

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Part-heard
CIVIL APPEAL NO. 1012/2002@@
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PROPERTY OWNERS' ASSOCIATION & ORS. Petitioner (s)

VERSUS

STATE OF MAHARASHTRA & ORS. Respondent (s)
(With appln. for stay and with office report)

WITH

S.L.P.(C) No.5777/1992
(With appln. for stay and with office report)

S.L.P.(C) No.5204/1992
(With appln. for stay and with office report)

S.L.P.(C) No.8797/1992
(With appln.(s) for c/delay in filing SLP, stay and office report)

S.L.P.(C) No.7950/1992
(With appln.(s) for stay, urging addl. grounds and with office report)

Writ Petition (C) No.934/1992
(With appln.(s) for directions and urging addl.grounds and with office report)

Writ Petition (C) No.16/1996
(With appln. for amendment of the petition and exemption from filing O.T.)

S.L.P.(C) No.6744/1993
(With appln. for stay and with office report)

S.L.P.(C) No.2303/1995
(With appln. for stay and office report)

S.L.P.(C) No.13467/1995
(With office report)

S.L.P.(C) No.4367/1992
(With appln. for stay and with office report)

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S.L.P.(C) Nos.6191-92/1992
(With appln.(s) for stay and impleading party and permission to file addl. affidavit and with office report)
(With I.A.Nos.12-13)

Writ Petition (C) No.342/1999
(With office report)

Writ Petition (C) No.469/2000
(With appln. for stay and with office report)

Writ Petition (C) No.660/1998
(With appln. for intervention and with office report)

I.A.Nos.2-3 in Civil Appeal Nos.2797-98/1992
(Appln. for directions) (With office report)

Writ Petition (C) No.672/2000
(With appln. for ex-parte stay and with office report)

Writ Petition (C) No.419/2001
(With appln. for stay and office report)

S.L.P.(C) No.4129/1992
(With appln.(s) for interim relief and directions and
with office report)

Date: 19/02/2002 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI
HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s) | Mr. F.S. Nariman, Sr.Adv.
in CA.1012/02, | Mr. T.R. Andhyarujina, Sr.Adv.
SLP.7950/92, | Mr. Mulraj Shah, Adv.
WPs.934/92,660/98, | Mr. Subhash Sharma, Adv.
I.As. in CA 2797- | Mr. Sameer Parekh, Adv.
98/92, SLP.4129/92, | Mr. E.R. Kumar, Adv.
& 6191-92/92: | Mr. Rohit Alex, Adv.
| Ms. Ruchi Khurana, Adv.
| Ms. Dhun Chhapgar, Adv.
| Mr. P.H. Parekh, Adv.

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For Petitioner (s) | Mr. F.S. Nariman, Sr.Adv.
in CA 1012/02 | Mr. U.A. Rana, Adv.
& in SLPs.5772, | Mr. Bezboruah, Adv.
5204 of 1992: | Ms. Shalini Gupta, Adv.dv.
| for M/s. Gagrat & Co., Advs.

in SLP 8797/1992 | Mr. P. Narasimhan, Adv.

in SLP 2303/95: | Mr. P.H. Parekh, Adv.
| Ms. Ruchi Khurana, Adv.

in SLP 4129/01: | Mr. T.R. Andhyarujina, Sr.Adv.
| Mr. Mulraj Shah, Adv.
| Mr. P.H. Parekh, Adv.
| Mr. Sameer Parekh, Adv.
| Ms. Dhun Chhapgar, Adv.
| Ms. Ruchi Khurana, Adv.
| Mr. Rohit Mammen Alex, Adv.

in WP 16/96,
342/99, 419/01 &
672/00, 469/00: Mr. Ranjit Kumar, Sr.Adv.
Mr. S.R. Setia, Adv.
Mr. Varun Goswami, Adv.
Mr. L.C.Tolat, Adv.

in SLP 6744/93: Mr. Vijay K. Jain, Adv.

in SLP 13467/95: Mr. Manoj Swarup, Adv.
Ms.Lalitha Kohli, Adv.
Mr. O.P. Poplai, Adv.
Mr. P.N. Gupta, Adv.

in SLP 4367/92: Ms. J.S.Wad, Adv.

For Applicant in
WP 660/98: Mr. P.N. Gupta, Adv.

For Respondent (s)
St.of Maharashtra: Mr. Harish N. Salve, S.G.
Mr. P.P. Rao, Sr.Adv.
Mr. Pallav Sishodia, Adv.
Mr. Milind Sathe, Adv.
Mr. Sanjay R.Hegde, Adv.
Mr. S.V.Deshpande, Adv.
Ms. Anuradha Bindra, Adv.
Mr. Prateek Jalan, Adv.
Mr. Ashok Kr. Pandey, Adv.
Mr. Darpan Wadhwa, Adv.
Mr. Ashish Ahuja, Adv.
Mr. Preetesh Kapur, Adv.
Mr. Harsh Desai, Adv.
Mr. Aparajita Singh, Adv.
Ms. Meenakshi Sakhardande, Adv.

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Mr. Satya Mitra, Adv.
Mr. Anand Bhatt, Adv.
Ms. Shelly Kohli, Adv.
Ms. Priya Hegde, Adv.
Mr. Vikrant Yadav, Adv.
Mr. R. Anand Padmanabhan, Adv.
Mr. Sidhartha Chowdhury, Adv.
Ms. Aparajita Singh, Adv.
Ms. Meenakshi Sakhardande, Adv.
Ms. Gayatri Goswami, Adv.
for Mr.G.B.Sathe, Adv.

For MHADA: Mr. Ashok H. Desai, Sr.Adv.
Mr. Pallav Sishodia, Adv.
Mr. Sanjay Hegde, Adv.
Mr. Milind Sathe, Adv.
Mr. M.N. Shroff, Adv.
Mr. C.M. Shroff, Adv.

For Intervenor in
C.A.1012/02: Mr. Ranjit Kumar, Sr.Adv.
Mr. S.R.Setia, Adv.
Mr. Varun Goswami, Adv.

For Res.8 in
C.A.No.1012/02: Mr. Harsh Desai, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Mr.Manu Krishnan, Adv.
Mr. E.C. Agrawala, Adv.

For Respondent (s)
in CA 1012/02:
(Nos. 2 & 3)

Mr. G.L. Sanghi, Sr.Adv.
Ms. Praveena Gautam, Adv.
Mr. Pramod B. Agarwala, Adv.

in SLP 6744/92 &
in SLP 6191-92/92:

Mr. K.V.Sreekumar, Adv.

For Respondent (s)
in SLP 2303/95:

Mr. Sundaram, Adv.
Mr. Gopal Jain, Adv.
Mrs. Manik Karanjawala, Adv.
Mr. R.N. Karanjawala, Adv.
Mrs. Nandini Gore, Adv.
Ms. Ruby S.Ahuja, Adv.
Ms. Meghna Mishra, Adv.

For Res.8-9 in
SLP 13467/95:

Mr. Sushil Kumar Jain, Adv.

For res.12 in
SLP 12467/95:

Mr. Manoj Swarup, Adv.
Ms. Lalitha Kohli, Adv.
for M/s. Manoj Swarup & Co., Adv.

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in WP 342/99:

Mr. M.C.Mukund, Adv.
Mr. T.V. Ratnam, Adv.

For Res.No.10 in
WP 469/00 &
res.10 in WP
672/00:

Mr. A.S. Bhasme, Adv.
Mr. Sanjay K. Visen, Adv.
Mr. Manoj K. Mishra, Adv.

For Res.No.3 -
JVPD Tenants Assn.
in WP 660/98:

Mr. Keerit J. Shah, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Manu Krishnan, Adv.
Mr. Rishi Agrawala, Adv.
Mr. E.C. Agrawala, Adv.

For Res.No.2
(Tenants & Residents)
in WP 660/98:

Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Mr. Manu Krishnan, Adv.
Mr. E.C. Agrawala, Adv.

For Res.No.5 in
WP 660/98:

Mr. B.R. Naik, Sr.Adv.
Mr. M.N. Shroff, Adv.
Mr. C.M. Shroff, Adv.

For res.No.4 in
WP 660/98:

Mr. Harish N. Salve, S.G.
Mr. M.N. Shroff, Adv.
Mr. Chirag M. Shroff, Adv.

For Respondents in
WP 660/98:

Ms. Indu Malhotra, Adv.
Mrs. Manik Karanjawala, Adv.
Mr. Pramod B.Agarwala, Adv.
Mr. Vishwajit Singh, Adv.
Mr. G.B. Sathe, Adv.
Mr. S.M. Jadhav, Adv.
Ms. B. Vijayalakshmi Menon, Adv.
Mr. Prashant Kumar, Adv.
Mr. Anip Sachthey, Adv.

Mr. Prashant Chaudhary, Adv.
Mr. M.C. Dhingra, Adv.
Mr. Praveen Swarup, Adv.
Mr. S.K. Verma, Adv.
Ms. Bela Maheshwari, Adv.
Ms. Geetanjali Mohan, Adv.
Mr. Shrish Kumar Misra, Adv.
Mr. K.V.Sreekumar, Adv.

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In I.A.No.6 in
WP 660/98:

Mr. Rajiv Dutta, Sr.Adv.
Mr. R. Nedumaran, Adv.
Mr. Haresh G.Gnatra, Adv.
Ms. Minas Merchant, Adv.
Mr. Kapil Sharma, Adv.

For Res.in IAs2-3
in CAS.2797-98/92:

Mr. K.V. Sreekumar, Adv.

in WP 419/2001:

Mr. Sanjiv Sen, Adv.
Mrs. Suchitra Y. Chitale, Adv.
Mr. Atul Y. Chitale, Adv.

in WP 419/01:

Mr. Pranab Kumar Mullick, Adv.

in SLP 4129/92:

Mr. Uday Umesh Lalit, Adv.

For Respondent (s)
in SLPs.5772, 5204,
8797, 7950/92,
WP 16/96, SLPs.
6744/93,2303/95,
13467/95,4367/92,
6191-92/92, WPs.
342/99, 469/00,
672/00 & SLP.
4129/92:

Mr.Pallav Sishodia, Adv.
Mr. Sanjay R. Hegde, Adv.
Mr. M.N. Shroff, Adv.

For UOI:

Mr. Harish N.Salve, S.G.

For Attorney Genl.:

Mr. Harish N.Salve, S.G.
Mr. Preetesh Kapur, Adv.

UPON hearing counsel the Court made the following
O R D E R

....L.....I.....T.....T.....T.....T.....T.....J
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Mr. Harish N.Salve, the learned Solicitor General,
resumed his arguments at 11.25 a.m. and was on his legs when
the Court rose for the day.

The matter remained part-heard.

.SP1

(N. Annapurna)
Court Master

(Shelly Sengupta)
Court Master

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Item No.101 (PH) Court No.1 Sec.XVI/X@@
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Date: 20th February, 2002. @@
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CORAM & APPEARANCES: AS OF 19.2.2002.@@
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Mr.Harish N.Salve, the learned Solicitor General,
resumed his arguments at 10.30 a.m. and concluded at 10.45
a.m.

The Court made the following ORDER@@
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Now, in the course of the argument before us, the
learned Solicitor General, appearing for the Union of India
and the State of Maharashtra, has drawn our attention to the
judgment of a Bench of nine learned Judges in the case of
Mafatlal Industries Ltd. vs. Union of India (1997 (5) SCC@@
CC
536). Speaking for himself and four other Judges, Jeevan
Reddy, J. said, "That the material resources of the community
are not confined to public resources but include all
resources, natural and man-made, public and private owned is
repeatedly affirmed by this Court.", and reference was made to
the cases of Ranganatha Reddy, Sanjeev Coke and State of Tamil@@
CC
Nadu vs L.Abu Kavur Bai & Ors. (1984 (1) SCC 515).@@
CCCC CCC

Having given due consideration, we are of the opinion
that this interpretation of Article 39(b) requires to be
reconsidered by a Bench of nine learned Judges: we have some
difficulty in sharing the broad view that material resources
of the community under Article 39(b) covers what is privately
owned.

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Given that there is some similarity in the issues
here involved and in the case of I.R.Coelho vs. State of@@
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Tamil Nadu (1999 (7) SCC 580) which already stands referred to@@
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a larger Bench, preferably of nine learned Judges, we are of
the view that these matters should be heard by a Bench of nine
learned Judges immediately following the hearing in the case
of I.R.Coelho.@@
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Given the importance of the matter and the fact that
constitutional issues are involved in I.R.Coelho as also in@@
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this case, we direct that parties shall file skeleton
arguments within eight weeks.

The papers shall be placed before the Hon'ble the
Chief Justice for appropriate directions.

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(N. Annapurna) (Shelly Sengupta)

(Signed order is placed on the file.)

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IN THE SUPREME COURT OF INDIA@@
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CIVIL APPELLATE JURISDICTION@@
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CIVIL APPEAL NO.1012 OF 2002@@
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Property Owners' Association & Ors. ...Appellant(s)

versus

State of Maharashtra & Ors. ...Respondent(s)

WITH S.L.P.(C) Nos.5777/92, 5204/92, 8797/92, 7950/92,
W.P.(C) Nos.934/92, 16/96, S.L.P.(C) Nos.6744/93, 2303/95,
13467/1995, 4367/1992, 6191-92/92, W.P.(C) No.342/99,
469/2000, 660/1998, I.A.Nos.2-3 in C.A.Nos.2797-98/92,
W.P.(C) Nos.672/2000, 419/2001 & S.L.P.(C) No.4129/1992.

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A Bench of five learned Judges has referred to a Bench of seven learned Judges these matters for the reason that it was of the opinion that the view expressed in the case of Sanjeev Coke Manufacturing Company vs. Bharat@@
CC CCCCCC
Coking Coal Ltd. & Anr. (1983 (1) SCC 147) required@@
CCCCCC CC
consideration.

Put shortly, the question is as to the interpretation of Article 39(b) of the Constitution which speaks of the distribution for the public good of the ownership and control of the material resources of the community. In State of Karnataka vs. Ranganatha Reddy &@@
CC
Anr. (1978 (1) SCR 641), two judgments were delivered. In@@
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the judgment delivered by Krishna Iyer, J., speaking for
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himself and two other judges, the view was taken that material resources of the community covered all resources, natural and man-made, publicly and privately owned. The other judgment, delivered by Untwalia, J., on behalf of himself and three other Judges, did not consider it necessary to express any opinion with regard to Article 39(b); it was, however, made clear in this, the majority judgment that the learned Judges did not subscribe to the view taken in respect of Article 39 (b) by Krishna Iyer, J. The view taken by Krishna Iyer, J. in the case of Ranganatha Reddy was affirmed by a Constitution Bench in

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(R.C. LAHOTI)@@
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.....J.@@
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(N. SANTOSH HEGDE)@@
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.....J.@@
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(DORAISWAMY RAJU) @@
AA

.....J.@@
AA
(RUMA PAL)@@
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.....J.@@
AA
(ARIJIT PASAYAT)@@
New Delhi,@@
AAAAAAAAAAAAAAAAAAAAAA
February 20, 2002.@@
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