

(2013) 02 SC CK 0002

In the Supreme Court Of India

Case No : C.A. No. 1519 of 2013 (Arising out of SLP (C) No. 20220 of 2011)

Hukam Chand and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 21-02-2013

Acts Referred:

Haryana Development and Regulation of Urban Areas Act, 1975 — Section 3
Land Acquisition Act, 1894 — Section 4, 4(1), 40, 48, 48(1)

Citation : (2014) 1 RCR(Civil) 561 : (2013) 3 SCALE 169 : (2013) 11 SCC 578

Hon'ble Judges : Ranjana Prakash Desai, J;H.L. Gokhale, J;G.S. Singhvi, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

1. Leave granted. Having failed to convince the Division Bench of the Punjab and Haryana High Court to quash the acquisition of their land on the grounds of violation of Section 5A(2) of the Land Acquisition Act, 1894 (for short, 'the Act') and discrimination, the Appellants have preferred these appeals.

2. For the sake of convenience, the facts are being noticed from the record of the appeal arising out of SLP(C) No. 20303 of 2011.

3. Appellant - Bohru is the co-owner in possession of land comprised in Khewat No. 89, Khata No. 111, Rectangle No. 16, Killa No. 14/2 (4-12) situated in village Fazilwas, Tehsil and District Gurgaon. He constructed thereon a building consisting of 6 rooms with an open verandah, shed and courtyard. After obtaining a licence from the Haryana State Agriculture Marketing Board, the Appellant started a flour mill under the name and style M/s. Dinesh Flour Mill.

4. By notification dated 14.12.2006 issued u/s 4(1) of the Act, the Government of Haryana proposed the acquisition of land situated in seven villages, including Fazilwas, for setting up Choudhary Devi Lal Industrial Model Township. The Appellant filed objections u/s 5A(1) of the Act and pleaded that his land may not be acquired because he had raised the construction, and was running a flour mill

since 2005. After considering the report of the Land Acquisition Collector, the State Government issued declaration u/s 6(1), which was published vide notification dated 18.1.2008.

5. The Appellant challenged the acquisition of his land in CWP No. 7424/2008. Likewise, other landowners filed writ petitions questioning the notifications issued by the State Government under Sections 4(1) and 6(1) of the Act. All the writ petitions were dismissed by the High Court as infructuous because a statement was made on behalf of the State Government that the declaration u/s 6(1) was issued beyond the time prescribed under that section and fresh notification had been issued u/s 4(1) on 25.4.2008.

6. Since the Appellant's land was included in notification dated 25.4.2008, he filed detailed objections dated 9.6.2008, paragraphs 3, 5, 6, 7, 9 and 10 of which are extracted below:

3. That the Objector/Petitioner have got constructed with A class RCC Well developed building consisting 6 rooms along with open verandah, shed, court yard and further the objector/Petitioner is running a flour mill in the shape of small scale unit after obtaining all the mandatory licence etc. from the concerned government department and further the electricity connection was taken by the Petitioner for the above purpose. The Petitioner is running the above flour mill in the name of M/s. Dinesh Kumar Flour mill and the said project is more than one crore rupees. It is submitted that the Petitioner is running the above said flour mill before issuance of the notification u/s 4 of the land Acquisition Act (hereinafter referred as Act). The above atta chakki is being run by the Petitioner/objector from 2005. For the above purpose the objector/Petitioner had also taken loan from the Gurgaon Central Cooperative Bank Ltd., Gurgaon in the year 2005 for the running of his above factory etc. It is submitted that the objector/Petitioner is running a flour mill by the name and style of Dinesh Kumar Flour mill in the above land. A copy of the electricity bills before issuance of notification u/s 4 of the Act, of the above premises are annexed herewith as Annexure-O/2 and O/3. The Petitioner is running his atta mill in the suit land before issuance of the notification u/s 4 of the Act. The Petitioner is not having any source of income except the above factory. The photographs of the premises in question is annexed herewith as Annexure-O/4.

5. That although the objector/Petitioner has raised the factories and other constructions, on the land in question much prior to issuance of notification u/s 4 of the Act, and as per policy of the Government that built up area existing at the time of issuance of notification u/s 4 shall be left out from the acquisition. The Petitioner/objector had constructed their factories and other constructed their factories and other constructions in the land in question before issuing a notification u/s 4 of the Land Acquisition Act. It is submitted that the Petitioner is having the telephone and electricity connection in the factories on the land in question.

6. That according to the Govt. Policy as reproduced in Annexure-O/5 which is a copy of CWP No. 16396 of 2007 and the same was decided on 17.12.2007, the Petitioners are entitled to release of their constructed portion as the same is prior to the issuance of Notification u/s 4 of the Act and there is objection by pleading that their construction is existing in the land in question. In a similar controversy earlier raised in CWP No. 16396 of 2007 this Hon'ble Court was pleased to dispose of the writ with a direction to the Petitioner to make representation in view of the said policy and the Respondents were directed to consider the representation in terms of said policy.

7. That the land was acquired for the purpose of setting up a Chaudhary Devi Lal Industrial Model Township. It is submitted that there is already a factory which is being run by the Petitioners in the land in dispute and the Petitioner is using the land for the industrial purpose also. It is settled law if the person is using the land in question for the same purpose then the same should not be acquired.

9. That the Notification regarding acquiring of above land has been issued by the State of Haryana illegally and without verifying actual state of affairs and no notice has ever been served upon the objector/Petitioner till today and no legality has been complied by the Respondent as enumerated in the Act.

10. That the State of Haryana has adopted pick and choose policy because of the land of the some other influential persons has been released and not taken in Section 4 of the Notification. There is a discrimination by the State of Haryana.

7. The Land Acquisition Collector, who was entrusted with the task of making an inquiry u/s 5A(2), did not give opportunity of hearing to the Appellant and submitted report to the State Government. In column 7 of the report, the Land Acquisition Collector noted the objections raised by the Appellant in the following words:

The applicant has stated in his application that in this site plan he has a share many years before the four wall ,verandah, kitchen, latrine and bathroom and a big tin shed and submersible pump for the purpose of drinking water has been constructed and there is a puca road and further there is a connection of telephone. Our family are living in this land and except there is no other land. Our all the family will come on the road so our houses should be released.

In column 8 of the report, the Land Acquisition Collector made the following recommendation:

It is appropriate to acquire.

8. After considering the report of the Land Acquisition Collector, the State Government issued declaration u/s 6(1), which was published on 9.3.2009,

9. The Appellant challenged notifications dated 25.4.2008 and 9.3.2009 in Writ Petition No. 15720/2009. In paragraphs 6, 8, 9 and 11 thereof, he specifically pleaded that opportunity of hearing had not been afforded to him in terms of

Section 5A. He also relied upon the instructions issued by the State Government from time to time for release of land on which construction had already been raised and pleaded that there was no justification to acquire his land. This is evinced from the following averments contained in the writ petition:

11....Neither the Petitioner was provided' opportunity of hearing nor called for hearing of objections filed by the Petitioner u/s 5A of the Act. However, the Petitioner had sought the information from the District Revenue Officer Gurgaon under Right to Information Act, 2005 whether the objections u/s 5A has been considered by the authorities/ Public Information Officer-cum-State Public Information Officer send the information vide letter dated 08.09.2009 and a report has been given to the Petitioner regarding Section 5A of the Act. In the report u/s 5A it is only mentioned that it is appropriate to acquire the land of the Petitioner. The copy of the letter dated 08.09.2009 and report on objections u/s 5A is annexed herewith as Annexure P-11 and Annexure P-12 respectively. The co-joint reading of Section 4, 5A and 6 of the Act shows that officer authorized by Govt. after issuance of Notification is to enter upon and survey the land and to do all the other act to ascertain whether the land is adopted for purpose. In the present case the Respondents never carried any survey of the Petitioner's land. Further the objections of the Petitioner have not been objectively decided yet and the land of the Petitioner has been included in the declaration u/s 6 of the Act.

b) That although the Petitioners have raised the factories and other constructions on the land in question much prior to issuance of notification u/s 4 of the Act (Annexure A-14), and as per policy of the Government that built up area existing at the time of issuance of notification u/s 4 shall be left out from the acquisition. The Petitioners had constructed their factories and other constructions in the land in question before issuing a notification u/s 4 of the Land Acquisition Act. It is submitted that the Petitioners are having the telephone and electricity connection in the factories on the land in question.

c) That the Respondents have issued instructions dated January 8, 2007 whereby it has been instructed that the areas where construction has come up should not be included in acquisition proceedings. Further, the Respondents have issued a policy dated 26.10.2007 to the effect that the lands where there exists any factory or commercial establishment prior to the Section 4, the same shall be considered for release u/s 48(1) of the Land Acquisition Act. In the present case the construction was complete and occupation certificate was issued in the year 1995 thirteen years prior to the issuance of the present notification. It is pertinent to mention here that the said policy is under scrutiny of this Hon'ble Court in CWP No. 8055 of 2008 wherein this Hon'ble Court vide its order dated May 14, 2008 observed that if the policies have been framed for releasing such structures, factory, commercial establishment or building, which are in existence before issuance of notification u/s 4 of the Act then why at the first instance such properties are required to be included in the notification issued u/s 40 of the

Land Acquisition Act. At the time of survey for preparing the notification u/s 4 of the Act why such properties could not be excluded. Further the State Govt., has formulated policy for rehabilitation and resettlement of landowners dated December 7, 2007.

A copy of the letter instructions dated January 8, 2007, order dated May 14, 2008 passed in CWP No. 8055 of 2008 and policy dated December 7, 2007 is annexed herewith as Annexure P-13, P-14 and P-15 respectively.

d) that according to the Govt. Policy as reproduced in Annexure P-16 which is a copy of CWP No. 16396 of 2007 and the same was decided on 17.12.2007, the Petitioners are entitled to release of their constructed portion as the same is prior to the issuance of Notification u/s 4 of the Act and there is objection by pleading that their construction is existing in the land in question. In a similar controversy earlier raised in CWP No. 16396 of 2007 this Hon'ble Court was pleased to dispose of the writ with a direction to the Petitioner to make representation in view of the said policy and the Respondents were directed to consider the representation in terms of said policy.

10. In the written statement filed on behalf of the Respondents, it was averred that land situated in five villages was acquired for establishing integrated complex for industrial, commercial and other public utilities by the Haryana State Industrial and Infrastructure Development Corporation Ltd. in the name of Choudhary Devi Lal; that major portion of the land is located along the alignment of Kundli-Manesar-Palwal Expressway; that some portion of the land is also required for construction of an interchange of the Expressway on NH-8 and that the acquisition was made after complying with the relevant provisions of the Act. However, the statement contained in the writ petition that the Appellant had not been given opportunity of hearing was not specifically controverted.

11. In the writ petition filed by them, Appellants Hukam Chand and Ors. pleaded that the objections filed by them had not been properly considered and their land was not released from acquisition despite the fact that they had already raised construction. They further pleaded that the acquisition proceedings were contrary to the law laid down in Sube Singh and Others Vs. State of Haryana and Others, and the provisions contained in the Punjab Scheduled Roads and Controlled Areas (Restriction of Unregulated Development) Act, 1963. The Division Bench of the High Court disposed of the writ petitions of the Appellants along with 37 other writ petitions. Some of the writ petitions were partly allowed and the remaining were dismissed. Some of the observations made in the impugned order, which depict total arbitrariness on the Respondents' part in acquiring land belonging to agriculturists while leaving out land purchased by different industrial establishments and builders are extracted below;

It has been further submitted that the lands coming in the aforesaid projects which are necessary for infrastructure development cannot be released. The State Government has also sought to justify the release of land in favour of the

private Respondents and admitted that it has released 50 acres land being under forest, 42 acres belonging to Gram Panchayats and 2 acres in favour of others. It was admitted that 42 acres 7 kanals 15 marlas of land was released in favour of M/s. Chinar Estates Private Limited vide notification dated 7.5.2010 issued u/s 48 of the Act. It was also admitted that land measuring 19 kanals 16 marlas of M/s. Hess Hospitality who had applied for CLU on 12.6.2006 before the initiation of process of acquisition was also excluded. Regarding release of land in favour of M/s. VSR Infrastructure Pvt. Ltd., it was stated that the aforesaid Company had applied for grant of licence u/s 3 of the Haryana Development and Regulation of Urban Areas Act, 1975 for setting up of an industrial township colony on land measuring 133.777 acres.

However, Sh. Sehgal was unable to point out from any record that the land measuring 50 acres which has been released being under forest cover could be justified. Moreover, no justification had come regarding the release of land in favour of M/s. Chinar Estates Pvt. Ltd and M/s. Hess Hospitality after the acquisition proceedings. Even no explanation is forthcoming for not notifying the land for acquisition belonging to M/s. VSR Infrastructure Pvt. Ltd.

At this stage, it is relevant to mention that when the arguments were going to conclude in the aforesaid writ petition, by making reference to the site plan Annexure R-1 attached with the written statement filed by Shri Y.S. Malik, Financial Commissioner and Principal Secretary to Government of Haryana, we asked Shri Sehgal to state after getting information from Shri Arvind Mehtani, Senior Town Planner, HSIIDC, who is present in Court, that as per legend mentioned in this site plan, what is the position of the land which is shown in black hyphens with the legend "objections received dated 2.4.2009". After getting information from the concerned officer, Shri Sehgal states that the land shown on the black hyphens at various places was the land under acquisition belongs to the Gram Panchayat and has been released. A look at the site plan indicates that even land of many land owners is also shown under black hyphens when asked what it means, he after taking instructions from the officer concerned stated that this land was wrongly shown in the black hyphens in the site plan. We are very surprise to hear this answer. In the past also, we have seen that it is becoming very difficult to get correct information from the official Respondents especially in the land acquisition matters. However, separate action is being taken in this regard against the aforesaid officers.

In view of the aforesaid fact that the State Government is justifying its action on the basis of wrong documents placed before this Court in acquiring the land of the Petitioners, the impugned notifications cannot be sustained. This is a classic case of misleading the Court. The written statement was filed by the top functionary of the Department of Industries, Government of Haryana and has been purported to be verified on the basis of official record. It is well settled that any plea based on false averment/record cannot be given any weightage.

Not only this, the Respondents have failed to justify the release of vacant lands

in favour of private Respondents and other persons. No. doubt in some of the writ petitions, a stand has been taken that the acquired land is required for development of infrastructure such as widening of road, green belt, ROW, global corridor and change of zones etc. but as per the defence taken by the Respondents themselves and the site plan Annexure R-1 it is clearly established on record that the land which was subject matter of notification dated 18.1.2000 issued u/s 4 of the Act and which was not notified in the instant notification dated 25.4.2008 (shown in Green in Annexure R-1) is in patches and like separate islands which cannot be adjusted in the development plan. Not only this, even the lands shown in Black Hyphens and which has been adjusted and released in the present notification issued u/s 6 of the Act are again in patches and standalone islands, which cannot be adjusted.

On the other hand, existing structures/lands of the Petitioners have not been exempted/released on the ground that these are stand alone structures and have to be provided separate paths etc.

Sh. Kamal Sehgal, learned Counsel appearing on behalf of the Respondents was unable to justify the stand taken to deny the relief to the Petitioners in view of the facts as aforesaid established on record.

In this view of the matter, we are of the view that wherever construction of the Petitioners has been admitted by the Respondents on the acquired land and recommendations were made for release of such lands by the Land Acquisition Collector are liable to be released and the acquisition proceedings against them are liable to be quashed subject to the conditions that such lands do not fall in the infrastructure facilities such as widening of road, green belt, ROW, global corridor and change of zones etc.

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12. At this stage, we would like to observe that the officers of the Government of Haryana who filed the written statements deliberately withheld the fact that on the recommendations made by the Cabinet Sub-Committee on Infrastructure, the acquisition proceedings were dropped in respect of 2200 acres land out of 3510 acres notified u/s 4(1) of the Act. This fact has been disclosed in paragraphs 13 and 14 of the affidavit filed by Shri R.L. Satyaprakash, Joint Secretary to Government of Haryana and Director, Industries and Commerce, Haryana. The same read as under:

13. That it is respectfully submitted that a number of landowners organized protests against acquisition of their land in this area and submitted memorandums requesting for dropping the land acquisition proceedings sometime around January-February, 2011 taking the plea that it was fertile agriculture land. Taking these developments into account, the matter was placed before the "Cabinet Sub-Committee on Infrastructure" for consideration in its meeting held on 15.02.2011. After deliberating the issue in detail and keeping in view that some land was critically required for committed projects under the

Delhi-Mumbai Industrial Corridor Project, the Cabinet Sub-Committee decided as under (extract from the Minutes of the meeting):

Agenda Item No. 2.4

Delhi Mumbai Industrial Corridor Project.

i) The Committee took note of the detailed agenda notes and the specific issues raised therein for consideration of the Committee. The FC&PS, Industries explained that pursuant to the mention of the MDIC Project and three early bird projects there under by the Finance Minister in his budget speech of March 2010, the details of this project had been placed before the Committee in its first meeting held in June 2010, The Committee had taken note of the Project and also the technical assistance/support being received through the DMICDC. The HSIIDC, being the steering agency for the Project, had taken it forward with definite commitments at the level of DMICDC and the Government of India.

ii) The FCP&S, Industries invited the attention of the Committee to the specific issues raised in the agenda and requested for clear directions in the matter as the entire economic activity flowing to the state from this project was dependent on acquisition of land within the influence zone of the Delhi-Mumbai Industrial Corridor, and more particularly for the three early bird projects and Phase-I of the Manesar-Bawal Investment Region.

iii) The issues were discussed in detail. The concerns raised by the FM with regard to the acquisition of 494 acres of land for Dharuhera Industrial Estate and the latest newspaper reports with regard to acquisition of about 3300 acres of land for the expansion phase of IMT Manesar were also explained and discussed in depth. Details of ownership of land under acquisition in Dharuhera were explained with the land in the ownership of persons other than the original farmers duly marked on the shijra plan of the area. Similar details in respect of the Manesar expansion phase were also placed before the Committee, The Industries Minister clarified that in case the Finance Minister had reservations on acquisition of land in this area, all plans for the planned development may have to be shelved, the benefit of which would go to the adjoining state of Rajasthan by default.

iv) However, the Finance Minister expressed his reservations on acquisition of the fertile land of the farmers, be it in Dharuhera or Manesar. He stated that the Government could acquire the land that had been sold by the farmers to non-farming interests but retention of good agricultural land at these places was most desirable. He further suggested that the Government should maintain the character of the land so left out from acquisition as 'agricultural' with clear stipulation that no CLUs or licenses would be granted in respect of such areas.

v) After detailed discussions and in deference to the suggestion made by the Finance Minister, the Committee decided as under:

a) Out of 494 acres of land notified for acquisition in Dharuhera, the land

situated in the rear portion of the block (along the revenue boundary of village Ghatal marked on the shijra plan and estimated to be around 70 to 80 acres) that was still in the ownership of the original farmers, be excluded from acquisition at the time of issue of Section 6 declaration;

b) Out of the land notified for acquisition for the expansion of IMT Manesar, (a) the complete block of land in which the ECC project is to be located (along the NH-8 and the KMP Expressway on the right hand side while travelling from Manesar to Bawal), (b) the block situated on the left hand side after crossing the KMP Expressway Interchange along the NH-8 and meant to be used for the ISBT and other transport logistics, (c) the Statutory green belts along the NH-8, and the slip roads for the KMP-NH-8 Interchange (d) the Statutory green belt including the ROW for the Orbital Rail Corridor along the KMP Expressway on the southern side on Right hand side of the NH-8 while travelling from Manesar to Bawal, be acquired and the rest of the land be excluded from the Award;

c) As suggested by the Finance Minister, the character of portions of land released from Section 6 in case of Dharuhera or from the Award in respect of Manesar would be retained as 'Agricultural' and no 'CLU' or 'License' would be granted in the released area, and the Department of Town & Country Planning Department would initiate the requisite process of amendment of the Development Plan accordingly.

(Emphasis added)

d) Plans for acquisition of land for the DMIC Project be taken forward in view of the state's larger interests.

14. That following from the above decision, the acquisition proceedings in respect of about 2200 acres of land were dropped en-block on the understanding that the land use for the released land would be retained as 'Agricultural' as per the above decision. The LAC, Gurgaon, has announced the Award in respect of remaining 1128 acres (approximately) of land on 21.04.2011 as per the above decision out of the land notified for acquisition vide notifications dated 25.04.2008 and 22.04.2009 issued u/s 4 and 6 of the Act respectively.

13. Shri Siddharth Mittal, learned Counsel appearing for Appellant-Bhoru, argued that the impugned order is liable to be set aside because the High Court did not consider his client's plea that the acquisition of his land was vitiated due to violation of Section 5A(2). Learned Counsel further argued that the Land Acquisition Collector had submitted the report to the State Government and recommended acquisition of the Appellant's land without giving him opportunity of hearing and even though this was specifically pleaded as a ground for challenging the acquisition proceedings, the High Court did not consider the same. Learned Counsel further argued that the acquisition proceedings are vitiated due to wholly arbitrary and discriminatory approach adopted by the State Government. He pointed out that large parcels of land belonging to M/s. VSR Infrastructure Pvt. Ltd., M/s. Chinar Estates Pvt. Ltd., M/s. Hess Hospitality and

other industrial establishments were left out from acquisition or release but similar action was not taken qua the Appellant's land despite the fact that he had already raised construction and was running a flour mill. Learned Counsel also relied upon the policy decisions taken by the State Government not to acquire land on which construction had been raised before the initiation of acquisition proceedings and submitted that the High Court committed an error by not ordering release/de-acquisition of the Appellant's land.

14. Shri S.S. Shamsheery, learned Counsel appearing for Hukam Chand and Ors. adopted the arguments of Shri Mittal and submitted that the acquisition of his clients' land should be quashed on the ground of discrimination.

15. Shri Ravindra Bana, learned Counsel for the Respondents, fairly admitted that the averments contained in the writ petition filed by Bhoru about denial of opportunity of hearing u/s 5A(2) had not been controverted in the written statement filed on behalf of Respondent Nos. 1 and 2, but submitted that the acquisition of the Appellants land may not be quashed on the ground of discrimination because there were valid reasons for releasing land belonging to M/s. VSR Infrastructure Pvt. Ltd.; M/s. Chinar Estates Pvt. Ltd., M/s. Hess Hospitality, etc. Shri Bana further argued that the appeals may be dismissed because SLP(C) No. 11019/2011 filed by the State was dismissed by this Court on 27.4.2011.

16. We have considered the respective arguments and scanned the record. Section 5A, which provides for filing of objections by the landowners and other interested persons and giving of opportunity of hearing to the objectors reads as under:

5A. Hearing of objections. - (1) Any person interested in any land which has been notified u/s 4, Sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days from the date of the publication of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under Sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorized by him in this behalf or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified u/s 4, Sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government, The decision of the appropriate Government on the objections shall be final.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

17. In *Munshi Singh and Others Vs. Union of India (UOI)*, , this Court interpreted the afore-mentioned provision and observed:

...Sub-section (2) of Section 5-A makes it obligatory on the Collector to give an objector an opportunity of being heard. After hearing all objections and making further inquiry he is to make a report to the appropriate Government containing his recommendation on the objections. The decision of the appropriate Government on the objections is then final. The declaration u/s 6 has to be made after the appropriate Government is satisfied, on a consideration of the report, if any, made by the Collector u/s 5-A(2). The legislature has, therefore, made complete provisions for the persons interested to file objections against the proposed acquisition and for the disposal of their objections. It is only in cases of urgency that special powers have been conferred on the appropriate Government to dispense with the provisions of Section 5-A.

18. In *Shyam Nandan Prasad and Others Vs. State of Bihar and Others*, , this Court reiterated that the provisions contained in Section 5A are mandatory and compliance thereof is sine qua non before any person can be deprived of his land. Some of the observations made in that case are extracted below:

...The decision of the Collector is supposedly final unless the appropriate Government chooses to interfere therein and cause affectation, suo motu or on the application of any person interested in the land. These requirements obviously lead to the positive conclusion that the proceeding before the Collector is a blend of public and individual enquiry. The person interested, or known to be interested, in the land is to be served personally of the notification, giving him the opportunity of objecting to the acquisition and awakening him to such right. That the objection is to be in writing, is indicative of the fact that the enquiry into the objection is to focus his individual cause as well as public cause. That at the time of the enquiry, for which prior notice shall be essential, the objector has the right to appear in person or through pleader and substantiate his objection by evidence and argument,

19. In *Raghubir Singh Sehrawat Vs. State of Haryana and Others*, the Court noticed the above noted two judgments and also the judgments in *Union of India (UOI) and Others Vs. Mukesh Hans etc.*, *Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai and Others*, *Anand Singh and Another Vs. State of Uttar Pradesh and Others*, and *Sri Radhy Shyam (Dead) through L.Rs. and Others Vs. State of U.P. and Others*, , and observed;

In this context, it is necessary to remember that the rules of natural justice have been ingrained in the scheme of Section 5-A with a view to ensure that before any person is deprived of his land by way of compulsory acquisition, he must get an opportunity to oppose the decision of the State Government and/or its agencies/instrumentalities to acquire the particular parcel of land. At the hearing, the objector can make an effort to convince the Land Acquisition Collector to make recommendation against the acquisition of his land. He can also point out

that the land proposed to be acquired is not suitable for the purpose specified in the notification issued u/s 4(1). Not only this, he can produce evidence to show that another piece of land is available and the same can be utilised for execution of the particular project or scheme,

Though it is neither possible nor desirable to make a list of the grounds on which the landowner can persuade the Collector to make recommendations against the proposed acquisition of land, but what is important is that the Collector should give a fair opportunity of hearing to the objector and objectively consider his plea against the acquisition of land. Only thereafter, he should make recommendations supported by brief reasons as to why the particular piece of land should or should not be acquired and whether or not the plea put forward by the objector merits acceptance. In other words, the recommendations made by the Collector must reflect objective application of mind to the objections filed by the landowners and other interested persons.

20. In view of the proposition laid down in the judgments noticed herein above, it must be held that the acquisition of the Appellants' land was vitiated due to non-compliance of Section 5A(2) of the Act and" the High Court committed grave error by not considering this substantive ground of challenge.

21. We also find considerable merit in the Appellants' criticism of the impugned order on the ground that the High Court did not quash the acquisition proceedings despite the fact that the material produced before it clearly revealed that the Respondents had resorted to discrimination in acquiring some parcels of land, while leaving out other similar parcels of land. However, we do not consider it necessary to finally pronounce on this issue because we intend to direct Land Acquisition Collector, Gurgaon to comply with the mandate of Section 5A(2) and submit a fresh report by considering the objections filed by the Appellants and giving them reasonable opportunity of hearing.

22. In the result, the appeals are allowed, The impugned order is set aside insofar as it relates to the Appellants' lands. Land Acquisition Collector, Gurgaon is directed to give notice and opportunity of hearing to the Appellants, consider the objections already filed by them, take into consideration the developments which have taken place after filing of the writ petition, including the release of 2200 acres land on the recommendation of the Cabinet Sub-Committee and submit a fresh report to the State Government u/s 5A(2) briefly indicating the reasons for his recommendations. The State Government shall objectively consider the recommendations of the Land Acquisition Collector along with the objections filed by the Appellants and decide whether or not the Appellants' land needs to be acquired. If the State Government comes to the conclusion that the Appellants' land is needed for the specified public purpose, then it may issue fresh declaration u/s 6(1). It is needless to say that if the Appellants feel aggrieved by the declaration issued by the State Government, they shall be free to avail appropriate legal remedy.