

(2001) 02 KAR CK 0054

In the Karnataka High Court

Case No : Writ Petition No's. 14726 and 31449 of 1994

K.B. Ramachandra Raje Urs

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 22-02-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 6 (1)

Citation : AIR 2001 Kar 512 : (2001) 2 KCCR 71 SN

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : M. Papanna and B.V. Acharya, for M. Papanna, for the Appellant; A. Padmanabhan, High Court Government Pleader, R.I. D'souza, Government Advocate, P.S. Manjunath, G. Balakrishna Shastry, R.S. Ravi, K. Krishnaswamy, Ashok B. Hinchigeri, N.K. Gupta, N.S. Srinivasan, P.S. Manjunath, H.C. Shivaramu, B.J. Somayaji, P. Natarajan and P.R. Ramesh, for the Respondent

Final Decision : Partly Allowed

Judgement

V. Gopala Gowda, J.—These two writ petitions pertain to the same property, namely, Sy. No. 1 of Vijayashreepura, Mysore. The extent of land involved is 94 acres 28 guntas. The petitioner is common in both the petitions.

2. Certain facts are necessary to understand the case properly and, answer the rival contentions urged on behalf of the parties, the same are stated briefly as under.--

The petitioner states that 94 acres 28 guntas of land in Sy. No. 1 of Vijayashreepura had been acquired by the Mysore Urban Development Authority (hereinafter referred to as "MUDA" in short) purportedly for implementing a scheme called Vijayashreepura Extension in exercise of its power under the provisions of erstwhile City of Mysore Improvement Act, 1903 (hereinafter referred to as "1903 Act" in short). Preliminary Notification dated 21-6-1985 was issued as per Annexure-C u/s 16(1) of the Act of 1903. In the notification the name of the khatedar was shown as Smt. Gayathri Devi Trust represented by its

legal representative the petitioner. Respondents 4 to 27 in W.P. No. 14726 of 1994 have been shown as occupants in possession by virtue of the order of the Land Tribunal dated 26-9-1980 in Case Nos. 3934 to 3977 of 1976-77. Pursuant to the aforesaid preliminary notification, the notice was issued as per Annexure-D, the petitioner filed objections as per Annexure-E on 12-6-1987 stating that he had no objection for the acquisition of the land in question except 20 acres of land towards the roadside. The Government issued final notification as per Annexure-F, dated 29-4-1988. Thereafter the awards as per Annexure-G and GI to G16 had been passed. Out of 94 acres 28 guntas of land, 55 acres of land has been reserved for Jayachamarajendra College of Engineering, unauthorised construction existed in about 3 acres and about 37 acres 30 guntas have been proposed for formation of 314 sites of various dimensions apart from space for commercial, public amenities, parks, schools etc. The 55 acres of land reserved for the colleges has been granted to it by the Government Order at Annexure-H, dated 28-5-1988.

3. The petitioner has filed W.P. No. 14726 of 1994 with the following prayers.-

(a) to declare Section 17(1) of the 1903 Act as ultra vires of the Constitution of India;

(b) to quash the preliminary notification at Annexure-C, the final notification at Annexure-F, the awards at Annexure-G and GI to G16 and the Government Order at Annexure-H;

(c) to declare the scheme for which the land was acquired had lapsed; and

(d) to direct the respondents to restore to the petitioner possession of 94 acres 28 guntas of land.

4. The MUDA issued a public notice as per Annexure-B, dated nil in W.P. No. 31449 of 1994 inviting applications for regularisation of unauthorised constructions made in several villages mentioned therein, which includes Vijayashreepura also. Challenging the same the petitioner has filed the aforesaid writ petition seeking the following reliefs.-

(a) direction to respondents 1 and 2 to stop all further proceedings pursuant to the aforesaid public notice at Annexure-B insofar as it relates to Sy. No. 1 of Vijayashreepura;

(b) to direct MUDA to take immediate steps to remove all the unauthorised constructions on the land in question;

(c) to prohibit the Hinkal Village Panchayat from issuing licence for construction of buildings on the land in question; and

(d) prohibit respondents 4 and 5 from putting up or proceeding with the construction on the land.

5. The 2nd respondent-MUDA filed objections statement traversing various

petition averments and justifying the acquisition proceedings and the allotment of 55 acres of land in favour of the 28th respondent by the first respondent-State Government. Elaborate statement of objections is filed on behalf of the respondent 28-college in whose favour 55 acres of land had been granted by the first respondent-State Government under Annexure-H denying the claim of the petitioner and justifying the impugned acquisition proceedings and the impugned order by producing certain documents. Learned Senior Counsel Mr. B.V. Acharya for the petitioner has placed reliance upon number of decisions of the Apex Court and this Court in support of the case of the petitioner. On behalf of second respondent Mr. P.S. Manjunath has made submissions with reference to the provisions of the Act 1903 to justify the acquisition proceedings and allotment of land in favour of the 28th respondent by the first respondent. He has placed reliance upon various judgments of Apex Court, this Court, Calcutta High Court and other Courts. On behalf of the respondent 28-college Mr. Ashok Hinchigeri produced Xerox copies of some earlier Court proceedings and placed reliance upon number of decisions of the Apex Court and this Court contending that the acquisition proceedings and Government Order allotting the land in favour of the college are legal and valid. He further submitted that the petition is barred by delay and laches. According to him, the petitioner is not entitled for the reliefs as this Court has already dismissed the writ petitions challenging the acquisition, proceedings and therefore the second round of litigation challenging the same acquisition proceedings are not permissible in law. Hence, he has prayed for dismissal of the writ petition on the ground that it is barred by res judicata.

6. These two petitions can be considered and disposed off together as the issues involved are very important and crucial in that as it involves the power of the Government. In other words, the issues involved are.-

(i) Whether the acquisition of land in question is legal, valid and justified?

(ii) Whether the first respondent-State Government has got power to grant/make bulk allotment of 55 acres of land out of the land acquired in favour of MUDA for formation of residential extension?

(iii) Whether the issuance of public notice by MUDA for regularisation of unauthorised constructions in the connected writ petition on the land in question is legal, valid and justified in law?

Therefore, instead of referring to the pleas, the contentions urged and the decisions relied upon by the respective parties and then dealing with them again, in order to avoid repetition, this Court proceeds to deal with the matters on merit by advertng only to the facts and legal contentions urged by the learned Counsel on behalf of the parties, as also the decisions upon which-they have placed reliance in support of their submissions only to the extent which are absolutely necessary for considering the matters by this Court.

7. The facts as such are not in dispute, One of the stand taken by the respondents 1 and 2, namely the State, MUDA and respondent 28 in their

statement of objections is that the writ petitions are not maintainable on account of delay and laches and also for the reason the legality of the acquisition proceedings have been upheld by this Court in the earlier writ petitions. This ground would be discussed at the appropriate stage. After considering the case urged by the parties, this Court has to answer as to whether the petitioner is entitled for the reliefs sought for in these two writ petitions.

8. It is an undisputed fact that an extent of 94 acres 28 guntas of land had been acquired by the first respondent-State Government for the benefit of MUDA by issuing the preliminary notification, final notification under the provisions of the 1903 Act and passed the awards. Though the acquisition of the land was for Vijayashreepura Extension, the records of the State Government and MUDA reveal that it was for twin purposes, (1) for the formation of sites by MUDA; and (2) to grant land in favour of 28th respondent-college. This fact is admitted by all the parties in these writ proceedings. With this background, the legality, validity and correctness of the acquisition of land has to be tested by this Court on the anvil of the facts and circumstances of the case.

9. Having perused the pleadings, voluminous documents and the records produced before the Court, this Court prima facie found that the acquisition of land is bad in law on various grounds which are highlighted in the succeeding paragraphs.

10. In this case the acquisition of the land is under 1903 Act. In order to find out the legality and validity of the acquisition of the land in question, it is necessary to examine some of the relevant provisions of the said Act to acquaint with the mandatory procedure that was required to be followed for acquisition of the land by State Government and MUDA to implement any improvement scheme. Section 14 of the said Act provides for drawing up detailed scheme before the proposed acquisition of land for city improvement or formation of a new extension on the basis of need and requirement of the residents of city. Section 15 prescribes that the scheme shall provide for acquisition of land for formation of residential layout for improvement of Mysore City in exercise of its power under the provisions of the 1903 Act. Thereafter, the MUDA shall draw a notification providing the particulars of land proposed for acquisition. u/s 17, the scheme shall be submitted to the Government for sanction. It is only after obtaining the sanction of the Government the declaration u/s 18 of the Act has to be made by issuing the final notification. The acquisition of the land in question in the instant case shall be tested in the light of these provisions.

11. In the preliminary notification at Annexure-C, dated 21-6-1985 in paragraph 2 it is stated that the extent required for the layout, the estimated expenditure and the details of the land proposed for acquisition are kept in the office of MUDA. Hence, the file pertaining to the scheme had been summoned from MUDA and perused. In the file it is noticed that the Chairman of MUDA wrote letter to the Secretary to the Government, Housing and Urban Development Department enclosing the project report pertaining to the scheme. In paragraph 3 of the said

letter it is stated as under:-

"The scheme has been prepared based on the Mysore Circle SR of 1987-88".

From the above it is clear that the scheme prepared was subsequent to 1987-88. But the preliminary notification at Annexure-C issued proposing acquisition of the land was of the year 1985, as it is dated 21-6-1985. It goes beyond doubt that even before preparation of the scheme the preliminary notification had been issued for acquiring the land in question. This is further established by another document annexed to the aforesaid letter of the Chairman of MUDA. That is the covering letter of the Engineers to the project report of the scheme. It is signed by the Executive Engineer, Assistant Executive Engineer and Superintending Engineer of MUDA. Below the signature of the Executive Engineer the date is put as 11-4-1988. In the 2nd paragraph of the said letter it is stated as under:-

"Hence it is proposed to form Vijayashreepura layout along Mysore-Hunsur Road by acquiring 95 acres of land of Vijayashreepura Village".

From the above extracted portion it is seen that the project report for the scheme was prepared in the year 1988 but the preliminary notification was issued in the year 1985 itself. Thus, even before preparation of the scheme for the layout in question notification at Annexure-C proposing acquisition of the land had been issued. Hence, it has to be held that the preliminary notification issued was without any scheme and without the sanction of the scheme by the State Government as required under the provisions of 1903 Act as noticed above. In other words, it was issued by the State Government represented by its Land Acquisition Officer without any basis at all. Such being the position, the entire acquisition proceedings are ab initio void and contrary to the provisions of Sections 16, 17 and 18 of 1903 Act,

12. The final notification at Annexure-F is dated 29-4-1988. The aforesaid letter of the Engineers to the project report of the scheme, is dated 11-4-1988. In that letter it is stated that the execution of the work is proposed to be completed within one year from the date of Government according approval to the scheme. It is obvious that as on 11-4-1988 there was no sanction of the Government to the scheme for the formation of Vijayashreepura Layout as required under Sections 14 and 15 of the 1903 Act. In spite of that not only preliminary notification was issued three years earlier to that but even final notification at Annexure-F was also issued on 29-4-1988. Thus, the final notification is also bad in law.

13. The final notification is also bad in law for another reason. Section 6(1)(ii) of the L.A. Act, 1894 (hereinafter referred to as "L.A. Act") stipulates that no declaration u/s 6 of the L.A. Act shall be made after the expiry of one year from the date of the publication of the notification u/s 4(1) of the Act. In the present case the preliminary notification issued u/s 16(1) of the 1903 Act shall be construed as the notification issued u/s 4(1) of the L.A. Act and the final notification issued u/s 18(1) of the 1903 Act shall be construed as the

notification issued u/s 6(1) of the L.A. Act. Since the final notification was not issued within one year from the date of preliminary notification, the final notification is bad in law. This position of law is laid down by the Apex Court in the case of Mariyappa and Ors. v. State of Karnataka and Ors., 1. 1998(4) Kar. L.J. 701 : AIR 1098 SC 1334 : ILR 1998 Kar. 1339

14. The acquisition of the land in question is for Vijayashreepura Extension. But the bulk of land measuring 55 acres out of 94 acres 28 guntas had been given to respondent 28-college. It is a "company" as defined u/s 2(e) of the Mysore L.A. Act by Act No. 17 of 1916. The acquisition of land for companies is governed by Part VII of L.A. Act. The acquisition of land for the college by MUDA under the 1903 Act is bad in law. If the college required land for its educational activities, it could have requested the State Government after satisfying the statutory requirements as provided under the provisions of the Act, to acquire the land for its purpose by initiating acquisition proceedings under the provisions of the L.A. Act and Rules. The 2nd respondent-MUDA was established for the improvement and future expansion of the City of Mysore. The same is clear from the preamble portion of 1903 Act. It was not established for acquisition of land for either 28th respondent-College, or any other authority or third parties for the purpose either establishing colleges or for other purposes other than the formation and distribution of sites to the eligible persons as per the Rules to see that City should be developed and improved in a planned way. The manner in which respondent 8's letter was issued by the Chairman of MUDA to the first respondent for bulk allotment of the acquired land in favour of respondent 28 is a clear case of collusion of MUDA with the college for extraneous consideration, which action of it is a clear case of mala fide exercise of power in this case. Thus, the acquisition of land as shown in the notification is for formation of Vijayashreepura Extension for allotment of sites to the eligible residents of the City of Mysore, the acquired land has been diverted to respondent 28 by respondents 1 and 2, in contravention of the provisions of the 1908 Act and law laid down in this regard by the Apex Court and this Court. The impugned order at Annexure-H, dated 28-5-1988 is not only without authority of law of the State Government and MUDA but also contrary to the provisions of the 1903 Act and the Rules framed under Act. The bulk allotment of land made in favour of the respondent 28 by respondent 1 is void ab initio in law in view of the law declared by the Apex Court in the case of Babu Verghese and Others Vs. Bar Council of Kerala and Others, In that decision, after referring to the Privy Council and its earlier judgments the Apex Court has clearly explained the law at paras 31 and 32 which are extracted hereunder:

"31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor v. Taylor, (1875) 1 Ch.D. 426 : 45 L.J. Ch. 373, which was followed by Lord Roche in AIR 1936 253 (Privy Council) , who stated as under:

"(Where a power is given to do a certain thing in a certain . way, the thing must be done in that way or not at all". 32. This rule has since been approved by this Court in Rao Shiv Bahadur Singh and Another Vs. The State of Vindhya Pradesh, and again in Deep Chand Vs. The State of Rajasthan, . These cases were considered by a three Judge Bench of this Court in State of Uttar Pradesh Vs. Singhara Singh and Others, , and the rule laid down in Nazir Ahmad's case was again upheld. This rule has since been applied to the exercise of jurisdiction by Courts and has also been recognised as a salutary principle of administrative law".

15. It is an admitted fact that the actual requirement of MUDA for its scheme was 37 acres 30 guntas only. Therefore, the acquisition of 94 acres 28 guntas was in excess of its requirement for the scheme of the MUDA for improvement of City of Mysore by forming a layout of Vijayashreepura Extension as notified in the preliminary notification. Not only that, out of the acquired land there are alleged unauthorised constructions in an area of 3 acres 8 guntas. Knowing fully well this factual position the acquisition of land had been made without application of mind by the respondents 1 and 2. Even otherwise also, the acquisition of land of 94 acres 28 guntas is also bad for another reason. It was only on 28-5-1988 that the Government has passed an order under Annexure-H to grant 55 acres of land to the 28th respondent-college. But the acquisition proceedings had been initiated by the issuance of preliminary notification in the year 1985 itself and final notification at Annexure-F was issued on 29-4-1988. Both these notifications are prior to the Government Order at Annexure-H allotting land in favour of respondent 28. Therefore, the acquisition proceedings relating to the 55 acres of land allotted in favour of 28th respondent was not warranted. The acquisition is also ab initio void in law, which cannot be allowed to sustain.

16. In spite of all these arbitrary and unreasonable actions of respondents 1 and 2 and the defects in the acquisition of land contrary to the provisions of the 1903 Act and therefore the proceedings are void ab initio, the impugned order at Annexure-H is without authority of law, respondents 1, 2 and 28 raised a plea that the writ petition with regard to the challenge of the acquisition proceedings and the impugned Government Order at Annexure-H is not maintainable on account of delay and laches. In such a worst case against the respondents this kind of hyper-technical pleas should not have been raised by them. However, since it is raised, this Court proceeds to examine the same on merits.

17. According to respondents 1, 2 and 28, the preliminary notification was issued in the year 1985 and the final notification in the year 1988 but the writ petitions were filed by the petitioner in the year 1994 and there is inordinate delay in approaching this Court. They want these writ petitions to be dismissed on the ground of delay and laches. The same cannot be done. It is not in dispute that the petitioner had filed objections as per Annexure-E, dated 12-6-1987 to the notice. In paragraph 5 of the writ petition the petitioner has stated that he had not received any communication thereafter in the matter. He categorically states

that during March 1994 when the 28th respondent-college made attempts to close certain area in the land with construction of the compound wall he made enquiries and came to know about the issuance of final notification, passing of the awards and the Government Order at Annexure-H in the absence of the approval of the scheme as required in law and grant of 55 acres of land in favour of 28th respondent-college. In paragraph 6 of the petition it is stated that when the petitioner approached respondents 2 and 3 for furnishing copy of final notification, they declined to furnish the same. Thereafter, he made enquiries in the office of the Divisional Achieves and applied for the copy. The copy was granted to him on 31-3-1994. This is evident from the certified copy of the notification. In paragraph 7 of the petition the petitioner has stated that he was not issued with any notice of the awards. On enquiries he came to know about the passing of the awards at Annexure-G and G1 to G16. In paragraph 8 the petitioner has stated that he made enquiries in the MUDA about the scheme formulated and came to know that no such scheme was prepared. In the statement of objections though the respondents have merely denied these statements of the petitioner, they have not produced proof for having served notices relating to final notification or issuing notices and serving upon the petitioner before passing of the awards upon the petitioner. In the circumstances, this Court has no other option but to accept the statements made by the petitioner as correct.

18. Once the statements of the petitioner are accepted to be true in relation to the delay in approaching this Court, it has to be held that there was no delay or laches on the part of the petitioner in approaching this Court challenging the notifications and the impugned Government Order at Annexure-H since the delay in approaching this Court has been properly explained and the reasons assigned are valid and acceptable one. Therefore, the plea of respondents that these writ petitions are liable to be dismissed on the ground of delay and laches or that the petitioner cannot maintain them on that ground, does not hold water. Rejecting the plea of the respondents in this regard, this Court proceeds further to examine the other aspects raised by the respondents.

19. In paragraph 3 of the counter filed on behalf of 28th respondent it is stated that challenge to the acquisition proceedings has failed in a series of litigations and in proof of the same the orders passed by this as per Annexures-R1 to R4 have been produced. In other words, the challenge made to the acquisition is barred by res judicata. The plea cannot be accepted. The orders produced in support of this plea are all pertaining to the cases filed either by the 28th respondent against the unauthorised occupants or vice versa and other persons challenging the acquisition proceedings on different grounds. The petitioner was not a party in those proceedings. Whatever orders passed therein are not binding on the petitioner. That apart, in these writ petitions the legality and validity of the acquisition of the land in question, the order of the Government to grant 55 acres of land by way of bulk allotment made in favour of 28th respondent and the public notice issued by MUDA for regularising the unauthorised constructions

are the subject-matters. These were not the subject-matters in those earlier writ petitions. It is well-settled position of law that each case has to be decided on its own merits. Accordingly, the issue involved in these writ petitions are being considered independently without being influenced by or followed by any other earlier decision. Since petitioner was not a party in those proceedings, the orders at Annexure-E1 to E4 are not binding upon the petitioner. Moreover, the Government Order at Annexure-H was not challenged in the previous writ proceedings. The cause of action pleaded in these petitions are entirely different and the prayers are also different and distinct. Therefore, the earlier orders of this Court do not operate as resjudicata u/s 11 of the CPC as contended by the learned Counsels on behalf of the State, MUDA and college. It follows that their contention in this regard is liable to be rejected as the same is baseless and untenable in law.

20. As fraud on power is played by the State and MUDA in initiating the acquisition proceedings in respect of the land in contravention of 1903 Act and law laid down in this regard and the passing of the impugned order at Annexure-H granting 55 acres of bulk allotment of land in favour of 28th respondent is without the authority of law, these are not matters to be dismissed on hyper-technical grounds like the one raised by the respondents.

21. The way in which the MUDA, State Government and the 28th respondent-college have involved themselves in the acquisition of land without following the mandatory procedure prescribed under the provisions of the statutes referred to supra speaks volumes. Giving a go-by to all the mandatory procedural norms prescribed in the statutes and without application of mind, even though the acquisition of land has been made by the State for the benefit of MUDA, in fact it is substantially for the 28th respondent in the guise of exercising its power under the provisions of 1903 Act. It is nothing but a collusion between first respondent-State Government, the 2nd respondent-MUDA and the 28th respondent-J.S.S. Maha Vidya Peeta. Even much prior to the formation of scheme and prior approval of it, the acquisition proceedings of the land in question have been initiated not only for the implementation of alleged scheme of MUDA but also to fulfil the requirement of land for 28th respondent, which is totally impermissible in law.

22. The way and the manner in which the acquisition of the land in question is made casts a serious doubt in the matter. Even a layman can easily understand the game of the above said respondents in respect of the acquisition proceedings. There is absolute truth in the allegations of the petitioner that the acquisition was for the benefit of 28th respondent in the guise of public purpose of formation of Vijayashreepura Extension for improvement of the City of Mysore under the provisions of 1903 Act in favour of MUDA by the State Government in exercise of its eminent domain,

23. The exercise of power for the acquisition of the land in question, to grant 55 acres in favour of 28th respondent and issuing the public notice for regularising

the alleged unauthorised constructions said to have been put up on the property due to non-utilization of land for the purpose for which it was acquired, is nothing but a colourable exercise of power coupled with legal mala fides and legal malice. In paragraph 28 of the statement of objections filed on behalf of 2nd respondent it is stated that the regularisation of unauthorised construction is being done by the Committee specially constituted by the State Government and not by this Authority (MUDA). If MUDA was not regularising the unauthorised constructions, there was no necessity for it to issue the public notice at Annexure-B in W.P. No. 31449 of 1994. The issuance of this public notice by MUDA justifies the allegations made by the petitioner in paragraph 17(c) to the effect that the 2nd respondent has been collecting huge and various amounts from the alleged unauthorised construction occupants under the guise of regularisation of their so-called unauthorised constructions on the portions of the acquired land. Fraud, collusion and conspiracy are involved in these cases. The collusion of the respondents 1, 2 and 28 is proved not only by the manner and method in which things have taken place as narrated above but also from the facts stated in the succeeding paragraphs.

24. The file relating to grant of Administrative approval to the scheme in question has been summoned from the Government and perused. At page 13 of the proceedings sheet it is stated as under.?

"Out of the total extent of land of 94 acres 28 guntas, an extent of land of 55 acres is required to be reserved to Sri Jayachamarajendra Engineering College. Action is being taken in this regard in a separate file which stands submitted to the Minister".

The separate file mentioned above was not produced before this Court. Hence, the Court directed the High Court Government Pleader to secure and produce the same by an order dated 7-11-2000. After taking several adjournments to produce the said file, on 17-11-2000 a memo was filed along with a letter stating that in spite of best efforts from all concerned the aforesaid file could not be traced. Hence the Court reserved the matter for orders. In this connection it is to be observed that purposely the said file has been withheld by the Government and therefore this Court has to draw adverse inference as held by the Apex Court in the case of Gopal Krishnaji Ketkar Vs. Mahomed Haji Latif and Others, for non-production of the file, which is a very important file in this case. The Government was reluctant to produce the said file because of the fraud involved in the matter. That is the reason why it was not stated in the letter produced along with the aforesaid memo that further efforts will be made to trace out the file and the same would be produced soon after it is traced. On the other hand, it is stated that this Court may proceed to pass appropriate orders in the case. Even till this day the file has not been produced and no attempt is made to trace it. This would clearly go to show that the Government does not want to produce the said file. Had the said file been produced before this Court, the truth would have come to light and the extent of collusion, fraud and conspiracy involved in the

matter could have been exposed. This is yet another case to hold that fraud unravels everything.

25. In this regard, the decisions regarding fraud on power and colourable exercise of power shall be looked into. The Supreme Court in the case of State of Punjab and Another Vs. Gurdial Singh and Others, has held as under.?

"The question then is, what is mala fides in the jurisprudence of power? Legal malice is gibberish unless juristic clarity keeps it separate from the popular concept of personal vice. Pithily put, bad faith which invalidates the exercise of power - sometimes called colourable exercise or fraud on power and oftentimes overlaps motives, passions and satisfactions - is the attainment of ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal. If the use of the power is for the fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal. The action is bad where the true object is to reach an end different from the one for which the power is entrusted, goaded by extraneous considerations, good or bad, but irrelevant to the entrustment. When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is vested the Court calls it a colourable exercise and is undeceived by illusion. In a broad, blurred sense, Benjamin Disraeli was not off the mark even in law when he stated. "I repeat.... that all power is a trust - that we are accountable for its exercise - that, from the people, and for the people, all springs, and all must exist". Fraud on power voids the order if it is not exercised bona fide for the end designed. Fraud in this context is not equal to moral turpitude and embraces all cases in which the action impugned is to affect some object which is beyond the purpose and intent of the power, whether this be malice-laden or even benign. If the purpose is corrupt the resultant act is bad. If considerations, foreign to the scope of the power or extraneous to the statute, enter the verdict or impels the action mala fides or fraud on power vitiates the acquisition or other official act".

As regards the legality and validity of the acquisition of land without approval of the scheme as mandatorily required under the provisions of 1903 Act, the Hon'ble Apex Court in the case of H.M.T. House Building Co-operative Society Vs. Syed Khader and others, has held hereunder.?

"21... There is no dispute that in terms of agreement dated 1-2-1985 payments have been made by the appellant-society to M/s. S.R. Constructions. This circumstance alone goes a long way to support the contention of the writ petitioners that their lands have not been acquired in normal course or for any public purpose. In spite of the repeated query, the learned Counsel appearing for the appellant-society could not point or produce any order of the State Government u/s 3(f)(vi) of the Act granting prior approval and prescribing conditions and restrictions in respect of the use of the lands which were to be acquired for a public purpose. There is no restriction or bar on the part of the appellant-society on carving out the size of the plots or the manner of allotment or in respect of construction over the same. That is why the framers of the Act

have required the appropriate Government to grant prior approval of any Housing Scheme presented by any co-operative society before the lands are acquired treating such requirement and acquisition for public purpose. It is incumbent on part of the appropriate Government while granting approval to examine different aspects of the matter so that it may serve the public interest and not the interest of few who can as well afford to acquire such lands by negotiation in open market. According to us, the State Government has not granted the prior approval in terms of Section 3(f)(vi) of the Act to the Housing Scheme in question. The power under Sections 4(1) and 6(1) of the Act has been exercised for extraneous consideration and at the instance of the persons, who had no role in the decision making process - whether the acquisition of the lands in question shall be for a public purpose. This itself is enough to vitiate the whole acquisition proceeding and render the same as invalid".

Another Division Bench of this Court in the case of Telecom Employees Co-operative Housing Society Ltd. Vs. Scheduled Castes, Scheduled Tribes, Minority Communities and Backward Classes Improvement Centre, , has considered a similar case under the Bangalore Development Authority Act and held that:

"26. In view of what has been seen above, it would be clear that where Section 38 of the Act says "subject to such restrictions, conditions and limitations as may be prescribed", the power is unavailable unless those restrictions, conditions and limitations are prescribed. Otherwise, as the learned Advocate General rightly submits, the exercise of power would be arbitrary. There is no touchstone on which such arbitrariness could be tested because the Act does not throw any guidelines. One of the societies may be favoured with sale of large extent of land, the other may not be so favoured or may be favoured with even a smaller extent of land. Therefore, there is no use contending that the individual action may be tested whether it is arbitrary. Thus, we conclude that when power is made available conditional upon prescription, the phrase "subject to" in the context meaning only conditional upon, the exercise of power in the absence of such prescription is illegal".

A Division Bench of this Court in the decision of Mrs. Behroze Ramyar Batha Vs. Special Land Acquisition Officer, has considered the effect of fraud in paragraph 9 after referring to several decisions of the Apex Court and various Courts. The relevant portion of which is extracted as hereunder:

"9. As to what would be the effect of the fraud, we would rather refer to the leading judgment of Lord Denning in Lazarus Estates Limited v. Beasley 1956(1) All E.R. 341, in which it is stated at page 345 thus:

"We are in this case concerned only with this point. Can the declaration be challenged on the ground that it was false and fraudulent? It can clearly be challenged in the Criminal Courts. The landlord can be taken before the Magistrate and fined or he can be prosecuted on indictment and (if he is an individual) sent to prison... The landlords argued before us that the declaration

could not be challenged in the Civil Courts at all, even though it was false and fraudulent, and that the landlords can recover and keep the increased rent even though it was obtained by fraud. If this argument is correct, the landlords would profit greatly from their fraud. The increase in rent would pay the fine many times over. I cannot accede to this argument for a moment. No Court in this land will allow a person to keep an advantage which he has obtained by fraud. No judgment of a Court, no order of Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything. The Court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved it vitiates judgments, contracts and all transactions whatever, see as to deeds, *Collinus v. Blantern* 1767(2) KB. 342) as to judgments, *Duchess of Kingston's case* 1776(3) Leach 146) and as to contracts *Master v. Miller* 1791(4) Term Rep. 320). So here I am of opinion that if this declaration is proved to have been false and fraudulent, it is a nullity and void and the landlords cannot recover any increase of rent by virtue of it".

(emphasis supplied)

This dictum of Lord Denning which met with approval at the hands of the Supreme Court in *S. Pratap Singh Vs. The State of Punjab*, it is stated thus;

"For the purpose of the present controversy the functionary who took action and on whose instructions the action was taken against the appellant was undoubtedly the Chief Minister and if that functionary was actuated by mala fides in taking that action it is clear that such action would be vitiated, In this context it is necessary to add that though the learned Attorney General at first hinted that he would raise a legal contention that even if mala fides were established against the Chief Minister still the impugned orders could not be set aside, he did not further pursue the matter, but proceeded, if we may say so rightly, to persuade us that mala fides was not made out by the evidence on record. Such an argument, if right, would mean that even fraud or corruption leaving aside mala fides, would not be examinable by a Court and would not vitiate administrative orders. As Lord Denning said in *Lazarus Estates Limited's case*, supra:

"No judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud".

(emphasis supplied)

In the circumstances we do not consider it necessary to deal with this aspect more fully or in greater detail".

Again in *Express Newspapers Pvt. Ltd. and Others Vs. Union of India (UOI) and Others*, it stated in paragraphs 118 and 119 thus.?

"118. Fraud on power voids the order if it is not exercised bona fide for the end design. There is a distinction between exercise of power in good faith and misuse in bad faith. The former arises when an authority misuses its power in breach of

law, say, by taking into account bona fide, and with best of intentions some extraneous matters or by ignoring relevant matters. That would render the impugned act or order ultra vires. It would be a case of fraud on powers. The misuse in bad faith arises when the power is exercised for an improper motive, say, to satisfy a private or personal grudge or for wreaking vengeance of a Minister as in S. Partap Singh's case, supra. A power is exercised maliciously if its repository is motivated by personal animosity towards those who are directly affected by its exercise. Use of a power for an "alien" purpose other than the one for which the power is conferred is mala fide use of that power. Same is the position when an order is made for a purpose other than that which finds place in the order. The ulterior alien purpose clearly speaks of the misuse of the power and it was observed as early as 1904 by Lord Lindley in General Assembly of Free Church of Scotland v. Overtown 1904 AC 515 : 91 L.J. Ch. 394 "that there is a condition implied in this as well as in other instruments which create powers, namely, that the powers shall be used bona fide, for the purpose for which they are conferred". It was said by Warrington, C.J., in Short v. Poole Corporation, 1926(1) Ch. 66 : 95 L.J. Ch 110, that:

"No judgment of a Court, no order of Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything".

See also in Lazarus case, supra at page 722 per Lord Parker, C.J.:

"Fraud vitiates all transactions known to the law of however high a degree of solemnity.

All these three English decisions have been cited with approval by this Court in S. Partap Singh's case, supra.

"119. In Dr. Ram Manohar Lohia Vs. State of Bihar and Others, , it was laid down that the Courts had always acted to restrain a misuse of statutory power and more readily when improper motives underlie it. Exercise of power for collateral purpose has similarly been held to be sufficient reason to strike down the action. In State of Punjab Vs. Ramjilal and Others, , it was held that it was not necessary that any named officer was responsible for the act where the validity of action taken by a Government was challenged as mala fide as it may not be known to a private person as to what matters were considered and placed before the final authority and who has acted on behalf of the Government in passing the order. This does not mean that vague allegations of mala fide are enough to dislodge the burden resting on the person who makes the same though what is required in this connection is not a proof to the hilt, as held in The Barium Chemicals Ltd. and Another Vs. The Company Law Board and Others, "", the abuse of authority must appear to be reasonably probable".

There again the judgment of Lord Denning was quoted with approval.

In Gurdial Singh's case, supra, in his inimitable style, while speaking for the Court, said as follows:

"10. By these canons it is easy to hold that where one of the requisites of Section 4 or 6 viz., that the particular land is needed for the public purpose in view, is shown to be not the goal pursued but the private satisfaction of wreaking vengeance if the moving consideration in the selection of the land is an extraneous one, the law is derailed and the exercise is bad. Not that this land is needed for the mandi, in the judgment of Government, but that the mandi need is hijacked to reach the private destination of depriving an enemy of his land through back-seat driving of the statutory engine. To reach this conclusion, there is a big "if to be proved if the real object is the illegitimate one of taking away the lands of the respondents 1 to 21 to vent the hostility of respondent 22, under the mask of acquisition for the mandi".

A Division Bench of this Court in *Narayana Reddy and Anr. v. State of Karnataka and Ors.* 1981(3) Kar. L.J. 545 : 1991 ELR (Kar). 2248 has stated in paragraph 29 thus.?

"29. Now the final question for consideration is whether a notification issued by the State Government u/s 6(1) of the Act notifying that certain lands are required for a public purpose is liable to be struck down on the ground that the exercise of power by the Government was colourable, in that in truth it is not for the purpose for which the lands are stated to have been acquired. It is well-settled position in law that though sub-section (3) of Section 6 of the Act makes the declaration by the Government that the land is needed for a public purpose conclusive, if on the facts and circumstances of a given case it is established that there has been colourable exercise of power, the acquisition notification is liable to be struck down. *Smt. Somavanti and Others Vs. The State of Punjab and Others, and Collector (District Magistrate), Allahabad v. Raja Ram Jaiswal,*".

In the case of *Bangalore Medical Trust v. B.S. Muddappa* n Bench of this Court in *Narayana Reddy and Anr. v. State of Karnataka and Ors.* 1981(3) Kar. L.J. 545 : 1991 ELR Kar. 2248 has stated in paragraph 29 thus.?

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In the case of *Bangalore Medical Trust Vs. B.S. Muddappa and others*, , interpreting the provisions of BDA Act, 1976, after careful examination of the

scheme and intentment of the Act the Apex Court has succinctly laid down the law at paras 46 and 52 which relevant portion is extracted as hereunder.?

"The purpose for which the Act was enacted is spelt out from the preamble itself which provides for establishment of the authority for development of the City of Bangalore and areas adjacent thereto. To carry out this purpose the development scheme framed by the Improvement Trust was adopted by the Development Authority. Any alteration in this scheme could have been made as provided in Sub-section (4) of Section 19 only if it resulted in improvement in any part of the scheme. A private nursing home could neither be considered to be an amenity nor it could be considered improvement over necessity like a public park...".

"An exercise of power which is ultra vires the provisions in the statute cannot be attempted to be resuscitated on general powers reserved in a statute for a proper and effective implementation... What is not permitted by the Act to be done by the Authority cannot be assumed to be done by State Government to render it legal. An illegality cannot be cured only because it was undertaken by the Government".

Under the provisions of the 1903 Act the State Government is not empowered to grant bulk "allotment of land, out of the land acquired for a scheme. The Apex Court in the case of Babu Verghese supra, at paragraphs 31 and 32 referred to supra, aptly applies to this case. In the instant case the acquisition of land is for the formation of Vijayashree Extension Layout as notified in the notifications. After formation of layout, the MUDA has got power to allot sites in favour of the needy and eligible applicants strictly in accordance with law by following the rules framed under the provisions of Act for allotment of sites. The State Government has no power or authority to grant bulk allotment of 55 acres out of 94 acres 28 guntas in favour of 28th respondent. Any such grant of land amounts to deviation from the scheme the land is acquired. Hence, in the light of the decisions referred to above, the impugned order at Annexure-H is void ab initio and bad in law.

26. At this juncture it is significant to refer to the submission made by the learned Counsels appearing on behalf of respondents 2 and 28. Their submission was, if this Court were to come to the conclusion that the impugned notifications and the Government Order cannot be sustained and liable to be quashed, instead of restoring the land to the petitioner this Court may award monetary compensation as it thinks fit in the circumstances of the case. In other words, the intention of both respondents 2 and 28 is crystal-clear that they want to see that the land shall be retained by themselves by hook or crook. This proves that Respondents 2 and 28 are hand-in-glove with each other and the mighty Government is supporting them. It is a very sad state of affair as the action of the State Government is arbitrary, unreasonable and it is a colourable exercise of power. The same also suffers from legal mala fides and legal malice.

27. From the file relating to administrative approval of the Government to the

scheme in question, it is seen that the file had been closed on 28-10-1988 by addressing a letter to 2nd respondent-MUDA to send a fresh proposal if it still feels to take up the scheme in question. One thing is clear from this. Even before the Government according administrative approval, which is impliedly rejected now, to the scheme in question, the acquisition proceedings have been concluded by issuing preliminary and final notifications and passing the awards. The 1st and 2nd respondents have exercised their power without looking into the statutory provisions of the Act governing it. Misuse of power by them is glaring by the way in which the matter has been dealt with. The allegation of the petitioner that fraud on power has played vital role in this case has to be accepted as the same is proved from the perusal of the files of the respondents 1 and 2 and the impugned order at Annexure-H, dated 28-5-1988. The further allegation of the petitioner that respondent 28 is a powerful institution having large number of institutions, organisations and personalities, both public and private at its command and this institution which was the force behind the initiation of the acquisition proceedings in this case, has to be believed and accepted. The requirement of this institution was more than the actual requirement of MUDA for the implementation of the so-called scheme of formation of Vijayashreepura Extension in City of Mysore. There was no occasion for the 28th respondent to request the MUDA to acquire land for it as it could have directly sought acquisition of land through the acquiring agency, namely the State Government represented by its Land Acquisition Officer. The MUDA should not have entertained such a request of 28th respondent. It appears that there was mutual understanding between the two and at their instance the Government also bowed and acted in their favour in exercise of its power to oblige them for extraneous considerations. The decision of the Supreme Court in *Gurudial Singh's* case, *supra* and two other Division Bench judgments which are extracted in this judgment squarely applies to this case. Consequently it is held that fraud on power, misuse of power, colourable exercise of power, collusion, favouritism etc., are all involved in the matter of acquisition of land in question and grant of bulk allotment of land of 55 acres in favour of the 28th respondent. The MUDA instead of restricting its developmental and improvement activities within the parameters provided under the provisions of the 1903 act has exceeded its jurisdiction and authority by entertaining the request of 28th respondent for acquiring land for it covering the same under its scheme - the scheme which was still a womb/fetus not only at the time of publication of preliminary notification but even as on today in view of closure of file relating to sanction by the Government. There is a proverb in Kannada which means even before the birth of child, topic (hat) was got prepared. The same is aptly applicable to this case as even before the scheme was evolved and approved, proceedings for acquisition of land had been commenced and concluded and major portion of the acquired land is granted in favour of 28th respondent by the State Government. In the circumstances the submission made by the learned Counsels for respondents 2 and 28 to order for payment of monetary compensation to the petitioner cannot be accepted and the same is hereby rejected.

28. The contention of the learned Counsel for the respondent 28 that in view of the order passed by the Land Tribunal in the proceedings initiated by the applicants claiming that they are tenants of the land, would disentitle the petitioner to seek the reliefs in these petitions, cannot be accepted by this Court for the reason that the said order is challenged in W.P. Nos. 22254 to 22277 of 1999 before this Court and the order of the Land Tribunal is stayed by this Court.

29. Having held that the acquisition of land is bad, the consequential order that should be passed is to quash the acquisition proceedings, the awards and the Government Order at Annexure-H. However, having regard to the peculiar facts and circumstances of these cases, i.e., since the acquisition of the lands was completed long back and possession of the same had been taken over by MUDA and since the petitioner has no objection for the acquisition of the lands except about 20 acres to be left to him as reflected in his objections at Annexure-E in W.P. No. 14726 of 1994 to the notice, this Court has to mould the relief and pass appropriate orders.

30. So far as quashing of the acquisition proceeding notifications and awards passed in this case, in view of the acquisition of entire land was over long ago and possession was taken over by the State Government, in turn it has handed over to the MUDA and therefore, the request of the petitioner with regard to quashing of the impugned notifications and awards cannot be considered at this juncture. That apart, when there is acquisition of vast extent of land at a stretch, a portion in that extent cannot be given up because it may lead to other complications, such as the owner seeking to leave a particular portion of the land of 20 acres for his use which may affect the scheme for which the land is proposed to be acquired or the owner may ask for bits of lands in different portions choosing the better locations for his purpose, in which event it would be difficult to implement the scheme as a whole, etc. Therefore, in the instant case the plea of the petitioner to give up about 20 acres of land cannot be considered.

31. So far as the petitioner is concerned, in the matter of determining the compensation for the land acquired pursuant to the impugned notifications are held to be bad in law and the grant of land in favour of respondent 28 is liable to be quashed in the first writ petition and for the reason that the awards are passed by the LAO without following proper procedure as contended by the petitioner in the petition, the same has to be accepted by this Court as respondents 1 and 2 have not produced the relevant documents to show that the allegations made by the petitioner in this regard are not correct and also for the reason that the acquisition proceedings are held to be void ab initio in law as the same are vitiated on account of fraud on power exercised by the respondents 1 and 2. Therefore, this Court grant the following relief to the petitioner.

32. (a) So far as the documents and colourful photographs produced by respondent 28 to seek equity on the ground that huge sums of money has already been invested on the land granted to it, the interim order passed by this Court in Writ Petition No. 14726 of 1994 is very clear and it reads as hereunder;

and this order was not interfered with by the Division Bench of this Court in W.A. No. 2278 of 1994 which appeal was disposed on 22-9-1994.

(b) In regard to 55 acres allotted to the 28th respondent, any constructions put up-or improvements made by the 28th respondent during the pendency of this petition, will be at its risk and cost and subject to the final decision of this Court. If the petitioner ultimately succeeds in the petition, Respondent, 28 cannot claim any equities on account of constructions or improvements, In view of the above interim order any constructions made by the 28th respondent upon the land granted in its favour was subject to its risk and no equity should be claimed. Therefore, the submission made on behalf of the 28th respondent by producing colourful photographs and other documents to show that huge sums have been invested, cannot be accepted. Awarding compensation in favour of the petitioner without interfering with impugned order at Annexure-H not only suffers public interest but it amounts to perpetuating illegality committed by them. Such a request of the 28th respondent cannot be considered and granted for another reason that fraud on power unravels the acquisition proceedings and grant of land in favour of respondent 28. Therefore, there is absolutely no justification for this Court to accept the submission made on behalf of respondent 28-college. The impugned order at Annexure-H is liable to be quashed and a direction to be given to the 28th respondent to handover possession of the property to MUDA. As the petitioner is succeeding in these writ petitions, he may be compensated suitably in monetary terms.

33. In the light of the foregoing discussion and the decisions extracted above, the reliance placed on various other decisions by the learned Counsel for the respondents 2 and 28 on various aspects such as power of the respondents 1 and 2, under the provisions of the 1903 Act for acquiring land, delay and laches in filing the writ petition, and there is public interest involved in granting 55 acres of land out of the acquired land to respondent 28-college as it has been imparting education to various sections of the students of the country and foreign countries. Further it is urged by the learned Counsel for the college that this Court shall not interfere with the acquisition proceedings and the impugned order granting bulk allotment of land in favour of 28th respondent at this belated stage as it has invested huge amounts, to substantiate this contention produced its layout plan and colourful photographs of construction of various buildings. In support of the legal submissions learned Counsel on behalf of second respondent Sri P.S. Manjunath has relied upon the following judgments regarding power of MUDA under the provisions of 1903 Act: Jatadhar Mitra and Others Vs. State of West Bengal and Others, Sri Ashok B. Hinchigeri, learned Counsel appearing for 28th respondent has relied upon the following judgments on various aspects which are clearly mentioned as hereunder:

(a) Regarding delay and laches:

(i) Hari Singh and Others Vs. State of U.P. and Others, ; (ii) State of Tamil Nadu and others etc. Vs. L. Krishnan and others etc., ;

(b) Regarding public interest: Ramniklal N. Bhutta and another Vs. State of Maharashtra and others, ;

(c) Regarding acquisition of land by respondents 1 and 2 in conformity with the provisions of the Act: Venkataswamappa Vs. Special Deputy Commissioner (Revenue), ;

(d) Regarding change of land use by respondent 28: Chameli Singh v. State of Uttar Pradesh;

(e) Regarding awarding just compensation awarded in respect of land in question, it does not amount to deprivation of livelihood of the owner: ILR 1997 Kar. 141;

(f) Regarding exercise of power by the Government for acquisition of land under the provisions of the 1903 Act: State v. Ramu Shidling Bandgar and Ors. 1974 (2) Kar. L.J. 71

(g) Regarding implementation of the Scheme: Unreported judgment of this Court in W.A. No. 3427 of 1997 connected with W.A. No. 3320 of 1997.

The above said decisions upon which much reliance was placed by the learned Counsel on behalf of respondents 2 and 28 do not render any assistance to the respondents referred to supra for the reasons recorded by this Court in this judgment holding that the acquisition of land are void ab initio in law with reference to the judgments of the Apex Court and this Court, therefore, the law laid down in the cases cited supra are wholly inapplicable to the facts and submissions made by the learned Counsel with reference to the case-law cited supra cannot be accepted.

34. In the facts and circumstances of the case and for the foregoing reasons, this Court prima facie found that ends of justice could be met by moulding the relief suitably based on the law laid down by the Apex Court at paragraph 10 in the case of Ramniklal N. Bhutta, supra. In other words, instead of quashing the acquisition proceedings, the acquisition may be allowed as such in favour of MUDA. But, the grant of 55 acres of land in favour of 28th respondent-college would be quashed and the said extent of land shall also be left to MUDA for further execution and implementation of the scheme for which purpose the land was acquired for the formation of ""Vijayashreepura Extension". In this view of the matter, the MUDA shall refund the amounts, if any, received from the 28th respondent for the acquisition of the land. 35. So far as the petitioner is concerned, in the matter of determining the compensation for the land acquired since the impugned acquisition is held as bad in law and the grant of land in favour of the 28th respondent is liable to be quashed. This Court grants the following relief to the petitioner.

36. The Land Acquisition Officer shall make the reference of the awards to the Jurisdictional Civil Court which is Reference Court under the provisions of the L.A. Act, 1894 for determination of the market value of the property as prevailed in

the year 1995. If the petitioner and any other interested persons including respondents 3 to 27, on filing suitable applications within 90 days of release of this order before the LAO seeking reference of the awards, the LAO shall refer the same to Civil Court and the Reference Court shall determine the market value of the property taking the date as 1-1-1995 ignoring that the preliminary notification was of the year 1985 and also notwithstanding the limitation for seeking and making the reference.

37. The claim of respondents 3 to 27, that they are claiming that they are the tenants and entitled for compensation depends on the result of finality of the order of the Land Tribunal.

38. The challenge to the impugned notice at Annexure-B in the connected writ petition is justified for the reason that the MUDA has no authority either under the provisions of the 1903 Act or under the provisions of Karnataka (Regularisation of Unauthorised Constructions in Urban Areas) Act, 1991 to regularise the unauthorised constructions upon the land in question. Regularisation defeats the purpose for which the land was acquired. Therefore, the petitioner is entitled for the relief sought for in the said petition.

39. In the result, these writ petitions are partly allowed. The impugned notifications and awards relating to acquisition of land are not disturbed but the Government Order at Annexure-H in W.P. No. 14726 of 1994 and the public notice at Annexure-B in the other Writ Petition No. 31449 of 1994 are quashed. Consequently, it is ordered that the 28th respondent shall handover property granted to it under Annexure-H notwithstanding improvements made upon the land in question within 60 days of receipt of a copy of this order, to MUDA. The MUDA is directed to act as indicated above the also take steps to evict the unauthorised occupants immediately.

40. The parties to these writ petitions shall act in accordance with the directions/ observations made in the course of this order.