

(2015) 08 RAJ CK 0090

In the Rajasthan High Court

Case No : Civil Writ Petition Nos. 4814/2015, 5757/2015, 5758/2015, 5759/2015, 5760/2015, 5761/2015 and 5762 of 2015

Ajay Pal Singh and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-08-2015

Acts Referred:

Constitution of India, 1950 — Article 136

Land Acquisition Act, 1894 — Section 11, 11A, 4, 48, 52

Citation : (2015) 08 RAJ CK 0090

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Advocate : Kamalakar Sharma, Senior Counsel, for the Appellant; L.L. Gupta, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Bela M. Trivedi, J—In all this group of petitions, the petitioners have challenged the acquisition proceedings in respect of the lands covered under the same notification and the declaration issued by the State Government under Sections 4 and 6 respectively of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act"), and therefore same were heard together and are being disposed of by this common judgment.

2. The petitioners in all these petitions have mainly prayed for setting aside of the notification dated 18/8/2007 issued under Section 4 (wrongly mentioned as Section 6 in the prayer clause) by the respondent-State, and the award dated 30/8/2011 made by the respondent No. 2-Land Acquisition Officer under Section 11 of the said Act. They have alternatively prayed that the lands of the petitioners be deacquied under Section 48 of the said Act, and the respondents be restrained from dispossessing the petitioners from the lands in question.

3. For the sake of convenience and brevity, the averments made in the petition being No. 5757 of 2015 filed by Smt. Gita Soni are taken for consideration.

According to the petitioner, the respondent-State had issued the notification under Section 4 of the said Act on 18/8/2007 for acquisition of the lands mentioned therein, for the multipurpose scheme No. 13 for Urban Improvement Trust, Bharatpur. The said notification is annexed as Annexure-1 to the petition. Thereafter the respondents-State vide further notification dated 1/10/2008 and 3/10/2008 (Annexure-2 and Annexure-3) released certain lands as mentioned therein, from acquisition under Section 48 of the said Act. The declaration under Section 6 thereafter was issued on 25/8/2009 (Annex.4) for the rest of the lands mentioned therein, and the Award was passed by the respondent No. 2 on 30/8/2011 (Annex.5), which was approved by the respondent-State on 1/9/2011 under Section 11 of the said Act. As per the case of the petitioner, she had purchased the land i.e. 3/5 part of Khasra No. 432 situated in Bharatpur Chak No. 1 from one Rajjo Singh, Radhey, Madan and Kamal vide the registered sale deed dated 5/3/2009 as per Annexure-7, and she was the khatedar of 3/4 part of Khasra No. 433 as per the Jamabandi-Annexure-8. The petitioner has challenged the said acquisition proceedings on various grounds and prayed to quash and set aside the said proceedings.

4. The petitions have been resisted by the respondents by filing the replies raising preliminary objections inter alia that the petitions have been filed after the gross delay of about eight years since the notification under Section 4 was published in August, 2007, and that the petitioners were guilty of suppressing material facts. It is also contended that the petitioners had no locus standi to file the petitions and even otherwise, after passing of the award, the possession of the lands in question has already been taken over by the respondents and the same have vested in the government.

5. Before appreciating the submissions made by the learned counsels for the parties, it may be stated that earlier the said notification under Section 4 and the declaration under Section 6 of the said Act were challenged by some other petitioners in S.B. Civil Writ Petition No. 11236 of 2011 and other 99 petitions. The said petitions came to be dismissed by the Court vide the common judgment dated 7/5/2014. Being aggrieved by the said judgment, some of the petitioners in those petitions have filed the Special Appeals before the Division Bench, one of them being Appeal (Writ) No. 1418 of 2014 arising out of the CWP No. 11214 of 2011. The Division Bench in the said Appeal vide order dated 9/10/2014 has directed the parties to maintain the status quo in respect of the land in dispute covered in the said writ petition.

6. So far as present petitions are concerned, the learned counsel Mr. L.L. Gupta for the respondents has raised the preliminary objection to the effect that the petitions are not only grossly time barred but suffer from many misleading statements and concealment of material facts. According to him, the petitioners have not made true and full disclosure of facts and have filed the petitions misusing the process of law. Mr. Gupta has pointed out following misleading statements made by the petitioners:--

"(i) In petition No. 4814/2014, the petitioners have stated in para 10 that the petitioner Nos. 1 and 2 had purchased 2/5 part of the land bearing Khasra No. 759 from one Om Prakash vide sale deed dated 22.10.2001- Annexure-9, whereas Annexure-9 is the agreement to sell. It has been also mentioned in the said agreement that the said land belonged to the person belonging to the scheduled caste, and that since the purchaser i.e. the petitioner Nos. 1 and 2 are Jat by caste, the sale deed in their favour could not be executed.

(ii) In petition No. 5757/2015, the petitioner has stated in para 9 that she was khatedar of 3/4 part of khasra No. 433 as per the copy of Jamabandi-Annexure-8. The said Jamabandi is of Samvat 2068-2071. However, as per the reply filed by the respondents, the petitioner was not recorded khatedar as per the Jamabandi of Samvat 2064-2067-Annexure-R/1/4, but her name was muted on the basis of the sale deed dated 3/9/2007 in place of original khatedar in respect of part of the said khasra No. 433. The petitioner having purchased the same after the issuance of notification under Section 4, the said sale was illegal.

(iii) In petition No. 5758/2015, the petitioner has stated that he was the khatedar of Khasra No. 732 as per Jamabandi (Annexure-7) of Samvat 2068-2071. However as per the Jamabandi (Annex.R/1/3) of Samvat 2064-2067 one Bherulal was the khatedar, and the name of the petitioner was mutated on the basis of the will dated 20/2/2009.

(iv) In petition No. 5759/2015, the petitioners have stated that they are the khatedars of Khasdra No. 595 as per Jamabandi (Annex.7). However as per the Jamabandi (Annex.R/1/4), for the Samvat 2064-2067, the petitioner No. 2 was not the recorded khatedar and his name was mutated for part of the said land on the basis of the sale deed dated 7/9/2009 executed by the petitioner No. 1 in his favour. The said sale being after the issuance of notification under Section 4 was illegal.

(v) In petition No. 5760/2015, the petitioner has stated that she was khatedar of khasra No. 599 and 602 as per Jamabandi (Annexure-7) for the Samvat 2068-2071. However the said Jamabandi was in respect of Khasra No. 602 only. As such, the Jamabandi (Annexure-R/1/4) of Samvat 2064-2067 shows that one Ramswaroop was the original khatedar of the said lands, and the name of the petitioner was mutated on the basis of the sale deed dated 2/8/2008, however she had further sold out khasra No. 599 to one Mahavir Singh on 7/9/2009.

(vi) In petition No. 5761/15, the petitioners have stated that they are the khatedars of Khasra Nos. 494 and 497 as per Jamabandi (Annexure-7) for the Samvat 2063-2066. However, the Jamabandi (Annexure-R/1/4) for the Samvat 2059-2063 shows that the petitioner Nos. 3 and 4 were not the khatedars of the said lands. Their names were subsequently mutated in respect of khasra No. 494 on the basis of the sale deeds dated 31/12/2007 and 28/6/2008 executed by the petitioner Nos. 1 and 2. The said sale deeds having been executed after the issuance of notification under Section 4 of the said Act, they were illegal."

7. The aforesaid contentions raised by the respondents in their respective replies have remained uncontroverted by the petitioners as they have not filed any rejoinder or the additional affidavits clarifying or explaining the said averments made in the petitions. The Court therefore has no hesitation in holding that the petitioners had not made full and true disclosure of facts in the petitions and had tried to mislead the Court. At this juncture, a very pertinent observations made by the Apex Court in case of *Kishore Samrite Vs. State of U.P. and Others*, (2013) 5 AD 594 : (2012) 10 JT 393 : (2012) 10 SCALE 330 : (2013) 2 SCC 398 , in this regard are required to be reproduced.

"36. The party not approaching the Court with clean hands would be liable to be non-suited and such party, who has also succeeded in polluting the stream of justice by making patently false statements, cannot claim relief, especially under Article 136 of the Constitution. While approaching the court, a litigant must state correct facts and come with clean hands. Where such statement of facts is based on some information, the source of such information must also be disclosed. Totally misconceived petition amounts to an abuse of the process of the court and such a litigant is not required to be dealt with lightly, as a petition containing misleading and inaccurate statement, if filed, to achieve an ulterior purpose amounts to an abuse of the process of the court. A litigant is bound to make "full and true disclosure of facts". (Refer: *Tilokchand Motichand v. H.B. Munshi*, *A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam*, *Chandra Shashi v. Anil Kumar Verma*, *Abhyudya Sanstha v. Union of India*, *State of Madhya Pradesh v. Narmada Bachao Andolan*, *Kalyaneshwari v. Union of India*.)

37. The person seeking equity must do equity. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the equi-fundamentals of judicious litigation. The legal maxim *jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiores*, which means that it is a law of nature that one should not be enriched by the loss or injury to another, is the percept for Courts. Wide jurisdiction of the court should not become a source of abuse of the process of law by the disgruntled litigant. Careful exercise is also necessary to ensure that the litigation is genuine, not motivated by extraneous considerations and imposes an obligation upon the litigant to disclose the true facts and approach the court with clean hands.

38. No litigant can play "hide and seek" with the courts or adopt "pick and choose". True facts ought to be disclosed as the court knows law, but not facts. One, who does not come with candid facts and clean breast cannot hold a writ of the court with soiled hands. Suppression or concealment of material facts is impermissible to a litigant or even as a technique of advocacy. In such cases, the Court is duty bound to discharge rule nisi and such applicant is required to be dealt with for contempt of court for abusing the process of the court. (*K.D. Sharma v. SAIL*).

39. Another settled canon of administration of justice is that no litigant should be

permitted to misuse the judicial process by filing frivolous petitions. No litigant has a right to unlimited drought upon the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be used as a licence to file misconceived and frivolous petitions. (Buddhi Kota Subbarao v. K. Parasaran)"

8. In view of the aforestated legal position, the Court is of the opinion that the petitioners having not come with clean hands and having not disclosed the true and correct facts, rather having stated wrong facts to mislead the Court, the petitions deserve to be dismissed on that ground alone. The court also finds much substance in the objection raised by the learned counsel Mr. Gupta for the respondents to the effect that the present petitions suffer from gross delay and laches, having been filed about eight years after the issuance of notification under Section 4 and about four years after passing of the award. The possession of the lands in question have also been taken over by the respondents on 3/9/2014 as per the document at Annexure-R/1/2, which has remained unchallenged at the instance of the petitioners. The learned counsel for the respondents has rightly placed reliance upon the decision of Apex Court in case of Urban Improvement Trust, Udaipur Vs. Bheru Lal and Others, AIR 2002 SC 3309 : (2003) 95 CLT 385 : (2002) 7 JT 310 : (2002) 6 SCALE 558 : (2002) 7 SCC 712 : (2002) 2 SCR 512 Supp : (2002) 2 UJ 1433 ; Swaika Properties Pvt. Ltd. and Another Vs. State of Rajasthan and Others, AIR 2008 SC 1494 : (2008) 3 CLT 40 : (2008) 2 JT 280 : (2008) 2 SCALE 271 : (2008) 4 SCC 695 : (2008) AIRSCW 1574 : (2008) 1 Supreme 646 , State of Tamil Nadu and others etc. Vs. L. Krishnan and others etc., AIR 1996 SC 497 : AIR 1995 SC 497 : (1996) 1 SCALE 621 : (1995) 6 SCALE 231 : (1996) 1 SCC 250 : (1995) 4 SCR 663 Supp , Aflatoon and Others Vs. Lt. Governor of Delhi and Others, AIR 1974 SC 2077 : (1975) 4 SCC 285 : (1975) 1 SCR 802 : (1974) 6 UJ 765 & Smt. Ratni Devi and Another Vs. Chief Commissioner, Delhi and Others, AIR 1975 SC 1699 : (1975) 4 SCC 467 : (1975) SCR 361 Supp to submit that the writ petitions challenging land acquisition proceedings after gross delay are liable to be dismissed. It is also held in case of Municipal Corporation of Greater Bombay v. Industrial Devt. Investment Co. Pvt. Ltd., 1996 (11) Sec. 501 that when there is inordinate delay in filing the writ petition and when all steps taken in acquisition proceedings have become final, the Courts should be loath to quash the notifications. Similar view has been taken by the Supreme Court in case of State of Rajasthan and Others Vs. D.R. Laxmi and Others, (1996) 7 AD 562 : (1996) 9 JT 327 : (1996) 7 SCALE 316 : (1996) 6 SCC 445 : (1996) 6 SCR 221 Supp : (1997) 1 UJ 445 and in case of The Municipal Council, Ahmednagar and Another Vs. Shah Hyder Beig and Others, AIR 2000 SC 671 : (1999) 10 JT 336 : (2000) 1 SCALE 124 : (2000) 2 SCC 48 : (1999) 5 SCR 197 Supp : (2000) AIRSCW 197 : (2000) 1 Supreme 146 that when the award is passed and the possession is taken, the writ petitions challenging acquisition notice or proceedings should not be entertained by the Courts.

9. So far as challenge to acquisition proceedings is concerned, it is required to be

noted that the petitioners have remained conveniently silent as to whether they had filed any objections in the inquiry under Section 5A or not, or whether they had received any notice under Section 9 of the said Act or not, and as to when they came to know about the award made by the Land Acquisition Officer. In absence of such pleadings in the petitions, the Court has reason to believe that though the petitioners were aware about the acquisition proceedings under the said Act, they had chosen not to challenge the same till these petitions were filed in 2015. The Apex Court in case of *Delhi Administration Vs. Gurdip Singh Uban and Others*, AIR 2000 SC 3737 : (2000) 9 JT 245 : (2000) 5 SCALE 651 : (2000) 7 SCC 296 : (2000) 2 SCR 496 Supp : (2000) AIRSCW 4354 : (2000) AIRSCW 4180 : (2000) 8 Supreme 268 : (2000) 6 Supreme 58 , & *Delhi Administration Vs. Gurdip Singh Uban and Others etc.*, AIR 1999 SC 3822 : (1999) 6 JT 223 : (1999) 5 SCALE 145 : (1999) 7 SCC 44 : (1999) 1 SCR 650 Supp : (1999) 2 UJ 1320 : (1999) AIRSCW 3893 : (1999) 7 Supreme 303 has held inter alia that in connection with owners or persons interested who have not filed objections under Section 5A, in principle it must be accepted that they had no objection to Section 4 notification operating in respect of their property and therefore they could not be allowed to contend that Section 5A enquiry was bad or that consequently section 6 declaration must be struck down and Section 4 notification also be lapsed.

10. The learned counsel Mr. Sharma for the petitioners has also conceded that there is nothing on record to suggest that the petitioners had filed any objections, during the enquiry under Section 5A of the said Act and that they had also not challenged the notices issued under Section 9 of the said Act. Under the circumstances, the Court has no hesitation in holding that the petitioners even if are held to be the persons interested in the lands in question, had chosen not to challenge the acquisition proceedings all throughout till the award was made in the year 2011, and even four years thereafter till the present petitions were filed in April, 2015. The acquisition proceedings thus having stood concluded by passing of the award and vesting of the lands in the Government, the petitioners have no right to challenge the same at such a belated stage. Mr. Gupta has rightly placed reliance upon the decisions in case of *State of Rajasthan v. Dr. Laxmi & Ors.* (supra), and in case of *Municipal Council, Ahmednagar v. Shah Hyder*(supra), in this regard.

11. Though the learned Senior Counsel Mr. Kamalakar Sharma had sought to submit that the declaration under Section 6 was not made within one year of the issuance of notification under Section 4, and therefore the proceedings had lapsed, the Court does not find any substance in the said submission. As transpiring from the record, the notification under Section 4 was issued on 18/8/2007, published in gazette on 23/8/2007, published in two newspapers on 6/11/2007, and 8/11/2007 and was pasted in the locality on 28/8/2008, and the declaration under Section 6 was issued on 25/8/2009 i.e. within the period of one year from the last date of publication of Section 4 notification. The said issue has also been elaborately dealt with by the Coordinate Bench in the earlier bunch

of writ petitions being CWP Nos. 11236/2011 and others, and recorded satisfaction after verifying the original record that the notification under Section 4 was lastly published in the locality on 28/8/2008, and the declaration under Section 6 was made on 25/8/2009 within the prescribed time limit.

12. The learned Senior Counsel Mr. Sharma has placed reliance to the decision of Apex Court in case of State of Mysore Vs. Abdul Razak Sahib, AIR 1973 SC 2361 : (1973) 3 SCC 196 : (1973) 1 SCR 856 , the Collector (District Magistrate), Collector (District Magistrate) Allahabad and Another Vs. Raja Ram Jaiswal, AIR 1985 SC 1622 : (1985) 1 SCALE 1044 : (1985) 3 SCC 1 : (1985) 3 SCR 995 & Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad, A.P. Vs. Mohd. Amri Khan and Others, (1986) 2 SCALE 779 : (1986) 1 SCC 3 : (1985) 3 SCR 152 Supp : (1986) 1 UJ 60 to submit that there should not be large gap between the publication in the Gazette and public notice in the locality as would be indicative of break in the continuity of action. However, the Apex Court in case of Deepak Pahwa and Others Vs. Lt. Governor of Delhi and Others, AIR 1984 SC 1721 : (1984) 2 SCALE 239 : (1984) 4 SCC 308 : (1985) 1 SCR 588 : (1985) 17 UJ 237 , and in case of State of Haryana and Another Vs. Raghubir Dayal, (1998) 4 JT 507 : (1994) 4 SCALE 1084 : (1995) 1 SCC 133 : (1994) 5 SCR 448 Supp : (1995) 1 UJ 120 , has held inter alia that the time gap between publications of Section 4 notification would not render notification invalid. There is no invariable rule that acquisition would be invalid whenever there was a gap or time between publication in gazette and in locality. In the instant case, as disclosed hereinabove, the petitioners having not raised any objection in the enquiry under Section 5A of the said Act, and even thereafter till the petitions have been filed in the year 2015, they have no right to challenge the said notification under section 4 at this stage.

13. While fairly conceding that the award was made within the time limit as prescribed in Section 11A of the said Act, Mr. K.K. Sharma has submitted that the respondents-State had meted out discriminatory treatment against the petitioners by releasing from acquisition some parcels of lands adjacent to the petitioners' lands. The Court also does not find any substance in the said submission. The said issue has also been widely covered by the Coordinate Bench in the earlier set of petitions, and after considering various judgments of Supreme Court has held as under:--

"The judgments referred to above shows that discrimination should not be caused while acquiring the land. The respondents, on the other hand, submitted that no discrimination has been made and, if, at all, respondents have committed a wrong, it should not be perpetuated or vitiate the proceedings as the acquisition of land by them is for public purpose. The averment in the reply shows that the land possessed by the Educational Charitable Trust/Educational institutions and Dharmshala was left from acquisition and, similarly, land on which "pucca" construction were found at the time of survey. The survey for the aforesaid purpose was conducted in the year 2008 and report has been annexed

along with the reply as Annexure/R/1/7. In view of the reasons and justification, a case of discrimination is not made out. In all the judgments referred above, no justification for discrimination was given thus those cases were decided on its facts".

14. It was further held by the Coordinate Bench that:--

"The judgments aforesaid have been referred to find out as to whether acquisition can vitiate on the ground of discrimination itself. In the judgments referred by learned counsel for petitioners, the allegation of discrimination was between similarly placed persons, whereas, aforesaid is missing in the instant case. The land left out from acquisition was having development or used for community purposes like educational institutions/hospital or Dharmshala etc. Few khasras were left out from acquisition as per the order under section 5A of the Act of 1894 where objections were decided favourable and have not been challenged herein. If any land has been left out as per the order under section 5A of the Act, then parity cannot be claimed as out of 100 petitioners, 85 petitioners did not submit even objections and so far as other are concerned, they were not similarly placed as is coming out from bare perusal of the objections, where averment regarding existence of construction or development in the land has not been made and contrary to the aforesaid, pleadings in the writ petitions exist though cannot be accepted contrary to "moka report" and to the objections raised by some of the petitioners under section 5A of the Act".

15. The aforestated findings being just and proper this Court is not inclined to take any different view to hold that respondent State had meted out any discriminatory treatment to the petitioners, more particularly when the Court has found that the petitioners have not disclosed true and correct facts in the petition and have approached the Court misusing the process of law after gross delay. Even otherwise it is the concerned authority, which has to carry out planned development, is in the best position to judge as to whether land can be exempted from the acquisition without jeopardizing the development scheme, as held by Apex Court in case of Anand Buttons Ltd. Vs. State of Haryana and Others, AIR 2005 SC 565 : (2005) 1 CTC 450 : (2004) 10 JT 397 : (2004) 10 SCALE 354 : (2005) 9 SCC 164 .

16. As rightly submitted by the learned counsel Mr. L.L. Gupta for the respondents, the petitioners have failed to make out any factual foundation in their respective petitions with regard to the alleged discrimination, and in any case even if any irregularity or illegality has been committed in withdrawing some of the lands from the lands covered under notification under Section 4, the said illegality cannot be allowed to be perpetuated in view of the decision of Apex Court in case of The Rajasthan State Industrial Development and Investment Corporation Vs. Subhash Sindhi Cooperative Housing Society Jaipur and Others, (2013) 3 AD 29 : AIR 2013 SC 1226 : (2013) 3 JT 1 : (2013) 2 SCALE 434 : (2013) 5 SCC 427 : (2013) AIRSCW 1174 : (2013) 2 Supreme 345 .

17. It was lastly sought to be submitted by the learned counsel Mr. Sharma for the petitioners that the Division Bench, in the appeal being No. 1418 of 2014 preferred by some of the petitioners challenging the order dated 7/5/2014 passed by the Coordinate Bench in earlier bunch of petitions, has observed inter alia that there was no plan or scheme projected and prepared for the purposes of utilization of land for its acquisition for public purpose, in exercise of powers of eminent domain with the State government. There is also no force in the said submission of the learned counsel Mr. Sharma. In the opinion of the Court, the observations of Supreme Court in case of Pratap and Others Vs. State of Rajasthan and Others, AIR 1996 SC 1296 : (1996) 2 JT 759 : (1996) 2 SCALE 543 : (1996) 3 SCC 1 : (1996) 2 SCR 1088 : (1996) 1 UJ 822 clinch the said issue. It is observed that

"15. Decision of this Court in Gandhi Grah Nirman Sahkari Samiti Ltd. v. State of Rajasthan, also considered a similar question pertaining to the Rajasthan Urban Improvement Act, 1959 itself. It had been contended that land could not be acquired under Section 52 of the Act unless and until there was a scheme for improvement of the urban area under the Rajasthan Urban Improvement Act, 1959. Rejecting this contention this Court observed as follows:

"The crux of the argument is that the improvement in the urban area can only be carried out by executing the schemes framed under the Act and in no other way. We do not agree with Mr. Shanti Bhushan. Under the scheme of the Act the improvement of the urban area can be undertaken by the Trust and also by any of the departments of the Government. The framing of the scheme becomes mandatory only when the work is undertaken by the Trust. The State Government, in any of its departments, may decide to develop the urban area under the Act and in that case it would not be necessary for the Government to have a scheme framed under Chapter V of the Act. The power of the State Government to acquire land under the Act has been designed to meet the scheme of the Act. Under Section 52 of the Act the land can be acquired by the State Government at the instance of the Trust, or a department of the Government or any prescribed authority. The plain language of Section 52(1) of the Act negates the contention raised by Mr. Shanti Bhushan. Where on a representation from the Trust or otherwise it appears to the State Government that any land is required for the purpose of improvement or for any other purpose under the Act it can acquire such land by issuing a notification under Section 52(1) of the Act. It is, thus, clear that the State Government has the power to acquire land either for the execution of the schemes framed by the Trust under Chapter V of the Act or for any other public purpose under the Act. No fault can be found with the procedure followed by the State Government in this case. The notification issued by the State Government under Sub-section (1) of Section 52 of the Act specifically states that the land was being acquired for the construction of residential, commercial and administrative buildings. The Government -- having taken a policy decision to acquire land for the public purpose -- was justified in issuing the notification under Section 52(1) of the Act

in respect of the land in dispute."

16. The effect of this is that even if there is no scheme prepared or finalised, under a Housing Board or Urban Improvement Act, acquisition could be validly made under the provisions of the Land Acquisition Act for a public purpose or under the Rajasthan Urban Improvement Act for the purpose of improvement or for any other purpose under the Act. The decision relating to the Rajasthan Act is directly on the point. The other decision under the Tamil Nadu Act does not, therefore, require any further discussion."

18. In view of the aforestated position, even if there was no scheme prepared or finalized, it could not be said that the acquisition was not made validly under the provisions contained in the said Act for public purpose as stated in the notification under Section 4 of the said Act. Following the decision in case of Pratap & Anr. v. State of Rajasthan (supra), the Apex Court in case of Jaipur Development Authority v. Sitaram & Ors, AIR 1997 SC 110 held inter alia that the view of High Court that framing of scheme is a pre condition for acquisition of land is not a correct propositions of law. The notification for acquisition cannot be quashed on that ground.

19. In view of the above, the Court does not find any merit in any of the submissions made by the learned counsel for the petitioners. On the contrary, the Court has found that the petitioners have made incorrect and misleading statements and have not come with clean hands. Therefore the petitions deserve to be dismissed with cost and are accordingly dismissed. The petitioners of each petition except petitioners of the petition being No. 5762/2015, are directed to deposit the cost of Rs. 10,000/- in this Court within three weeks from today. The respondents shall be at liberty to withdraw the same when deposited. The office to report about compliance. By this order, the stay application and other pending application, if any also stand dismissed. A copy of this order be placed in each connected files.