



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8296 OF 2023

Yogesh Kamlakar Mangle & Anr.	...Petitioners
Vs	
The State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION NO. 10143 OF 2023

Santosh Ramchandra Balkawade	...Petitioner
Vs	
The State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION NO. 13025 OF 2023

Maruti Shivram Jaykar & Ors.	...Petitioners
Vs	
The State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION NO. 16778 OF 2023

Kamlakar Raghunath Ahirrao	...Petitioner
Vs	
The State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION NO. 16779 OF 2023

Govind Poslya Gavit	...Petitioner
Vs	
The State of Maharashtra & Ors.	...Respondents

Mr. Eknath Dhokale with Ms. Darshna Kamble for Petitioners in WP 8296/23 & WP 13025/23.

Mr. Gaurav Potnis with Ms. Payal Patil i/b. Ms. Pallavi H. Potnis for Petitioner in WP 10143/23.

Mr. Vijay Patil, Senior Advocate with Mr. Yogesh Patil for Respondent/MSRDC in WP 8296/23, WP 13025/23 & WP 10143/23.

Dr. Birendra Saraf, Advocate General with Mr. Sachit Bhogle, 'B' Panel Counsel and Ms. M. S. Bane, AGP for State.

Mr. Rakesh Singh i/b. M. V. Kini & Co. for Respondent No.3/NHAI in WP 16779/2023.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 24th DECEMBER 2025.

Judgment (Per Aarti Sathe, J.) :-

1. This is a batch of writ petitions which raise common issue of law and fact. They are accordingly being disposed of by this common judgment.
2. The challenge in these petitions is primarily to a circular dated 24th January 2023 (hereinafter referred to as the "impugned circular") issued by the State Government through its Revenue and Forest Department, which is issued on the basis of orders passed by the Punjab and Haryana High Court in the State of **Haryana and Another Vs. Smt. Chander Kanta @ Kanta & Ors.**¹ providing that from the date of issuance of a notification to acquire the land, sale instances which pertain to a period within one year before the issuance of such notification, would be required to be discarded and the land acquisition compensation shall be arrived at the actual market price prior to such period of one year and that on the basis of such fair market price the reasonable rates of compensation would be fixed. Illustratively, it was set out in the impugned circular that if the acquisition notification is published on 5th January 2023, then the sale instances retrospectively from 4th January 2023 to 4th January 2022 would not be considered. It was notified that this would be applicable not only to the said project, but also to all the projects where the land acquisition is being undertaken.

1 R.F.A. No. 3469 of 2019

3. The prayers as made in these petitions are similar. In some of the petitions, there are further prayers challenging the constitutional validity of Explanation 1 to Section 26(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, “**2013 Act**”). For convenience, we note “the prayers” as also “the facts” as set out in (Writ Petition No. 10143 of 2023, Santosh Ramchandra Balkawade) which we would consider to be the lead petition. The prayers as made in the said writ petition read thus:-

- “A) That this Hon’ble Court be pleased to issue a Writ of certiorari or a Writ, Order and or Directions in the nature of Writ of Certiorari quashing and setting aside the Government resolution dated 24/01/2023.
- B) That in the Alternative to Prayer clause A, this Hon’ble Court be pleased to issue Writ of Mandamus or a Writ Order and a Direction in the nature of Writ of mandamus holding that the Explanation 1 to Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is Ultra vires, Arbitrary and Void to the extent that sale instances/agreement to sale of one year prior to the date of notification should be excluded.
- C) That this Hon’ble Court be pleased to issue Writ of Mandamus or a Writ Order and a Direction in the nature of Writ of mandamus holding that the Explanation 1 to Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would mean to include sale instances of the last 3 years from the date of Notification.
- D) That this Hon’ble Court be pleased to issue a Writ, Order of Mandamus or a Writ of Mandamus or Direction to the Respondent that the Government resolution dated 14/12/2022 does not apply the notification issued under the Maharashtra Highway Act, 1955 for Acquisition of the Ring Road Project.
- E) That this Hon’ble Court be pleased to issue a Writ of Mandamus or a Writ, Order and Direction in the nature of Writ of Mandamus holding and declaring that the law stated in Judgment and order dated 25/04/2022 in RFA No. 3469/2019 and Judgment and order dated 19/04/2022 in RAF No. 309/2021 passed by the High Court of Punjab and Haryana at Chandigarh with respect to the interpretation of explanation 1 to Section 26 of the Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013

that sale instances/agreement to sale of one year prior to the date of notification should be excluded is incorrect or per-incuriam.”

Facts:-

4. The petitioner is the owner of Gat Nos. 605, 607, 618, 620, 619 and 617

situated at village Marnewadi, Tal. Mulshi, District-Pune. To this effect, 7/12

Extracts of lands are annexed to the petition.

5. The lands in question not only in this proceeding but also in other proceedings

are the lands getting affected by the construction of Ring Road around Pune City (for

short, “the **Ring Road Project**”).

6. On 31 December 2021, a notification under Section 15² of the Maharashtra

Highways Act, 1955 (for short, “**1955 Act**”) was issued. Thereafter on the same day,

a declaration under Section 18³ of the 1955 Act was issued by the Respondent-State.

7. The Petitioner contends that the Respondent-State has already undertaken

valuation of the lands that are being affected by Ring Road Project. In pursuance

thereto, rates have been offered for the acquisition by the acquiring body, namely,

Maharashtra State Road Development Corporation (for short “**MSRDC**”). It is

contended that the process of acquisition was on the verge of completion when a

Government Resolution dated 14th December 2022 was issued under which the

acquiring body namely, the Sub-Division Officer, Maval-Mulshi decided the

revaluation of the rates, on the ground that the Respondent-State has now directed

that the sale instances which are ‘one year preceding to the date of notification’

2 15. Power to acquire land, etc.

3 18. Declaration of acquisition.

should be ignored, vide the impugned circular. The Petitioner contended that this has also resulted in all stoppage of acquisition for the Ring Road Project.

8. The Petitioner contends that the Ring Road Project is being constructed around Pune which would pass through the Talukas of Haveli, Maval, Mulshi, Purandar and Khed, and that, there are more than 50 villages getting affected by the Ring Road Project and the land rates in respect of the lands falling under the said villages will have to be recalculated due to the new Government Resolution dated 14th December 2022. It is the Petitioner's case that about more than two thousand families are being affected by the Ring Road Project and that the present petitions are filed by the persons who hail from the villages of Ambegaon, Marnewadi and Urwade. It is the Petitioner's case that the impugned circular has been issued in pursuance of the decision of Punjab and Haryana High Court at Chandigarh in RFA No. 3469 of 2019. The contents of the impugned circular are reproduced herein below (English Translation of the Official Marathi Circular):-

“(Translation of a photocopy of a Government Resolution, typewritten in Marathi)

Exhibit – ‘F’

Page No. 58

Regarding valuation of the lands in the process of acquisition of the said lands for various projects in the State.

**GOVERNMENT OF MAHARASHTRA
REVENUE AND FOREST DEPARTMENT**
Government Circular No. Miscellaneous-2023/M.No.02/A-2
Mantralaya, Mumbai 400032.
Date : 24.01.2023

Reference M.S.R.D.C. / 02 / Land Vi.Bha.Ka. / Jalna-Nanded
: Expressway / 2022 / 8249, dated 14.12.2022.

PREFACE :-

The Maharashtra State Roads Development Corporation, by its Letter dated 14.12.2022, has requested to issue guidelines as to from

24th December 2025

which period the validity of the registered documents in respect of the similar types of the lands in the said or adjacent villages, from the immediately preceding three years should be considered while determining the average valuation of the lands in the procedure to be followed for determining the valuation of the land in the Land Acquisition Process for the various projects in the State. In pursuance thereof, after thorough consideration, directions are hereby given to take the steps as mentioned hereinbelow.

CIRCULAR:-

In Section 26 (1) (c) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the provision is mentioned as under:-

“(c) Consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of land for private companies or for public private partnership projects.

Whichever is higher:

Provide that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1:- The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.”

2. In this regard, in Appendix 7 in the Judgment of the Hon’ble High Court, Haryana declared on the date 25.04.2022 in Petition No. 3469/2019 filed between Smt. Chander Kanta and Others versus Government of Haryana, it has been mentioned as under:-

“Thus there is substantial difference between assessment under old act and under the new act in RFCTLARR ACT, 2013 the basis of sale deeds or registered agreements sell with respect to period three years preceding the year in which such acquisition is proposed to be made. It is provided that sale deeds of years in which notification U/s 4 of the RFCTLARR ACT, 2013 has been issued shall be required to be excluded.”

3. Considering the provision in the Act and the clarification given by the Hon’ble Court, the Sale-Purchase transactions that have taken place during one year from the date of issuance of the Notification in respect of the land acquisition, should be excluded so that it would become possible to determine the fair rates on the basis of the factual and actual rates by excluding the purchase transactions at enhanced rates that have taken place in view of the land acquisition.

For example: If the date of publication of the Notification in respect of the land acquisition is 05.01.2023 then the Sale-Purchase transactions that have taken place during the period from the date 04.01.2023 to 04.01.2022, should be excluded.

Therefore, all the Competent Authorities should take precautions while taking steps in the process of acquisition of lands for all projects in-

cluding the Highway Projects as mentioned hereinabove.

This Government Circular is made available on the Government of Maharashtra Website www.maharashtra.gov.in and its Code Number is 202301251241340619 and this Circular is issued by authenticating the same under Digital Signature.

By Order and in the name of Governor of Maharashtra.

KEDARPRATAP
JAYSING PATIL

Digitally signed by,
(Kedarpratap Patil)
Desk Officer,
Revenue and Forest
Department.

Copy to:- 1) The Secretary to the Hon'ble Governor,
Rajbhavan, Malbar Hill, Mumbai.
2) xxxxx xxxxxx.
20) Select File (A-2)."

9. The Petitioners state that the Government Resolution dated 14th December 2022 bearing No. MRAARVIM-2/LAND DEPARTMENT/Jalna-Nanded National Highway/2022/8249 has made applicable the interpretation rendered qua Explanation 1 appended to Section 26(1) of the 2013 Act, by the Punjab and Haryana High Court in RFA No. 3469 of 2019. The Petitioner further submits that the judgment in RFA No. 3469 of 2019 refers to the judgment in RFA No. 309 of 2021 decided by the Punjab and Haryana High Court on 19th April 2022. The Petitioner further submits that both the judgments passed in RFA Nos. 3469 of 2019 and 309 of 2021 have been challenged in the Supreme Court and that the Supreme Court has stayed further proceedings in these matters. It is therefore the Petitioner's submission that the Government Resolution dated 14th December 2022 and the impugned circular, which is issued on the basis of interpretation accorded by the Punjab and Haryana High Court to determine the land value by Collector under Explanation 1 of Section 26(1) of the 2013 Act, sale deeds of the year in which the notification is issued have to be excluded, and this is the subject of challenge as stated in Para 2 above in the present proceedings. For the sake of brevity, we are not

reproducing the facts in the other connected matters inasmuch as the challenge in the said matters also pertains to the impugned circular issued by the Respondent-State through its Revenue and Forest Department.

10. We have heard learned counsel Mr. P.H. Potnis along with Mr. Gaurav Potnis and Ms. Amrita Potnis appearing on behalf of the Petitioner in Writ Petition No. 10143/2023 and Mr. Eknath Dhokale, learned counsel appearing on behalf of the Petitioner in Writ Petition Nos. 8296/2021 and 13025/2023. We have also heard learned Advocate General Dr. Birendra Saraf on behalf of the Respondent-State in all the aforesaid Petitions. In the backdrop of the above facts and the submissions made by the learned counsels, we proceed to decide the issue arising in respect of determination of market value of land by the Collector under Section 26(1) of the 2013 Act.

Submissions:-

11. Submissions made by learned Counsel Mr. P.H. Potnis along with Mr. Gaurav Potnis and Ms. Amrita Potnis in Writ Petition No. 10143/2023 can be summarized as follows-

i. That neither the 2013 Act nor the judgment of Punjab and Haryana Court mentions that sale instances 1 year prior to the date of Notification to acquire the land are to be excluded and on this ground alone the impugned circular is arbitrary in nature and deserves to be quashed and set aside.

ii. The impugned circular does not deal with a scenario where Social Impact Assessment is exempted or acquisition acts like the National

Highways Act 1956, or the 1955 Act, which is the relevant Act in the present petition, which does not require a Social Impact Assessment. It is therefore his submission in that case even assuming that Explanation I to Section 26(1) of the 2013 Act refers to the notification issued under Section 4 and that sale instances prior to the notification are to be considered, even in this scenario, there is no reason to believe that the period of exclusion of sale instances would be 1 year. This, in view of the fact that the Social Impact Assessment has to be completed within a period of 6 months since its commencement, and further 1 year period has been given to the Government to decide on the Expert Committee report and there is no restriction on completing the Social Impact Assessment prior to that. He therefore submitted that the 2013 Act itself does not contemplate that any specific period for which sale instances are to be ignored and hence the impugned circular cannot put a specific period which is contrary to the provisions of the statute. It is further his submission that no material has been brought on record to show that there have been any sale instances in any of the acquisitions till today which have been inflated after the Social Impact Assessment notification was issued under Section 4 but prior to the Section 11 notification of the 2013 Act.

iii. The judgment of the Punjab and Haryana High Court cannot be interpreted to mean that a timeline has been provided on which the sale instances are to be ignored, as is being sought to be done by the impugned circular and hence, the impugned circular is trying to override the statute, by providing that sale instances one year prior to the notification issued under Section 11 of the 2013 Act should be excluded for the determination of land value by the Collector.

iv. The impugned circular is in direct breach of Section 26(3)(b) of the 2013 Act inasmuch as Section 26(3)(b) also clearly gives a timeline of immediately preceding 3 years where registered sale deeds or agreements to sell as mentioned in Clause (a) of Sub section 1 for similar land are not available. Hence, the Section provides for the 3 years period, while the impugned circular arbitrarily fixes a 1-year timeline, which is against the provisions of the statute.

v. The provisions of Explanation to Section 26(1) along with the proviso are very clear, which provide that Section 11 would be considered as the date for determination of the market value. It is therefore his submission that once the market value has to be determined based on the notification under Section 11, then the sale instances would also need to be considered in close proximity of the notification under Section 11. He therefore submitted that as held by the Supreme Court in several decisions, sale instances of the closest proximity to the date of notification ought to be considered for determining the market value would be law, and any other interpretation of excluding 1 year would lead to an absurdity, and would be against the settled principles of law as set out by the Supreme Court. He further submitted that the term of 1 year would therefore mean the year starting from the date on which such notification has been issued.

vi. The acquisition proceedings commence only on issuance of the Section 11 notification, and not on the issuance of a Section 4 notification, which primarily deals with Social Impact Assessment. What is contemplated under Section 4 is an intention to acquire the land after taking into

consideration the interests of all stakeholders, and that the process/proposal to acquire land would commence only once it is made under Section 11 of the 2013 Act.

vii. That Section 105 of the 2013 Act restrains the Government from diluting the compensation awarded by the Act and hence, excluding any sale instances within a 1-year period of the date of notification under Section 11 of the 2013 Act would be against the mandate of Section 105 of the 2013 Act. The impugned circular therefore is in the direct breach of Section 105 of the 2013 Act.

viii. The provisions of Sub-Section 3 of Section 30 and Sub-section 2 of section 69 are an anomaly in the 2013 Act. Sub-Section 3 of Section 30 provides for 12% component to be calculated from Sub-Section 2 of Section 4 whereas Sub-Section 2 of Section 69 provides the 12% component to be applied from Section 11 notification. In this regard, on harmonious reading of the 2013 Act would confirm that a 12% component ought to be calculated from the date of Section 11 notification. Hence, it would not be correct to rely upon the provisions of Sub-Section 3 of Section 30 to state that the date of notification or the sale instances prior to notification under Sub-Section 2 of Section 4 ought to be considered.

ix. In the facts of the present case the acquisition has been made under the 1955 Act, where the concept of Social Impact Assessment is not applicable. Hence, the question of applicability of provision of Section 4 and a Social Impact Assessment does not arise at all. The 1955, Act under the

provisions of Section 19B(10)(a), has clearly specified that market value has to be determined on the publication of the notification under Section 15. In such a situation, the date of notification would be the date of Section 15, and hence, there would be no case for excluding any sale instances prior to the date of Section 15 notification. This would create a complete anomaly, and unintended results would follow in respect of valuation of land. He has submitted that the Respondent-State, by referring to the impugned circular has started granting awards excluding the 1-year period from the date of notification and considered sale deeds 3 years prior to that.

12. Learned Counsel Mr. Eknath Dhokale appearing on behalf of the Petitioners in Writ Petition No. 8296 of 2023 and Writ Petition No. 13025 of 2023 has also adopted the contentions as made by learned Counsel Mr. Gaurav Potnis in Writ Petition No. 10143. He has additionally submitted that the impugned circular is purely based on the judgment of the Punjab and Haryana High Court wherein the said High Court, by referring to another order passed by the said High Court, has held that "*It is provided that the sale deed of the year in which the notification under Section 4(2) of the RFCLARR Act 2013 has been issued shall be required to be excluded.*" It is therefore his submission that on the basis of this decision, the impugned circular has been issued, which changes the date of determination of market value as provided in Section 26(1) of the 2013 Act, hence, the same is against the said statutory provisions. The impugned circular would have an impact of lowering the market value of the land, which will result in decreasing the amount of compensation, defeating the very purpose of the 2013 Act, which is meant to be a beneficial legislation. He further placed reliance on the ruling of the Supreme Court

in the matter of **Brahampal alias Sammay and Anr. v. National Insurance Company**⁴ to assert that the interpretation of a beneficial legislation must be remedial and in furtherance of the purpose which the statute seeks to serve and that a beneficial legislation must receive a construction that promoted its objectives.

13. Mr. Eknath Dhokale further submitted that as per the ruling in the case of **Chindha Vitthal Sonawane v. Special Land Acquisition Officer**⁵ there is no hard and fast rule that post notification transactions are to be ignored altogether. On the other hand, all transactions which could afford to provide a fair criteria for valuation of the property would be relevant. He also submitted that considering the various decisions of the Supreme Court where it has been categorically held that circulars of clarification issued by the Central or State Governments are not binding upon Courts and therefore cannot abrogate statutes, for such reason, the impugned circular is contrary to the provisions of Section 26(1) of the 2013 Act, requiring the same to be quashed and set aside.

14. Learned Advocate General Dr. Saraf along with Mr. Sachit Bhogle, 'B' Panel Counsel and Ms. M. S. Bane, AGP made the following submissions on behalf of the State-

i. The learned Advocate General explaining the entire scheme of the Act, submitted that the Petitioners' interpretation of the Explanation 1 of Section 26(1) of the 2013 Act is not correct. He submitted that the Petitioners have not dealt with the illustration of a situation where a preliminary notification is issued on 5th January 2023, as given in the

4 (2021) 6 SCC 512

5 (1975) 77 Bom LR 181

impugned circular, and as to what should be the period to be considered in the context of such a date. He therefore submitted that the Explanation to Section 26(1) of the 2013 Act refers to the period “Immediately preceding 3 years of the year in which such acquisition of land is to be made” and hence, the words (Immediately preceding 3 years of the year in which such acquisition of land is to be made) clearly imply that the 3 years are to be calculated with reference to the date of the preliminary notification. The words clearly showed that 3 years should be preceding the year in which the acquisition of land is proposed to be made. Thus, the year in which the acquisition is proposed to be made has to be calculated 3 years before the same have to be taken into account. He has also relied on the official Hindi version of the 2013 Act in support of his above contention. It is therefore his submission that as per the scheme of the 2013 Act, the preliminary steps prior to the issuance of the notification under Section 11 of the 2013 Act start with the issuance of a notification under Section 4 of the 2013 Act for preparation of the Social Impact Assessment. After taking us through the timelines, insofar as the Social Impact Assessment Notification to be issued under Section 4 of the 2013 Act, it was his contention that therefore, prior to the issue of the preliminary notification under Section 11 a period of almost 1 year is taken before the Section 11 notification comes into being.

ii. That right from the issuance of the notification for Social Impact Assessment under Section 4 it is known to the public at large that the land is a subject-matter for acquisition. In view thereof, he submitted that under the erstwhile Land Acquisition Act, 1894 it was a common experience that land prices were sought to be manipulated prior to the issuance of the notification

so as to inflate the value of the land and obtain higher compensation. In support of his above contention, reliance is placed on the decision in Land Acquisition Officer, Eluru & Ors. v. Jasti Rohini &Anr.⁶, and also in the case of Dhusabhai Polabhai v. Special Land Acquisition Officer, Ahmedabad⁷.

iii. It is therefore this submission that drawing from experience under the Land Acquisition Act, 1894, the period of one year i.e. average period required for issuance of notification under Section 11 of the 2013 Act after issuance of the notification of Social Impact Assessment under Section 4 is sought to be excluded by virtue of Explanation 1 of Section 26 of the 2013 Act. He further submitted that in that period, it is known to all concerned that acquisition is contemplated and that there is good chance of artificial inflation in the price to get higher compensation. He further submitted that the word 'year' occurring in Section 26 of the 2013 Act has to be read in the context of the scheme of the 2013 Act and the object and the purpose of arriving at the fair market value of the property. He therefore submitted that the provisions of the General Clauses Act, 1897 and the definition of the word 'year' therein would not be of any assistance to interpret the year in which the exclusions of sale deeds have to be made.

15. We have heard learned counsels for the parties and with their assistance, we have perused the record and the relevant provisions of the 2013 Act. Before we proceed to analyze and consider all the aforesaid submissions, it would be necessary to examine the legislative scheme of the 2013 Act. The 2013 Act was enacted primarily as a beneficial legislation and made a marked departure from the earlier

6 (1995) 1 SCC 717

7 (1957) SCC Online Bom 265

provisions as envisaged in Land Acquisition Act, 1894. The Preamble of the 2013 Act reads as follows:-

"An Act to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto."

(emphasis supplied)

16. We have noted the Preamble of the 2013 Act only to highlight that the provisions of the 2013 Act when read holistically to further the object of the Act, namely, that by acquisition of lands of the affected persons, there has to be a marked improvement in their social and economic status and least disturbance should be caused to them while providing them with just and fair compensation.

17. Thus, in the backdrop of the aforesaid facts and in the light of the object the 2013 Act intends to achieve, *inter alia* as seen from the Preamble of the 2013 Act, we proceed to deal with the question which has fallen for consideration before this court which can be crystallized as follows:-

- (i) Whether the impugned circular is contrary to the provisions of Section 26(1) read with Explanation 1 thereof, read with Section 11 of the 2013 Act?
- (ii) What would be the effect of the applicability of the impugned circular on land acquisition awards declared by applying the said circular ?

Analysis

18. To decide the present controversy, it will be beneficial to reproduce the following Sections of the 2013 Act i.e. Sections 4, 11 and 26. The following provisions reads as under:-

4. Preparation of Social Impact Assessment study.-

(1) Whenever the appropriate Government intends to acquire land for a public purpose, it shall consult the concerned Panchayat, Municipality or Municipal Corporation, as the case may be, at village level or ward level, in the affected area and carry out a Social Impact Assessment study in consultation with them, in such manner and from such date as may be specified by such Government by notification.

(2) The notification issued by the appropriate Government for commencement of consultation and of the Social Impact Assessment study under sub-section (1) shall be made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and in the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil, and shall be published in the affected areas, in such manner as may be prescribed, and uploaded on the website of the appropriate Government:

Provided that the appropriate Government shall ensure that adequate representation has been given to the representatives of Panchayat, Gram Sabha, Municipality or Municipal Corporation, as the case may be, at the stage of carrying out the Social Impact Assessment study:

Provided further that the appropriate Government shall ensure the completion of the Social Impact Assessment study within a period of six months from the date of its commencement.

(3) The Social Impact Assessment study report referred to in sub-section (1) shall be made available to the public in the manner prescribed under section 6.

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

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

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

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

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

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

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

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

(5) While undertaking a Social Impact Assessment study under sub-section (1), the appropriate Government shall, amongst other things, take into consideration the impact that the project is likely to have on various components such as livelihood of affected families, public and community properties, assets and infrastructure particularly roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, anganwadis, children parks, places of worship, land for traditional tribal institutions and burial and cremation grounds.

(6) The appropriate Government shall require the authority conducting the Social Impact Assessment study to prepare a Social Impact Management Plan, listing the ameliorative measures required to be undertaken for addressing the impact for a specific component referred to in sub-section (5), and such measures shall not be less than what is provided under a scheme or programme, in operation in that area, of the Central Government or, as the case may be, the State Government, in operation in the affected area.

11. Publication of preliminary notification and power of officers thereupon. *(1) Whenever, it appears to the appropriate Government that land in any area is required or likely to be required for any public purpose, a notification (hereinafter referred to as preliminary notification) to that effect along with details of the land to be acquired in rural and urban areas shall be published in the following manner, namely:-*

- (a) in the Official Gazette;*
- (b) in two daily newspapers circulating in the locality of such area of which one shall be in the regional language;*
- (c) in the local language in the Panchayat, Municipality or Municipal Corporation, as the case may be and in the offices of the District Collector, the Sub-divisional Magistrate and the Tehsil;*
- (d) uploaded on the website of the appropriate Government;*
- (e) in the affected areas, in such manner as may be prescribed.*

(2) Immediately after issuance of the notification under sub-section (1), the concerned Gram Sabha or Sabhas at the village level, municipalities in case of municipal areas and the Autonomous Councils in case of the areas referred to in the Sixth Schedule to the Constitution, shall be informed of the contents of the notification issued under the said sub-section in all cases of land acquisition at a meeting called especially for this purpose.

(3) The notification issued under sub-section (1) shall also contain a statement on the nature of the public purpose involved, reasons necessitating the displacement of affected persons, summary of the Social Impact Assessment Report and particulars of the Administrator appointed for the purposes of rehabilitation and resettlement under section 43.

(4) No person shall make any transaction or cause any transaction of land specified in the preliminary notification or create any encumbrances on such land from the date of publication of such notification till such time as the proceedings under this Chapter are completed:

Provided that the Collector may, on the application made by the owner of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this sub-section:

Provided further that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.

(5) After issuance of notice under sub-section (1), the Collector shall, before the issue of a declaration under section 19, undertake and complete the exercise of updating of land records as prescribed within a period of two months.

26. Determination of market value of land by Collector.

(1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:-

(a) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or

(b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or

(c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is higher:

Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1. The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2. For determining the average sale price referred to in Explanation 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3. While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.-While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.

(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.

(3) Where the market value under sub-section (1) or sub-section (2) cannot be determined for the reason that-

(a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(b) the registered sale deeds or agreements to sell as mentioned in clause (a) of sub-section (1) for similar land are not available for the immediately preceding three years; or

(c) the market value has not been specified under the Indian Stamp Act, 1899 (2 of 1899) by the appropriate authority,

the State Government concerned shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas:

Provided that in a case where the Requiring Body offers its shares to the owners of the lands (whose lands have been acquired) as a part compensation, for acquisition of land, such shares in no case shall exceed twenty-five per cent. of the value so calculated under sub-section (1) or sub-section (2) or sub-section (3) as the case may be:

Provided further that the Requiring Body shall in no case compel any owner of the land (whose land has been acquired) to take its shares, the value of which is deductible in the value of the land calculated under sub-section (1):

Provided also that the Collector shall, before initiation of any land acquisition proceedings in any area, take all necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area:

Provided also that the appropriate Government shall ensure that the market value determined for acquisition of any land or property of an educational institution established and administered by a religious or linguistic minority shall be such as would not restrict or abrogate the right to establish and administer educational institutions of their choice.

(emphasis supplied)

19. It is seen that the provisions of Section 4 of the 2013 Act, fall under Chapter II, which is titled “*Determination of Social Impact and Public Purpose (A-Preliminary Investigation For Determination of Social Impact and Public Purpose)*”. Hence, Section 4 of the 2013 Act deals with the starting point for acquisition of land and it is only a study to be undertaken by the appropriate government if it intends to acquire land for a public purpose. The procedure envisaged in the aforesaid section is more in the nature of a pre-consultative stage to ascertain the social impact that would be created, if a land has to be acquired for a public purpose. The steps given in

the aforesaid Section need to be followed and the primary conditions which the appropriate government needs to take into consideration before the aforesaid acquisitions are that the following are not affected like livelihood of affected families, public and community properties, assets and infrastructure; particularly, roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing lands, plantations, public utilities such as post offices, fair price shops, food storage godowns, electricity supply, healthcare facilities, schools and educational or training facilities, anganwadis, children parks, places of worship, lands for traditional tribal institutions and burial and cremation grounds. It is only after taking into consideration whether the proposed acquisition will have an impact on the aforesaid components that further steps as envisaged in the latter sections, i.e., Sections 6, 7 & 8 are required to be followed in a time bound manner as given in the 2013 Act. Therefore, looking at the legislative scheme of the said provision, we are inclined to accept the contentions as made on behalf of the Petitioners that the notification under Section 4 of the 2013 Act cannot be considered as a notification proposing acquisition of land as envisaged in Explanation 1 to Section 26(1) of the 2013 Act. It is only after the aforesaid steps are carried out that the publication of the notification under Section 11 of the 2013 Act takes place and the steps as envisaged therein are undertaken by the appropriate government for the acquisition of the land. This, to our mind, would be the correct reading of Section 4 insofar as the proposed acquisition of land is concerned. Section 4 notification is only in the nature of a preliminary notification and is only the starting point of the fact as to whether the acquisition of any land can be made considering the parameters laid therein which would have an impact on the lives of the people. The heading of the said section i.e. 'Social Impact Assessment' itself makes the same clear.

20. Coming to the controversy at hand, the impugned circular issued by the Respondent-State has sought to exclude a period of one year prior to the issuance of the notification of Section 11 of the 2013 Act to arrive at the actual market price for the purpose of determination of market value of the land by the Collector in respect of the compensation to be awarded for acquisition of the land. From a reading of the provisions of Section 26 and Explanation 1 of the 2013 Act as reproduced herein above, it is clear that the statute provides that for computing the average sale price as referred to in Sub Section (1)(b) of Section 26 of the 2013 Act, sale deeds or the agreements for sale registered for similar type of area in the nearby village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made should be considered. Thus, when the words as used in the provision are so specific, i.e. sale deeds etc. for similar type of area in the nearby village or near vicinity during “immediately preceding three years of the year in which such acquisition of land is proposed to be made” cannot be read to provide an exclusion of one year prior to the issuance of a Section 11 notification or relate back to the Section 4 (preliminary notification). This does not fit on a conjoint reading of the provisions of Section 11 with Section 26 of the 2013 Act. The instant indicator being available is from Sub Section (4) of Section 11, which provides for a freeze on transactions from the date of issuance of a Section 11 notification. Thus, accepting the Respondent-State’s contention would amount to reading something in Section 26, which the legislature has expressly avoided.

21. Further, the proviso to Section 26(1) of the 2013 Act also lays down that for computing the market value of the land, the date of acquisition notification has to be from the issuance of Section 11 notification. The use of the word “shall” in the proviso to Section 26(1) makes it abundantly clear that the legislative mandate is that

the Section 11 notification is the date for determination of compensation. There cannot be dilution of this mandate i.e. an agreement/sale deed on the date of Section 11 notification cannot be taken into consideration. This would again be contrary to the cumulative scheme of Section 11 read with Section 26 of the 2013 Act. Therefore, the impugned circular cannot be used by the Respondent-State to override the provisions in the statute merely relying on the judgment of the Punjab and Haryana High Court. The impugned circular cannot substitute Section 11 notification to apply the Section 4 notification as canvassed by the learned Advocate General, as the date of determination of market value of land for determination of compensation.

22. This, to our mind, will be reading into the the clear provisions of the 2013 Act and depriving the land owners' fair compensation of the market value prevailing at the time of issuance of the Section 11 notification. We are therefore inclined to reject the contention as urged on behalf of the Respondent-State that the impugned circular has been rightly issued by the Respondent-State and the reference point for exclusion of the one year period should be from the date of issuance of notification for Social Impact Assessment under Section 4 of the 2013 Act and the said date should be considered to be the proposed date of acquisition as contemplated in Explanation 1 of Section 26 of the 2013 Act. We would therefore accept the contention of the Petitioners that the proviso to Section 26(1) of the 2013 Act clearly ordains that market value needs to be determined based on the date of the Section 11 notification. In **Sumitraben Singabhai Gamit v. State of Gujarat**⁸, the Supreme Court interpreting the proviso to Section 26(1) of the 2013 Act in the context of the date

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that is relevant for determining the market value of the land being acquired, held as follows:-

“8. Having heard learned counsel for the parties, this Court is of the view that the issue that arises for consideration in the present Appeal is the interpretation of proviso to Section 26(1) of the RFCTLARR Act, 2013 in the context of the date that is relevant for determining the market value of the land being acquired.

9. This Court is of the view that the said provision lays down the methodology for computing the market value of the land on the date of the acquisition notification. The use of the word ‘shall’ in Section 26(1) proviso is reflective of the legislative mandate that Section 11 Notification is the date for determination of the compensation.

10. This Court has no doubt that the legislative intent is to ensure that the land owners receive fair compensation reflective of the market value prevailing at the time of acquisition. By fixing the date of 01st January, 2014 as the date for determination of market value, the impugned order deprives the Appellant of compensation at the 2023 rates, which must be considerably higher.

11. In fact, the legislative scheme does not give discretion to the Courts to select a date for valuation. On the contrary, RFCTLARR Act, 2013 expressly mandates that compensation/valuation must be determined as of the date of Notification under Section 11 of the RFCTLARR Act, 2013 - which in this present case is yet to be issued.

13. Consequently, this Court agrees with the submission of the learned counsel for Appellant that proviso to Section 26(1) explicitly states that the market value of the land shall be determined as on the date of issuance of the Notification under Section 11 of RFCTLARR Act, 2013.”

(emphasis supplied)

23. Thus the Respondent-State’s conclusion of exclusion of one year period from the date of the Section 11 notification to determine the average sale price for similar type of land situated in nearest village or nearest vicinity area as opposed to the immediately preceding three years of the year in which such acquisition of land is proposed to be made, the impugned circular cannot substitute the prescribed three years’ period as stipulated by Section 26(1), which clearly incorporate the relevance

and applicability of Section 11 of the 2013 Act. The impugned circular cannot override the statutory provisions which are clear and unambiguous.

24. It is a settled principle of law that when the language of the statute is clear and unambiguous, nothing can be read into it and the provision needs to be applied as it stands. There is no scope for tinkering with the legislative intent much less the cumulative scheme of the provisions. Further, the impugned circular also cannot be contrary to the various judgments of the Supreme Court which have held that sale instances in close proximity to the notification ought to be considered for determining the market value. The impugned circular not only impinges the provisions of the 2013 Act as discussed by us but also run contrary to the judgments of the Supreme Court, for the reason that the impugned circular brings about an effect to completely ignore the sale instances of the period of closest proximity to the date of notification as provided by Section 26(1) while determining the market value for compensation, thereby causing unintended results of reducing the compensation amount due to the land owners. This, to our mind, defeats the very purpose for which the 2013 Act has been enacted, which is clear from the Preamble reproduced above i.e. to provide just and fair compensation to the affected families and post their acquisition, their social and economic status should not be affected and in fact be improved. We therefore are inclined to accept the Petitioners' case that the period of one year prior to the date of notification cannot be excluded for the purpose of determination of market value to award compensation to the land owners.

25. Further, we are also inclined to accept the submission made by the Petitioner that the impugned circular is in direct breach of Section 26(3)(b) of the 2013 Act, as the same is fortified with similar intention as discussed by us, as sub-clause (b) of

sub-section (3) of Section 26 refers to registered sale deeds and agreements of sale of similar type of lands which are not available for the immediately preceding three years. This sub-section also therefore speaks of registered sale deeds or agreements to sale for similar land are not available for the immediately preceding three years, the period prescribed in the said section i.e., a period of three years, is also unambiguous and clear in a situation that the market value under sub-section (1) or sub-section (2) of Section 26 cannot be determined. This is clearly in consonance with Explanation 1 to Section 26(1) of the 2013 Act which also provides for the period of three years for determining the market value for compensation. Hence, to exclude the period of one year prior to the notification would lead to an anomalous situation and would be against the mandate of the 2013 Act.

26. We are also of the view that the impugned circular cannot have the effect of diluting the provisions of Section 105 of the 2013 Act, which also restrains the State Government from reducing the compensation or diluting the compensation as awarded by the 2013 Act to the land owners or the persons whose lands have been acquired. As observed by us, the impugned circular overreaches the provisions of the 2013 Act and has an effect to water down the beneficial provisions of the 2013 Act and/or make the same otiose. It is a settled principle of law that progressive and beneficial legislation should be construed in favour of the beneficiaries applying the norms of a purposive interpretation. A circular cannot and should not come in the way of making a beneficial legislation being weakened and ineffective in realistic terms, especially when neither the Act nor the statute provide that the one-year period prior to the notification should be discarded.

27. We are also inclined to reject the argument of the Respondent-State that the intent of issuing the impugned circular was to curb the activity of manipulative land prices prior to the issuance of notification so as to inflate the average market price of the land and obtain higher compensation. Such argument in our opinion finds no space in the cumulative reading of the statutory scheme of Section 4, 11 read with Section 26 of the 2013 Act. By reasons of imagination of an executive officer Mr. Kedarpratap Jaysing Patil, who has issued the impugned circular, the legislative provisions, legislative intent and wisdom cannot be taken away. When such provisions are incorporated in the statute, there is certainly a presumption that the legislature was aware of the different situations. Therefore, the argument of the Respondent-State that the impugned circular has been brought to curb the manipulation of prices prior to issuance of notification so as to inflate the average market price of the land and obtain higher compensation, has no legs to stand. Lastly, even otherwise in the present proceedings the acquisition has been made under the 1955 Act, where the concept of Section 4 notification as contemplated under 2013 Act is not provided for. In fact, the 1955 Act under the provisions of Section 19B (10)(a) contemplates that while determining the amount of compensation to be paid for acquisition, the market value of the land on the date of publication of notification under Section 15 of the 1955 Act is to be considered. Hence, in such a case, the application of the impugned circular which the Respondent-State seeks to do, will be completely contrary to the provisions of the 1955 Act as there would be no case for excluding any sale instances from the date of Section 15 notification and then considering sale instances three years prior to that. In fact, the impugned circular cannot be made applicable to cases where projects are exempted from Social Impact Assessment as per Section 4 of the 2013 Act and also to the Acts like the 1955 Act

where such artificial period cannot be imported by way of the impugned circular to determine the compensation.

28. We are also of the view that the impugned circular wrongly places reliance on the decision rendered by the Punjab and Haryana High Court in RFA No. 3469 of 2019 and RFA No. 309 of 2021 decided on 25th April 2022 and 19th April 2022 respectively, to exclude the 1-year period from the date of notification to determine the market value for compensation. This, in view of the fact that the decisions rendered by Punjab and Haryana High Court in RFA No. 3469 of 2019 and RFA No. 309 of 2021 have, in fact, not rendered a finding that the three years period for the determination of market value from the date on which the Section 11 notification has been issued under Section 11 is to be substituted and the one year period prior to the date of notification has to be excluded. In fact, this was never the issue before the Punjab and Haryana High Court. The questions which arose before the Punjab and Haryana High Court as seen from the said decision is as under:-

“(1) With respect to acquisition of immovable property during transitional period between the Land Acquisition Act, 1894 (hereinafter referred to as the 1894 Act) and The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(hereinafter referred to as RFCTLARR Act, 2013) regulated by Section 24(1)(a), whether the crucial date for the assessment of the market value is the date of enforcement of the Act i.e. 01.01.2014 or the date of publication of notification u/s 4(1) of the 1894 Act?

(2). Whether the date from which the additional amount payable U/s 30(3) of RFCTLARR Act, 2013 @ 12% P.A. is to be calculated shall be 01.01.2014 or the date on which notification U/s 4(1) of the 1894 was published?

(3). Whether the letter/communication dated 26.10.2015 is in the nature of directions issued by the Central Government in exercise of power u/s 113 of the RFCTLARR Act, 2013?

If the answer to question (3) is in affirmative, then, the next question which would require elaboration is:-

(4) Whether during the transitional period, the communication dated 26.10.2015 shall supplant the provisions of the RFCTLARR Act, 2013?”

29. Hence, the Punjab and Haryana High Court was only seized with an issue as to what should be the date for the assessment of the market value during the transitional period between the Land Acquisition Act, 1894 and 2013 Act, i.e., whether the crucial date for the assessment of the market value is the date of enforcement of the 2013 Act, i.e., 1st January 2014 or the date of publication of notification under Section 4(1) of the Land Acquisition Act 1894. In the above context, the Punjab and Haryana High Court reached to the conclusion that under Section 24(1)(a) of the 2013 Act during the transitional period, the market value will have to be assessed on the date of publication of notification under Section 4(1) of the Land Acquisition Act, 1894. Similarly, the additional amount under Section 30(3) of the 2013 Act shall be calculated from the date of publication of notification under Section 4 of the Land Acquisition Act, 1894 till the date of award or date of taking possession of land whichever is earlier. Hence, the said decision is not a decision interpreting the legislative intent behind Section 26(1) read with Section 11 of the 2013 Act. Thus, in our opinion the Respondent-State has wrongly extrapolated the observations of the Punjab and Haryana High Court in issuing the impugned circular, contrary to the provisions of the 2013 Act to exclude the one year period to determine the market value for the purpose of compensation from the date of notification which has been issued under Section 11 of the 2013 Act. The state has further erroneously also sought to interpret that the one year exclusion period has to be considered from the date of notification published under Section 4 of the 2013 Act as opposed to Section 11 of the 2013 Act. We, therefore, see no merit in the submission made on behalf of the Respondent-State. We are fully in agreement with the Petitioners contention that the impugned circular has been issued in breach of the provisions of the statute.

30. Further, the reliance of Dr. Saraf on the decisions of **Land Acquisition Officer, Eluru & Ors. v. Jasti Rohini & Anr. (supra)** and **Dhusabhai Polabhai (supra)** would not be of much assistance in the present case, inasmuch as these decisions do not deal with the issue which is under challenge in the present proceedings. In a given case whether a particular sale deed would be an acceptable evidence is quite subjective. There cannot be a generalized formulation on the sale deeds in a given case so as to blanketly apply in cases unconnected with any acquisition in which such sale deeds have no relevance. Hence, as to how the following observations of the Supreme Court in the present facts can be of any relevance, cannot be understood.

“That the reasonable method to determine the market value of the acquired land is on the evidence of transaction of bona fide sales of acquired land but not on evidence of sales of such land taken up having had knowledge of the proposed acquisition, the former would furnish the reasonable basis to determine the compensation. In its absence, bona fide sales but not manipulated sales of the land in the neighbourhood possessed of same or similar quality and having same or similar advantages would give an unerring assurance to the court to determine just and proper compensation. These factors must be established as a fact by examining either the vendor or the vendee. Marking of certified copies of sale deeds are not proof of sale or series of sales of small pieces of land and do not furnish the sole basis to determine market value. Bonafide sales may furnish evidence of the market conditions for consideration.”

31. Further, in the case of **Dhusabhai (supra)**, this Court also had once again dealt with a situation where acquisition of land for public purposes had led in market value of the land going up as a result of speculation arising out of prospective acquisition of the land. The context cannot be borrowed to attribute any legality to the impugned circular.

32. It is therefore our view that the reliance placed by Dr. Saraf on the aforesaid decisions are not apposite to the facts of the present case and hence, nothing much turns on the same.

33. Further, we are not inclined to accept the contention as canvassed by Dr. Saraf that the word “year” should not be interpreted as per the definition given in the General Clauses Act, 1897, and should be read in the context of the Act for the purpose of arriving at the fair market value of the property. It is a settled principle of law that when a word or a term is not defined in the statute, in such event, recourse could be to the General Clauses Act, 1897. The 2013 Act does not define the term “year” and therefore, in our view, the same will be governed by the definition as provided in the General Clauses Act, 1897 which reads thus:-

“3(66) “year” shall mean a year reckoned according to the British calendar.”

34. While dealing with the issue of absence of definitions in a statute, it has been held by the Supreme Court in the case of **Commr. of Customs v. Dilip Kumar & Co.**⁹ that-

“While interpreting a statutory law, if any doubt arises as to the meaning to be assigned to a word or a phrase or a clause used in an enactment and such word, phrase or clause is not specifically defied, its legitimate and indeed mandatory to fall back on the General Clauses Act. However, when there is repugnancy or conflict as to the subject or context between the General Clauses Act and a statutory provision which falls for interpretation, the Court must necessarily refer to the provisions of the statute.”

35. Dr. Saraf's contention to contend that the wording in Explanation 1 to sub-Section (1) of Section 26, which uses the expression ‘immediately preceding three years of the year in which the acquisition of land is proposed to be made’, if construed by applying the provisions of Section 3(66) of the

⁹ (2018) 9 SCC 1

General Clauses Act, 1897 (which defines "year" to mean a year reckoned according to the British calendar), would require the period to be reckoned not from the date of the Section 11 notification but either from the Section 4 notification or by treating the period as commencing one calendar year prior to the date of the Section 11 notification, is, in our opinion, untenable. Dr. Saraf has supported this contention by illustratively submitting that if the Section 11 notification is issued on 5th January 2024, the three preceding years would be the calendar years 2021, 2022 & 2023. Similarly for an acquisition where the notification is issued on 24th December 2024, there also the three preceding years as per the General Clauses Act, 1897 would be the calendar years 2021, 2022 & 2023. This accordingly to him would lead to an anomalous situation inasmuch as from the above illustrations the period of consideration to determine the market value for acquisitions which are nearly twelve months apart would be the same. It is therefore his submission that this could never be the context in which the word 'year' has been used in explanation 1 to Section 26(1) of the 2013 Act. In our clear opinion, such an interpretation, in fact, militates against the clear purport of Section 3(66) of the General Clauses Act and would amount to reading something into Explanation 1 to Section 26 (1) which the legislature itself has not found it appropriate to incorporate. Moreover, acceptance of such an interpretation would lead to an absurdity, as would be wholly inconsistent with the clear legislative intent underlying Section 26(1) Explanation 1, read with the clear provisions of Section 11 of the 2013 Act.

36. In the light of the aforesaid discussion, we are of the considered view that the impugned circular dated 24th January 2023 cannot be sustained and is liable to be quashed and set aside. We accordingly allow the present petitions in terms of the following order:-

ORDER

- (i) The impugned circular dated 24th January 2023 is declared illegal, null and void, being contrary to the provisions of Section 26(1) read with Section 11 of the 2013 Act.
- (ii) Consequent thereto, any action taken applying the impugned circular would consequently be rendered illegal, null and void. In respect of any awards declared, by applying the said circular, a fresh exercise for determination of compensation strictly in accordance with the provisions of Section 26(1) read with Section 11 of the 2013 Act needs to be undertaken.
- (iii) In the event, any challenge to a land acquisition award passed by applying the said circular is subjudice before any authority/forum, the parties would be at liberty to raise contentions based on the aforesaid orders, in support of their plea for appropriate determination of land acquisition compensation in accordance with law and in the light of the present orders.
- (iv) It is clarified that the land acquisition awards which have been passed by consent of the parties and which are not assailed shall remain undisturbed.
- (v) It is clarified that, except for examining the legal issues which fell for determination in the present proceedings, the observations made by us are in

no manner a reflection with regard to any individual award, either in the case of the petitioners or otherwise. In the event that the owners of the land or any person interested, aggrieved by the award, have initiated proceedings, the same shall be decided in accordance with law. Insofar as the impugned circular is concerned, by applying this decision, the petitions are allowed and disposed of in the aforesaid terms.

(vi) Disposed of in the aforesaid terms. No costs.

37. At this stage, learned Counsel for the Respondents would request that the operation of the Judgment be stayed. Considering the clear observations, we are not persuaded to accept the said request.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)