Hansraj H. Jain vs State Of Maharashtra And Ors. on 14 July, 1993

Equivalent citations: (1994)96BOMLR453, JT1993(4)SC360, 1993(3)SCALE153, (1993)3SCC634, [1993]SUPP1SCR216, 1993 AIR SCW 2923, 1993 (3) SCC 634, (1993) 2 CURLJ(CCR) 337, (1993) 51 DLT 267, (1993) 2 APLJ 39(2), (1993) 3 RRR 297, (1993) 2 CURCC 593, (1993) 2 RENTLR 196, (1993) 4 JT 360 (SC), (1994) 2 BOM CR 223

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Bench: G.N. Ray

JUDGMENT

G.N. Ray. J.

1. Leave granted in all these special leave petitions and the learned Counsels appearing for the respective parties made submissions. Since all these matters relate to common questions of law and fact, the matters were heard analogously and are disposed of by this common judgment. All these matters arise out of the judgment passed by the Division Bench of the Bombay High Court dismissing, the Writ Petitions moved before the said High Court inter alia challenging the validity of acquisition of large tracts of land adjoining the city of Bombay for the purpose of setting up a new township to be known as New Bombay. The State of Maharashtra issued notices under Section 4 of the Land Acquisition Act between February, 1968 and February, 1970 for the purpose of acquiring huge tracts of lands covering 86 villages in Trans Harbour, Panvel and Trans Thane Creek area for the purpose of planned development and utilisation of the said lands for industrial, commercial and residential purposes. Declarations under Section 6 of the Land Acquisition Act were also issued in 1971 and 1972. The acquisition proceedings were, however, concluded after a long lapse of time by giving awards in 1985 and 1986.

2. Mr. G. Ramaswamy has appeared for the appellants in the appeal arising out of special leave petition Nos. 13719 and 13459 of 1992. Mr. U. Lalit has appeared for the appellants in the appeal arising out of special leave petition No. 14710 of 1992. Mr. A.K. Ganguli has appeared in the appeal arising out of special leave petition No. 15359 of 1992. Mr. Ganpule has appeared for the appellants in the rest of the appeals. As all these matters are disposed of by a common judgment, it is not proposed to refer individual arguments raised by the learned Counsels separately. The arguments advanced by the learned Counsels for the appellants are to the following effect:

> (1) There has been inordinate delay in completion of the acquisition proceedings and such inordinate delay vitiates the acquisition proceedings and the awards made therein.

(2) The purported acquisition proceedings are clearly a colourable device and should be struck down in view of the fact that the sole object of notification issued under Section 4 covering large tracts of lands in 86 villages in 1968 and 1970 was to peg the price of the land as prevailing on the said date of the notification without having regard to the actual requirement of such land.

(3) Acquisition proceedings sought to be initiated without framing a scheme or plan for fulfilment of the stated object were premature and liable to be quashed.

(4) Lands comprising Gaothan, as shown in village records, houses contiguous to existing gaothan and hamlets containing not less than ten households were to be excluded from acquisition proceedings as per the avowed policy of the Government and purported acquisition of the land comprising gaothans and hamlets, in any event, must be held illegal and void.

(5) Even if it is held that acquisition proceedings were valid, suitable directions should be given for allotment of alternative plots as per the scheme formulated in 1966 so that no effect of acquisition should be given without making the plots available to the affected parties.

3. Coming to the contention of inordinate delay in completing the acquisition proceedings thereby rendering acquisition proceedings invalid, the learned Counsels have submitted that the Government of Maharashtra was entirely responsible for the delay in completing the acquisition proceedings. The acquiring authority miserably failed to explain the long delay in completing the acquisition proceedings. Under such circumstances, in the absence of any valid explanation for such inordinate delay, particularly in the absence of any statutory permission or restrain against passing of the awards, the exercise of power to acquire lands according to convenience and caprices of the concerned authorities, becomes unreasonable and unfair. Every public authority Is bound to act reasonably and fairly in exercise of power and arbitrary and capricious action should not be concentrated by law courts more so, when such arbitrary and unreasonable exercise of power clearly causes prejudice and loss to the citizens. It is not open for the State to contend that it will keep the notifications issued under Section 4 of the Land Acquisition Act alive for years together and then complete the acquisition proceedings according to its own pleasure an pass awards at convenient and opportune time. Such contention is alien to the scheme formulated under the Land Acquisition Act.

4. Referring to Section 11(A) of the Land Acquisition Act, the learned Counsels for the appellants very strongly contended that proviso to Section 11(A) merely enables the acquiring authority to pass award within a time frame in a case where the declaration had already been published before the commencement of the amending Act, but the proviso to Section 11(A) should not be read as validating the proceedings which had already become invalid because of initiation of a stale proceeding and arbitrary and colourable exercise of power. It has been contended by the learned Counsels that acquisition proceedings which had become invalid due to inordinate delay could not be brought to life merely for making award within the stipulated time as envisaged by Section 11(A)

of the Land Acquisition Act. Proviso to Section 11(A) being an enabling provision only authorises the acquiring authority to complete the acquisition proceedings within the time mentioned in Section 11(A), if the acquisition proceedings Is otherwise not invalid in view of the antecedent facts.

5. Coming to the second contention that the purported acquisition proceeding is a colourable device, it has been very strongly contended that from the facts disclosed by the State Government itself, it is evident that the sole object of notifications issued under Section 4 of the Land Acquisition Act covering large tracts of lands in 86 villages as far back as in 1968 and 1970 was to peg the price of the lands as was prevailing on the date of the said notifications without having regard to the actual requirement of such lands. It has been contended that the facts disclosed reveal that the government did not arrange for the funds necessary for acquiring such large extent of land. It is quite apparent and evident that notifications under Section 4 were issued for the purpose of pegging down the price of the land on a likely future requirement. Such action being highly reprehensive, unfair and unjust must be held to be invalid thereby invalidating the entire acquisition proceedings. In support of this contention reliance has been made to the decision of this Court in Khadim Hussain v. Union of India and Ors. , Satyam Cooperative Housing Society Ltd. v. Calcutta Improvement Trust and Ors. , Radhey Shyam Gupta and Ors. v. State of Haryana AIR 1982 Punjab and Haryana 519 (F.B.), P. Appalamurthy and Ors. v. State of Andhra Pradesh and Ors. .

6. The learned Counsels have also contended that on the score of inordinate delay in moving the Writ Petitions for challenging the acquisition proceedings, the Bombay High Court had refused to interfere in the Writ Petitions moved at a belated stage. The learned Counsels have contended that such view, in the facts of the case, was clearly erroneous. The delay in approaching the writ Court not by itself fatal in all cases. There is no law of limitation by which a, person is obliged to approach the writ Court within a particular time. Laches arising out of delay is one of the considerations which must weigh with the Court in exercise of its discretionary power under Article 226 of the Constitution of India. In the instant cases, the State Government and acquiring authorities were entirely responsible for the delay in concluding the acquisition proceedings without any proper scheme and arrangement for funds for making payment for acquired lands. The acquisition proceedings were initiated between 1968 and 1970 with the sole object of acquiring the lands on the basis of the price prevailing at the time the notifications issued under Section 4 of the Land Acquisition Act.

7. The. learned Counsels have contended that since the cause of action in these cases sprang from the inordinate delay on the part of the State Government and mollified and colourable exercise of power, the question of delay on the part of the appellants in not challenging the initiation notice or the declaration within a reasonable time or at all should not be a ground for refusing the relief asked for by the appellants. Where the cause of action itself stems wholly or in part from the allegations of unexplained delay and procrastination of the State, it can hardly lie in the mouth of the State to make grievance thereof.

8. Coming to the third contention for challenging the acquisition proceedings without framing a Scheme or plan for fulfilment of stated object, it has been contended by the learned Counsel that such acquisition proceedings were premature and liable to be quashed. It was evident from the

disclosed facts that the purported acquisition proceedings were for the planned development and utilisation of the said lands in the Trans Harbour, Panvel and Trans Thane Creek area for industrial, commercial and residential purposes. It is contended that a plan for the said purpose had never existed either before or at the time when the notifications were issued under Section 4 of the Act and the plan was prepared for the first time in 1985. Therefore, when the notifications under Section 4 were issued for the so called planned development and utilisation of the lands, the object of the planned development was conspicuously absent and the entire proceedings must be held to be bad, illegal and malafide. In this connection, reliance has been made to the decision of this Court in State of Tamil Nadu and Ors. v. A. Mohammad Yousef and Ors. .

9. On the question of invalidity of the acquisition proceedings in so far as the lands comprising Gaothan as shown in village records, and houses contiguous to existing gaothan and hamlets containing not less than ten households are concerned, it has been contended by the learned Counsels for the appellants that the Government of Maharashtra, General Administration Department vide its Circular letter No. LAO/MC /1070/U dated April 20, 1971 laid down its policy that in all acquisition proceedings, areas which have been shown as Gaothan in the village records together with all houses which are contiguous to the existing gaothan and also of hamlets consisting of not less than ten households which have not been shown in the village records as Gaothan but shown as such (cluster of houses) are to be excluded from the acquisition proceedings. Although, there had not been any change in the said policy and in fact it is the case of the government that the said policy is being given effect to, yet in so far as the present acquisition proceedings are concerned, it is the positive grievance of the appellants that the said policy is not being fully implemented. The learned Counsels for the appellants have submitted that this Court should give positive direction for implementation of the said scheme in toto so that injustice is not meted out to affected persons.

10. On the question of allotment of alternative plots as formulated in the scheme in 1976, the learned Counsels for the appellants have submitted that the State Government had formulated a scheme in 1976 wherein all persons whose lands are acquired compulsorily are provided with alternative plot of land to the extent of 10% of the land so acquired subject to maximum of a plot size of 500 sq.mtrs. It is contended that the said scheme does not do full justice to the owners of the lands many of whom are solely dependent on the acquired land for their livelihood. Under the scheme, out of the said 10% of the land to be allotted, 50% could be utilised by the allotted concerned and the rest 50% goes to the common pool for the purpose of roads and other infrastructure. It has been contended that under the impugned awards, the land owners have been awarded a meager sum of Rs. 4/- per sq.mtr. whereas while allotting plots to the land owners under the said scheme they are asked to pay at the market rate charged from other commercial organisation i.e. @ Rs. 13,200/- per sq. mtr. This is per se arbitrary and unreasonable and is liable to be declared as such. In this connection reference has been made to a decision of this Court in State of U.P. v. Smt. Pista Devi and Ors. . Relying on the said decision it has been submitted by the learned Counsels that since the lands are required for providing residential accommodation for others, the persons whose lands have been acquired and are being appropriated on account of the acquisition proceedings, would be eligible for relief in the hands of Development Authorities. The appellants, therefore, could at the most be asked to pay for the plots to be allotted to them under the said scheme covering the cost of acquisition and development charges and no more. It has been

submitted by the learned Counsels that a clear direction to this effect should be given by this Court in the interest of justice.

11. The learned Counsels have also submitted that some of the similar special leave petitions have been dismissed by this Court earlier and in one case even a Review Petition was also dismissed. As the relevant submissions could not be made before this Court when the said special leave petitions or the Review Petition were dismissed, in the interest of justice, this Court should also give directions that the appellants in those special leave petitions since dismissed, should also get similar reliefs as in these cases and the dismissal of the said special leave petitions should not stand in the way of giving proper relief to which the said appellants were entitled to from the apex Court.

12. Mr. K.T.S. Tulsi, learned Additional Solicitor General, appearing for the respondents in these cases has submitted that the Bombay High Court though held that the Writ Petitions were liable to be dismissed on the ground of laches of inordinate delay, it had examined all the questions raised before the Court on merits and the Writ Petitions were also dismissed on merits by giving cogent reasons. In the instant cases, the notifications under Section 4 of the Land Acquisition Act were issued between 1968 and 1970 and the notifications under Section 6 of the Land Acquisition Act were made in 1971 and 1972. The Writ Petitions were moved only in October 1985. The acquisition proceedings were sought to be challenged in 1985 after a period over 15 years. The learned solicitor has submitted that the delay may not be fatal in all cases but in the instant cases, this inordinate delay has become fatal. If the appellants had moved the Writ Petitions in appropriate time, laches even if any, on the part of the acquiring authorities could have been rectified. The appellants accepted the notifications and put up with the acquisition proceedings for about 15 years and only in order to get higher compensation in the event the acquisition proceedings are struck down and fresh proceedings to be initiated, the Writ Petitions were moved at a belated stage without any justification whatsoever. In this connection, strong reliance was made by the learned Solicitor in the decision of this Court in the case of Aflatoon and Ors. v. Lt. Governor of Delhi and Ors. . In this case the acquisition of large area for planned development of Delhi was challenged on the ground that prior to issuance of the notifications, no Master Plan has been drawn up and that the notifications, did not spell out the actual use for various parcels of lands being acquired. This Court while rejecting the contention held that acquisition generally proceeds development and that the petitioner could not be allowed to challenge the validity of notifications on these grounds after a period of 12 years. It was held that the Court would be putting premium on dilatory tactics of the land owners who choose to sit on the fence and allow the Government to complete acquisition proceedings.

13. The learned Solicitor has contended that the principal ground of attack of the appellants against the impugned notifications is that the notifications are vague and lacking in material particulars. It has also been contended that there was no plan for utilisation of the acquired land at the time of issuance of the notifications and the notifications were issued malafide merely to peg down the prices to the detriment of the interest of the land owners.

14. The learned Solicitor has submitted that the Bombay High Court has taken into consideration such contention and has indicated the facts in detail that preceded the issuance of the notifications under Section 4 of the Act. It appears from the impugned judgment of the Bombay High Court that

the Government of Maharashtra in the year 1966 appointed a Committee under the Chairmanship of Dr. D.P. Gadgil, the Director of the Gokhale Institute of Politics and Economics at Poona and subsequently holding the post of Deputy Chairman of Planning Commission, to examine the requisite steps to be taken to meet the growing congestion in Greater Bombay. Based on the recommendations of such Committee, the Government brought into force the Maharashtra Regional and Town Planning Act, 1966, (hereinafter referred to as Monopolies & Restrictive Trade Practices Act_) and such Act came into operation with effect from January 11, 1967. The legislation was enacted to make provisions for planning the development and use of land in regions established for the purpose and to make better provision for the preparation of development plans with a view to ensuring that town planning schemes are made in a proper manner and their execution is made effective.

15. In the year 1967 the State Government appointed another Committee headed by Shri L.G. Rajwade, I.C.S., to submit a report in respect of difficulties faced by major metropolitan cities like Bombay in view of urbanisations, migration of people to the metropolis and deterioration in conditions of sanitation, housing, law and order etc, Rajwade Committee recommended regional plans by accepting the suggestions made earlier by Gadgil Committee. Pursuant to the Report of the Rajwade Committee, the State Government constituted Regional Planning Boards for three major regions of Bombay, Poona and Nagpur. The Bombay Metropolitan Region Planning Board after carrying out extensive exercise and after consideration of various proposals, recommended that to tackle and prevent further deterioration of Greater Bombay, some metropolitan planning must be undertaken and the fresh approach should be brought on future expansions. The Planning Board noticed that development of large metro centers would be required and such metro centers should be set up on cither side of the Panvel Creek, the Northern portion between Thane Creek and the Farmik Tunnel which area is commonly known as 'Trans-Thane Creek Area' and the rest of the area in trans-harbor area comprising of Panvel Urban and Nhava-Shavn. The Government of Maharashtra accepted the recommendations made by the Regional Planning Board. In accordance with the powers conferred under Section 113 of Monopolies & Restrictive Trade Practices Act_, a Company known as 'City and Industrial Development Corporation of Maharashtra Limited' (CIDCO) was constituted on May 16, 1970. The Corporation in order to set up a new township to be known as "New Bombay" proposed to acquire large tracts of land adjoining the city of Bombay and the land covered by several villages were proposed to be acquired. Some of the lands were used as agricultural lands while there were residential structure on the other.

16. Mr. Solicitor has submitted that for the purpose of setting up a new township, large tracts of land were required to be acquired. There was no dispute about the need for setting up a new township and Section 125 of the Monopolies & Restrictive Trade Practices Act_, clearly provides that any land required for any new town shall be deemed to be land needed for a public purpose. Mr. Solicitor has also contended that it is undoubtedly true that acquisition proceedings remained pending for a considerable long time but in the facts and circumstances of the case, such delay in completing the acquisition proceedings was also inevitable. The Government was required to acquire large area of land and pay compensation to the holders of the land. The Government had taken decision to set up a new township and published notification and as a consequence of such planning for development the land value in the area started increasing. The Government had to take precaution to ensure that

the development of the new township is not fettered by speculative increase of prices in the land values and therefore published notification under Section 4 of the Land Acquisition Act covering a very large area. The awards could not be made quickly because various steps were required to be undertaken before making the award and also to make funds available for the payment of compensation.

17. Mr. Solicitor has submitted that in the aforesaid circumstances, it cannot be contended that without any definite policy of establishing new township, a causal approach was taken to initiate acquisition proceedings at a premature stage only with the sole intention of pegging the price. He has submitted that it is quite evident that after considering the recommendations of various expert bodies as indicated hereinbefore, a decision for establishing a new township had been taken and for the purpose of implementing the said scheme, notifications under Section 4 of the Land Acquisition Act were issued.

18. Mr. Solicitor has also contended that it could not be demonstrated with any convincing material that the acquiring authority was deliberately causing delay only for the purpose of pegging down the prices in a malafide manner. Accordingly, the decisions sought to be relied on that by the appellants are not applicable in the facts and circumstances of these cases.

19. Mr. Solicitor has also contended that the learned Counsels for the appellants have contended that Section 11A of the Land Acquisition Act only enables the acquiring authority to complete the acquisition proceedings after the amending Act, within the time frame but such provision does not permit the acquiring authority to take resort to a colourable exercise of power by arbitrary and capricious action and unreasonable delay and laches over the years. He has contended that factually there is no foundation that colourable or malafide exercise of power has been made in these cases. He has submitted that there had been no deliberate laches and negligence in the instant cases and the High Court was fully satisfied about the bonafide of the concerned authorities. It has been explained to the satisfaction of the court that in such an extensive and delicate scheme, to complete the proceeding comprising large tracts of lands appertaining to 86 villages considerable time was bound to be taken. It has been submitted by the learned Solicitor that it is not the case that the awards were not made within the time frame under Section 11A of the Act. The learned Solicitor has submitted that if the statute permits the acquiring authority to complete the acquisition proceedings within the time frame and if the acquisition proceedings are completed within such time frame, it cannot be contended that the acquisition proceedings were pending as far back as from 1970 and hence they became stale and invalid thereby rendering the provision of Section 11A inapplicable.

20. In this connection, the learned Solicitor has referred to a decision of this Court in Kaliyappan v. State of Kerala and Ors. . It has been held by this Court in the said decision that it may not be correct to set aside acquisition on the ground of delay by applying its own standard of speed and that it would be safer to rely upon the statute for guidance as regards the maximum time that can be taken to make an award. This Court has also held that otherwise, varying standards may come to apply in different cases even when the maximum time to two years as under the proviso has not been exceeded.

21. Mr. Solicitor has also referred to another decision of this Court in Gujarat State Corporation v. Valji Mulji Soneji and Ors. 1973 SCR 905. It has been held in the said decision that when the statute prescribes time within which a certain power can be exercised, the prescription of time inheres a belief that the nature and quantum of power and the manner in which it is to be exercised would consume at least that much time which the statute prescribes as reasonable. This Court, therefore, held that exercise of power within that time could not be negatived on the ground of unreasonable delay. This Court has further held that in view of the history of legislation in the context of compensation to the owner after the legislature has stepped in prescribing a sort of period of limitation, it was not necessary to go in search of a further fetter on the power of the Government by raising the question of delay by implication (emphasis supplied)

22. Mr. Solicitor has submitted that in the instant cases, draft plan was prepared within one year of the notification under Section 6 of the Land Acquisition Act on the basis of extensive research and report of various committees. More than 25,000 objections were received under Section 5A from various land owners, which had to be considered and decided.

23. Similar situation was taken into consideration by this Court in Aflatoon's case and the delay of twelve years was not considered fatal. In the special facts of the case, it must be held that there had not been any deliberate laches of negligence from which any inference of colourable exercise of power can be made. The decisions of the Calcutta, Andhra Pradesh and Punjab and Haryana High Courts are therefore not applicable in the facts and circumstances of these cases.

24. Mr. Solicitor has also contended that pursuant to the policy adopted by the Government, the lands comprising Gaothan and hamlets had already been exempted from acquisition. The learned Solicitor has strongly disputed the correctness of the existence of alleged Gaothans and hamlets as contended by the appellants. The learned Solicitor has submitted that the contentions raised by the appellants about the existence of Gaothan is factually incorrect, and the factual position can be amply demonstrated by referring to the correct maps.

25. The learned Solicitor has also submitted that the question of the kind owners being entitled to alternative land is not denied by the respondents. It has been categorically stated by the learned Solicitor that the appellants will be entitled to the alternative sites as per the scheme prepared for the purpose of Monopolies & Restrictive Trade Practices Act_.

26. On the question of price of the alternative site, it has been submitted by the learned Solicitor that after acquisition, the lands in New Bombay are vested in the Corporation for development and disposal. All the costs incurred on the development are to be met by disposing the saleable land. In the process, the Corporation has spent huge amounts on development of infrastructure in the form of roads, water, sewage, electricity, transport etc. In the process of disposal of land, certain lands are required to be provided to the social institutions, project affected persons, economically weaker sections and lower income groups at nominal and subsidised rate and the shortfall accruing from such subsidised disposal has to be recovered by the sale of other land viz. higher income group and commercial user. The commercial areas are sold by the Corporation by tender system and such areas draw much higher rate. But the ratio of such disposal at higher rate in the entire process is

around 1% only.

27. Mr. Solicitor has also submitted that these cases are connected matters to special leave petition No. 14829 of 1992 Raghunath Ghanekar v. State of Maharashtra and Anr. which was dismissed on December 16, 1992 by this Court and 15 other connected matters were also dismissed by this Court This Court having accepted the correctness of the decision of the Bombay High Court dismissed the special leave petitions and also the Review Petition made in Special Leave Petition No. 14829 of 1992. Such rejection was made on a proper consideration of the merits of the case and no different decision need be made in these cases which should also be dismissed.

28. After giving our anxious consideration to the respective contentions made by the learned Counsels for the parties, it appears to as that on the basis of reports of the expert Committees as indicated hereinbefore, the Government took a decision to set up a new town ship by acquiring large tracts of lands appertaining to 86 villages in Trans Harbour, Panvel and Trans Thane Creek area. In order to develop such huge urban complex, the Monopolies & Restrictive Trade Practices Act_ was enacted and CIDCO was established. There is no manner of doubt that lot of deliberations were made by expert bodies before taking the decision to set up such huge urban complex to be known as New Bombay. It, therefore, cannot be contended with any seriousness that there was no planning for development of the acquired areas and the acquisition proceedings were initiated casually with the sole intention to peg down the prices by issuing notification under Section 4 of the Land Acquisition Act for the future project. The learned Solicitor has made submissions by drawing the attention of the Court to the finding of the Bombay High Court in the Writ Petitions that in view of the planning for development of the areas comprising Trans Harbour, Panvel and Trans Thane Creek area, price of the land in those areas started increasing. There is no difficulty in understanding the reason for such an increase in the prices because once it comes to the knowledge of the people concerned that some areas are going to be developed into a new township close to the city known as Greater Bombay, the land speculators will make all efforts in acquiring the lands in those areas so as to make substantial profit in the business of real estate. In the aforesaid circumstances, it appears to us that there was necessity to issue notification under Section 4 of the Land Acquisition Act so as to discourage the lands speculators in the area and to make the acquisition proceedings and the scheme of new township economically viable. The area proposed to be developed into New Bombay is admittedly a very large area and the lands appertained to about 86 villages. It is reasonably expected that substantial time would be required for detailed planning for the development of the area. Besides, about 25000 objection petitions had to be disposed of against the proposed acquisition. In a project of this magnitude, substantial time is required to complete the acquisition proceedings. Even then, we are not fully satisfied that the concerned authorities had acted with such promptitude as was required of them. We are rather inclined to hold that even such a big and delicate scheme could have been given proper shape earlier and the acquisition proceedings in our view could have been completed earlier if there had been proper diligence and concerted efforts at different levels. But simply on account of the proverbial slow pace with which the public authorities move in this country, we are not inclined to hold that there had been deliberate laches and utter lack of bona fide on the part of the acquiring authorities and the sole intention to initiate acquisition proceedings by issuing notification under Section 4 of the Land Acquisition Act was to peg down the prices with a clear intention to sit over the matter for years just

to deny to the land owners the reasonable price of the land. Such submission is not warranted on any firm foundation and the Bombay High Court has also not accepted such contention.

29. Before the amendment of Land Acquisition Act, there was no time limit to complete the land acquisition proceedings. The acquiring authorities were free to initiate the land acquisition proceedings in any manner they chose and were permitted to sit over such proceedings without any just cause for years together so as to deprive of the land owners the reasonable price of the land. There is no manner of doubt that the public authorities and the Government are bound to act reasonably and fairly and each action of such authorities must pass the test of reasonableness and precisely for this reason, even when there was no time limit for completing the acquisition proceedings from the date of initiation of the proceedings by issuing notification under Section 4 of the Land Acquisition Act, the Court had, in appropriate cases, looked into the reasonableness of the action undertaken by the acquiring authority and whenever action taken was found to be lacking in bonafide and made in colourable exercise of the power, the Court did not hesitate to strike down unfair and unjust acquisition proceedings. We have, however, indicated that in the instant cases, there is no firm foundation for coming to the conclusion that the acquisition proceedings had been initiated casually without any precise objective and initiation of the acquisition proceedings by issuing notifications under Section 4 of the Land Acquisition Act was made with the sole intention to peg down the prices for acquisition in remote future, thereby causing loss and injury to the affected land owners. Despite lamentable delay in completing the acquisition proceedings in the instant cases, we are not inclined to hold that such acquisition proceedings were otherwise malafide or invalid, for the reasons indicated hereinbefore and the decisions cited by the learned Counsels for the parties for striking down the acquisition proceedings are not applicable in the facts and circumstances of the cases.

The contentions of the learned Counsels for the appellants that although the proviso to Section 11A of the Land Acquisition Act enables the acquiring authority to complete the acquisition proceedings within two years from the date of amendment of the said Section 11A, such provision should not come in aid of the acquiring authority to complete these acquisition proceedings within the said extended time limit because such proceedings had already become stale and invalid on account of inordinate delay and negligence and also on account of colourable exercise of power and malafide action. We have not accepted the case of malafide action and colourable exercise of power for the reasons indicated. It also appears to us that in view of the provisions of Section 11A of the Land Acquisition Act, it cannot be contended that the acquisition proceedings cannot be contended within time frame under Section 11A even though when acquisition proceedings were initialed, there was no time frame for completing the acquisition proceedings. In our view the learned Solicitor is justified in contending by referring to the decision of this Court in Kalliyappan's case (supra) and also the decision of this Court in Gujarat Corporation's case (supra) that the Court will not be justified to set aside acquisition proceedings on account of delay even when acquisition proceedings arc completed within the time frame under Section 11A and that it will be safer to rely upon the statute for guidance as regards the maximum time that can be taken to make an award. This Court has also indicated that when the statute prescribes time limit which a certain power can be exercised, the prescription of time inheres a belief that the nature and quantum of power and the manner in which it is to be exercised would consume at least that much time which the statute

prescribes as reasonable.

30. In Gujarat State Corporation's case, this Court has indicated that in view of the history of legislation in the context of compensation to the owner after the legislature has stepped in prescribing a sort of period of limitation, it was not necessary to go in search of a further fetter on the power of the Government by raising the question of delay by implication. We, therefore, hold that acquisition proceedings completed within the time frame under Section 11A cannot be negatived on the ground of inordinate delay. We may only add here that we have not accepted the contention of the petitioners that the acquisition proceedings were initially tainted with malafide and deliberate laches and negligence thereby rendering such proceedings invalid before the amendment of the Act by incorporating Section 11A. Hence, the contention that the proceedings which had already come invalid could not be validated by resorting to Section 11A of the Land Acquisition Act cannot be accepted.

31. So far as the acquisition of lands comprising Gaothan and hamlets against the avowed policy decision of the Government is concerned, it appears that there is a serious dispute on the factual existence of Gaothan and hamlets. The learned Solicitor has very strongly contended that the Government respected its policy in not acquiring Gaothan areas and hamlets as indicated in the policy decision and the contention that such areas are being acquired despite the policy decision is not factually correct. Such contention being a disputed question of fact cannot be decided in these proceedings and we may also indicate that the Bombay High Court has also not accepted such contention of the petitioners.

32. It has been submitted by the learned Counsels for the appellants that although there is a policy decision of the Government of Maharashtra to offer alternative sites to the affected land owners, such policy is not being faithfully implemented and this Court should give suitable direction so that such policy is implemented in letter and spirit. We may indicate here that the learned Solicitor has categorically submitted before us that such policy decision will be faithfully implemented by the Government and there is no occasion of any apprehension on the part of the affected land owners. We, therefore, reasonably believe that such policy decision should be implemented properly so that the affected land owners do not suffer unmerited hardship for improper implementation of the policy decision.

33. On the question of price of the alternative site, the learned Solicitor has submitted that after acquisition the lands in New Bombay have been vested in CIDCO for development anti, disposal. All the costs incurred on the development are to be met by disposing the saleable land. In the process, the Corporation has to spend huge amounts on development of infrastructure in the form of roads, water supply, sewerage, electricity, transport etc. For the purpose of disposal of saleable land, certain lands are required to be provided to the social institutions, project affected persons, economically weaker sections and lower income groups at nominal and subsidised rate and the shortfall accruing from such subsidised disposal has to be recovered by the sale of other lands. The commercial areas are sold by the Corporation by tender system and such areas draw much higher rate. The learned Solicitor has submitted before us that unfortunately the ratio of such disposal at higher rate in the entire process is around 1% only. He has, however, submitted that the concerned

authorities are keen to give relief to the affected land owners by charging reasonable price as far as practicable. The learned Counsels for the appellants have, however, submitted that. although the award for acquiring land was made at Rs. 4/- per sq. mtr., the developed lands for alternative sites for building houses for the affected land owners are being offered @ Rs. 13,200/- sq.mtr.

34. It is not difficult to imagine in the facts and circumstances of the case that many of the persons from whom lands have been acquired are persons without houses and if. they are thrown out of their lands, they would be exposed to serious prejudice. This Court has considered such problem in the case of Smt. Pista Devi (supra) and it was indicated in the said decision that although Section 21(2) of the Delhi Development Act was not applicable to the acquisition proceedings involved in that case, the provision having contained a wholesome principle, should be followed by all Development Authorities throughout the ; country when they acquire large tracts of land for the purposes of land development in urban areas.

35. We, therefore, direct the concerned authorities to offer the alternative site as per the scheme framed in 1976 referred to hereinbefore to the affected land owners on the basis of the actual cost of development by charging the cost of the acquisition and the ; development charges and no more. Such direction, we feel, is required to be made particularly in view of the fact that acquisition proceedings had been pending for a number of years, as a result of which the amount of compensation of the acquisition being referable to the period when notices under Section 4 of the Land Acquisition Act were issued, became insignificant and it is reasonably apprehended that unless the land by way of alternative. site as per the scheme is offered to the affected land owners at a subsidised rate as indicated hereinbefore, it will not be possible for the land owners to take such allotment by paying usual prices intended to be charged from them and the offer of alternative site will for all practical purpose be illusory.

36. All the above appeals are disposed of accordingly. We further direct that the. petitioners in special leave petitions including the Review Petition which had been dismissed earlier should also be entitled to the directions contained in this judgment despite the fact that such special leave petitions and the Review Petition stood dismissed. There will be no order as to costs in all these appeals.