
(2007) 09 P&H CK 0120
In the Punjab And Haryana At Chandigarh

Jasmer Singh

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 26-09-2007

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : AIR 2008 P&H 42 : (2008) 1 RCR(Civil) 468

Hon'ble Judges : Vijender Jain, C.J;Mahesh Grover, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Vijender Jain, C.J.—The present writ petition originates from the grievance made by the petitioner regarding the acquisition of his land, the intention for which was expressed by the State of Punjab by issuance of notifications under Sections 4 and 6 of the Land Acquisition Act, (hereinafter referred to as "the 1894 Act") seeking to acquire a total area of 1274 acres (as depicted in Annexure-P2) for a public purpose, namely, for setting up of a residential Urban Estate for development of Sectors 76 to 80 of SAS Nagar (Mohali).

2. The aforesaid exercise undertaken by the State of Punjab ran into rough weather when there was a deep onslaught of various writ petitions assailing the acquisition. One such writ petition was filed by the petitioner bearing No. 7050 of 2001 as well, in which his dispossession was stayed.

3. During the pendency of C.W.P. No. 7050 of 2001, which is accompanied by a horde of other writ petitions, the Government of Punjab passed an order dated 19-5-2003 (Annexure P2) exercising its power u/s 178(2) of the Punjab Regional and Town Planning and Development Act, 1995 (for short, "the 1995 Act") seeking to exempt the process of development of the aforesaid Sectors from the provisions contained in Chapters VIII, X and XII of the 1995 Act.

4. The necessity to resort to the aforesaid exemption arose because the 1995 Act required the State of Punjab to comply with certain provisions of law (which we

propose to discuss hereafter) before undertaking any exercise to develop an area in a planned manner.

5. Section 3 contained in Chapter II of the 1995 Act casts a duty upon the State Government to set up a Board for carrying out the functions under this Act. It reads as under:

3. Establishment of the Board: As soon as may be, after the commencement of this Act, the State Government shall, by notification in the Official Gazette, establish for the purposes of carrying out the functions assigned to it under this Act, a Board to be called the Punjab Regional and Town Planning and Development Board.

6. Pursuant to the aforesaid requirement of law, the Punjab Regional and Town Planning and Development Board (hereinafter described as "the Board") is in existence.

7. Chapter VIII of the 1995 Act casts a duty upon the Board so set up u/s 3 to declare its intention by way of a notification in the Official Gazette to specify any area in the State to be a regional planning area, a local planning area or the site for a new town, to be referred to as the planning area.

8. A complete procedure for declaration of planning areas, designation of Planning Agencies by the Board, their functions; preparation of present land use map and register and expenses of a Designated Planning Agency has been prescribed under Sections 56 to 60 contained in Chapter VIII of the 1995 Act.

9. Chapter X of the 1995 Act deals with the manner in which the master plan is to be conceived and executed.

10. Chapter XII of the 1995 Act, which contains Sections 91 to 138, delves at length on the preparation and content of the Town Development Scheme.

11. In the instant case, while passing order Annexure P2, it was contended by the learned Counsel for the petitioner that all the aforesaid provisions of law were given a complete go-bye by resorting to the powers u/s 178(2) of the 1995 Act, which reads as under:

178. Exemptions.-(1) xx xx xx xx

(2) Where the State Government is of the opinion that operation of any of the provisions of this Act causes any undue hardship or circumstances exist which render it expedient so to do, it may, subject to such terms and conditions as it may impose, by general or special order, exempt class of persons or areas, from all or any of the provisions of this Act.

12. The principal grievance of the petitioner is that resorting to the provisions of Section 178(2) of the 1995 Act in order to circumvent the statutory provisions as contained in Chapters VIII, X and XII of the *ibid* Act is a result of mala fide action of the respondents, who have not only tried to default the provisions of law, but

have also whereby his dispossession had been stayed when a challenge to the acquisition proceedings was made.

13. It was further contended by the petitioner that malice in the action was also reflected from the fact that the order, Annex -ure-P2, had been passed in the year 2003, i.e. much after the issuance of the notifications under Sections 4 and 6 of the 1894 Act and if there was a genuine necessity, then the exemption ought to have been granted earlier. Moreover, the grant of exemption subsequently cannot be done as it has the effect of operating retrospectively. Reliance was placed on a judgment of the Supreme Court in *State of Punjab and Others Vs. Sanjeet Singh Grewal and Others*, wherein the decision of this Court reported as *Sanjeet Singh Grewal Vs. State of Punjab*, holding that "the selection of a site falls within the domain of the functions assigned to the Board to be constituted under the 1995 Act and in the absence the Board having selected the site, land could not be acquired", was upheld.

14. The further grievance of the petitioner is that in the absence of consent/concurrence/consultation with the Board before resorting to the process of acquisition, the land in question could not have been acquired.

15. On the strength of the above, it was sought to be pleaded that once the Board has been set up under the provisions of the 1995 Act, the selection of the site for development of any area would come strictly within the ambit of its functions and powers and that process not having been followed in the instant case, the entire action of the respondents stood vitiated.

16. The challenge aforesaid was met with the expected resistance from the respondents, who averred by tracing out the history of the development of the city of Chandigarh that originally the city of Chandigarh was planned to cater to an estimated population of five lacs in two phases, out of which Phase-1 comprised Sectors 1 to 29 including an industrial area and University, while Phase-II of the city covered Sectors 30 to 47 for which the development work was taken up around 1966, but consequent to the re-organisation of the States of Punjab and Haryana, Chandigarh was surrounded by a small protected area as periphery in the rural area. On account of fast growth of the city of Chandigarh and the pressure on the land having increased proportionately, the development of the township of S.A.S. Nagar (Mohali) project was conceived as a further extension of Phase-III of Chandigarh and the master plan conceived at that point of time covered an area of 5500 acres approximately spread over Sections 48 to 73. The planning of the area was such that it would seem to be a contiguous planned extension of the city of Chandigarh itself.

17. The Inter-State Capital Regional Plan was formulated by the Town and Country Planning Organization, Ministry of Urban Affairs and Employment, Government of India in the year 1984 and as per the decision of the Coordination Committee, the development of Chandigarh and its peripheral areas took into its fold the development of S.A.S. Nagar (Mohali), Panchkula and Chandimandir.

18. The present acquisition for the development of Sectors 76 to 80 in Mohali is merely a continuation of the earlier project, and even before the 1995 Act came into force, the said expansion had already been contemplated, the decision for which was taken on 21-4-1995 when the Punjab Housing Development Board wrote to the Chief Town Planner seeking a proposal for the aforesaid extension. The Town and Country Planning Department carved out Sectors 76 to 80 and prepared a map on the basis of which a decision was taken on 25-8-1995. The development complex plan which was conceptualized on 15 7 1994 shows that the planning for the area which is the subject-matter of acquisition existed prior to the coming into force of the 1995 Act. The meeting of the Board was also held on 12-7-1995 when it was decided that Planning Agency for the preparation of master/regional plans will be the Town and Planning Wing of the Department of Housing Urban and Development and accordingly, the Planning and Design Committee considered the proposal for extension of S.A.S. Nagar (Mohali) on 22-1-1996 and the proposal was approved in principle which was followed up by the Project Approval Committee, which, in its meeting held on 9-4-1997, considered the matter with regard to the acquisition of 1250 acres of land for the new Sectors which will form Sectors 76 to 80 of S.A.S. Nagar (Mohali).

19. From the aforesaid, it was sought to be pleaded that the acquisition in question was for development of Sectors 76 to 80 of S.A.S. Nagar (Mohali) which was merely an extension of the already existing township of Mohali.

20. To further their stand, the respondents also placed reliance on the Division Bench judgments of this Court in C.W.P. No. 14195 of 1991 *Shri Mata Mandsa Devi Temple v. The State of Haryana* decided on 17-12-2003 and CWP No. 9060 of 2005, *Amarjit Singh v. State of Punjab*, decided on 26-9-2006.

We have heard the learned Counsel for the parties at great length and have examined the record.

21. Concededly, the challenge to the acquisition was already a subject-matter of a number of writ petitions and the present exemption order passed under the provisions of Section 178(2) of the Act has acted like a "red rag to a bull", providing further impetus to the challenge.

22. It is imperative that the order of granting exemption be referred to in extenso as it contains the reasons for resorting to the exemption u/s 178(2) of the 1995 Act. The same reads as under:

1. Whereas S.A.S. Nagar (Mohali) was planned to include Sectors 53 to 81, out of which Sectors 53 to 75 were developed in the first phase under the provisions of the Punjab Urban Estate (Development and Regulation) Act, 1964 and Punjab Housing Development Board Act, 1972 and land to develop these Sectors was acquired under the provisions of Land Acquisition Act, 1894 and the reasons stated in the notifications acquiring the land was for setting up of residential and industrial urban estate.

2. And Whereas the plan for developing Sectors 76 to 80 is a continuation of the existing Sectors with a view to expanding the town of Mohali to meet the future housing and other needs.
3. And Whereas before the Punjab Regional and Town Planning Development Act, 1995 came into force, expansion of Mohali was already contemplated by the Punjab Housing Development Board which took over the assets and liabilities of Urban Estates of the State of Punjab under notification dated 29-4-1991.
4. And Whereas the department of Town and Country Planning prepared a plan as per the decision taken in a meeting held on 25-8-1995 to expand the existing township by adding Sectors 76 to 80.
5. And Whereas the development of Sectors 76 to 80 at Mohali by PUDA formed a part of the residential Sectors as conceived in the Draft Outline Master Plan proposal.
6. And Whereas Government of Punjab initiated proceedings to acquire 1274 acres of land under the provisions of Land Acquisition Act, 1894 through Land Acquisition Collector, Mohali. Notification under Sections 4 and 6 were issued. Thereafter, the land was handed over to Estate Officer, PUDA, Mohali.
7. And Whereas when land compensation awards had either been passed or were in the process of being finalized, a series of civil writ petitions were filed by few of the land owners (representing about 10% of the total area to be acquired).
8. And Whereas one of the grounds pleaded in the abovesaid writ petitions was that unless and until a Master Plan or Regional Plan or Town Planning Scheme was finalized under the provisions of Punjab Regional and Town Planning and Development Act, 1995, the land could not be acquired.
9. And Whereas the Hon''ble Punjab and Haryana High Court vide order dated 30-5-2001 stayed all proceedings regarding acquisition of land. Subsequently, a Division Bench of the Hon''ble High Court vide order dated 10-9-2001 confirmed the stay of dispossession but gave liberty to PUDA to continue further proceedings subject to final orders of the Hon''ble Court.
10. And Whereas a notification u/s 56 of the Punjab Regional and Town Planning and Development Act, 1995 for specifying the local planning area of Mohali was issued on 6-3-2000 and the Town and Country Planning Department prepared a Draft Outline Master Plan for further growth and development of the area.
11. And Whereas the Punjab Urban Development and Planning Authority (PUDA) floated a scheme for allotment of residential plots in the new Sectors, held draw of lots for eligible applicants, issued letters of intent to about 4000 allottees, received payment of 25% of the tentative price and promised to hand over the possession by December, 2002 which could not be done in view of the stay granted by the Hon''ble Punjab and Haryana High Court on the ground of non-compliance of some of the provisions of 1995 Act.

12. And Whereas to follow the procedure in letter and spirit, actions as stipulated u/s 14 and provisions of Chapter VIII, X and XII, i.e. Sections 56 to 60, 70 to 78 and 91 to 138 of 1995 Act were also required to be taken.

13. And Whereas PUDA has expressed its constraints and difficulties faced in development of Sectors 76 to 80 due to stay granted by the Hon'ble Punjab and Haryana High Court on the ground of non-compliance of some of the provisions of 1995 Act in the following terms:

(a) Out of a total of about 1264 acres, about 1162 acres already stand acquired and only 102 acres are under litigation.

b. 90% of the land is already available for development but due to 10% left over land being under litigation, the available 90% land cannot be developed and appropriately utilized since 10% of the land under litigation is scattered all over the sectors 76-80 in small, different pockets and is proving to be a major obstacle for development of the land including laying of road network and sewage.

c. Rs. 100 crores (Approx.) has already been disbursed as compensation to the land owners and only Rs. 13 cores (approx.) remains to be disbursed to the land owners of the land under litigation.

d. Mohali has recorded the highest rate of growth of population at present 57.14% among the class-I cities and because of enormous pressure of population there is a considerable increase in the demand for housing. Consequently, a rapid disorganized and illegal development in the area is seriously and genuinely apprehended if the planned development of the Sectors is not immediately taken up and plots made available to the allottees/prospective allottees. This problem had arisen in the past also and in the absence of adequate machinery it will be difficult for PUDA/Government to prevent the haphazard, ramshackle and unplanned growth.

14. And Whereas on the basis of the material placed before the Government of Punjab, the Government is of the opinion that operation of the provisions contained in Section 14 and consequently of uncomplied provisions of Chapters VIII, X and XII, i.e. Sections 56 to 60, 70 to 78 and 91 to 138 of Punjab Regional and Town Planning and Development Act, 1995, is causing undue hardship to the allottees/prospective allottees and to the General Public for the reasons stated above and the Government of Punjab is of the opinion that the circumstances exist which render it expedient to exempt the area and falling under Sectors 76 to 80 being developed as expansion of the existing township of SAS Nagar (Mohali) from the operation of Section 14 and consequently of the uncomplied provisions contained in Chapters VIII, X and XII, i.e. Sections 56 to 60, 70 to 78 and 91 to 138 of Punjab Regional and Town Planning and Development Act, 1995 in the larger public interest as the compliance of the said uncomplied provisions is a time consuming process and requires lot of resources and man power for its finalisation which is likely to cause considerable delay in the development of

sectors 76 to 80.

Now Thereof, in exercise of the powers conferred upon the State Government u/s 178(2) of the Punjab Regional and Town Planning and Development Act, 1995 and keeping in view larger public interest and planned development of the area, the State Government hereby exempts the areas falling under Sectors 76 to 80, being developed as expansion of the existing township of SAS Nagar (Mohali), from the operation of provisions of Section 14 and consequently of the uncomplained provisions contained in Chapters VIII, X and XII, i.e. Sections 56 to 60, 70 to 78 and 91 to 138 of Punjab Regional and Town Planning and Development Act, 1995.

23. A perusal of the above reproduced order reveals that SAS Nagar (Mohali) was conceptualized to include Sectors 53 to 81 out of which Sectors 53 to 75 were developed in the first phase and the planning for developing Sectors 76 to 80 is only a continuation of the existing Sectors with a view to expand the township of SAS Nagar (Mohali) in order to meet the future housing and other needs. It is also evident from the record that the present expansion was conceived as a development of Phase-IH of the city of Chandigarh so as to meet the burgeoning demand of housing to satiate the need of the people for being accommodated in the wake of the saturation achieved by Chandigarh city.

24. The plan for expansion was prepared on 15-7-1994, which was approved on 15-6-1995 culminating into a decision on 25-8-1995, whereas the 1995 Act came into existence on 1-7-1995. Thus, the seeds of the development plan were concededly sown prior to the coming into force of the 1995 Act. The said conceptualization; the ultimate acquisition; and the exemption u/s 178(2) of the 1995 Act formed an umbilical cord between the two, i.e. the existing township of SAS Nagar (Mohali) and the present extension; the severance of which would have rendered the present project as being still born.

25. Section 56 of the 1995 Act contemplates that the Board may, from time to time, by a notification, declare its intention to specify any area in the State to be a regional planning area, a local planning area or the site for a new town. Before making such a declaration, the Board is required to take into consideration such matters as may be prescribed and every such notification shall define the limits of the area to which it relates. For the purpose of reference, Sub-sections (1), (2) and (3) of Section 56 of the 1995 Act are reproduced below:

56. Declaration of Planning Areas.- (1) The Board may, from time to time, by notification in the Official Gazette, declare its intention to specify any area in the State to be a regional planning area, a local planning area or the site for a new town (hereinafter referred to as the planning area).

(2) Before making the declaration under Sub-section (1) the Board may take into consideration such matters as may be prescribed.

(3) Every notification published under Sub-section (1) shall define the limits of

the area to which it relates.

26. The ensuing Sections contained in Chapters VIII, X and XII go on to detail as to how the regional plans and the master plans are to be formulated with the Board playing a pivotal role in the entire decision-making process which is initiated by the initial declaration of the planning area and culmination of the preparation of the master plan and consequent execution thereof.

27. There can be no quarrel that a happier situation could have been if the process contemplated under a particular statute is implemented as it is not only a natural expectation, but is also a natural corollary that the provisions of a statute are complied with in essence and spirit.

28. A statute is enacted so that its provisions are complied with and the intent of the Legislature carried out and not so that the provisions are consigned to the dust of the Archives.

29. But, we need to add here that the 1995 Act itself contemplates and visualized certain contingencies where the provisions thereof can be made redundant to a situation if the State Government formulates an opinion on the basis of the reasons to be reflected in such a decision/opinion that it is desirable and expedient to exempt a class of persons or areas from the provisions of it.

30. Assuming a situation where the entire process has been followed as contemplated in Chapter VIII, X and XII, even then the power of the State Government u/s 178(2) of the 1995 Act remains with it under which it can give a hammer blow to the entire process, provided it comes to a conclusion as is contemplated under the said Section. The power under this Section in the wake of the entire process having been followed is neither diminished nor dwarfed.

31. The only thing that is to be seen, therefore, is that whether such a power u/s 178(2) of the 1995 Act has been exercised in a Frankensteinly manner to subvert the process of law and inviting the charge of a colourable exercise of power or it has been done in an angelic manner so as to meet purposeful development - the object of the said Act.

32. We hasten to add here and emphasize that the fact that the township of SAS Nagar (Mohali) was conceived much earlier, which, conceptualized in its development fold the present Sectors 76 to 80 which were, in turn, again conceived prior to the coming into force of the 1995 Act, has seemingly made the present exemption a necessity to meet the object of development.

33. The Court is also seized of the object and reasons for which the 1995 Act was enacted, which are as follows:

An Act to make provision for better planning and regulating the development and use of land in Planning area delineated for that purpose, for preparation of Regional Plans and Master Plans and implementation thereof; for the constitution of a State Regional and Town Planning Board, for guiding and directing the

planning processes in the State, for the constitution of a State Urban Planning and Development Authority; Special Urban Planning and Development Authorities, and New Town Planning and Development Authorities, for the effective and planned development of planning areas, and undertaking urban development and housing programmes and schemes for establishing new towns, and for matters connected therewith or incidental thereto.

34. The only purpose, as reflected above, is the avowed object of providing planned development for the State and if the action of the respondents is tested on this touchstone of reasoning, then the planned development of a township of Mohali already existed, albeit, under a different statute and the present process is only an expansion if not a culmination thereof.

35. The observations made by the Division Bench in judgment dated 17-12-2003 rendered in CWP No. 14195 of 1991 with regard to the applicability of the ratio of the judgment of this Court in Sanjeet Singh Grewal's case are extracted below:

The judgment in Sanjeet Singh Grewal's case (supra) has absolutely no applicability. The primary issue for discussion in that case was as to whether the provisions of the Punjab Regional and Town Planning and Development Act, 1995 were applicable even at the stage when a site was being selected for the development of a new township and the factors that would call for consideration in making such a selection. A Division Bench of this Court found that as the site for the proposed new township named as "Anandgarh" had been selected without complying with the procedure set out in this Act, the very proceedings for land acquisition were non est. In paragraph 124 of the report, the Division Bench considered the import of Sections 5 and 10 of the Periphery Act and observed as under:

The provision is clear and simple. The language is unambiguous. It permits the Government to acquire land. However, it does not take away the bar contained in Section 5. It does not permit the erection of buildings or making of roads even under the garb of establishing a new town, without permission from the competent authority. That is where the whole rub lies. The Government is acquiring land for the new town-Anandagarh. Has it take the permission for raising construction and making roads? Admittedly, not yet. Then, why go through the exercise? Why create all the alarm? Why make the farmers panic? Obviously, it is all an exercise in futility. The Statement is surely putting the cart before the horse. (Para No. 124)

These observations were made in the context of the setting up of a completely new township under the provisions of the 1995 Act, which provided for several factors to be taken into consideration for the selection of a site for development of a new township in which the site selection would undeniably precede the land acquisition and not to a case where the proposed acquisition was for the provision of better facilities with respect of an Institution, which was already in existence.

36. The relevant portion of judgment dated 26-9-2006 passed in CWP No. 9060 of 2005, which has been referred to by the respondents, is reproduced below:

The support that was sought to be drawn from the decision in Sanjeet Singh Grewal to further the contention that site selection for expansion of an existing town is the sole prerogative of the Board too appears to be misconceived. That judgment was rendered clearly in the facts and circumstances where a new town was to be developed. This is so noticed by the Division Bench. It would be beneficial to notice the words used which read as under:

In a case involving the establishment of a new town and its planned development, it is applicable at the threshold. It is the first step on the ladder. The provisions are attracted at the initial stage of selecting the site for the new city. The mandate of the Act has to be followed even while making the choice.

Evidently, such a mandate does not appear to apply to expansion of an existing town and that too where the initial planning was before the 1995 Act came into existence and the same planning has been adopted by the Board.

37. For these very reasons, the judgment of the Supreme Court in *State of Punjab v. Sanjeet Singh Grewal* (supra) does not apply to the facts and circumstances of the present case as that was a case where a completely new township was being sought to be set up by by-passing the provisions of the 1995 Act, but here, as observed above, Sectors 76 to 80 for which the land is sought to be acquired is merely an extension of the already existing township of S.A.S. Nagar (Mohali). which is an on-going process, much in the nature of a chemical reaction set in motion which is irreversible in character and has to end only when the process is completed.

38. Adverting to the impugned order, we notice that it takes into consideration various difficulties being faced by the respondents which propelled them to resort to the exercise of power u/s 178(2) of the 1995 Act. Amongst the reasons, the few major considerations were the challenge to the acquisition qua 10% of the land as against 90% which was already available and for which the acquisition was complete; approximately a sum of Rs. 100 Crores having been disbursed to the land-owners, whereas the writ petitioners who had challenged the acquisition were entitled to only Rs. 13, Crores approximately as compensation which would have been paid to them, had they accepted the acquisition.

39. One important aspect, which has to be borne in mind was the fact that out of a total of about 1264 acres, which was proposed to be acquired, about 1162 acres already stood acquired and only 102 acres was under litigation. As 90% of the land being available for development and 10% left over land was under litigation made it impossible to develop 90% of the land as developed and appropriately utilised as 10% of the land under litigation was scattered all over Sectors 76 to 80 in small, different pockets which was proving to be a major obstacle for development of the land including laying of road network and sewage.

40. The township of SAS Nagar (Mohali) recorded the highest rate of growth of population necessitating the urgency to take up a planned development and to prevent haphazard growth and the city of SAS Nagar (Mohali) is a satellite town of Chandigarh which had already achieved saturation of sorts with no room to take in anything more even after it had extended Its wings to the limits.

41. In our opinion, the reasoning which has gone into the exercise of the power u/s 178(2) of the 1995 Act is sufficiently plausible which reflects the adequate concern and the on-going process of achieving the object of development of the extension of the existing township of SAS Nagar (Mohali) and does not seem to be, in any manner, a decision which is seeped in irrationality and arbitrariness or being a deliverance of a malicious and colourable exercise of power.

42. The second limb of the argument of the learned Counsel for the petitioner that exemption having been given subsequent to the acquisition notifications under Sections 4 and 6 of the 1894 Act imply a retrospective operation does not stand the scrutiny of law.

43. Section 178(2) of the 1995 Act contemplates that "if the State Government is of the opinion that the operation of any provision of this Act causes any undue hardship or circumstances exist which render it expedient so to do, it may, subject to such terms and conditions as it may impose, by general or special order, exempt class of persons or areas, from all or any of the provisions of this Act."

44. In view of this, the power of the State Government to grant exemption u/s 178(2) cannot be doubted and the said power can be exercised at any stage even if an action has been taken strictly following the provisions of the 1995 Act, provided it forms a valid opinion by giving cogent reasons that undue hardship or circumstances existed, for which it is expedient to resort to the said Section. This would not render the grant of exemption from a retrospective effect as it is only after traversing on the path of decision making en route to the achieving of the object sought to be met under the 1995 Act that the State can become aware of the existence of the circumstances causing hardship for which it will form an opinion regarding the expediency to resort to the powers u/s 178(2) of the said Act. To our minds, that has been done substantially.

45. We are also mindful of the fact which has been brought to our notice that the entire challenge to the acquisition pertains to only 102 acres of land out of total acquisition of 1264 acres and this fact has also been noticed in the impugned order. The land under litigation is also scattered in small pockets from all over the remaining acquired land, i.e. 1162 acres for which the acquisition is complete and compensation has been paid.

46. Once such a substantial acquisition has been completed, the same cannot be held to be mala fide merely because a small percentage of the land-owners felt otherwise, unless it is shown that the rights of the individual land-owners have been violated or there has been discrimination qua them. Besides, this small

percentage of land; is likely to impede and hamper the entire project and derail the development. These small pockets of lands will not only form islands of unplanned areas in a sea of planned area, but will also stand out as a "sore thumb" in a developed area.

42. We, however, leave this question open as the challenge to the acquisition has been made in other writ petitions with which we are not dealing presently. But, we certainly wish to observe that this fact of challenge of a marginal area of acquisition which seeks to defeat the entire acquisition is a valid consideration for exercise of power u/s 178(2) of the 1995 Act.

43. As a sequel to our discussion above, we hold that the exemption granted by the State Government u/s 178(2) of the 1995 Act, vide order Annexure P2, was Justified in law and in the circumstances of the case.

44. Hence, this writ petition, being devoid of any merit, is dismissed.