

(1975) 12 DEL CK 0004

In the Delhi High Court

Case No : Civil Writ Appeal No"s. 909, 917, 934, 938, 946, 957, 963, 968 and 973 of 1969

Bahadur Singh etc.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 18-12-1975

Acts Referred:

Citation : (1976) ILR Delhi 375

Hon'ble Judges : Prithvi Raj, J

Bench : Single Bench

Advocate : P.N. Lekhi, D.R. Dhamija, G.N. Aggarwal, B.N. Lokur, U.S. Chaudhary, R.K. Mehra, U.P. Singh, C.M. Oberoi, Ram Paul, V.P. Nanda, Urmila Kapoor and R.N. Dixit, for the Appellant;

Judgement

Prithvi Raj, J.

(1) Since questions of law and most of facts are common in these writ petitions it would be proper to dispose them of by a single judgment.

(2) The Chief Commissioner of Delhi issued notification dated 24th October, 1961, u/s 4 of the Land Acquisition Act (herein called "the Act") stating that land measuring 16,000 acres situate in Cantonment area, village Naraina., including the lands of the petitioners was required by the Government at the public expense for a public purpose, namely, for planned development of Delhi. Different declarations u/s 6 of the Act were issued subsequently in 1966 in respect of the lands of the petitioners specifying the field numbers stating that the field numbers mentioned in the declaration were required to be taken by the Government at the public expense for the aforesaid public purpose, namely, "for the planned development of Delhi" and in consequence the Collector of Delhi was directed u/s 7 of the Act to take order for the acquisition of the said land.

(3) The petitioners in these writ petitions challenge the aforesaid notification u/s 4 and declarations u/s 6 of the Act on various grounds as noted below in respect

of each writ petition.

(4) Bahadur Singh petitioner in Civil Writ No. 909 of 1969 the owner of land comprised in Khasra Nos. 992 to 994 and 997/2 measuring 2 Bighas and 14 bids was situate in village Naraina contends that he is a retired military officer and bought the land in question for rehabilitating himself after his retirement in that he wanted to set up a petrol pump on the site; that he filed a plan seeking permission of the Cantonment Board for building the petrol pump and service station slating that he himself would operate the same to earn his livelihood; that his petrol pump was sanctioned on 31st March, 1967. as per Annexure "G" to the writ petition and that the site of his land in the Master Plan is earmarked for filling-cum-service station and as such cannot be used for any other purpose, acquiring the land for another purpose would be mala fide and colourable exercise of power. He further contends that at the time he bought the land in question from its erstwhile owners never came to know of the impugned notifications, public notice of the same having not been given at convenient places in the locality to apprise the owners of the threatened acquisition. The petitioner's case is that he came to know of these notifications on 30th August, 1969, on receipt of notices of the Collector under sections 9 and 10 of the Act from which he learnt that his land was being acquired.

(5) Gurdial Singh Punn petitioner in Civil Writ No. 963 of 1969, the owner of land measuring 1590 Square Yards out of Khasra No. 1065-Min in village Naraina in the Cantonment area, assails the impugned notifications on the ground that in the declaration issued u/s 6 of the Act instead of expressing the satisfaction of the appropriate Government the notification recites that "whereas it appears to the Lt. Governor, Delhi", which recitation, the petitioner contends, lacks the satisfaction of the appropriate Government. It is further contended that the Administrator of the Union Territory of Delhi is not an entity in his own right, being only an agent of the President, the Administrator could not further delegate the power and authority delegated to him; but that he had done so in that the impugned notifications had been issued by the housing Commissioner and the Deputy Housing Commissioner which are illegal, without authority and invalid: that the acquired land is situate in a triangle comprising block No. 16 which in the Master Plan had been shown as "of no use" and that being so the appropriate Government had failed to appreciate the description assigned to that land in the Master Plan and acted mechanically and illegally in initiating and continuing the acquisition proceedings: which are fraud on power. The petitioner contends that a combined reading of sections 110 and 117 of the Cantonment Act, 1924 (hereinafter called "the Cantonment Act") unmistakably contains the conception of planning and before any land is required for planned development the Cantonment Board and not any other authority shall have power and authority to initiate proceedings in so far as they relate to the planned development within the Delhi Cantonment and that the Delhi Development Act, 1957, (hereinafter called "the Development Act") is not applicable to the Cantonment area.

(6) Ajay Krishan Singhal petitioner in civil writ petition No. 917 of 1969 is the owner with possession of built properties comprising of shops, godowns and a walled enclosure on and around Khasra No. 1067 situate in village Naraina comprised in triangular area, block No. 16, in Delhi Cantonment.

(7) Madan Mohan Jain petitioner in Civil Writ No. 934 of 1969 is the owner with possession of land comprising Khasra No. 1071- min, village Naraina, in Delhi Cantt. area.

(8) Ram Narain, Mohinder Singh and Shiv Ram petitioners in civil writ No. 946 of 1969 are the owners of land comprising Khasra Nos. 1066 and 1071-min situate in village Naraina in the Delhi Cantt area.

(9) All these petitioners have challenged the notification u/s 4 and the declaration made u/s 6 of the Act precisely on the same grounds which are taken by Gurdial Singh Punj in his writ No. 963 of 1969, noted above.

(10) Vishwa Nath Duggal petitioner in Civil Writ No. 938 of 1969 is the owner of 17 bids was (840 Square Yards) of land comprised in Khasra No. 1065, village Naraina, in Block No. 16, Delhi Cantonment, having purchased the same from its erstwhile owner by registered sale-deed dated 26th August, 1968. He has taken similar grounds in challenging the acquisition of his land as are urged by the petitioners in the earlier noted writ petitions. His contention is that he learnt of the present acquisition on 25th August, 1969, on the receipt of the notice issued by the Collector under sections 9 and 10 of the Act and that earlier he or his predecessor-in-interest did not have any knowledge of the notification u/s 4 and declaration u/s 6 of the Act made on 7th December, 1966 : that his land was not described in the notification u/s 4 of the Act so that for want of proper identification his predecessor-in-interest could not file objections to the acquisition besides averring that the purpose of acquisition, namely, "planned development of Delhi" in the notification u/s 4 of the Act is vague. He further contends that in the declaration issued u/s 6 of the Act the requisite satisfaction of the appropriate Government is lacking as the declaration proceeds on the basis "whereas it appears to the Lt. Governor". The declaration as such was invalid in terms of section 6 of the Act. It is further averred that the draft master plan was released on 8th July, 1960- for inviting objections. His land is situate in Zone G-8 in respect of which Zone the land use described is "no use." Because of it he purchased and raised structures thereon known as "Duggal Market". In the circumstances, he contends that the respondents, the Lt. Governor and the Delhi Administration had no authority or jurisdiction in law to resile from the assurances and the specific provisions of the master plan to his detriment, the said respondents are estopped in law from acting in a manner as if the solemn assurances and specific provisions of the master plan did not exist. The case of the petitioner further is that u/s 15 of the Development Act, it is the Central Government which has been described as the authority to decide whether any land was required for planned development of Delhi, that his land could not be acquired on the opinion or satisfaction of the Lt. Governor, Delhi, but only after

the Central Government was satisfied to that effect.

(11) Laxmi Chand petitioner in Civil Writ No. 968 of 1969 alleges that he along with one V. K. Goyal is the owner of 3 bids was (150 Square Yards) of land, part of Khasra No. 991-Min in village Naraina comprised in Block No. 16, Delhi Cantonment, along with two rooms built thereon which area along with the construction thereon was purchased by them by sale-deed dated 10th January, 1969. He further avers that by an oral partition with V. K. Goyal the front portion abutting on the Ring Road measuring 88 Square Yards along with two rooms fell to his share. His grievance is that neither his predecessor-in-interest nor he knew of the impugned notifications and came to know of the same on receipt of notices under sections 9 and 10 of the Act.

(12) Harkesh Singh petitioner in Civil Writ No. 957 of 1969 and Hamand Singh and Hargian Singh petitioners in civil writ No. 973 of 1969 challenge the acquisition of their property precisely on the grounds on which the petitioners in the earlier noted writ petitions have challenged the acquisition.

(13) In the case of Harkesh Singh the land sought to be acquired measures 1270 Square Yards bearing Khasra Nos. 1965 and 1965-B situate in village Naraina in Block No. 16, Delhi Cantonment. He claims to have purchased the land from Chhotey Lal on 9th April, 1969, and contends that he came to know of the acquisition proceedings from the notice dated 25th August, 1969, u/s 9 of the Act issued to Vishwa Nath Duggal.

(14) In Civil Writ No. 973 of 1969 the land sought to be acquired measures 15 Bighas 17 bids was bearing Khasra Nos. 862, 897, 862-Min, 864 and 1068 situate in village Naraina, block No. 16, Delhi Cantonment. The petitioners in that writ petition also contend that they came to know of the acquisition proceedings on 25th August, 1969, on the issue of notice under sections 9 and 10 of the Act.

(15) The challenge to the impugned notifications in the above two writ petitions is precisely on the same grounds as was urged by the other petition in the earlier noted writ petitions.

(16) The respondents, i.e., the Delhi Administration, Delhi Development Authority and the Executive Officer, Cantonment Board, Delhi, have filed counter-affidavits in each case. The stand taken in the counter-affidavit on behalf of the said authorities in all the writs is mostly the same. It would, Therefore, be proper to record the contentions raised by each of the authorities in their counter affidavits together, while recording the contentions on behalf of each of the said authorities.

(17) The Delhi Administration in its counter-affidavit has alleged that notification u/s 4 of the Act was duly published in the Gazette and that public notice was given at convenient places in the locality; that the petitioners' land were delineated in the description of the land given in the notification u/s 4 of the Act admitting that the lands, however, were not specifically referred to by numbers;

that the lands after acquisition have to be allotted to leasehold basis. It is further averred that the lands are being acquired under the Act, the provisions of which are independent and are not subject to the provisions of either the Development Act or the Cantonment Act. Before issuing the declaration u/s 6 of the Act, the Administration contends, the appropriate Government, namely, the Government of the Union Territory of Delhi was fully satisfied on a consideration of the report of the Collector under subsection (2) of section 5A of the Act that the land in question was required and needed for the public purpose of planned development of Delhi and it was after such satisfaction that the declaration u/s 6 of the Act was issued. In respect of the contention that the declaration was not signed by the Lt. Governor being the competent authority to make it, the Administration placed reliance on notification No. F.4/2/66-AB dated 7th September, 1966, issued by the Delhi Administration in exercise of powers conferred by sub-section (3) of section 29 of the Delhi Administration Act under which the Delhi Administration (Authentication of Orders and Other instruments) Rules, 1966 was promulgated averring that under Rule 2 of the said Rules, Orders and other instruments made and executed in the name of the Administrator shall be authenticated, inter alia, by Special Secretary of the Delhi Administration.

(18) Further, the case of the Administration is that in the land-use map to the Master Plan, the land use of the areas comprised in the lands in Delhi Cantonment, has been shown as Government land "use undetermined".

(19) With reference to the allegation of Bahadur Singh petitioner in Civil Writ No. 909 of 1969 that his land sought to be acquired was ear-marked for the petrol pump which business he had already undertaken to run and as such having in a way met the proposed object of the acquisition, his land be not acquired, the Administration contends that the acquired land has to be allotted on leasehold basis to the Indian Oil Corporation or to other oil company and not to an individual, adding that Bahadur Singh purchased the land in question much after the declaration u/s 6 and as such it was not open to him to complain of violation of any fundamental right. To the other contention of Bahadur Singh that vide Annexure "H" to his petition the Executive Officer of the Cantonment Board was asked to withhold the permission to him for constructing a building, the case of the Administration is that in the aforesaid letter it had only brought the fact to the notice of the Executive Officer that the land in respect of which building plan was submitted was the subject-matter of acquisition and that no undue pressure had been brought to bear on the Executive Officer of the Cantonment Board.

(20) The Administration denied the title of Gurdial Singh Punj (Petitioner in civil Writ 963 of 1969) and contended that he is not the owner of the land in question and that is why notice under sections 9 and 10 of the Act were not issued to him though the petitioner on his own without any interest or right in the land in question filed a claim.

(21) Dealing with the contention of Ram Narain, Mohinder Singh and Shiv Ram

petitioners in Civil Writ No. 946 of 1969 to the effect that they had constructed some rooms on the land in question the Administration contends that the said rooms were duly built by them at their peril after issuance of notification u/s 4 of the Act.

(22) The Administration denying the ownership of Madan Mohan Jain in respect of land, subject-matter of Civil Writ No. 934 of 1969, contended that the said land was the ownership and in possession of one Ram Saran and not the petitioner, Madan Mohan Jain.

(23) The Development Authority in its counter-affidavit filed through its Secretary has contended that the Development Act extends to the whole of the Union Territory of Delhi including the Cantonment area and that the land in question was being acquired for the planned development of Delhi which is a public purpose, alleging that u/s 15 of the Development Act the land could be acquired for the said purpose by resort to the provisions of the Act. Dealing with the petition of Vishwa Nath Duggal petitioner in Civil Writ No. 938 of 1969, the Development Authority has contended that the petition was belated one because of the laches in that the petitioner purchased the land in question on 26th August, 1968, much after the notification and as such he was estopped and debarred from challenging the notification.

(24) The Executive Officer of the Cantonment Board in his counter-affidavit filed on behalf of the Board in the case of Vishwa Nath Duggal has contended that the petitioner purchased the land subsequent to the issuing of the impugned notification and set up the constructions unauthorisedly without consent of the Cantonment Board contending further that notice u/s 185 of the Cantonment Act had been issued to him for demolition of the unauthorised construction. On the whole the stand of the Cantt. Board is that the provisions of the Cantonment Act (section 110) do not preclude any other authority from acquiring land within the limits of the Cantonment Board averring further that the existence of the aforesaid section does not exclude the application of the Act in the Cantt. area.

(25) The first contention canvassed on behalf of the petitioners was that there is a bar to the acquisition of land comprised in the Delhi Cantonment under any other Act without the request of the Cantonment Board envisaged in section 110 of the Cantonment Act. It was further strenuously contended that the Cantonment Act is a special Act making provision for the planned development of areas comprised in the Cantonments and prohibiting acquisition being made by any other authority by resort to any other Act for the said purpose.

(26) Entry No. 3 of List I (Union List) of the Seventh Schedule of the Constitution, goes the argument, provides for delimitation of Cantonment areas, local-self Government, the Constitution and powers within such areas of the Cantt. authorities and the regulation of house accommodation (including the control of rent) in such areas. The words "the regulation of house accommodation" in terms would mean the same thing as the planned

development, till such time the law relating to entry No. 3 of List I of the 7th Schedule of the Constitution has to be in force, no acquisition proceedings were legally competent within the boundaries of the Cantonment except as provided for in section 110 of the Cantonment Act.

(27) Section 110 of the Cantonment Act, as it was submitted, provides that when there is any hindrance to the permanent or temporary acquisition upon payment of any land required by a Cantonment Board for the purposes of this Act, Central Government may, at the request of the Board procure the acquisition thereof under the provisions of the Land Acquisition Act, 1894, on payment by the Board of the compensation awarded under the Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Board. Further amongst the discretionary functions of the Board provided in sub-section (1) of section 117 are that the Board may, within the Cantonment, make provisions for-

(I) laying out in areas whether previously built upon or not, new streets and acquiring land for that purpose and for the construction of buildings and compounds of buildings, to abut on such streets ;

(II) constructing, establishing or maintaining public parks, drinking fountains, tanks, wells and other works of public utility;

(III) reclaiming unhealthy localities ; and

(IV) adopting any measure likely to promote the Safety, health or convenience of the inhabitants of the Cantonment.

(28) The above discretionary functions, it was urged, enjoined upon the Board were not anything other than a duty cast for the planned development of a Cantonment. If that be so, goes the argument, the development could be carried out within the ambit of the Cantonment Act and at the behest of the Board, an outside agency having no say in it. In issuing the impugned notifications under sections 4 and 6 of the Act, it was submitted, the concerned authority not only exercised jurisdiction irregularly or wrongly but usurped powers which it did not possess. That the Cantonment Act was a special Act was sought to be supported on the basis of a judgment of the Mysore High Court in case *Chamu Nemappa Gotadki v. N. H. Nesarikar and others*, reported in 1971 R.C.R. 426(1). In that case a contention was raised that Mysore Legislature had no competence to make a law in respect of regulation of house accommodation (including the control of rents) in cantonment area in that the subject-matter fell under Entry 3 in List I of the Seventh Schedule of the Constitution of India. Dealing with the contention, it was observed that Entry No. 3 of List I of the Seventh Schedule vests in the Parliament the exclusive power to regulate house accommodation in Cantonment areas without any qualifying words, irrespective of the fact that the tenants were either military officials or civilians and that the State Legislature was not competent to make law in respect of Cantonment area. It was in that context that it was observed that Cantonment is a special Act and that the State

Legislature was not competent to pass a law in respect of regulation of house accommodation including the control of rents in Cantonment area. The said authority is of no assistance to the petitioners. In that case the challenge was to the competency of State Legislature to pass a law on a subject which was the province of Parliament alone. That is not the case in the instant writ petitions- The question whether the Cantonment Act was a special Act did not arise in the controversy that was before the Mysore High Court, and I say so, with respects, there being patent lack of jurisdiction with the State Legislature to encroach upon a subject which is the province of Parliament. The aforesaid observations that Cantonment Act is a special Act Therefore cannot be put up as a shield by the petitioners to throttle the acquisition proceedings.

(29) In acquiring the lands of the petitioners as also other lands in case of the Administration is that after the partition of the country in 1947 due to the huge influx of displaced persons from erstwhile West Pakistan into the City and suburbs of Delhi created serious housing problem throughout Delhi. The planned development of the town accordingly became a vital necessity of civil life in the capital because of the paucity of available land which not only gave a handle to speculators in land deals to make money out of the misfortunes of the people clamouring for land for shelter but also resulted in haphazard growth of colonies in haste. The problem was further aggravated by the enormous potential of Delhi as a centre for employment along with other factors, namely, the expansion of industrial and commercial activities, setting up of the foreign embassies and arrival of foreign missions and all these factors contributed to the unprecedented growth of population in Delhi and its suburbs. The rapid expansion of Delhi was not accompanied by an adequate programme of housing. It was in these circumstances that it was considered necessary by the Government to take effective measures to check the haphazard growth of dwellings and houses of various kinds in different parts of the city to ensure the orderly and planned development of Delhi so as to provide accommodation for different classes of people who live and work in the Union Territory of Delhi. To achieve this end the Government in 1955 set up Town Planning Organisation which prepared an interim General Plan in 1956 as a working basis to checkmate the haphazard growth of the town. The studies made by the Town Planning experts revealed that the population projection required very large areas of land for residential and commercial use. After the preparation of the Interim General Plan, the Town Planning Organisation worked on the bigger project of preparing a Master Plan.

(30) The Government accordingly decided initially to acquire 34.070 acres of land in and around the City to develop it properly. Notification in respect of this area was issued in November, 1959, and another notification u/s 4 of the Act in respect of 16,000 acres of land was issued in October, 1961. It is this notification which is impugned by the petitioners.

(31) In July 1960 Draft Master Plan was published giving detailed rules and regulations in respect of the "land use" and allied matters inviting objections

before finalising the Master Plan which eventually was published in 1962.

(32) The question accordingly is whether in tackling the staggering problem created by the mounting population due to the various factors, enumerated above necessitating the planned development in and around the city of Delhi, the Chief Commissioner of Delhi could acquire land in the Cantonment area independently of the provisions of the Cantonment Act or whether the said Act is a bar to the acquisition of any land for the aforesaid purposes as was sought to be contended by the learned counsel for the petitioners. To answer this question it would be appropriate to enquire whether the Cantonment area is a separate entity, vis-a-vis the Union Territory of Delhi or whether it is a part and parcel of the latter as the area comprised in the Municipal Corporation of Delhi and that of New Delhi Municipal Committee is. It is futile for the petitioners to contend that the area comprised in the Cantonment of Delhi is an entity apart from the Union Territory of Delhi. The Union Territory of Delhi takes within its sweep the area comprised in the Municipal Corporation of Delhi, New Delhi Municipal Committee and the Cantonment area. It need hardly be stated here that the Delhi Administrations Act, 1966 provides for the association of the representatives of the people of the Union Territory of Delhi with the administration of Delhi and establishes a Metropolitan Council for the entire territory which, is already noted above, is covered by the three Local Bodies, viz.- Delhi Municipal Corporation, New Delhi Municipal Committee and the Delhi Cantonment Board. According to sub-section (2) of section 3 of the Delhi Administration Act, 1966, the total number of seats in the Metropolitan Council to be filled by persons chosen by direct election from territorial constituencies shall be fifty-six while under sub-section (3) the Central Government may nominate not more than five persons, not being persons in the service of the Government, to be members of the Metropolitan Council. One of the territorial constituency for electing a member to the Metropolitan Council is the Delhi Cantonment, being an integral part of the Union Territory of Delhi.

(33) The next question to be determined is whether in carrying out the planned development of Delhi in respect of the area comprised in the Delhi Cantonment, the development is to be achieved within the ambit of the Cantonment Act or the provisions of the Act can be pressed into service for achieving the object.

(34) The Cantonment Act was passed in 1924, when the problem of planned development of Delhi which is now facing the Administration could even not be imagined. The problem of planned Development of Delhi had arisen in the wake of the partition of the country. Section 110 of the Cantonment Act empowers the Cantonment Board to request the Central Government if the Board felt any hindrance to the permanent or temporary acquisition upon payment of any land required by it for the purposes of the Cantonment Act to acquire the said land for the Board under the provisions of the Land Acquisition Act, 1894. Such a land shall vest in the Board on payment by it of the compensation awarded under the Act and of the charges incurred by the Government in connection with the

acquisition proceedings. It is, Therefore evident that the purpose of acquisition of any land u/s 110 of the Cantonment Act is a limited purpose for carrying out the discretionary functions enjoined on the Board u/s 117 such as laying out in areas, whether previously built or not, new streets and for the construction of buildings, and compounds of buildings, to abut on such streets; constructing, establishing or maintaining public parks, gardens, offices, dairies, bathing or washing places, drinking fountains, tanks, wells .and other works of public utility ; and reclaiming unhealthy localities. A bare perusal of the aforesaid functions would show, that apart from being discretionary function which the Board may or may not undertake, the conception of planned development of Delhi is foreign to the works in which a Board can engage itself. The Cantonment Act provides for the municipal administration of the area comprised in the Cantonment, by no stretch of imagination it can be urged that the planned development of Delhi could be one of the activities the Board could undertake in its limited powers. Acquisition contemplated by section 110 of the Cantonment Act is not relatable for acquisition of land for the planned development of Delhi which acquisition could only be restored to under the provisions of the Act. The powers and functions of the Board under sections 110 and 117 of the Cantonment Act are the normal powers and functions which every municipal committee or Corporation is invested with in the functioning of the municipal administration. Reference here may be made to section 58 of the Punjab Municipal Act, 1911, as applicable to area comprised in the New Delhi Municipal Committee and sections 197 to 199 of the Delhi Municipal Corporation Act, 1957, under which the aforesaid two municipal bodies can acquire land or other immovable property. On the reasoning of the petitioners, land for planned development of Delhi for the area comprised in the New Delhi Municipal Committee and the Delhi Municipal Corporation shall be acquired within the four corners of the enactment applicable to the respective body. But that is not the case of the petitioners whose stand is that the land in the city of Delhi can be acquired under the Development Act. If that be so, there should be no inhibition in the acquisition of land in the Cantonment area outside the Cantonment Act.

(35) ; That Cantonment was a special area where acquisition of land and development could be done within the four corners of the Cantonment Act was also sought to be urged by the learned counsel for the petitioners on the ground that instead of extending rent laws, made enforceable in the Union Territory of Delhi, Special Act, namely. The Cantonment (Extension of Rent Control Laws) Act, 1957, was enacted regarding the control of rents, regulation of house accommodation in the Cantonment areas. The mere fact that the Delhi Rent Control Act was not made applicable to Cantonment Area would not make the said area sacrosanct to be treated differently than the other integral units of the Union Territory of Delhi for the purposes of acquisition of land in the Cantonment area for the planned development of Delhi.

(36) It was then contended that the Town Planning Organisation at page 63 of the Interim General Plan had candidly stated "In fact, for the Cantonment area

which is outside our planning jurisdiction, an overall city plan should be prepared as an integral part of the National Capital". It was accordingly vehemently submitted that the Cantonment area being outside the planning jurisdiction the impugned notifications were not relatable to the Interim General Plan as the Cantonment area without doubt was outside the planning jurisdiction. That being, so, the acquisition could not be sustained. This submission fails to take note of the fact that the organisers while preparing the scheme for Greater Delhi, approximating an area of 110 square miles of land were not oblivious of the fact that incorporated area for which it prepared the Interim General Plan consisted of eight municipal and notified area committees including the notified area Committee Cantonment Board -mentioned at Seriall No. 7 of the foot-note of Chapter Iii of the Interim Plan regarding land use. Further, detailing the developed area 391 within the incorporated area given on Table 2 attached with the Interim General Plan at page 84 mention is made of the notified area Cantonment Board at No. 7 of the said Table. After giving a survey of the Union Territory of Delhi regarding the developed area the organisers at page 13 of the plan went on to say that the survey made by them indicates how much land under each of the eight municipal or notified area committees was actually developed then and how much land was available "for future expansion of Delhi", clearly staling that "over 60 per cent of the area under the Cantonment Board lies undeveloped". Further, at page 75 the organisers suggested the setting up of a planning commission which should have "the planning jurisdiction for the entire National Capital Region". It was recommended that the proposed planning Commission should be broad-based and well-represented. While suggesting representation of various regions to the planning body a recommendation was made for providing for one member from the Delhi Cantonment Board. Further, while formulating their proposal the organiser, had taken note of 10,700 acres of land occupied by the defense Department in Cantonment area. In Tables 8 and 9 of the Interim General Plan while providing for police stations and location of post offices within urban Delhi due provision had been made for the Cantonment area at Seriall nos. 6 and 10, respectively of the said Tables.

(37) In Appendix I, Table I of the Interim Plan, page 83, giving the factual data, land use at Seriall No. 7 information is given in respect of Cantonment and other areas under defense while Table 7 (page 91) makes a mention of the medical facilities in Delhi for the Delhi Cantonment mentions Delhi Cantonment Hospital and Military Hospital Delhi Cantonment. Further, the land use map forming part of the Interim General Plan has indicated the land within the Cantonment limits as a part of the urbanisable limits, but has been shown under "land under defense". Shri Krishan Partap, Deputy Secretary, Land and Building Department, Delhi Administration, in his additional affidavit dated 8th October, 1974, on the record of Civil Writ Petition No. 963 of 1969 (Gurdial Singh Punj v. Union of India and others) in para 6 thereof has averred "that the Cantonment area basically catered to a special type of uses, the detailed plan of the Cantonment area accordingly was recommended to form part of the overall city plan, the

organisers were, however, conscious that the development of the Cantonment should synchronise with the general development of Delhi. The organisers accordingly at page 28 of the Interim General Plan made a recommendation to the Ministry of defense, who controls large area of land in Delhi, that all land user proposals should be co-ordinated between the Civil and defense authorities to avoid undesirable uses. There is no traverse to this averment. In view of the detailed position set out above it is futile for the petitioners to pick out a single sentence out of its context from the Interim General Plan to contend that the Cantonment area was treated by the organisers to be outside their planning jurisdiction when the factual position discussed above in detail does not countenance such a position. Contention No. 1 accordingly has to be rejected.

(38) This brings me to the second contention advanced on behalf of the petitioners, namely, that on the enforcement of the Development Act no development could be carried out in the Union Territory of Delhi except under the said Act and for the purpose of carrying out the development, if in the opinion of the Central Government any land was required for the said purpose or for any other purpose under the Development Act, the same has to be acquired under the provisions of the Development Act. It was accordingly contended that the land could not be acquired for the above-said purpose under the provisions of the Act. Referring to the provisions of section 12 it was contended that after commencement of the Development Act no development of land shall be undertaken or carried out by the Development Authority except in accordance with the provisions of the said Act. Acquisition of land, it was urged, is provided u/s 15(1) of the Development Act which envisages that if in the opinion of the Central Government any land was required for the purpose of development, or any other purpose under the Development Act, the Central Government may acquire such land under the provisions of the- Act. It was accordingly submitted that the first requisite for acquiring the land was the formation of opinion on the part of the Central Govt. that the land was needed for purposes of development under the Development Act and it was subsequent thereto that the Central Government could acquire the land under the provisions of the Act. That being so, it was not open to the Administrator of Delhi to acquire the land on his own by resort to the provisions of the Act for want of the opinion of the Central Government that the lands in question were required for the purpose of planned development of Delhi. The stand of the respondents, however, is that it being open to the Administrator of Delhi to acquire land for a public purpose under the Development Act the lands in question have been and are rightly being acquired under the Act which is not inconsistent with the Development Act and that the two Acts can coexist.

The question which falls for determination thus is whether the two Acts can co-exist or whether the Development Act was passed in abrogation of the Act. In other words whether the Development Act has repealed the Act expressly or impliedly in so far as its operation in Delhi is concerned, or whether the two Acts can co-exist.

(39) The Act was passed in 1894 with a view to amend the law for the acquisition of land public purpose and for Companies and for determining the amount of compensation to be paid on account of such acquisition. The Development Act was passed in 1957, in order to check haphazard constructions and to regulate and control the building activities in Delhi for the development of Delhi according to plan and matters ancillary thereto. The Development Act as it stood prior to its amendment in 1963 also provided for payment of compensation to the owners of the property for its compulsory acquisition by providing procedure for the said purpose as contained in sections 16 to 20 of the unamended Act. The Development Act was amended in 1963. While introducing the Bill for amendment the statement of objects and reasons mentions, amongst others, as follows :

"It is (also) felt that the provisions of the Delhi Development Act, 1957, regarding acquisition and disposal of land operate "to the disadvantage of the public and Government consider that the land for development of Delhi should be acquired under the ordinary law, viz., the Land Acquisition Act, 1894".

(40) It would, Therefore, be seen that the legislature with a view to streamline the procedure for acquisition eliminated sections 16 to 20 of the original Development Act feeling that the procedure incorporated there under operated to the disadvantages of the public and instead incorporated under sub-section (1) of section 15 the procedure of the Act for acquiring lands. There can be no manner of doubt that development is one thing and acquisition of land is another. Development in Delhi after the enforcement of the Development Act has to be in conformity with the said Act but will it be correct to say that land could be acquired after the enforcement of the Development Act under the said Act and that the same could not be acquired under the Act. The only repeal brought about by the enforcement of the Development Act is contained in Section 60(1) which envisages that as from the date of the constitution of the (Development) Authority (a) the United Provinces Town Improvement Act, 1919, shall cease to have effect in the Union Territory of Delhi, and (b) the Delhi (Control of Building Operations) Act, 1955, shall stand repealed.

(41) The Development Act has not repealed the application of the Act within the Union Territory of Delhi. Could it, Therefore, be said that by virtue of the Amendment made in the Development Act in 1963 the applicability of the Act to the Union Territory of Delhi stood repealed by implication. "The Courts ordinarily would not lean in favor of implied repeals. There can be no doubt that the Act is a general Act passed by the Central Legislature and its operation extends to the whole of the country while the Development Act is a special Act, operation of which is confined to the four corners of the Union Territory of Delhi.

(42) Maxwell on Interpretation of Statutes, 10th Edition, page 184, states that when a general Act is incorporated into a special one, the provisions of the latter would prevail over any of the former with which they were inconsistent.

(43) Further Maxwell on Interpretation of Statutes, 12th Edition says at page 191 "A later Statute may repeal an earlier one either expressly or by implication. But repeal by implication is not favored by the Courts as Acts of Parliament are established with such gravity, wisdom and universal consent of the whole realm" they ought not by any constrained construction out of the general and ambiguous words of a subsequent Act be abrogated". Further, if earlier and latter Statutes can reasonably be construed in such a way that both can be given effect to, this must be done.

(44) The question accordingly would be whether the provisions of the Development Act are in any manner inconsistent with the provisions of the Act.

(45) The Legislature when it intends to repeal a statute is expected to do so expressly, at any rate by use of some words which could be treated as equivalent to express repeal. It is only when the co-existence of the two enactments is destructive of the object with which the latter Act was passed, the provisions contained in an earlier Act are to be treated repealed impliedly.

(46) While introducing the Development (Amendment) Bill Dr. Sushila Nayyar, Minister of Health stated that "There are in it certain provisions relating to land acquisition procedure. In actual procedure the land was acquired by the Government under the provisions of the normal Land Acquisition Laws. This was done in order to give better compensation to the people whose lands were acquired. None of the provisions relating to the acquisition of the land were over utilized and practically all the lands that were needed have already been acquired. As such those provisions which are redundant and which have never been utilized are proposed to be struck off". (See page 5941 of Lok Sabha Debates (3rd Edition) Volume Xxiv, 6th Session No. 21-26, 1963).

(47) It would, Therefore, be seen that in introducing the Amendment Bill the intention was that provisions contained under sections 16 to 20 of the Development Act which the Parliament considered redundant were proposed to be struck off and not in any manner repeal the provisions of the Act.

(48) It would be relevant here to note that sub-section (1) of section 15 prior to its amendment reads as follows :-

"15.(1) If in the opinion of the Central Government any land is required for the purpose of development, or for any other purpose, under this Act, the Central Government may acquire such land by publishing in the official Gazette a notice specifying the particular purpose for which such land is required and stating that the Central Government has decided to acquire the land in pursuance of this section".

After the amendment section 15(1) reads as under :-

"15.(1) If in the opinion of the Central Government, any land is required for the purpose of development, or for any other purpose, under this Act, the Central Government may acquire such land under the provisions of the Land Acquisition

Act, 1894".

(49) It would, accordingly be noticed that in section 15 both before and after the amendment the opinion of the Central Government was a pre-requisite to acquire any land for the purposes of development or for any other purpose under the Development Act. That being so, it cannot be urged that after the amendment any sweeping or substantial change has been introduced in section 15(1) of the Development Act.

(50) Land in Delhi had been acquired for the planned development of Delhi even prior to the amendment of section 15 of the Development Act by resort to the provisions of the Act and as observed by Dr. Sushila Nayar while introducing the Delhi Development (Amendment) Bill, "In actual procedure the land was acquired by the Government under the provisions of the normal land acquisition laws". The amendment, Therefore, in my opinion, does not change the complexion of the acquisition of land in Delhi. It is open to the Delhi Administration to acquire lands under the Act as hitherto despite the existence of the Development Act.

(51) Reference here may be made to case Patna Improvement Trust Vs. Smt. Lakshmi Devi and Others, . In that case land for the Patna Improvement Trust was acquired under the Act. It was urged that land could only be acquired under the Bihar Town Planning and Improvement Trust Act, 1951, the said Act vesting in the Improvement Trust the duty of carrying out the provisions of the said Act in enforcing the improvement scheme in any local area and that the Bihar Act had thus replaced the Land Acquisition Act in that the said Act was a complete code for the acquisition of land for the purposes of the Trust, and that the two Acts were inconsistent Acts and could not operate in the same field. This contention was repelled by their Lordships of the Supreme Court holding that section 71 of the Bihar Act had modified the Land Acquisition Act which would be subject to the modifications specified in the Schedule to the Bihar Act. For the purposes of acquiring land for the Trust, the machinery of the Land Acquisition Act as modified was contemplated for acquisition of lands. It was accordingly held that Bihar Act did not exclude the Land Acquisition Act. On the contrary it made it applicable but subject to its modifications and exceptions.

(52) In Civil Writ No. 584-D of 1963 (Babu Lal v. Chief Commissioner of Delhi and others) decided on 27th February, 1969 (3), a contention was raised that the Development Act as originally enacted impliedly repealed the provisions of the Act in regard to all acquisitions made for the purposes of planned development of Delhi with the result that the Amendment Act, 1963, could not revive or infuse life into these provisions of the Land Acquisition Act for the purposes of validating the acquisition proceedings under the Land Acquisition Act, Relying on the doctrine of implied repeal it was urged that the provisions of sections 15 to 20 of the Development Act were repugnant and indirect conflict with the provisions of the Acquisition Act and as such must be deemed to have impliedly repealed all the relevant provisions of the Land Acquisition Act. A Division Bench of this Court (I.D. Dua, C.J. and Rangarajan, J.) repelling the contentions observed that there

was no express repeal by the Development Act of any of the provisions of the Land Acquisition Act. The plea of implied repeal was ruled out on the ground that the two enactments were not inconsistent or repugnant to each other so that effect could not be given to both at the same time.

(53) It is significant to note that under the Act, land can be acquired for a public purpose while under the Development Act land can be acquired for the purpose of development or any other purpose under the said Act which also is a public purpose.

(54) It is only when one finds something expressly different in the Acts that which is under the Special Act must over-rule that which is under the General Act. [See Attorney General v. Great Eastern Railway Company 1871 LR (CA) 475.

(55) The question of express or implied repeal was considered by a Full Bench of this Court in Municipal Corporation of Delhi v. Harnarain, 1967 Cr. A.163(5). The Full Bench observed that "the question whether one Act repeals the other is directly one of legislative intent. The Courts must in this behalf endeavor to effectuate that intent for otherwise the laws will stand denuded of the vital force. The repeals by implication are not favored. It is a rule announced in numerous decisions that the Legislature when it intends to repeal a statute may be expected to do so expressly or by use of some such words as can be treated as an equivalent to an express, repeal. The intention to repeal must appear with cogent force. It is true that even if an Act does not contain an express repealing clause a Statute may by construction be held to have been repealed. Generally, the rule of repeal by implication is founded on the ground that the last expression of the legislation ought to prevail." Further "if two statutes by any fair course of reason are capable of being re-conciled that must be done and that both the Statutes allowed to stand. The Legislature is presumed to have passed laws with deliberation and full knowledge of the existing ones on the subject".

(56) It is only if the co-existence of the two enactments is destructive of the object with which the latter Act was passed the Court would treat the earlier provisions as impliedly repealed.

(57) The object of the Act is to acquire land for a public purpose while the object of the Development Act is to acquire land for the purpose of development under that Act which also is a public purpose. There is no inconsistency in the two Acts.

(58) In Municipal Council Palai Vs. T.J. Joseph and Others, , the Court observed that it is undoubtedly true that the legislature can exercise the power of repeal by implication but it is an equally well-settled principle of law that there is a presumption against the implied repeal. Upon the assumption that the legislature enacts laws with a complete knowledge of all existing laws pertaining to the same subject, the failure to add a repealing clause would indicate that the intent was not to repeal the existing legislation. The presumption of course will be rebutted if the provisions of the New Act are so inconsistent with the old ones that the two cannot stand together. Again in Shri Bhagwan Dutt v. Smt. Kamla

Devi and another. (1975)¹¹ Scc 386(7). the Court reiterated the view that if the two Acts can stand together, repeal is not to be implied.

(59) In the instant case the Parliament passed the Development Act with complete knowledge of the Act. The Act had not been expressly replaced in section 60 of the Development Act. The Parliament did not intend to repeal the Act as the object of the two Acts is the same, namely, acquisition of land for a public purpose under the Act and for the purpose of development or for any other purpose under the Development Act."

(60) Reference may also be made here to Civil Writ No. 333-D of 1961 (Krishan Kumar Chopra v. Union of India and others) decided on 9th May, 1969⁽⁸⁾, and Civil Writ No. 828-D of 1963 (M/s Delhi Chemicals and Pharmaceutical Works and another v. Union of India etc.) decided on 28th May, 1969 ⁽⁹⁾, both of which were decided by T.V-R. Tatachari, J. (as his Lordship then was). In those cases a contention was raised that planned development of Delhi mentioned in the notification u/s 4 of the Act was not the same as the purpose for development of Delhi according to plan mentioned in Preamble to the Development Act. Further if it be held that two purposes are the same then the said purposes having been provided for in a special Act, namely, Delhi Development Act, it could no longer be a public purpose within the meaning of the Act. Repelling the contention it was held that the planned development of Delhi was not different from development of Delhi according to plan and that the expression "public purpose" had been used in the Act in its generic sense of including any purpose in which even a fraction of the community might be interested or by which it might be benefited; that the purpose of planned development of Delhi was clearly a public purpose within the meaning of the Act and that the mere fact that it was also a purpose for which the Development Act was enacted would not mean that it ceased to be a public purpose within the meaning of the Act.

(61) Another contention raised in the above writ petition was that after the amendment of section 15 of the Development Act it is the Central Government alone that could acquire the land for the purpose of the said Act and the Chief Commissioner of Delhi was not a competent authority to acquire the land. This contention was repelled holding that before the passing of the Seventh Constitution (Amendment) Act 1956 Delhi was a part C State which was to be administered by the President under Article 239(1) of the Constitution of India acting to such extent as he thought fit through the Chief Commissioner or Lt. Governor to be appointed by him. The President on 19th August, 1954, exercising powers under Article 239(1) of the Constitution issued notification directing the Chief Commissioner, Delhi, to exercise the powers and discharge the functions of the Central Government under the provisions of the Land Acquisition Act. After the enactment of the Seventh Constitution (Amendment) Act, 1956, Delhi was designated as a Union Territory which under Article 239(1) shall be administered by the President through an Administrator to be appointed by him with such designation as the President may specify. The President on 1st

November, 1956 in pursuance of the amended Article 239(1) issued a notification envisaging that "Any powers and functions which were, before 1-11-56", powers and functions of the Chief Commisisoner of the State of Delhi shall on and after 1-11-56 be exercised and discharged by the Chief Commissioner of the Union Territory of Delhi. Further, according to section 3(8) of the General Clauses Act, 1897, the Central Government shall in relation to any thing done or to be done after the commencement of the Constitution mean the President and shall include in relation to the Administration of a Union terrtiory, the Administrator thereof and in view of the fact that the Chief Commissioner was empowered by the President to execute the powers and discharge the functions of the Central Government under the provisions of the Land Acquisition Act, it was held that he was an authority competent to issue notification u/s 4 of the Act. Another contention raised was that even if "planned development of Delhi" was a public purpose within the meaning of the Act since acquisition of land for the said purpose was provided for in a special statute, viz., the Development Act, the acquisition should have been made-under the said Act and that in any case it was the Central Government that should have acquired the land not the Chief Commissioner of Delhi. Negating the contention it was observed that the planned development of Delhi being a public purpose, land could be acquired for that purpose either under the Act or the Development Act, it being open to the Chief Commissioner to acquire land for the planned development of Delhi under the Act."

(62) The view taken in M/s Delhi Chemical and Pharmaceutical Works" case (supra) (9) was challenged in a Letters Patent Appeal before a Division Bench of this Court (H. R. Khanna, C.J. and P. N. Khanna, J) Delhi Chemical and Pharmaceutical Works and Another Vs. Union of India and Others, . The contention that the Development) Act was an enactment passed to provide for the development of Delhi according to plan and for matters ancillary thereto and that land could only be acquired u/s 15 of the Development Act for the said purpose was negated by the Bench on the ground that acquisition was not under the Development Act but under the Land Acquisition Act. The Bench sustained the plea of the Government that despite the existence of the Development Act land could be acquired independently of the said Act by resort to the provisions of the Act if the acquisition was for a public purpose.

(63) In case Aflatoon and Others Vs. Lt. Governor of Delhi and Others, , taking note of its earlier decision in Patna Improvement Trust's case (supra) the Supreme Court observed that it was true that there could be no planned development of Delhi except in accordance with the provisions of the Development Act after that Act came into force but there was no inhibit in acquiring land for planned development of Delhi under the Act before the Master Plan was ready.

(64) The Master Plan was enforced in 1962. The impugned notification u/s 4 in these cases was issued in October, 1961. The question having been

authoritatively settled by the Supreme Court in Aflatoon's case (supra) (10) that there was no inhibition in acquiring land for the planned development of Delhi under the Act before the Master Plan was ready, the contention of the petitioners cannot be sustained.

(65) In this view of the matter the other contentions of the learned counsel for the petitioners, namely, (i) that the Central Government having not delegated its powers exercisable by it under the Development Act to the Chief Commissioner or the Lt. Governor the latter were not competent to acquire the land under the Development Act; (ii) that the Central Government had not declared the Cantonment Area as the Development area for the purposes of the Development Act u/s 12(1) of the Development Act (iii) that the provisions of the Development Act are not applicable to the Cantonment area or that the provisions of the Development Act had not been extended to the Cantonment area in that no notification had been issued u/s 9 of the Cantonment Act making the Development Act applicable to the Cantonment area, are not required to be considered.

(66) It may be mentioned here that the Development Authority had sought to contend that the land could and has rightly been acquired under the Development Act. However, the Development Authority being not the acquiring Authority, this contention cannot be availed of by the petitioners to urge that in fact their lands are being acquired under the Development Act, in view of the stand of the Administration that the lands are being acquired under the Act.

(67) This brings me to the third contention advanced on behalf of the petitioners, namely, that notification u/s 4 of the Act was not displayed at prominent places of the village Naraina so as to come to the notice of the persons whose lands were sought to be acquired to enable them to file objections u/s 5-A of the Act, to show that the land was not needed for the public purpose and that the proposal for acquisition initiated by the Government by issue of the notification u/s 4 should not culminate into any definite proceeding for acquisition of the petitioners' lands but should be dropped because the proposed action has civil consequences in the nature of depriving the petitioners of their property. That being so, it was incumbent upon the Administration to specify the place where the notice was alleged to have been affixed and further state whether it was a public place or not. The respondents having not done so, it was contended, it has to be held in view of the averments made by the petitioners that no such public notice was given. The Administration while traversing this allegation have categorically averred that notification u/s 4 was duly published in the Gazette and that public notice was given at convenient places in the locality. Besides, filing of objections by various persons by itself shows that the notification u/s 4 of the Act was published in the locality. The mere fact that the petitioners or their predecessors-in-interest from whom some of them bought the land, chose not to file objections would not be sufficient to hold that the notification u/s 4 was not published in the locality. The record produced by the Administration amply bears

out its stand that the said notification was published in the locality. The contention which is without any merit has to be rejected.

(68) The fourth contention urged was that the public purpose disclosed in the notification u/s 4 of the Act, namely, the planned development of Delhi, was a vague purpose, hence there was no compliance with the provisions of the aforesaid section. Reliance for this submission was placed on case *Munshi Singh and Others Vs. Union of India (UOI)*, wherein it was stated that the public purpose has to be particularised in the absence of which it was extremely difficult to comprehend how all the matters set out in sub-section (2) of section 4 could be carried out by the officer authorised in that behalf or by his servants and workmen. It was observed that the words "planned development of the area" used in the notification were wholly insufficient and conveyed no idea as to the purpose for which the lands were to be utilized. *Munshi Singh's case (11)* was considered by their Lordships in case *Pt. Lila Ram Vs. The Union of India and Others*. In that case the public purpose was stated to be "the execution of the Interim General Plan for the Greater Delhi" which was assailed on the ground that it suffered from vagueness-support for that contention was sought from *Munshi Singh's case*. Repelling the contention, their Lordships observed that land covered by the notification was not a small plot but a huge area covering thousands of acres and that in such cases it was difficult to insist upon greater precision for specifying the public purpose because of the possibility of the various plots covered by the notification being utilized for different purposes set out in the Interim General Plan. Taking note of the fact that the object of the Interim General Plan was to prevent haphazard and unplanned development of Delhi and thereby to ensure planned development of Delhi, the execution of the Interim General Plan was held to be a public purpose for the purposes of section 4 of the Act. The other contention that the notification u/s 4 was Issued for the collateral purpose of freezing the land of the appellant was repelled observing that the "freezing of the land" was inherent in the nature of things once a notification u/s 4 was issued because of the provisions of sections 23 and 24 of the Act. In the instant case the impugned notification u/s 4 was issued in respect of the land, measuring about 16,000 acres, marked with blocks Nos. 1 to 94 shown in the Map enclosed and the description of which was given in the annexure attached with the notification, the public purpose was not required to be specified beyond that the land was needed for planned development of Delhi which in the circumstances is a definite purpose and does not suffer from any vagueness. *Munshi Singh's case (11)* is otherwise also distinguishable. The complaint of the appellant in that case was that a scheme of the planned development was not made available to him in spite of his application. Besides, *Munshi Singh's case* was earlier considered by their Lordships in case *Aflatoon and Others Vs. Lt. Governor of Delhi and Others (10)* wherein it was observed that the question whether purpose specified in a ratification u/s 4 was sufficient to enable an objection to be filed u/s 5A of the Act would depend upon the facts and circumstances of each case. "In the case of acquisition large area of land

comprising several plots belonging to different persons, the specification a the purpose, could only be with reference to the acquisition of the whole area and it might practically be difficult to specify the particular public purpose for which each and every item of land comprised in the area is needed."

(69) The Supreme Court in a subsequent unreported case *Ratni Devi v. Chief Commissioner, Delhi* (Misc. Petition No. 332 of 1971) decided on 13th April, 1975(13), reiterated after referring to *Aflatoon's* case (*supra*) that acquisition of land for the planned development of Delhi was for a public purpose.

(70) In the instant cases the identity of the lands sought to be acquired was succinctly stated by indicating that the land was comprised in blocks Nos. 1 to 94 shown in the Map enclosed with the notification, fully described in the annexure attached with the notification, the purpose stated in unambiguous terms as planned development of Delhi, by no stretch of imagination could be said to have inhibited the persons interested in the lands to file objections against its acquisition.

(71) The point sought to be raised by the petitioners having been set at rest by the Supreme Court in the cases noted above its earlier decision in case *Smt. Gunwant Kaur and Others Vs. Municipal Committee, Bhatinda and Others*, , is of no assistance to them. Besides, that case is distinguishable on its own facts. In that case notification issued u/s 4 stated that, the land specified in the Schedule to the notification was needed for a public purpose, i.e., for construction of the Mall Road. In the Schedule to the notification land was described as Khasra No. 2030 and eleven sets of persons were shown as owners of different pieces of land. The aggregate area of the land likely to be needed was shown as 15 Bighas and 5 Biswas. One Hari Ram was shown as owner of two pieces out of that land. He after the issuing of the notification sold certain plots of lands to different persons, one of whom built upon the area purchased by him after obtaining sanction from the Municipal Committee while others only procured sanctions of the plans submitted by them to construct on their respective areas. They filed a writ petition challenging the acquisition, amongst others, on the ground that the notification was vague in that the land sought to be acquired was not fully described in the notification so that the interested persons could not file their objections against the acquisition ; that Khasra No. 2030 was a very large plot of land consisting of several building plots which were all part of the main Khasra No. 2030; and that unless the portions of Khasra No. 2030 sought to be acquired were specified by the reference to certain areas thereof the owners could not be deemed to have intimation that their plots were to be acquired. The Land Acquisition Collector defended the acquisition on the ground that the true area of land demarcated "corresponded to the area notified." It was in that context that it was observed that the jurisdiction of the Collector depended upon the issue of a valid notification and that the mere fact that the Collector was satisfied that the true area of land demarcated "corresponded to the area notified" whatever that expression may mean did not prevent the owners of the lands from contending

that they had no opportunity of making their representations u/s 5-A of the Act.

(72) In case *Narendrajit Singh and Another Vs. The State of U.P. and Another*, it was held that section 4(i) of the Act does not require that the identity of the lands which may ultimately be acquired should be specified but it enjoins upon the Government the duty to specify the locality in which the land is needed.

(73) In the instant cases the locality in which the land sought to be acquired is situate had been specified. The petitioners, Therefore, cannot make a grievance that because the identity of their lands was not specified by Khasra numbers they were prevented from filing objections in an effective manner u/s 5A of the Act.

(74) A Division Bench of this Court in Civil Writ No. 473-D of 1963 in *Re: Raj Kumar and another v. Union of India and others*, decided on 1st March 1974(16), rejected the contention that the "planned development of Delhi" being mentioned as a purpose for acquisition of land in notification u/s 4 of the Act was not of the nature of a public purpose within the meaning of the said section. The contention that the said purpose was vague, indefinite and uncertain and that the public purpose so stated did not furnish sufficient information and data as to how the proposed development would be made and to what particular use the lands would be put and as such the persons interested were not in a position to put forward objections in an effective manner u/s 5A to the proposed acquisition was also repelled holding that in a notification u/s 4, the appropriate Government need specify only the locality and need not particularise any land in that locality.

(75) The petitioners next contended that the notification was bad in that Khasra numbers of the land sought to be acquired were not mentioned. For this submission reliance was placed on case *Jagdish Ram and others v. The State of Punjab and another*, Air 1971 P& H 139(17). In that case notification u/s 4 was issued to the effect that land within the Municipal limits of Anandpur Sahib (comprising of thousands of acres) together with some area outside it was needed by the Government at public expense for the purpose of various development schemes. The notification was held to be bad. The said case is distinguishable on its facts. Anandpur Sahib is a large town. The notification did not specify the land within its municipal limits nor "some area" outside its limits. However, that is not the position in the instant cases. The lands sought to be acquired have been delineated being situate in blocks Nos, 1 to 94 and fully described in Annexure Ii to the impugned notification which does not leave the interested persons guessing as to what area is sought to be acquired. Notification u/s 4 cannot be said to be vague unless it could be shown that there was some doubt about whether a particular plot of land was excluded from it or included in it. The impugned notification docs not give rise to any such doubt.

(76) The fifth contention canvassed on behalf of the petitioners was that the notification u/s 4 dated 26th October, 1961 was not relatable to the Master Plan which came into force on 1st September, 1962. Equally, goes the argument, it

was not relatable to the Interim General Plan as the organisers had without mincing words conceded that the Cantonment area was outside their planning jurisdiction. That being so, no public purpose could be said to be served in the present acquisition proceedings. I have already in an earlier " part of this judgment repelled the contention that Interim General Plan was not applicable to the Cantonment area. the latter part of the submission is accordingly without any merit. The impugned notification was issued in pursuance to the Interim General Plan to prevent unplanned and haphazard development and constructions in Delhi. The appropriate authority accordingly decided to acquire land for the planned development of Delhi. In Lila Ram's case (supra) (12), the Supreme Court observed that "the Interim General Plan was prepared and published by the Government after approval by the Cabinet as a policy decision for development of Delhi as an interim measure till a Master Plan could be made ready". The impugned notification thus is relatable not only to the Interim General Plan but to the Master Plan as well, the former plan being of an "interim measure" till a "Master Plan could be made ready". In this view of the matter the fifth contention as well is rejected.

(77) The sixth contention of the petitioners was that in the Interim General Plan the area in question was ear-marked for re-locating the proposed defense headquarters near the Central Secretariat to the South Western part of the urban area, preferably in the Cantonment area itself. It was submitted that the area sought to be acquired is covered in Zone G of the Master Plan, the permitted uses of which enumerated at page 53 of the Master Plan are, for local, State and Central Government offices and use for defense purposes; research institutions, social and cultural institutions, bus and railway passenger terminals, public utility and buildings, local municipal facilities, uses incidental to Government offices and for their use. Further, all uses not specifically permitted therein are prohibited. However, from the official noting on the files produced by the Administration it was contended while recommending issuing of declaration u/s 6, the purpose stated was housing activity. The Interim General Plan and the Master Plan being statutory plans, goes the argument, the Administration was precluded from acquiring the lands in question for a different purpose than the one for which the area was earmarked in the two plans.

(78) It was also submitted that in the Interim General Plan "land in triangular" comprising the area of the petitioners was kept as land under defense while in the Master Plan the said triangle had been shown as Government land "use undetermined". It was vehemently argued that since the use of the land remained undetermined and housing activity being prohibited in the area according to the Master Plan, the declaration issued acquiring the land for housing purposes in accordance with the official noting could not be sustained. The requirement about the mentioning of the public purpose in the declaration u/ s 6 had to be real, true and m existence, goes the submission, and not fictitious, imaginery and non-existence. Acquiring the lands for housing activity not provided for in the two plans in respect of the land of the petitioners, it was

urged, would mean that the public purpose sought to be served was not only fictitious and imaginary but also non-existent. Reliance for this submission was placed on a Division Bench decision of this Court in case, *Dhanna Singh v. Chief Commr., Delhi Administration, and others*, (1969) Delhi 799, (18). That case is distinguishable on its, own facts. Section 4 notification was issued acquiring land for the execution of the Interim General Plan but by the time declaration u/s 6 was issued, Interim General Plan ceased to exist consequent on the enforcement of Master Plan. It was in that context that the Bench observed that at the time section 4 notification was issued it could not be said .that the real purpose of the notification was acquiring land for the Master Plan which was not even in existence. But that is not "the position in the instant cases. The notification issued u/s 4 was to acquire land for a public purpose, namely, the planned development of Delhi, so is the purpose in the declaration made u/s 6. It accordingly cannot be said that the public purpose stated in section 4 notification was different than the one sought to be achieved in the declaration made u/s 6. The contention that the lands in question are now sought to be acquired for a different purpose in the circumstances does not arise as the purpose of both the im- pugned notifications remains the same, that is, the planned development of Delhi.

(79) On behalf of the petitioners it was contended that while issuing declaration u/s 6 of the Act what was uppermost in the mind of the Lt. Governor according to the official noting was that the lands of the petitioners were required for housing activity and that the Lt. Governor did not bear in mind that the area sought to be acquired was reserved for Government offices in the Master Plan. Thus, the requisite satisfaction of the appropriate authority in making the declaration for acquiring the land in question was lacking. In the premises it was submitted that acquiring the land according to the official noting on the record produced for building purposes would, amount to a different user than the particular and definite use of the land indicated in the Master Plan. In support of this contention strong reliance was placed on case *Municipal Corporation of Delhi Vs. Kishan Das and Another*, , wherein it was held "if any particular and definite use of land is indicated in a Master Plan, a different use of that land cannot be permitted".

(80) The above-said authority is of no assistance to the petitioners. In the instant cases the appropriate Government is yet in the process of acquiring the lands for the planned development of Delhi. It is only when the lands so acquired are put to a different use than the one indicated in the Master Plan the petitioners may have a cause for grievance but not otherwise.

(81) It may be mention here that according to the permitted uses as at page 53 of the Master Plan in respect of lands comprised in Zone G, amongst others, the uses are "public utility and buildings" and "uses incidental to Government offices and for their use". It would thus be seen that construction of buildings in Zone G other than Government offices is permitted. Besides, construction of houses

would also be relatable to uses incidental to Government offices and for their use. Moreover, it has to be borne in mind that sub-section (1) of section 11A of the Development Act envisages that the Development Authority may make any modifications to the Master Plan or the Zonal development plan as it thinks fit, being modifications which in its opinion, do not effect important alterations in the character of the plan and which do not relate to the extent of land use of the standards of population density. Sub-section (2) of section 11A. however, envisages that the Central Government may make any modifications to the Master Plan or the Zonal development plan whether such modifications are of the nature specified in sub-section (1) or otherwise. It will, Therefore, be seen that the powers of the Central Government in making modifications to the Master Plan or the Zonal development plan are not restricted to the modifications of such nature as are specified in sub-section (1). The use of the words "or otherwise" in sub-section (2) is significant which empowers the Central Government to make any modifications to the plan, both Master and Zonal.

(82) It being open to the Central Government to make modifications in the Master Plan and the lands sought to be acquired having not been put to any use so far contrary to the purpose set out in the Master Plan, the petitioners cannot make a grievance for the present that their lands will be used for a purpose other than the one mentioned in the Master Plan. It cannot be denied that acquisition is one thing while development is another. The lands for the present according to the impugned notifications are sought to be acquired for a public purpose, namely, planned development of Delhi to which no exception can be taken. The learned counsel for the petitioners were not able to assail that the planned development of Delhi is not a public purpose. The lands sought to be acquired are comprised in the triangle indicated in the map attached to the Master Plan and described as Government land-"use undetermined". The use can be given subsequently after the acquisition which may even necessitate making alterations in the Master Plan, it being open to the Central Government to do so by virtue of sub-section (2) of section 11-A of the Development Act.

(83) Allied with this was the other contention that even if it be assumed that the housing activity in the acquired area was permissible in Zone G, the discretionary power exercisable by the appropriate Government in issuing notification u/s 4 of the Act was subject, however, to the public purpose sought to be achieved by the acquisition. Such an order, it was contended, could be judicially reviewed on any of the three tests (i) whether the discretion was exercised on irrelevant consideration; (ii) whether the order was passed on improper purpose; and (iii) whether the notification u/s 4 was actuated by bad faith.

(84) My attention was invited to the supplementary affidavit dated 25th November, 1974, filed by Bahadur Singh petitioner in Civil Writ No. 909 of 1969 wherein it is stated that civilian population of Delhi Cantonment by 1971 had registered a fall; despite the heavy influx of displaced persons from West Pakistan in Dehli no part of it till the date the affidavit was sworn had been

diverted to Delhi Cantonment; that there is no potential of employment in Delhi Cantonment and that enquiries made by Bahadur Singh from the Director of Industries showed that no private individual had been permitted till November 1974 to set up any factory in Delhi Cantonment. Besides, the Director of Industries, Delhi, had neither issued any license for setting up any such factory nor any application in that regard was pending with him. The question of setting up of any commercial, residential or industrial activity in Delhi Cantonment did not arise because of the well-known policy of the Ministry of defense not to permit commercial, residential or industrial activity within the limits of Delhi Cantonment as such activities are both administrative and security risk from the point of view of defense.

(85) The learned counsel for the petitioners contended that to the specific allegation made by Bahadur Singh, noted above, no counter had been filed by the respondents. That being so, it is explicit that the discretion exercised in issuing the notification u/s 4 of the Act by the Administration was exercised on irrelevant considerations. The notification was based on improper purpose and was actuated by bad faith.

(86) I am unable to sustain this submission. It is true that no counter has been filed but it has to be borne in mind that the notification u/s 4 and the declaration u/s 4 were issued acquiring the land for a public purpose, namely, for planned development of Delhi. Zonal plan in respect of Delhi Cantonment has yet to be prepared. Noting on the official file cannot be read out of its context and made the basis to contend that the land in the Cantonment area was being acquired for commercial, residential and industrial activities only and thereby rendering the notifications to be based on improper purpose. It is equally futile for the petitioners to contend that because the population of the Delhi Cantonment had registered fall by 1971, housing activities were not required to be undertaken in the Cantonment area. Planning for Greater Delhi has to be carried out on an overall basis of its estimated population. This grievance of the petitioners cannot be supported in view of the fact that it is open to the Central Government to make alterations in the Master Plan as envisaged by sub-section (2) of section 11A of the Development Act. It need hardly be said that the housing activity beneficial to the population is a public purpose and it being open to the Central Government by virtue of sub-section (2) of section 11-A of the Development Act to make alterations in the Master Plan, after acquisition of the land, the Central Government, if it so chooses to carry out housing activity in the acquired area, can do so by changing the Master Plan.

(87) The seventh contention urged on behalf of the petitioners was that the collector in his report u/s 5-A of the Act was required to state (i) whether the notified purpose was a genuine or proper public purpose; (ii) whether the land notified was suitable for the purpose for which it was notified; (iii) whether the land sought to be acquired was not so well-suited as the other land; (iv) whether the area proposed to be acquired for the purpose was excessive or not and (v)

whether the acquisition would destroy or impair the amenity of historical or artistic monuments and places of public resort; and would take away important public rights of way or other conveniences or would desecrate religious buildings, graveyard and the like.

(88) Placing reliance upon a Division Bench decision of this court in LT. Governor of Delhi and Others Vs. Mandir Sita Ramji and Another, , it was contended that the enquiry to be conducted by the Collector u/s 5A of the Act was a quasi-judicial enquiry. That being so, the Collector was required to report whether the land sought to be acquired was needed for the public purpose and that the Collector must apprise the appropriate Government that the notified purpose was genuine and a proper public purpose; that the land was suitable for the purpose for which it was notified and that the land proposed to be acquired was not excessive. All these aspects, it was submitted, had been gone into by the Collector in his report made to the Lt. Governor. That being so, the Lt. Governor in accepting the report did not apply his mind properly, which would vitiate the declaration issued u/s 6 of the Act.

(89) There is no merit in this contention. I have gone through the report of the Land Acquisition Collector. He has dealt with the various objections raised by the objectors in detail. If a person interested in his objection-petition does not aver that the notified purpose was not a genuine or proper public purpose or that the land notified was not suitable for the purpose for which it was notified, the Collector is not expected to go into these details. Since vast area comprising 16000 acres is sought to be acquired the Collector was not required to say in respect of each plot that the area sought to be acquired was excessive or not for the public purpose for which the same was being acquired.

(90) Equally devoid of any merit is the contention that the Lt. Governor while rejecting the objections of the land owners did not read the Interim General Plan whereat page 63 it was stated that area comprised in the Cantonment was outside their planning jurisdiction and that the Lt. Governor further failed to take note of the fact that in the Master Plan the use of the area comprised in the triangular block No. 16 has been left undermined. The Lt. Governor in rejecting the objections and directing that declaration u/s 6 be issued in the circumstances was alleged to have acted mechanically without application of mind.

(91) The land use in the area in question could be determined subsequently after the acquisition as well. Suffice it to say that in the Master Plan the land has been designated as Government land which was proposed to be acquired for the public purpose of planned development of Delhi.

(92) The eighth contention urged on behalf of the petitioners was that the declaration u/s 6 stating "whereas it appears to the Lt. Governor, Delhi" was not in consonance with the requirement of section 6 of the Act as it did not express the firm determination of the Lt. Governor that the land in question was required for a public purpose.

(93) This point was considered by their Lordships of the Supreme Court in *Rai Bahadur Ganga Bishnu Swaika and Others Vs. Calcutta Pinjrapole Society and Others*, . In that case it was urged that Government satisfaction must be stated in declaration u/s 6 of the Act and the because the notification used the words "it appears to the Governor, etc" and not the words "that the Governor was satisfied" section 6 notification was not valid. On examining the provisions of sub-sections (1) and (2) of section 6 of the Act it was observed that it was not necessary that the satisfaction of the Government must ex fade appear in the declaration made under that section. It was held that only declaration as required by subsection (1) is that the land to be acquired is needed for public purpose or a company. That was clear from sub-section (2) which provides that the declaration shall state where such land is situate, the purpose for which it was needed, its approximate area and the place where its plan could be inspected. It was accordingly observed that it was such a declaration made under sub-section (1) and published under subsection (2) which becomes conclusive evidence that the particular land was needed for a public purpose or for a company as the case may be. Their Lordships accordingly rejected the contention that it was imperative that the satisfaction must be expressed in the declaration or that otherwise a notification would not be in accord wih section 6.

(94) In this view of the matter this contention deserves to be rejected and also because of the fact that section 5-A enquiry was held, objections were field and heard and that it was after considering the report of the Collector that the appropriate Government issued declaration u/s 6. In the circumstances, the condition-precedent for issuing declaration u/s 6 as to the satisfaction of the Lt. Governor was fulfilled. The declaration itself is a conclusive evidence that the land is needed for a public purpose or for a company as the case may be.

(95) Another submission in this respect was that the Lt. Governor had not passed a speaking order giving reasons that declaration was required to be made. I see no merit in this contention. From the record produced it was evident that the same was placed before the Lt. Governor who in token of his approval of the report of the Collector appended his signatures indicating that he agreed with the report and thereby rejecting the objections. It is not necessary in administrative proceedings that every officer should write a detailed order. The Lt. Governor having applied his mind and having agreed with the report of the Collector it was not expected of him to write a speaking order. See *Lt. Governor, Delhi v. Mandir Sita Ram* (supra) (20).

(96) Lastly, placing reliance upon a Division Bench decision of the Gujarat High Court in *Valji Mulji Soneji v. State of Gujarat and others* (1970) Guj LR 95(22) and another Division Bench decision of the said High Court in *Dosabhai Ratansha Keravala v. State of Gujarat, and others* (1970) Ii GujLR 361(23), it was contended that long lapse of time in issuing declaration u/s 6 in 1966 was fatal in that the notification u/s 4 was issued in October, 1961, the Government could not be permitted to trifle with the property rights of citizens as after the issuing

of notification u/s 4 the owner of the property has only a qualified ownership or enjoyment of his property and cannot earn maximum return from the property and that since the compensation was to be determined with reference to the date of publication of section 4 notification, it was submitted, the petitioners would stand to lose by the unreasonable delay in issuing the declaration u/s 6 in 1966 ; more so when the prices of the property had risen in the. meantime.

(97) This submission has to be rejected on the basis of sub-section (2) of section 4 of the Land Acquisition (Amendment and Validation) Act, 1967. In view of the aforesaid sub-section, declaration u/s 6 could be made within two years of the commencement of the Land Acquisition (Amendment and Validation) Ordinance 1967. In the instant case, however, the declaration was made in 1966.

(98) Before parting with these petitions, the contention of Bahadur Singh, one of the petitioners before me, that the Cantonment Board had sanctioned in his favor a plan for setting up a petrol pump on his land sought to be acquired may also be considered. According to the reply of the respondents, it was contended, after acquisition of Bahadur Singh's land a petrol pump is sought to be set up on his land. That being so, it was vehemently urged, no useful purpose will be served in acquiring his land as the purpose sought to be achieved by setting up a petrol pump on his land was already being met by Bahadur Singh. In acquiring the land of Bahadur Singh, goes the argument, the idea was to eliminate him and thus get rent from the land acquired and thereby augment the Government revenue which would not be a public purpose for acquiring the said land.

(99) The contention is without any substance. According to the reply of the Administration all urbanisable lands are to be acquired for the planned development of Delhi and let out on lease-hold basis. The land belonging to Bahadur Singh after acquisition, the Administration contends, has to be let out to the Indian Oil Corporation or to some other Oil Company on lease-hold basis and not to any individual in accordance with the scheme of planned development of Delhi. The grievance of Bahadur Singh accordingly is without any merit and has to be rejectd.

(100) No other contention was raised.

(101) In view of my discussion on the various points noted above, the petitions fail and are hereby dismissed. In the circumstances of the cases, however, the parties are left to bear their own costs. December 18,1975.