



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1819 OF 2026

Netaji Shekumbar Bhopale

Age: 64 Yrs, Occupation:Farmer
R/o at. 143 Bhopale Nagar, Hotagi
Road, Majarewadi, North Solapur,
Taluka North Solapur, Dist. Solapur

....Petitioner

Versus

1 The Commissioner, Solapur

Municipal Corporation, a having
office at Indrabhavan, Solapur

2 The Additional Commissioner,

the Solapur Municipal
Corporation and the President,
the Executive Committee of
Disaster Management Cell,
Solapur Municipal Corporation
having office at Indrabhavan,
Solapur

3 The Collector Solapur,

having office at Solapur.

4 The State of Maharashtra,

Urban Development, Mantralaya
Mumbai, having office at Mumbai.

...Respondents

WITH
WRIT PETITION NO. 1820 OF 2026

Vilas Jagannath Takmoge

Age: 60 years Occupation: Farmer
R/o at. Takmoge Vasti, Hotagi



Road, Majarewadi,
North Solapur, Taluka North
Solapur, Dist. Solapur

...Petitioner

Versus

1 The Commissioner, Solapur
Municipal Corporation, a having
office at Indrabhavan, Solapur

2 The Additional Commissioner,
the Solapur Municipal
Corporation and the President,
the Executive Committee of
Disaster Management Cell,
Solapur Municipal Corporation
having office at Indrabhavan,
Solapur

3 The Collector Solapur,
having office at Solapur.

4 The State of Maharashtra,
Urban Development Mantralaya
Mumbai, having office at Mumbai

....Respondents

WITH
WRIT PETITION NO. 1821 OF 2026

Maruti Jagannath Takmoge
Age: 65 years Occupation:
R/o at. Takmoge Vasti, Hotgi
Road, Majarewadi, North Solapur,
Taluka North Solapur, Dist. Solapur

Vs.

1 The Commissioner, Solapur
Municipal Corporation, a having
office at Indrabhavan, Solapur

2 The Additional Commissioner,



the Solapur Municipal Corporation and the President, the Executive Committee of Disaster Management Cell, Solapur Municipal Corporation having office at Indrabhavan, Solapur

3 The Collector Solapur,
having office at Solapur.

4 The State of Maharashtra,
Urban Development Mantralaya
Mumbai, having office at Mumbai

....Respondents

Mr. Sarang S. Aradhye, a/w Mr. Shantanu Gurav a/w Ms. Dnyaneshwari Utpat for the petitioners
Mr. Vishwanath Patil a/w Mr. Someshwar Wale, advocate for respondent-Corporation
Ms. T. J. Kapre, AGP for respondent-State in WP 1819/2026
Mr. V. M. Mali, AGP for the respondent-State in WP 1820/2026
Mr. S. B. Kalel, AGP for the respondent-State in WP 1821/2026

**CORAM : SMT. VIBHA KANKANWADI &
NANDESH S. DESHPANDE, JJ.**

**RESERVED ON : 09/06/2026
PRONOUNCED ON: 18/06/2026**

JUDGMENT: PER (NANDESH S. DESHPANDE, J.)

1. Heard. Rule. Rule made returnable forthwith. Heard finally with consent of the parties.

2. All these Writ Petitions raise a common question and have an identical set of facts. They are, therefore, being disposed of by the



present Judgment.

3. All these Writ Petitions challenge notices issued under the provisions of The Disaster Management Act, 2005 (Hereinafter referred to as 'DM Act') calling upon the petitioners mentioned therein that the Solapur Municipal Corporation is going to undertake the cleaning and desilting of drains to facilitate the natural flow of the rainwater/storm water, and is going to construct drains of permanent nature. The said notice further mentions that the area of the petitioner is being affected by the said construction and therefore, the petitioners are called upon not to obstruct the said construction.

4. The facts as can be stated from the Writ Petition bearing No. 1819/2026 which is being considered as lead petition are as follows:

(a) The Petitioner in the said petition is the owner of agricultural land admeasuring 2H 91R situated at Gat No. 76, Village Majarewadi, Taluka, North Solapur, District: Solapur. Accordingly, the petitioners in the remaining two Writ Petitions are also the owners of the land mentioned in the said petitions, respectively.

(b) It is stated in the petition that the petitioners, being the owners of the said land, have been in



possession of the said land for more than 100 years, and it is private property of the petitioners. It is further stated that there is no residential area or zone near the said agricultural land and the said area is surrounded by various other agricultural fields. It is further stated that for the purpose of drain of rainwater, the trenches are already in existence on the land of the petitioners, and there is no issue of waterlogging in spite of heavy rainfall.

(c) It is further stated that in backdrop of these facts, the Respondent No. 2 i.e. The Additional Commissioner, Solapur issued a notice under the provisions of DM Act in which it was stated that the Corporation is constructing a Nala(drain) over the Petitioners' area due to which a portion of the Petitioners' land is going to be affected and therefore, they were directed not to cause any obstruction in the said development, failing which, appropriate action would be taken against them. It is this notice which is challenged in the petition on various grounds, amongst others.

5. We have heard Mr. Sarang Aradhye, learned advocate for the petitioners, Mr. Vishwanath Patil for the respondent Corporation and learned AGP in respective petitions.

6. Learned counsel for the petitioners submits that the action of



the respondents is extremely high-handed, and the reason is that the respondents have absolutely no right to dispossess the petitioners from the property without providing appropriate compensation. It is also argued by the learned counsel for the petitioners that a substantial portion of the land is going to be affected and therefore, the respondents cannot utilize their land without taking possession thereof by following the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is the submission that the action of the Respondents is violative of Article 300A of the Constitution of India and, therefore, acquiring the land without payment of compensation is unlawful.

7. *Per contra*, learned counsel for the Respondent Nos. 1 and 2 vehemently opposed the contentions canvassed by the learned counsel for the petitioners. It is stated that the landowner through whose lands the drain (Nala) is flowing at some point of time has illegally filled the Nala, diverted the same, and stopped the flow without permission of the concerned authority. It is further submitted that such illegal re-routing of the Nala has resulted in obstructing the natural and free flow of the Nala. It is further stated



that in September 2025, there were torrential rains in Solapur causing heavy floods and re-routing development substantially restricted the discharge capacity of the Nala, which led to severe flooding in the adjoining areas. It is further stated that Respondent No. 2, in exercise of powers under Sections 26 and 30 of the DM Act, has passed directions to the owners of the said land not to cause any kind of hindrance or obstruction in the restoration and construction process.

8. It is further stated in the affidavit-in-reply that the Corporation has undertaken a city-wise storm water drainage improvement project under 'Maharashtra Suvarna Jayanti Nagarotthan Mahabhiyan' for mitigation of flooding and improvement of drainage infrastructure within the area of Solapur Municipal Corporation. Pursuant to the administrative approval, technical sanctions were granted, and the tender process was floated; resulting in issuance of a work order on 16/06/2025. It is further stated in the affidavit-in-reply that the drainage network proposed under the project is based on existing natural drainage patterns, field surveys, topographical studies and engineering requirements. As per the topographical survey sheet of the year



1978 and 2001, a natural drainage course/Nala was existing and flowing through the area concerned. The alignment of the proposed drainage work substantially follows and corresponds with the natural drainage path historically existing in the area. As per the averment in the affidavit-in-reply, under the said scheme mentioned supra, work on 19 drains with a total length of 18.928 km has been sanctioned in the city of Solapur. It is further stated in the affidavit that if excavation and desilting operations are carried out along with the said natural drainage alignment as shown in the approved plans, the toposheet of 1978 and 2001 and maps, the accumulated storm water from the areas as mentioned would immediately get discharged through the natural drainage channel and therefore, the work is necessary. It is further stated in the affidavit that in the Disaster Management Committee Review Meeting held on 10/11/2025, the disaster management plan was approved and technical survey report and temporary survey report were produced. It is therefore stated that all statutory requirements, technical approvals and administrative sanctions have been duly complied with before commencement of the work.

9. Thus, it is the case of the respondent-Corporation that



Nala/drianage was already in existence and the petitioners are well aware of the said existence. It is only the excavation and clearing of the block of natural flow of said drain which has prompted the Corporation to issue the notice impugned in the petition. It is further stated that the Government of Maharashtra through the Directorate of Town Planning and Valuation Department has prescribed a GIS based development plan, standard operating procedure (SOP) for preparation of existing land use maps and development plans which mandates collection, digitization, Geo-referencing validation and field verification of all the water features, including river streams, drains, water bodies, flood lines and direction of water flow.

10. As far as the legal provisions are concerned, it is stated in the affidavit that the Maharashtra Regional and Town Planning Act, 1966 and more particularly Section 22(d) requires preparation and implementation of Development Plans having regard to existing physical features, natural water resources, rivers, drainage channels, etc. Reliance is also placed on Regulation 3.2.1 of the Unified Development Control and Promotion Regulations for the same purpose. It is further stated under the provisions of the Maharashtra



Municipal Corporation Act, 1949 (Hereinafter referred to as 'MMC Act'), more particularly Section 153 and other allied sections, the action is fully supported. It is further stated that the act of the Corporation is not an act of acquisition, but a statutory drainage management and flood mitigation measure undertaken in discharge of mandatory duties imposed upon the respondent-Corporation under the various provisions. It is thus stated that the action is perfectly legal and valid.

11. In the backdrop of these facts, we have considered the contentions canvassed by the learned respective counsels and also gone through the record. The survey report of the Corporation, as also the disaster management plan, has also been placed on record by the learned counsel for the respondents.

12. The DM Act was brought into being to provide effective management of disasters and the matters connected thereto or incidental thereto. It was enacted by Parliament for the prevention and mitigation of the effects of disasters and for undertaking a holistic, coordinated, and prompt response to any disastrous situation, and to provide requisite institutional mechanisms for drawing up and monitoring the implementation of the disaster



management plans.

13. Section 2(d) of the DM Act defines the term ‘disaster’ as under:

“(d) “disaster” means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area.”

14. Section 2(e) defines the term “disaster management” as under:

“(e) “disaster management” means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for—

(i) prevention of danger or threat of any disaster;

(ii) mitigation or reduction of risk of any disaster or its severity or consequences;

(iii) capacity-building;



- (iv) preparedness to deal with any disaster;*
- (v) prompt response to any threatening disaster situation or disaster;*
- (vi) assessing the severity or magnitude of effects of any disaster;*
- (vii) evacuation, rescue and relief;*
- (viii) rehabilitation and reconstruction”.*

15. Likewise the MMC Act was brought on the statute book to provide for the establishment of the Municipal Corporation in the State of Maharashtra and to with a view to ensure the better municipal government for the large urban areas. Section 2(17) defines ‘drain’ as under:

“(17) “drain” includes a sewer, tunnel, pipe, ditch, gutter or channel and any cistern, flush- tank, septic tank or other device for carrying-off or treating sewage, offensive matter, polluted water, sullage, waste water, rain water, or sub-soil water and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place”.



16. Chapter 12 of the MMC Act is titled as "Drains And Drainage".

Section 153 provides that drains to be constructed and kept in repair by the Commissioner. Section 153 is reproduced as under:

“153. Drains to be constructed and kept in repair by the Commissioner.— (1) The Commissioner shall maintain and keep in repair all municipal drains and shall with the approval of the Corporation construct such new drains as shall from time to time be necessary for effectually draining the City.

(2) The Commissioner shall also, in the case of any street in which there is a municipal drain, construct at the charge of the Municipal Fund such portion of the drain of any premises to be connected with such municipal drain as it shall be necessary to lay under any part of such street and the portion of any connecting drains so laid under the street shall vest in the Corporation and be maintained and kept in repair by the Commissioner as a municipal drain.”

17. Section 155 is a power of the Commissioner for making drains and contemplates that The Commissioner may carry any municipal drain through, across or under any street, or any place laid out as or intended for a street or under any cellar or vault etc. It would be relevant to reproduce Section 155 of the MMC Act which is as



under:

“155. Powers for making drains.— (1) The Commissioner may carry any municipal drain through, across or under any street, or any place laid out as or intended for a street or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within City, or for the purpose of outfall or distribution of sewage, without the City.

(2) The Commissioner may enter upon, and construct any new drain in the place of an existing drain in, any land wherein any municipal drain has been already lawfully constructed, or repair or alter any municipal drain so constructed.”

18. Section 157 provides for the power of the Municipal Commissioner to clean drains. A meaningful reading of Sections 153 to 157, as also 158 and onwards, would reveal a scheme of the Act. Sweeping powers are given to the Municipal Commissioner to lay drains, maintain them and clean them. If the notice impugned in the petition is perused, the Municipal Commissioner acting under the provisions of the DM Act has only intimated the petitioners not to



cause any obstructions.

19. Section 26 and Section 30 of the DM Act provide for powers and functions of district authority which are exhaustive in nature. If the Act, i.e., the DM Act and the MMC Act, and the provisions reproduced herein supra are to be given a meaningful interpretation in the backdrop of the intention of the legislature in enacting the said statutes, it would reveal that the said notice which is impugned in the petition is not foul of the said provisions.

20. A similar controversy arose before the Kerala High Court in the Judgment of *State of Kerala and Others Vs. Biju Ramesh and Others*¹. The Division Bench of the Kerala High Court, after taking into consideration the provisions of the DM Act, went on to reject the contention of the petitioners therein who were similarly situated like the present petitioners. They were also issued notice in a like nature as that of the present petitioners. The Division Bench of the Kerala High Court went on to allow the Appeal of the State of Kerala which had impugned the order of the Single Judge, thereby quashing the notice.

21. As far as the contention raised by the counsel for the

¹ (2016) 3 KLT 16



petitioner regarding violation of Article 300A of the Constitution of India, we are also not in favour of the petitioners. Article 300A of the Constitution of India provides that no person shall be deprived of his property, save by authority of law. Thus, what is protected under Article 300A is that no one is to be deprived of his property except by authority of law, which clearly means that by executing executive orders [or administrative instructions] the government cannot ask anybody to vacate his property or demolish his building. But such actions are saved from being hit by Article 300A, which are backed by authority of law. The notice impugned in the petitions specifically makes out reference to the provisions of law i.e. the provisions of the DM Act.

22. We have already held above that, in our considered opinion, the DM Act read with the provisions of the MMC Act clearly spells out the source of power to the respondent-Corporation to issue such notice, the action being taken in the public interest. The contention of the petitioners that the action amounts to acquisition and therefore, the State cannot acquire the land without paying compensation also does not hold any water since the notice specifically contemplates that the action is being undertaken only in



the backdrop of the torrential rains that occurred in Solapur in September 2025 and is in public interest.

23. We are also mindful of the fact that the Corporation, on affidavit, has stated that there was in fact a Nala/drain running over the property which has either been diverted or has been filled up by the petitioners, which chokes the normal flow of water therefrom. Thus, all the contentions raised by the petitioners do not have any substance. The action being initiated, as we have already observed, is after following the procedure under the DM Act.

24. Furthermore Section 72 of the DM Act gives an overriding effect to the provisions of the said Act over any other law in force. The effect of non obstante clause has been considered by the Hon'ble Apex Court in the Judgment of *Union of India and Anr. v. G. M. Kokil and Ors*² stating that it is well known that the non obstante clause is a legislative device which is usually employed to give overriding effect to certain provisions over some contrary provisions that may be found either in the same enactment or some other enactment, that is to say, to avoid the operation and effect of all contrary provisions.

² 1984 (Supp) SCC 196



25. The petitioner in the petition has stated that there is an existing drain (Nala) which is sufficient for the discharge of water, however, the respondent on affidavit has stated that there was a drain (Nala), but which has been choked by the acts of the petitioners and therefore, the desilting and excavation work is being done. Thus, there are disputed questions of facts which arise which we would be reluctant to interfere in Writ Jurisdiction.

26. Thus, taking over all view of the matter and for the reasons stated supra, we are of the considered opinion that the petitions are without any merit and deserve dismissal. They are accordingly dismissed.

[NANDESH S. DESHPANDE, J.]

[SMT. VIBHA KANKANWADI, J.]

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