** for short) near Par Naka at Dahanu. The land in question, is stated to be have vested in the sole proprietor of the petitioner, pursuant to the grant of Sanad dated 1 October 1939, in favour of the late maternal grandfather of the petitioner, namely, Shri Jamu Damu Mali, the ancestors of the petitioner. Thereafter, along with Purnima Talkies there was a stall and a toilet constructed on the Subject

Land/Property. The names of all legal heirs of the petitioner were mutated to the revenue records.

6. By a letter dated 22 April 1993, the petitioner was granted a permission by respondent no. 2 to construct a compound wall, for purposes of protection of the subject land, by removing the barbed wire fencing. Such permission was granted pursuant to an application of the petitioner dated 14 April 1993.

7. It was on 13 February 2019, that one Mr. Yash Dhanesh Mali, nephew of the sole proprietor of the petitioner, who applied to respondent no. 1 for seeking permission to build and start an auto service station on the subject land. However, such application remained to decided by respondent no. 1.

8. A notification dated 20 June 1991 was issued by the Ministry of Environment and Forest, Union of India, Department of Environment, Forest and Wildlife declaring Dahanu town and taluka as an ecologically fragile area with restrictions on setting up of industries that would have a detrimental effect on the environment. Pursuant to the above, the Urban Development Department of the State of Maharashtra issued a notification dated 4 April 2012 for preparation of draft development plan for Dahanu which entailed the

permissible development activities that could be undertaken under such plan, which was subsequently notified with modifications.

9. Respondent no.1 issued a notice dated 30 August 2022 to the petitioner for road widening to the extent of 30 meters in accordance with the development plan referred (Supra). The notice also called upon the petitioner and legal heirs to remain present with documents of title on 1 September 2022 at the office of respondent no. 1. It was recorded that the compound wall constructed by the proprietor of the petitioner, was impacting/affecting the road widening to be carried out by the respondents for public purpose.

10. Pursuant to such notice, the petitioner filed a representation dated 20 September 2022 addressed to respondent no. 1 seeking clarification on the aspect of monetary compensation for the proposed acquisition of subject property/land.

11. The petitioner also preferred an application dated 22 September 2022 under Right to Information Act, 2005 ("**RTI Act**" for short) addressed to the respondent no. 2 seeking documents pursuant to the issuance of development plan by the respondents and the proposed acquisition of the subject land. However, the petitioner claims that all documents were not provided to the petitioner, hence, the petitioner also preferred an appeal dated 11 November 2022 under the RTI Act.

12. Further, vide letter dated 10 January 2023, the petitioner communicated with respondent no. 1, being the first appellate authority under the RTI Act, acknowledging the receipt of the Gazette Notification in regard to Approval of the Development Plan (Supra). The petitioner also intimated respondent no. 1 about the provision of incomplete information to him and therefore, requested for a personal hearing. However, according to the petitioner, no such hearing was given.

13. The petitioner through his advocate addressed a legal notice dated 10 February 2023 to respondent no. 1, challenging the proposed demolition of the said compound wall, as noted by us hereinabove. Respondent no. 1 replied to the said notice by its letter dated 15 February 2023, and furnished certain information to the petitioner. Respondent no. 1 also raised an objection regarding the construction of the washing center situated within the subject land claiming that it was unauthorized.

14. Having received such reply, the petitioner through its advocate issued another legal notice dated 27 February 2023 to respondent no. 1, addressing the objections raised by respondent no. 1. The petitioner, in such notice invited attention of respondent no. 1 to an application dated 13 February 2019 addressed by the nephew of the petitioner's proprietor, one Mr. Yash Dhanush Mali addressed to respondent no. 1seeking permission to

build and start auto service station on the subject land. Such application dated 13 February 2019 had remained to be decided, as also not rejected by the respondents. It was specifically recorded that the action to compulsory acquire the land, shall be undertaken by the State Government, on payment of compensation.

15. On such backdrop, the petitioner filed Civil Suit No. 29 of 2023 before the Court of learned Civil Judge, Junior Division, Dahanu ("**Trial Court**" for short) under Section 38 of the Specific Relief Act 1963. Under Order XXXIX Rule (1), (5) of the Code of Civil Procedure, 1908, ("**CPC**" for short) the petitioner prayed for a temporary injunction against the respondents not to proceed with the demolition work on the suit property, i.e., subject lands, as planned by the respondents and that they be immediately restrained from carrying on any further demolition work. The petitioner also preferred an Interim Application (Exhibit 5) dated 27 March 2023 in the said suit praying for an interim injunction against the proposed demolition, of the compound wall by the respondents constructed on the subject land.

16. An order dated 10 January 2024 was passed by the Trial Court on the above interim application (Exhibit 5) filed in the said suit of the petitioner rejecting the injunction application.

17. On refusal of the Trial Court to grant a temporary injunction, on 16 January 2024 the petitioner's compound wall on the subject land was demolished by the respondent no. 2 under police protection. Further, respondent no. 2 put colored markings for the proposed road widening and installed cement poles of uneven markings on the subject land/property. The petitioner, as a consequence of such action of the respondents, amended the plaint in Civil Suit No. 29 of 2023, being aggrieved by such demolition. By an amendment (dated 16 July 2024), the petitioner additionally prayed for damages of Rs. 4,85,000 for illegal demolition of the compound wall and other structures on the Subject Land with directions to the respondents to reconstruct the demolished compound wall and other structures on the Subject Land of the petitioner, within a time bound period.

18. The petitioner then filed an appeal dated 9 February 2024 under Order XLIII of the CPC, against the order dated 10 January 2024 of the Trial Court (Supra) rejecting the interim application for injunctory reliefs filed by the petitioner.

19. By an order dated 31 May 2024, the said appeal of the petitioner was partly allowed by the Trial Court. The court held that, the contention of the petitioner to seek permission to re-erect the compound wall was required to be decided by the Trial Court. Accordingly, the order dated 10 January 2024

passed by the Trial Court rejecting the petitioner's interim application (Exhibit 5), was set aside. The interim application filed in the suit was restored to the file of the Trial Court for *de novo* adjudication. Directions were also issued to respondent No. 2 keeping it open for the said respondent to decide the representation of the petitioner dated 20 September 2022 in regard to claiming compensation during pendency of the petitioner's interim application, which was restored, as stated (Supra).

20. Pursuant to the above order a hearing notice was issued by respondent No. 2 to the petitioner on which the petitioner was heard in the offices of respondent No. 1 on 19 July 2024. Thereafter, as per minutes of hearing dated 19 July 2024 the petitioner submitted his response, raising objections in writing through his advocate, *inter alia*, alleging that respondent No. 1 had acted in a biased manner. Thus, the petitioner strongly opposed the hearing to be conducted by respondent No. 1.

21. On the aforesaid backdrop, *dehors* the objection of the petitioner, as noted (Supra) the respondent No. 1 proceeded to pass the impugned order dated 23 July 2024, against which the petitioner being aggrieved has preferred this writ petition filed on 11 August 2024.

(C) Rival Contentions:-

The case of the Petitioner:-

22. At the very outset, Ms. Yogita Deshmukh, learned counsel for the petitioner would submit that the respondents have acted contrary to and in breach of the provisions of Section 126 of the MRTP Act. It is further submitted that the mandate under Section 126(1)(a) and 126(1)(b) of the said Act has been totally overlooked, ignored by the respondents, in as much as, there is no agreement and/or a concluded contract between the petitioner and the respondent authorities, as far as the grant and acceptance of TDR/FSI is concerned. It is her submission that in view of such undisputed factual position, one would have to resort to Section 126(1)(c) of the MRTP Act, under which the petitioner is entitled to the grant of compensation to be determined and paid under the provisions of the 2013 Act. She would thus submit that the actions of the respondents are in complete violation of such statutory scheme and provisions contemplated under the MRTP Act, which cannot be countenanced.

23. Ms. Deshmukh further contended that the respondents could not have acquired the subject land of the petitioner without initiating proceedings as stipulated under the 2013 Act. Both logically and legally, it was incumbent to grant monetary compensation to the petitioner and thereafter the

respondents ought to have proceeded for demolition in the manner recognised by law. However, none of this was done.

24. Ms. Deshmukh would further submit that for the purposes of granting TDR/FSI to the petitioner in lieu of compensation, there ought to be a concluded contract between the petitioner and the respondents, which was not so in the present case. Thus, nothing precluded the State and/or the respondents Nos. 1 to 3 from paying compensation to the petitioner under the provisions of the 2013 Act, as prescribed under Section 126(1)(c) of the MRTP Act. In other words, the respondents could not have foisted upon the acceptance of TDR/FSI on the petitioner in the absence of such agreement/concluded contract between them, as expressly provided under Section 126 of the MRTP Act. It is further submitted that in any event had the respondents intended to grant of TDR/FSI to the petitioner, in lieu of compensation, nothing prevented them from executing an agreement to that effect as mandated in law, failing which the petitioner had to be paid monetary compensation. It is submitted that the respondent authorities failed to consider that the subject land of the petitioner is situated at Dahanu which has been declared as an ecologically fragile area under notification dated 20 June 1991 issued by the MoEF, read with notification dated 4 April 2012 for preparation of draft development plan for Dahanu, which provided the permissible development activities to be undertaken under such plan. In view thereof, had

there been any offer by the respondents to the petitioner to accept TDR/FSI that too would have served no purpose, as the subject land then formed a part of the green zone.

25. Ms. Deshmukh would then submit that respondents Nos. 1 and 2 ought to have considered that the ancestors of the petitioner had received the subject land under a Sanad dated 1 October 1939. The building structure of the petitioner talkies was almost 82 years old. The land and structure inside the compound wall was no more protected pursuant to the demolition of the same by the respondents. Such illegal demolition had caused huge financial loss and mental agony to the petitioner. To make things worse for the petitioner there was no compensation paid by the respondents to the petitioner, thus putting the petitioner to undue hardship and onerous burden. She submits that such actions of the respondents demonstrate arbitrariness and highhandedness on part of the respondents.

26. Ms. Deshmukh then placed reliance on the decision of the Full Bench of this Court (Nagpur Bench), in the case of **Shree Vinayak Builders and Developers, Nagpur v. State of Maharashtra and Others**[1] to buttress her submission that only when an agreement is entered between the parties with regard to acquisition of land, by granting TDR/FSI rights to the petitioner, would constitute a step towards acquisition of land. In the absence of such

1. 2022(4) Mh.L.J. 739

agreement/concluded contract between the parties as in the given case, such acquisition was contrary to the provisions of Section 126 of the MRTP Act and hence illegal.

27. Ms. Deshmukh would also place reliance on the decision of a Coordinate Bench of this Court in **Our Lady of Immaculate Conception Church A Public Charitable Trust v. Municipal Corporation OF Greater Mumbai & Ors**[2] (of which one of us Justice G.S. Kulkarni was a member). This is to contend that as held by the Full Bench decision of this Court (Supra), the respondents could not have acquired the subject land of the petitioner contrary to law, for the reasons noted above. In view thereof, the acquisition by the respondents in the present case was completely contrary to the mandate and procedure prescribed by law.

Submissions of the Respondents:-

28. Mr. Kedar Dighe, learned Additional Government Pleader and Ms. Bhende, learned AGP for the respondents would not dispute the relevant factual matrix as narrated above, essential for adjudicating the dispute in the present petition. In fact, they would fairly submit that they cannot controvert the settled legal position in the given facts and circumstances. This is with regard to the predominant issue of land acquisition and payment of

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2. 2024 SCC OnLine Bom 1905

compensation in the context of the provisions of the MRTP Act and the 2013 Act, with the legal consequences thereof on the demolition of the petitioner's compound wall, without payment of compensation. Both the learned counsel for the respondents are not in a position to distinguish and/or controvert the settled law as laid down by the decisions of the Courts in this regard.

(D) Analysis and Conclusion:

29. At the very outset to enable us to adjudicate on the issues involved in the present petition, it is imperative to refer to the provisions of Section 125 of the MRTP Act which read thus:-

> *"Section 125: Any land required, reserved or designated in a Regional plan, Development plan or town planning scheme for a public purpose or purposes including plans for any area of comprehensive development or for any new town shall be deemed to be land needed for a public purpose* [1] *[within the meaning of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013)] :*
>
> [2] *[Provided that, the procedure specified in sections 4 to 15 (both inclusive) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) shall not be applicable in respect of such lands.]"*

Also, section 126 of the MRTP Act *inter alia* provides for acquisition of land required for public purpose. The said provision stipulates that after publication of the draft plan, or a development plan or any other plan or town planning scheme, any land which is required or reserved for any public purpose

specified in any plan or scheme under the MRTP Act, the competent authority may acquire the land:- (a) by an agreement to pay the amount agreed to; or (b) in lieu of such amount by granting the landowner FSI or TDR on the surrender land or (c) by making an application to the State Government for acquiring the land under the 2013 Act.

30. In the above context, it is to be noted that the fulcrum of dispute in the present case touches upon the legal authority and power of the respondents under the MRTP Act to acquire the subject land for public purpose. On perusal of the scheme, framework, and applicable provisions of the MRTP Act, it is clear that this can be done only by invoking Section 126(1)(c) of the MRTP Act. However, for the said provision to apply, there ought to be an express agreement between the parties, in regard to acceptance of TDR/FSI. In absence of such agreement, the TDR/FSI, cannot be foisted on the petitioner, particularly when, admittedly, there is no such agreement, as in this case.

31. We may now refer to a decision of the Full Bench of this Court in the case of **Shree Vinayak Builders & Developers** (Supra). The Court posed three important questions referred for opinion of the Larger Bench :-

> "*(i) Whether the modes of acquisition provided under Section 126(1)(a) and (b) of the MRTP Act are at the choice of either of the parties or only of the acquiring authority?*

(ii) *If the planning authority has approved the request of the land owner for grant of monetary compensation or grant of TDR/FSI in lieu of compensation, can the land owner withdraw his request and thereby refuse or decline to surrender the land?"(i) Whether the modes of acquisition provided under Section 126(1)(a) and (b) of the MRTP Act are at the choice of either of the parties or only of the acquiring authority?*

(ii) *If the planning authority has approved the request of the land owner for grant of monetary compensation or grant of TDR/FSI*

(iii) *Can the grant of approval or passing of resolution by the authorities concerned for grant of TDR in lieu of monetary compensation be treated as a step for acquisition of land and thereby commencing the proceedings for acquisition of the land?"*

In the above context, it would be apposite to refer to the relevant paragraphs in the said judgment which have a significant bearing in deciding the issues involved in the present petition:

"17. While concurring with the above proposition, we would like to emphasize that the mode of acquisition of land under Section 126(1)(a) and (b) of the MRTP Act is by an "agreement". The word agreement connotes offer and acceptance and signifies that the agreement is not an unilateral act but a bilateral act which is concluded with communication of acceptance of the offer. Thus, Acquisition of land reserved for public purpose under Section 126(1) (a) and (b) cannot be by any unilateral proposal of the Acquiring Authority to acquire the land with an offer of compensation or FSI/TDR. It is a mutual agreement between the Acquiring Authority and the land owner whereunder the land is acquired by the concerned authority by agreement either by paying an amount agreed to or by granting, in lieu of any agreed amount, FSI or TDR against the area of land surrendered free of cost, and free of all encumbrances. That being so, the modes of acquisition of land under Section 126(1)(a) and (b) of the MRTP Act, can be resorted to only when there is a consensus between the parties; when the parties are ad idem and not when there is dissension; not

when they are at variance. That means these modes of acquisition are essentially at the choice of either of the parties and not just the acquiring authority, and are taken to their logical end when the consensus is arrived at between these parties. In the absence of such concord, the only option available to the Acquiring Authority is to take recourse to Section 126(1) (c) of the Act and make an application to the State Government under the provisions 2013 Act.

27. *Thus the contract would be legal and binding only when the terms are settled and the contract is concluded. Of course, whether there is any concluded contract or not would be a question of fact to be determined in the facts and circumstances of each case. It then follows that any application made by a land owner or lessee for grant of FSI or TDR or any approval given by the acquiring authority to such an application would have to be examined and considered on the touchstone of these requirements of a contract. Upon such examination, if it is found that any of these requirements is missing, there would be no concluded contract between the parties and the land owner or lessee would be at liberty to withdraw his application for grant of FSI/TDR.*

28. *While finding out if there is a concluded contract between the parties or not, in case of an agreement under Section 126 (1) (a), not much difficulty would be faced as the requirement thereunder is of plain and clear agreement whereby the land is acquired by paying an amount agreed to. But determination of question as regards agreement under Section 126 (1) (b) requires examination of acts and conduct of parties and an assurance that they are in consonance with the requirements of Section 126 (1)(b) of the MRTP Act.*

34. *We are, thus, of the view that once there is a concluded contract between the land owner or the lessee and the acquiring authority as regards grant of monetary compensation or grant of TDR/FSI in lieu of compensation, the land owner or the lessee cannot withdraw his request and thereby refuse to surrender the land. He can withdraw his such request only if there is no concluded contract between the parties. What would be considered to be a concluded contract between the parties, would be a question of fact to be determined by considering all the relevant facts and circumstances of each case.*

> *41. It is thus well settled that the step taken under the aforestated section should be an irreversible step, which will culminate in acquisition of land. Hence, mere grant of approval or passing of resolution by the authorities concerned for grant of TDR in lieu of monetary compensation cannot be treated as a step for acquisition of land, but it is the conclusion of a contract regarding acquisition of land by granting FSI/TDR which constitutes a step for acquisition of land. Surrender of land with a view to obtaining FSI/TDR can be a step to commence acquisition proceedings, if it is something by which conclusion of contract occurs. There may be, however, be cases in which by acts and conduct of parties contract in terms of Section 126(1)(b) of the MRTP Act is concluded even before surrender of land and the latter act is only consequential to contract between the parties. Ultimately, it all boils down to the stage when the contract between parties concludes."*

The above decision of the Full Bench for the purposes of adjudicating the present dispute lends clarity to the legal position that the insistence by the authorities to accept TDR/FSI in lieu of monetary compensation cannot be construed as a step towards acquisition of land. Instead, the determining factor in such situation would be an express agreement between the parties providing for acquisition of land by the grant of TDR/FSI, which would be the yardstick for acquisition of such land. In the present case, admittedly there is no agreement between the parties. Thus, the sequel to the absence of such agreement as the law would warrant, would be payment of compensation by the respondents to the petitioner, which is the ratio of the Full Bench judgment (Supra).

32. We would now gainfully advert to the judgment of a Coordinate Bench of this Court in the case of **Our Lady of Immaculate Conception Church** (Supra), wherein the Court in similar circumstances made the following observations.

> *"10. A bare reading of Section 126 of the Maharashtra Regional and Town Planning Act, 1966 would indicate that a land reserved for public purpose can either be acquired by an agreement by paying an amount or in lieu of such amount, the TDR or FSI can be granted to the claimant. However, the TDR or FSI can only be granted in lieu of the amount agreed. As such, it is necessary that for TDR or FSI to be granted to the claimant, there has to be basic agreement between the parties. The TDR/FSI can only be granted in lieu of the amount agreed. In the absence of agreement between the parties, the reserved land cannot be acquired under clause (a) or clause (b) of Section 126(1). If there is no agreement, the logical corollary to it is that, the land reserved for public purpose has to be subjected to acquisition as per the applicable law, namely to be acquired under Section 126(1)(c). As such, we have no hesitation to hold that the land of the petitioner, in absence of any agreement between the petitioner and the planning authority/development authority, can be acquired only under the 2013 Act for the purposes of implementation of the regional plan for constructing public garden/park on the land of the petitioner."*

The above judgment has duly considered and applied the decision of the Full Bench (Supra), reiterating that if there is no agreement between the owner of the land and the planning authority, the logical corollary would be that the land acquisition ought to be undertaken in accordance with Section

126(1)(c) of the MRTP Act. Resultantly, in absence of an agreement between the petitioner and the planning/development authority, the subject land could have been acquired only under the 2013 Act. Juxtaposing the said decision to the given facts, in our view, the above judgment would squarely apply to the present case.

33. While considering the submissions of the petitioner to the effect that the entire process relating to acquisition of the subject land was arbitrary, mechanical and highhanded we would refer to the seven guiding principles laid down by the Supreme Court in the case of **Kolkata Municipal Corporation & Anr. v. Bimal Kumar Shah & Ors.**[3], which ought to be followed by the authorities, prior to land acquisition, for public purpose. These are summarized as under:

A. The Right to Notice,

B. The Right to be Heard,

C. The Right to a reasoned decision,

D. The Duty to Acquire only for Public Purpose,

E. The Right of Restitution or Fair Compensation,

F. The Right to an Efficient and Expeditious Process,

G. The Right of Conclusion.

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3. 2024 SCC OnLine SC 968.

34. It is pertinent to note that such edict of law more particularly the right of restitution or grant of fair compensation to the petitioner is *ex facie* breached and or infringed, violated by the respondents. In this context, the Supreme Court has duly recognised that right to hold and enjoy property is an integral part of the constitutional right under Article 300A. Any deprivation or extinguishment of such right is permissible only upon restitution, be it in the form of monetary compensation, rehabilitation or such other measures. Compensation has always been considered to be an integral part of the acquisition process. In the present case, the only mode and manner of restitution of the petitioner's position, whose compound wall was demolished, in the absence of the respondents following due process of law as prescribed under Section 126 of the MRTP Act, would be by payment of compensation, to be determined and paid under the provisions of the 2013 Act. In fact, Courts have taken a consistent view that such compensation is not merely necessary but also that a fair and reasonable compensation is the sine qua non for any acquisition process.[4]

35. At this juncture, we consider it appropriate to also refer to the settled legal proposition as enunciated by the Court of Chancery in **Taylor v.**

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4. In State of U.P. v. Manohar, (2005) 2 SCC 126, this Court held that payment of compensation is an integral part of the process of land acquisition. In M. Naga Venkata Lakshmi v. Visakhapatnam Municipal Corpn., (2007) 8 SCC 748, this Court held that wherever promised, compensation is ought to be paid. In NHAI v. P. Nagaraju, (2022) 15 SCC 1, this Court held that compensation must be adequate and must be arrived at keeping in mind the market value of the acquired land. In Vidya Devi v. State of H.P., (2020) 2 SCC 569, this Court held that even though compensation is not expressly provided for under Article 300A of the Constitution, it can be inferred therein. In the American jurisprudence, payment of compensation has been made part of due process (See Sweet v. Rechel [159 US 380 (1895) : 40 L.Ed. 188], Delaware L. & W.R. Co. v. Morristown [276 US 182 (1928) : 72 L.Ed. 523] and United States v. Caltex (Philippines) [344 US 149 (1952) : 97 L.Ed. 157).

Taylor[5] that where any statutory provision provides a particular manner for doing a particular act, then, that thing or act must be done in accordance with the manner prescribed therefore in the Act. The respondents clearly overlooked said settled legal principles in the case.

36. Thus, in the given facts and circumstances, we are constrained to observe that instead of taking recourse to lawful acquisition of land, the respondents in the present case have gone ahead to demolish the compound wall on the subject land of the petitioner that too without payment of any compensation to the petitioner. Thus, the respondents have acted contrary to and in the teeth of the provisions of law as discussed above, which has also infringed the constitutional right of the petitioner guaranteed under Article 300A.

37. In the light of the above discussion, we are certain that the petition needs to succeed. It is accordingly made absolute in terms of prayer clauses (b) & (c).

38. No order as to costs.

(ADVAIT M. SETHNA, J.) **(G. S. KULKARNI , J.)**

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5. [L.R.] 1 Ch. 426, 431