
(1996) 05 P&H CK 0191
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 11993 of 1995

Harbans Singh and Others

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 31-05-1996

Acts Referred:

Punjab Town Improvement Act, 1922 — Section 36(2), 38

Citation : (1996) 114 PLR 711 : (1996) 3 RCR(Civil) 458 : (1997) 1 RCR(Civil) 499

Hon'ble Judges : R.S. Mongia, J;K.K. Srivastava, J

Bench : Division Bench

Advocate : A.K. Chopra and Gurpal Singh, for the Appellant; H.S. Riar and D.P. S. Kahlon, for the Respondent No. 2., for the Respondent

Final Decision : Dismissed

Judgement

K.K. Srivastava, J.—This order of ours will dispose of Civil Writ Petitions No. 11993 and 11994 of 1995. In both the writ petitions the notifications (annexures P1 to P8) issued by respondent No. 2 - Phagwara Improvement Trust, Phagwara are sought to be quashed and along with the Residential Housing Scheme (annexure P9) is also sought to be quashed as being illegal, unjust, cryptic, arbitrary, an act of colourable exercise of power, mala fide and ultra vires the provisions of Punjab Town Improvement Act, 1922 (for short, to be referred as the Act of 1922).

2. The facts common to both the writ petitions may be noticed as under. The Phagwara Improvement Trust Phagwara-respondent No. 2 passed a resolution to develop a Developmental Scheme No. 7. The total area which was proposed to be acquired, was 166 Kanals 6 Marlas (13.80 Acres). A notification u/s 36 of the Act 1922, which is equivalent to a notification u/s 4 of the Land Acquisition Act, 1894 (for short the Act 1894) was published in the Daily Newspaper "Nawan Zamana" on 21.6.1993 (annexure PI), 28.6.1993 (annexure P2) and 5.7.1993 (annexure P3). The notification was also published in the Official Gazette on

2.7.1993 (annexure P4), 9.7.1993 (annexure P5) and 16.7.1993 (annexure P6). These notifications were published in the newspaper and Official Gazette as per requirement of Section 36(2)(a) of the Act 1922. Thereafter, notices as per requirement of Section 38 of the Act 1922 were served on the persons referred therein. The respondent proceeded with the scheme and issued notification u/s 40 Sub-section (3) of the Act 1922 in the Punjab Government Official Gazette that an application had been submitted to the State Government u/s 40(1) of the Act for the grant of approval for land acquisition. This notification was issued on 17.6.1994 vide annexure P7. The State Government vide notification dated 17.6.1994 accorded sanction to the developmental scheme of respondent No. 2 u/s 24 read with Section 28(2) Sub-sections (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) of the said Act for an area measuring approximately 15 acres. The relevant notification was issued in pursuance of the provisions of Section 42(1) of the said Act (a copy of the same has been annexed as Annexure P8). By a notice dated 1.3.1995 published in the daily newspaper "The Tribune" the respondent-Phagwara Improvement Trust (Annexure P8). By a notice dated 1.3.1995 published in the daily newspaper "The Tribune" the respondent-Phagwara Improvement Trust, Phagwara invited applications for residential plots under the aforesaid new developmental scheme No. 7 Tagore Nagar for three sizes of plots measuring 250 Sq. Yds., 200 Sq. Yds. and 100 Sq. Yds. and prescribed annual income limits against each categories of size of the plots and also the advance amount to be deposited.

3. The petitioners have challenged the notifications, referred to above, on the following grounds:

(1) Section 36 of the Act makes it incumbent upon the respondent-Trust to publish the notification for three consecutive weeks in the Punjab Government Gazette as well as in the newspaper. As per the requirement scheme can only be initiated after the publication of the notification in the Government Gazette. The publication in the newspaper is required to be made after the publication of the notification in the Government Gazette whereas in the present case the publication in the newspaper was made prior to the publication in the Government Gazette i.e. on 21.6.1993, 28.6.1993 and 5.7.1993 in the daily newspaper "Nawan Zamana" and the notifications in the Official Gazette were published on 2.7.1993, 9.7.1993 and 16.7.1993 which is in total violation of the mandatory requirements of Section 36 of the Act. The acquisition proceedings cannot be sustained on this ground alone.

(2) As per Section 38 of the Act a duty has been cast upon the Trust to serve the notice of the proposed acquisition of land to the owners as well as occupiers of the land in question, so that they may object to the proposed acquisition and thereby file objections to the acquisition. In the instant case, the petitioners were not served with any notice nor any effort/due enquiry was made by the respondent-Trust to serve the petitioners who are owners in possession of the land in question as per the revenue records. On this ground also the acquisition

could not be allowed to continue and was liable to be set aside.

(3) As per the requirements of the Act, acquisition of land is permissible for a definite and specific purpose of development. However, in the present case, the respondents have failed to show any nexus between the acquisition and the alleged developmental scheme. The notification is totally arbitrary and is a colourable exercise of jurisdiction and cannot be allowed to sustain in the eyes of law.

(4) The boundaries of the acquired land are vague and no details of the total area and specific Khasra numbers have been given in the notifications. The acquisition proceedings are initiated with a view to fleece the petitioners and peg down the prices of the land.

(5) As per the requirement of law, the respondent-Trust was duty bound to hear the objections filed u/s 40 of the Act in respect of the acquisition, to provide personal hearing to the persons affected and dispose of the objections by passing a reasoned order. In the present case, since no notice was served on the petitioners they were divested of their statutory right of filing objections to the acquisition and of being heard.

(6) The Trust had earlier on formulated Scheme Nos. 4, 5, and 6 and the same were published. However, these Schemes have lapsed on one pretext or the other. Scheme No. 4 lapsed as no action was taken by the respondents and also because of not taking the possession of the land well within the time prescribed under the law. Scheme No. 5 also lapsed due to the paucity of the funds on the part of the respondent. Scheme No. 6 was stayed by the High Court.

(7) The respondents have failed to obtain "No Objection Certificate" from the State Level Land Acquisition Board prior to the issuance of the notification u/s 36 of the Act 1922. The Scheme was formulated and published in the Newspaper on 21.6.1993, and as appeared, in the advertisement dated 31. 3.1995 (annexure P-9), "No Objection Certificate" was granted by the State Level Land Acquisition Board on 4.1.1995 i. e. after the issuance of a notification u/s 36 of the Act 1922. Para 9.3 of the Standing Order No. 28 of Land Acquisition directs that for obtaining the "No Objection Certificate" from the above referred Board, the Department shall make a reference for that purpose to the Collector. The Collector then is required to examine the proposal and send his recommendations to the Revenue Department through the Secretary of the Administrative Department concerned for consideration and decision of the said Board along with the information as to whether Chief Agricultural Officer, Divisional Town Planner, Executive Engineer, P.W.D. (B and R) and Executive Engineer, Public Health have been consulted. If so, whether any of them has objection to the acquisition of the proposed land. The above mentioned officials, it has been averred, were not consulted and their written consent had not been obtained by the respondent. Resultantly, the alleged "No Objection Certificate" issued by the above said Board would itself fall to the ground on the said score.

4. Notice of motion was issued to the respondents. Respondent No. 2 filed written statement contending, inter-alia, that Section 36 of the Act envisages that when a Scheme under the Act has been framed, the Trust shall prepare a requisite notice and cause the said notice to be published weekly for three consecutive weeks in the Official Gazette or newspaper or newspapers with a statement of the period within which objections will be received. In the present case, the requisite notice with regard to the Scheme was published weekly for three consecutive weeks in the newspaper as also in the Official Gazette. It was specifically mentioned that there is no requirement that the publication of the notice in the Official Gazette must precede the publication of the notice in the newspaper. The notices were sent for publication in the Official Gazette and to the newspapers simultaneously. The Trust was however, not in the control of the sequence in which the publication was made in the Official Gazette and the newspapers. The stand of respondent No. 2 was that due compliance of the provisions of Section 36 of the Act had been made as the purpose of the publication of the notification in the newspaper as well as in the Official Gazette is to bring to the notice of the owners/ occupiers of the land sought to be acquired for the Scheme. The Scheme has been finally sanctioned by the State Government u/s 42 of the Act. There is, thus, conclusive evidence about the Scheme having been duly framed and sanctioned.

5. Respondent No. 2 contended that there has been due compliance of Section 38 of the Act in so far as the persons who after due enquiry were found to be the owners of any part of the land sought to be acquired, were issued notices. So far as the petitioner Harbans Singh (of C.W.P NO- 11993 of 1995) is concerned, his name was not recorded as owner in revenue record prepared and available at the relevant time. The Trust had no reason to believe after due enquiry that Harbans Singh was owner of any part of land sought to be acquired and therefore, no notice u/s 38 of the Act was issued to him. So far as the other writ petitioner Surjit Singh (of C.W.P. No. 11993 of 1995) is concerned, the Jamabandi for the years 1988-89 showed him recorded as owner of a part of the acquired land. Notice u/s 38 of the Act was issued to petitioner Surjit Singh. This notice was issued at his village address because foreign address of the petitioner was not available either in the revenue record or in the Office of the Trust. The notice issued to Surjit Singh, petitioner No. 2 was taken for service by Surta Singh, the then Patwari of the improvement Trust. The Patwari after due enquiry learnt that the said petitioner Surjit Singh was living in England and the Patwari was able to find out the address of Surjit Singh as under :-

Surjit Singh son of Pritam Kaur, House No. 80, Langle Road, Slough Beries, England.

The notice was consequently sent to the petitioner Surjit Singh on the aforesaid address by registered post on 3.9.1993. The postal receipt in respect thereof is available in records (vide paragraphs No. 2 and 3 of the additional affidavit dated 20.11.1995 of Shri. O. P. Gill, Chairman, Improvement Trust Phagwara, District

Kapurthala).

6. It was further averred by respondent No. 2 that due opportunity regarding the filing of objections against the acquisition of the land was given to the persons whom the Trust had reason to believe after due enquiry that they were the owners of the land as required by the provisions of Section 38 of the Act. The provisions of Section 40 of the Act have been duly complied with and notification u/s 40(3) of the Act was published in the Gazette as also in the newspaper as per statutory provisions. It was further mentioned that the Scheme had been sanctioned and notified in accordance with law. The allegations of arbitrariness and mala fide in publishing the notices and sanctioning the Scheme were categorically denied. It was reiterated that notifications issued under Sections 36, 38 and 40 of the Act are legal, valid, just and without any arbitrariness, mala fides or colourable exercise of powers involved therein.

7. As regards the earlier Schemes No. 2, 5 and 6 the reply of respondent No. 2 is that Scheme Nos. 4, 5 and 6 framed by the Trust were duly sanctioned by the State Government. A writ petition challenging Scheme No. 4 has since been dismissed and acquisition proceedings are in progress. Scheme No. 6 has been stayed by this Court. Scheme No. 5 lapsed due to paucity of funds. In reply to the allegations regarding the issuance of "No Objection Certificate", from the above-mentioned Board it was mentioned that there is no provision in the Punjab Town Improvement Act to take "No Objection Certificate" from the said Board. However, "No Objection Certificate" as per instructions contained in the Standing "Order has also since been obtained by the Trust and the Scheme has been duly sanctioned by the State Government, regarding the rehousing scheme for the local displaced persons with certain conditions, and action will be taken in accordance therewith. The Trust invited applications along with the earnest money from various categories of persons under the Utilisation of Land and Allotment of Plots of the Improvement Trust Rules, 1983.

8. So far as service of notices u/s 38 of the Act on the petitioners of C. W. P. No. 11994 of 1995 is concerned, the reply of respondent No. 2 Phagwara Improvement Trust, Phagwara is that none of the petitioners was either recorded as owner or occupier in the revenue records prepared and available at the time of the publication of the notice. According to the Jamabandi for the years 1988-89 and other relevant revenue record-of-rights available at the time of issuance of the notices, the name of none of the petitioners was recorded as owner or occupier of the land in question. It was, however, mentioned that petitioners No. 3 to 7 namely, Ashish Gupta, Rakesh Kumar, Ramesh Kumar, Smt. Neeru Bansal and Kulwinder Singh had filed objection against the acquisition which were duly considered. It was further submitted that petitioners No. 1 (Smt. Sunita Rani wife of Ravinder Kumar), 3, 4 and 6 had also appeared personally in response to the notice before the Trust on 2.3.1994. The objections filed by these petitioners were rejected by the respondent. Trust after personal hearing and due consideration. It was also mentioned that though none of the

petitioners was recorded as owner of the land in question in the revenue record, yet the fact remains that majority of them had filed objections and having been personally heard, none of them can challenge the impugned scheme. The other replies to the averments made in the Writ Petition No. 11994 of 1995 are the same as have been taken in the other Writ Petition No. 11993 of 1995 and the same have been mentioned above.

9. We have heard the learned counsel for the petitioners and the respondent Trust.

10. The land of the petitioners of the two writ petitions which is included in the areas, which is sought to be acquired, is as under :

C.W.P. No. 11993 of 1995 (Harbans Singh and Surjit Singh v. State of Punjab and Ors.)

1. No land of petitioner No. 1 Harbans Singh has been acquired in Scheme No. 7.

2. The land of petitioner No. 2 Surjit Singh son of Bir Singh acquired by the Trust, in the said Scheme No. 7 is 18 Kanals 15 Marias.

C.W.P. No. 11994 of 1995 (Sunita Rani and Ors. v. State of Punjab and Ors.)

Name of the petitioner Area of the land acquired 1. Ashish Gupta s/o Mohinder Pal son of 1 K 0M Shanti Sarup (Petitioner No. 3) 2. Rakesh Kumar s/o Ved Parkash s/o Babu Ram (Petitioner No. 4) and Ramesh Kumar s/o Mool Raj s/o Ganga Ram (Petitioner No. 5) 1K 0M 3. Smt. Neeru Bansal w/o Ravi Datt s/o 2K Jagdish Bansal (Petitioner No. 6) 4. Kulwinder Singh s/o Gurdev Singh s/o 2K Swaran Singh (Petitioner No. 7) total: 6K 0M

11. No land of petitioner No. 1 Smt. Sunita Rani wife of Ravinder Kumar son of Raja Ram and Smt. Meena Rani wife of Om Parkash, petitioner No. 2 was acquired for Scheme No. 7. They are purchasers of the land beyond the land of Scheme No. 7, as per the contention of respondent-Trust.

12. Learned counsel for the petitioners submitted that the mandatory provisions of Sections 36, 38 and 40 of the Act have not been complied with. He has argued that per provisions contained in Section 36(2)(a) of the Act, the Trust is required to publish the notice regarding the framing of the scheme weekly for three consecutive weeks in the Official Gazette and newspaper or newspapers with a statement of the period within which objections will be received. The submission of the learned counsel for the petitioners is that the requirement of Section 36(2)(a) of the Act is that the publication of the notification in the Official Gazette must precede the publication of the said notification in the newspapers on three

consecutive weeks. He has cited the case of Surinder Singh v. Sangtur Improvement Trust (1990) 1 R.L.R. 165. A learned Single Judge of this Court held that where the notifications u/s 36 of the Act were published in the newspapers prior to the notification published in the Gazette, the acquisition proceedings were liable to be held illegal.

13. The learned Single Judge relied upon the judgment in the case of Phagwara Improvement Trust v. State of Punjab 1985 PLJ 254, which upheld the decision of a learned Single Judge in the case of Hari Singh v. State of Punjab 1982 PLJ 149. The case of Phagwara Improvement Trust (supra) was decided by the L.P.A. Bench on 22.10.1984. In the said case, the Bench placed reliance on the judgment of a learned Single Judge in the case of Hari Singh (supra) which was expressly over-ruled by the Full Bench of this Court in the case of Jodh Singh and Others Vs. Jullundur Improvement Trust, Jullundur and Others, . The Division Bench though referred to the judgment of the Full Bench in Jodh Singh's case (supra), yet did not notice the fact that the judgment rendered in the case of Hari Singh (supra) decided by the learned Single Judge had been expressly over-ruled. An. SLP was filed against the judgment of the L.P.A. Bench in the case of Phagwara Improvement Trust (supra). The Supreme Court allowed the SLP and set aside the decision of the learned Single Judge as well as the Division Bench of this Court (see Phagwara Improvement Trust Vs. State of Punjab and Others, .

14. It may be noticed that in the case of Jodh Singh (supra), the Full Bench of this Court held that the provision of Section 36 of the Act in so far as it provides for publication of the notice as such and not the frequency thereof, is mandatory in character, because the Scheme is prepared for the convenience and welfare of the inhabitants. They are vitally interested in knowing as to what the Scheme is, therefore, the publication of the Scheme to bring the same to their notice is vitally essential to enable them to bring their view-point regarding the Scheme to the notice of the concerned authorities.

15. The view of the Full Bench was followed by the Division Bench in the case of Phagwara Improvement Trust (supra). In the said case the notification u/s 36 of the Act was published in the newspapers dated 9.4.1976, 15. 4.1976 and 23.4.1976 inviting objections within 5.5.1976. Publication of the notification in the Official Gazette was made on 7.5.1976, 14.5.1976 and 21.5.1976. The first notification published in the Official Gazette was on 7.5.1976 which invited objections against the Scheme by 5.5.1976 i. e. two dates prior to the date of publication in the Official Gazette.

16. The Supreme Court in SLP filed against the judgment of the L.P.A in Phagwara Improvement Trust (supra) held that:-

"The legislative intent of provisions of Section 36 read with Section 38 of the said Act is to afford reasonable opportunity to the owners and occupiers affected by the proposed Scheme to file objections not only against the Scheme but also against the acquisition of their lands falling within the Scheme and to achieve

this purpose not only notifications in the Government Gazette and newspaper are to be published but also individual notices on each of the person affected are to be served with details of the plots of land falling within the Scheme and proposed to be acquired with a view to giving them adequate opportunity to file objections both against the Scheme as well as against the proposed acquisition of their lands. It is, therefore, incomprehensible to contend that non-observance of provisions of Section 36 of the said Act by not publishing the notification in the Government Gazette before the expiry of the date of filing the objections renders the publication of the entire development scheme illegal and bad."

17. It may be mentioned that in the said case the notice in the Official Gazette was published after the expiry of the date of filing objections and the publication of the notice in Gazette was after expiry of 30 days from the date of first publication in newspapers. The Supreme Court upheld the validity of the publication of the notice u/s 36 of the Act.

18. In view of the decision of the Supreme Court in the case of Phagwara improvement Trust, the position appears to be quite settled. Though the publication of notification u/s 36(2)(a) of the Act in the newspapers and in the Official Gazette is mandatory but its frequency is not so. We, therefore, find no force in the contention of the learned counsel for the petitioners that there has been no compliance of the provisions of Section 36(2)(a) of the Act because notice was published in the newspapers prior to the publication of the said notice in the Official Gazette.

19. The next submission of the learned counsel for the petitioners is regarding the compliance of provisions of Section 38 of the Act. Learned counsel for the petitioners contended that the provisions of Section 38 are mandatory in nature and in the instant case none of the petitioners in the two writ petitions was served with the notice envisaged u/s 38(1) of the Act. Section 38(1) of the Act provides as under:

"Notice of proposed acquisition of land-(a) During the thirty days next following the first day on which any notice is published u/s 36 in respect of any scheme under this Act the trust shall serve a notice on-

(i) every person whom the trust has reason to believe after due enquiry to be the owner of any immovable property which it is proposed to acquire in executing the scheme;

(ii) the occupier (who need not be named) of such premises as the trust proposes to acquire in executing the scheme."

20. It is not disputed that the provisions of Section 38 of the Act are mandatory.

21. The stand of the respondent-Trust is that in respect of the petitioners of C.W.P. No. 11993 of 1995, no land of petitioner No. 1 Harbans Singh was under acquisition for Scheme No. 7 and therefore, no notice u/s 38(1) of the Act was necessary to be issued to him. So far as petitioner No. 2 Surjit Singh is

concerned, his land is included in the area acquired by the respondent Trust. The area of land of petitioner No. 2 Surjit Singh under acquisition is 18 Kanals 15 Marias. According to the submission of the respondent-Trust, compliance of Section 38(1) of the Act has been made. Initially, notice was sent to him at his village address and after the receipt of the report of the Patwari who was entrusted with the service of the notice, wherein the address of Surjit Singh of England (U. K.) was disclosed, a registered notice was sent to him at the address mentioned above. It was further mentioned that the notice sent by registered post at the address of Surjit Singh was not received back unserved and therefore, under the normal course of events it will be presumed that the notice reached the addressee. Learned counsel for the petitioners controverted the averments of the respondent-Trust and in the replication it was denied that Surjit Singh, petitioner No. 2 was issued a notice u/s 38 of the Act. It was further averred that no notice as alleged was issued to petitioner No. 2 at his village address. The respondent-Trust has produced the original register maintained for the notices issued to the land owners/occupiers. After the perusal of the register and the receipt showing registered letter having been sent, we are of the view that a registered notice at the address of the petitioner was sent by the Trust and the same was not received back unserved. Therefore, the notice as required by Section 38(1) of the Act has been issued to petitioner No. 2 Surjit Singh and there has been compliance of the said provision qua him. In view of the stand taken by the respondent-Trust that no land of petitioner Harbans Singh was acquired under the said scheme no notice was necessary to be issued to him.

22. As regards the petitioners of C. W. P. No. 11994 of 1995 are concerned, the respondent-Trust has alleged that the names of these petitioners are nowhere entered in the revenue records and therefore, no notice was necessary to be issued to these petitioners.

23. It may be pointed out that these petitioners have not placed on record the sale-deeds in support of their claim. It is also note worthy that the names of the petitioners have not been mentioned in the revenue records. The sale-deed which is referred to in the petition is dated 12.8.1993. The learned counsel for the petitioners submitted that the registration of the sale deed is a notice to all and therefore, the respondent-Trust will also be deemed to have the notice of the title of the petitioners to the land acquired under Scheme No. 7. In support of this argument, the learned Counsel for the petitioners relied on a Division Bench case of this Court *S. Hira Singh v. The State of Punjab*, 1985 PLJ 371, wherein the admitted case of the parties was that the purchase was made by way of a registered sale deed which is treated to be a public notice of the said fact and none can be heard to plead ignorance thereof. We find that the petitioners have not placed on record the sale deed relied on in the petition. The respondent-Trust has not admitted about the title of the petitioners and the petitioners have not been entered in the revenue records. There is, thus no material on record to show that these petitioners were the owners of the land sought to be acquired under Scheme No. 7.

24. Learned counsel for the respondent-Trust cited the judgment of Division Bench of this Court in Sham Singh Harikay Vs. Ludhiana Improvement Trust and Others, The Division Bench in that case held as under:

"Even on the merits of the claim made by the petitioner, we are fully convinced that he is not entitled to any relief because in the Jamabandi of the year 1979-80 Dial Singh son of Chand Singh has been recorded as the owner and the petitioner has been merely shown as a person cultivating the land. No documentary evidence has been produced by the petitioner to show that he is owner of the property which has been acquired. He has neither pleaded nor has he proved that the property was purchased by him. Nor any other document has been produced by him to establish his ownership. Thus the petitioner can have no locus standi to question the legality or correctness of the acquisition proceedings."

25. We, therefore, find no substance in the argument of the learned counsel for the petitioners regarding a constructive notice to the respondent-Trust of the title of the petitioners to the land in question. There is considerable force in the contention of the respondent-Trust that no notice was necessary to be issued to the petitioners.

26. It has, however, been averred in the written statement of the respondent Trust that petitioners No. 3 to 7 had filed objections which were duly considered. Petitioners No. 1, 3, 4 and 6 had also appeared personally in response to the notice before the Trust on 2.3.1994. After due consideration of the objections filed and personal hearing, the objections were rejected by the Trust. It was also mentioned in the written statement vide para 3 that all the petitioners are co-owners of the land mentioned in the writ petition as per the particulars given therein. Though none of the petitioners was recorded as owner of the land in question in the revenue record, but the fact remained that majority of them had filed objections and having been personally heard, there has been due compliance of the provisions of Section 38(1) of the Act. Learned counsel for the petitioners submitted that no such objections as are referred to in the written statement of the respondent-Trust, were filed and none of the petitioners referred in the written statement appeared before the Trust for personal hearing and no personal hearing was given to such petitioners. Learned counsel for the petitioners referred to the replication wherein the averments made in para 3 of the written statement were categorically denied and it was mentioned that since no notice u/s 38(1) of the Act was given to the petitioners, no question of filing objections and personal appearance arises. The respondent-Trust produced the original record for our perusal. The file contains the written objections filed by petitioner Ashish Gupta and two Ors.. There is a separate written objection filed by Rakesh Kumar and Ramesh Kumar, petitioners. Petitioner Neeru Bansal wife of Ravi Datt filed separate written objection. Petitioner Kulwant Singh also filed his written objection. The respondent trust has shown original record of proceedings regarding the presence of petitioners No. 1, 3, 4 and 6 at the time of hearing in

respect of objections filed by them. Though the learned counsel for the petitioners has categorically denied about the filing of written objections by petitioners No. 3 and 7 and about the presence of petitioners No. 1, 3, 4 and 6 and even alleged fabrication of evidence, we are of the view that the original records which have been shown to us relate to the period much prior to the filing of these writ petitions and the respondent-Trust could not have anticipated at that time the said pleas to be taken in future by these petitioners in the writ petitions and, therefore, we feel inclined to accept the said version of the respondent-Trust and do so. The Trust while forwarding the papers to the State Government for sanctioning of the Scheme sent these written objections alongwith other objections to the State Government. Having perused the original record produced by the respondent-Trust, we are prima facie of the view that the petitioners, referred to above, filed objections before the respondent-Trust and were given personal hearing in respect of the objections.

27. The next submission of the learned counsel for the petitioners was that the respondent-Trust did not obtain a "No Objection Certificate" from the State Level Land Acquisition Board. Learned counsel for the respondent-Trust, on the other hand, pointed out that there is no provision under the Punjab Town Improvement Act, 1922 for obtaining No Objection from the Board. However, as a matter of fact "No Objection Certificate" was obtained from the said Board. Therefore, we do not find any force in the said submission of the learned counsel for the petitioners.

28. Lastly, it was argued by the learned counsel for the petitioners that the respondent-Trust had previously also published Scheme Nos. 4, 5 and 6 but they were not pursued further. It was submitted by the learned counsel for the petitioners that the respondent-Trust has acted in colourable exercise of power by initiating the acquisition proceedings for the Scheme No. 7. As noticed earlier, Scheme No. 4 was stayed by this Court and after the stay was vacated, the said scheme is being continued by the Trust. Scheme No. 5 was, however, abandoned due to the paucity of funds. Scheme No. 6 has been stayed under the orders of this Court. Apart from it, the Government has accepted the report of the Trust and accorded sanction to the scheme u/s 42 of the Act. This submission made by the learned counsel for the petitioners also is without any force.

29. In view of the discussion made above, we find that the respondent-Trust has followed the provisions contained in Sections 36(2)(a), 38(1) and 40(3) of the Act and there is no violation of Articles 14 and 21 of the Constitution of India. The action of the said respondent is strictly in accordance with the said provisions of the Act and the same is fair and not arbitrary or discriminatory. Resultantly, both the writ petitions are dismissed.