

(2011) 12 AP CK 0086

In the Andhra Pradesh High Court

Case No : Writ Petition No. 17982 of 2007

Pasala Padma Raghava Rao

APPELLANT

Vs

The Collector, East Godavari District and others

RESPONDENT

Date of Decision : 02-12-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition (Companies) Rules, 1963 — Rule 4
Land Acquisition Act, 1894 — Section 17(1), 17(4), 38, 39, 4

Citation : (2012) 2 ALD 553 : (2012) 2 ALT 60

Hon'ble Judges : R. Subhash Reddy, J

Bench : Single Bench

Advocate : M.S. Ramachandra Rao, for the Appellant;

Final Decision : Allowed

Judgement

R. Subhash Reddy

1. This writ petition is filed, seeking a Writ of Mandamus, declaring the notification issued in Reference No.G5/148/07, dated 12.04.2007, u/s 4 of the Land Acquisition Act, 1894 and also the declaration issued u/s 6 of the said Act, in proceedings, dated 21.04.2007, issued in Reference No.G5/143/2007, by the 1st respondent-District Collector, as illegal and arbitrary and that the same are issued in violation of the provisions under the A.P. Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006.

2. The petitioner is the owner of agricultural land admeasuring Ac.0.29 cents in Sy.No.269/3 and Ac.0.23 cents in Sy.No.269/4 of Bhimavaram village of Samalkot Mandal in East Godavari District. The Zonal Manager of A.P. Industrial Infrastructure Corporation Ltd. (APIIC), Kakinada, has submitted a requisition to the District Collector of East Godavari District, vide Letter, dated 5th January 2007, for acquiring the aforesaid land of Ac.0.52 cents covered by Sy.Nos.269/3 and 269/4, situated at Bhimavaram village of Samalkot Mandal, for the purpose of construction of Intake Well and Pump House for supply of Contour to M/s. Rak

Ceramics Limited. After making necessary inspections and surveys, the aforesaid land was notified and notification was issued and was published in District Gazette on 12.04.2007, invoking urgency clause by dispensing with inquiry u/s 5-A of the Land Acquisition Act, and further declaration u/s 6 of the Act was also published in the Gazette on 21.04.2007.

3. It is the case of the petitioner that only when he received notice on 7th August 2007 for payment of 80% compensation, he came to know about the acquisition proceedings. It is stated that on receipt of said notice and having come to know about acquisition of his land, he approached this Court by filing this writ petition.

4. It is the case of petitioner that the aforesaid land is fertile agricultural land, which is being used for raising paddy and sugarcane crops. As stated in the affidavit filed in support of the writ petition, it is the case of the petitioner that though there is no urgency warranting invocation of provisions u/s 17(1) and (4) of the Land Acquisition Act, the respondents have invoked the same by dispensing with inquiry u/s 5-A of the Act. It is stated that construction of Intake Well and Pump House by M/s. Rak Ceramics Limited, a Private Limited Company, is not in the nature of that urgency, so as to invoke the provisions u/s 17(1) and (4) of the Act by dispensing with inquiry. It is stated that by invoking urgency clause, petitioner is deprived of the opportunity to show that the land is unsuitable for construction and to raise other valid objections. It is also their case that as the lands are notified based on the requisition sent by M/s. Rak Ceramics Limited, the acquisition cannot be said to be for public purpose because there is no benefit to the general public if a private Company sets up a Pump House for its own benefit. It is stated that as the acquisition is for a Private Limited Company, it is obligatory on the part of respondents to follow the procedure under Part-VII (Sections 38 to 50) of the Land Acquisition Act, 1894. The petitioner has also raised a ground stating that as the land in question is not converted from agricultural to non-agricultural purpose under the provisions of the A.P. Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006, respondents cannot be permitted to acquire his agriculture land for using the same for non-agricultural purpose i.e. industrial purpose.

5. Separate counter affidavits are filed on behalf of Government as well as the 3rd respondent-APIIC. In the counter affidavit filed on behalf of Government, which is sworn by the Special Grade Deputy Collector (Land Acquisition), Kakinada, while denying the various allegations made by the petitioner, it is stated that the Zonal Manager of APIIC, Kakinada, submitted a requisition to the District Collector, East Godavari, to acquire the aforesaid land for construction of Intake Well and Pump House for supply of Contour to M/s. Rak Ceramics Limited. It is stated that after making necessary inspection and survey, proposals were sent to the District Collector to notify the land under the Land Acquisition Act. Accordingly, notification was issued and published in the District Gazette on 12.04.2007 and declaration u/s 6 of the Act was published in the Gazette on 21.04.2007. In the counter, it is stated that in view of the urgency for

construction of Intake Well and Pump House for supply of Contour, inquiry u/s 5-A of the Land Acquisition Act has been dispensed with by invoking urgency clause. It is stated that the said respondent has requested the requisition Department by letter, dated 16.05.2007, to provide funds for payment of compensation. Accordingly, the requisition Department i.e. the Zonal Manager, APIIC, has provided funds to the tune of Rs.3,55,000/-for payment of compensation. Soon after receipt of the said amount, notice, dated 7th August 2007 was issued to the petitioner, requesting him to attend the office on 17th August 2007 and receive the 80% compensation, but the petitioner, without receiving the compensation, approached this Court. Respondents have denied the allegation of petitioner that the land in question is wet agricultural land and it is stated that as per revenue records, the land is classified as a dry land. While giving the details of the other lands owned by the petitioner, respondents have denied the allegation that the acquired land is the only source for the petitioner's livelihood. Counter further states that the APIIC is a Government owned Company with the aim and object to provide infrastructure facilities to the industries for the purpose of development. It has to achieve its object to get the private patta land acquired by the Government, where the Government lands and Ceiling surplus lands are not available. It is stated that as there is no Government land in Bhimavaram village, the APIIC has requested the State to acquire private patta land for the purpose of construction of Intake Well and Pump House. In the counter, it is stated that as the land is being acquired for APIIC, compensation is also being paid by it, and hence, it is not necessary to invoke Part-VII of the Land Acquisition Act, 1894, while acquiring the land. With the aforesaid averments, pleading that there is no case for interference in this petition filed under Article 226 of the Constitution of India, prayed for dismissal of the writ petition.

6. A separate counter affidavit is filed on behalf of the 3rd respondent-APIIC, by its General Manager (Law). In this counter affidavit, it is stated that APIIC is an undertaking fully owned by the Government of Andhra Pradesh and is a registered Company under the Companies Act, 1956. It is stated that the main objects of APIIC are acquisition of lands, development of lands into industrial area by providing with infrastructural facilities, allotment of plots/sheds to entrepreneurs in industrial areas for industrial purposes, and thus, APIIC aims at accelerated development of industries in the State of Andhra Pradesh to facilitate socio-economic progress of the State. In the counter, it is stated that the requisite funds of Rs.3,55,000/-relating to the said acquisition proceedings are being borne by the APIIC and the proposed acquisition relates to public purpose i.e. construction of Intake Well and Pump House for supply of Contour to M/s. Rak Ceramics Limited. It is stated that the Zonal Manager of APIIC, Kakinada has submitted a requisition, dated 05.01.2007, for acquiring the land to an extent of Ac.0.52 cents, which resulted in initiation of proceedings for acquisition of petitioner's land. Denying the allegation that acquisition is not for a public purpose, it is stated that development of industrial infrastructure, requiring

acquisition of land is in larger public interest and tapping of resources in private sector for infrastructure development cannot be said to be illegal or not constituting a public purpose. With regard to the provisions under The A.P. Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006, it is stated that no such conversion is required before initiating the proceedings under the Land Acquisition Act, 1894. It is also stated that once the private land is acquired under the Land Acquisition Act, 1894, it becomes the land belonging to the State by virtue of operation of Section 7 of the A.P. Agricultural Land (Conversion for Non-Agricultural Purposes) Act, and then, the application of the said Act itself stands excluded. In the counter, it is stated that the possession of land was taken on 28.07.2007 and it was handed over to APIIC, which has provided the funds for acquisition. Denying the possession of the petitioner over the land in question, he prayed for dismissal of the writ petition.

7. Additional counter affidavit is also filed on behalf of the 3rd respondent-APIIC. In this additional counter affidavit, it is stated that on 18.04.1996, the APIIC has sent a requisition to the District Collector, East Godavari, for acquisition of a total extent of land admeasuring Ac.338.53 cents at Peddapuram and Samalkot Mandals, for expansion of the existing industrial development area (which is originally covered about 1970 acres in three villages). Pursuant to the same, the land was acquired by the Government in Bhimavaram village of Samalkot Mandal to an extent of Ac.228.56 cents. It is stated that the total land acquired to hand over to APIIC was Ac.302.15 cents, for the purpose of expansion of industrial development area. It is further stated that a Memorandum of Understanding, dated 7th January 2004, is entered by the Government of Andhra Pradesh with M/s. Rak Ceramics of UAE, and that the contents of the said Memorandum of Understanding include facilitating procurement of land to Rak Ceramics India (Private) Limited so as to support the Company to establish a Unit to produce polished, unpolished and glazed porcelain tiles and sanitaryware, with a capital outlay of US \$ 23 to 25 Million i.e. approximately Rs.106 to 115 Crores, thereby to generate employment for about 400 people. Accordingly, the Rak Ceramics Limited was allotted land to an extent of Ac.202.83 cents at Industrial part of Peddapuram at a total consideration of Rs.4,14,15,000/-and a sale agreement was executed vide document No.3185/2007, dated 27.06.2007 and further sale deed was executed on 20th March 2009 vide document No.859/2009. It is stated that the present acquisition is for providing additional land to the original allottee i.e. M/s. Rak Ceramics Limited, which has already been allotted an extent of Ac.202.83 cents. It is stated that as the Land under present acquisition is allotted to the original allottee for construction of Intake Well and Pump House for supply of Contour, it cannot be said that there is no public purpose involved or that Part-VII of Land Acquisition Act, 1894 should be invoked. It is categorically stated that the land of Ac.202.83 acres, which is allotted and transferred to M/s. Rak Ceramics Limited, constitutes part of the industrial development area, Peddapuram, which is administered by APIIC. It is stated that for the purpose of acquiring additional land required for an already running

industry in an industrial development area, they need not follow the procedure as contemplated under Chapter-VII of the Land Acquisition Act.

8. A reply affidavit is filed by the petitioner, wherein, it is stated that by invoking the provision u/s 17(4) of the Land Acquisition Act, 1894 and without following due process of law, the respondents are not entitled to dispossess the petitioner from his land. While denying the averments in the counter that possession was taken on 28.07.2007, it is stated that merely because APIIC will pay compensation to the petitioner, the acquisition cannot be termed as for a public purpose.

9. Heard learned counsel for petitioner Sri M.S. Ramchandra Rao and the learned Advocate-General, appearing for respondents.

10. Mainly, two contentions are advanced by the learned counsel for petitioner Sri M.S. Ramchandra Rao, seeking invalidation of the impugned notification for acquisition. Firstly, it is contended that having regard to the purpose for which the land in question is acquired, no valid reasons have been assigned to dispense with the inquiry u/s 5-A of the Land Acquisition Act, which is a valuable right available to the land owners to put-forth their objections for the proposed acquisition. It is contended that the public purpose i.e. construction of Intake Well and Pump House to a private Company is not that urgent so as to invoke the powers u/s 17(1) and (4) of the Land Acquisition Act. It is submitted that earlier, an extent of Ac.202.83 Cents was allotted to a private industry as early as in 2006-07 and the Company as well can construct the Intake Well and Power House within the land which is already allotted to it. It is submitted that in view of dispensing with the inquiry u/s 5-A of the Land Acquisition Act, the petitioner is deprived of his right to raise his valid objections for the proposed acquisition. It is submitted that in any event, having regard to the nature of acquisition, it cannot be said that the acquisition cannot brook any delay, so as to dispense with inquiry u/s 5-A of the Act. The further contention of the learned counsel is that as much as the entire land, which is covered by the impugned notification is for the purpose of providing additional land to a private Company, there is no element of public purpose within the meaning of the provisions under the Land Acquisition Act, 1894, so as to follow the procedure contemplated under Chapter-II of the said Act. It is submitted that the respondents have not followed the procedure under Chapter-VII of the Act, which itself is illegal, having regard to the fact that the entire cost for the proposed acquisition is borne by the beneficiary Company, which has entered into an agreement with the respondents. Though in the affidavit filed in support of the writ petition, it is stated that the proposed acquisition is also illegal in the absence of passing any orders for conversion of land from agricultural to non-agricultural purposes under the provisions of the A.P. Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006, such ground is not pressed during the course of arguments, probably, it appears that the plea for invalidation of acquisition on such ground is not approved by this Court in a batch of cases decided earlier. In support of his

argument, the learned counsel for petitioner has relied on the judgments in (1) Sooraram Pratap Reddy and Others Vs. District Collector, Ranga Reddy Distt. and Others, (2) Devinder Singh and Others Vs. State of Punjab and Others, (3) Sri Radhy Shyam (Dead) through L.Rs. and Others Vs. State of U.P. and Others, (4) Union of India (UOI) and Others Vs. Mukesh Hans etc., and (5) Union of India (UOI) and Others Vs. Krishan Lal Arneja and Others,

11. On the other hand, it is submitted by Sri A. Sudershan Reddy, learned Advocate-General appearing for respondents that in this case, it is to be noticed that the acquisition is for the additional requirement of an industry, which has already set up its Unit in an industrial area notified by the Government. It is contended that to promote industrial growth, a Memorandum of Understanding was entered into by the Government with M/s. Rak Ceramics Ltd., for setting up of an industry in the industrial area, for manufacture of ceramic tiles and sanitaryware. It is submitted that the original agreement itself was entered into with a laudable public purpose to provide land to the Company, which has agreed to establish a Company with a capital outlay of US \$ 23 to 25 Million, which generate employment to about 400 persons. The present acquisition is only to meet the additional requirement of said Company, as such, it cannot be said that no public purpose is involved in the present acquisition. It is submitted that as per the policy of the Government, for promoting industrial growth and taking into account the original acquisition, in which, M/s. Rak Ceramics Limited was allotted an extent of Ac.202.83 cents of land, on a holistic approach, it shall be construed as a public purpose, for exercising the power of Eminent Domain under the provisions of the Land Acquisition Act, 1894. It is submitted that whether the public purpose exists or not, is a matter, which requires consideration having regard to the facts of each case, and in this case, having regard to the fact that the Unit is in an industrial area and a large extent of land is already allotted, and in continuation thereof, on the requisition sent by the said Company for their additional requirement, the proposed acquisition is made, it cannot be said that there is no public purpose. It is further submitted that as the proposed land is required urgently for the purpose of constructing Intake Well and Pump House for supply of Contour, it cannot be said there is no urgency in the matter and it is not open for the petitioner to find fault with the action of respondents in invoking urgency clause u/s 17(1) and (4) of the Land Acquisition Act. The learned Advocate-General also, in support of his argument, relied on the very same judgment relied on by the learned counsel for petitioner in the case of Sooraram Pratap Reddy (1 supra), and also relied on a Division Bench judgment of this Court in Writ Appeal No.294 of 2005 and batch, and in the case of Pratibha Nema and Others Vs. State of M.P. and Others,

12. Having heard the learned counsel for the parties, I have perused the entire material available on record. In this case, at the outset, it is to be noticed that the acquisition is for an industry in an industrial area notified by the Government. First, I deal with the contention of the learned counsel for petitioner as to whether the respondents are justified in invoking the urgency clause by

dispensing with inquiry u/s 5-A of the Land Acquisition Act, 1894. Even as per the contents of the counter affidavit and additional counter affidavits filed by the respondents, a large extent of land i.e. an extent of Ac.202.83 cents in Bhimavaram and Jaggammagaripeta villages of Samalkot Mandal, was already acquired and transferred to M/s. Rak Ceramics Ltd., for setting of an industry, and subsequently, sale deeds were executed on 27.06.2007 and 20.03.2009, transferring the land to the Company. Now, the land, which is subject matter of this writ petition is also requisitioned by APIIC vide its letter, dated 05.01.2007, addressed to the District Collector, East Godavari District, which is notified by the impugned notification. Thereafter, the notification is issued u/s 4(1) of the Land Acquisition Act on 12th of April 2007 and by issuing consequential declaration u/s 6 of the Land Acquisition Act, and respondents have taken steps to acquire the land. Though it is the case of respondents that possession of land in question was already taken by conducting panchanama, the same is disputed by the petitioner in the reply affidavit filed in this regard. In the latest judgment relied on by the learned counsel for petitioner in the case of Radhy Shyam (3 supra), the Hon"ble Supreme Court, while considering the power of invocation of urgency clause, held that the property of a citizen cannot be acquired by the State and/or its agencies/instrumentalities without complying with the mandate of Sections 4, 5-A and 6 of the Act. It is also held that a public purpose however laudable it may be, does not entitle the State to invoke the urgency provisions because the same have the effect of depriving the owner of his right to property without being heard, and that only in a case of real urgency, the State can invoke the urgency provisions and dispense with the requirement of hearing the landowner or other interested persons. In the said judgment, it is categorically held that the power of invoking urgency clause u/s 17(1) and (4) of the Act confers extraordinary power on the State to acquire private property without complying with the mandate of Section 5-A and these provisions can be invoked only when the purpose of acquisition cannot brook the delay of even a few weeks or months.

13. In view of the said principle laid down by the Hon"ble Supreme Court in the aforesaid judgment, it is to be seen in this case as to whether there is any such urgent need to acquire the petitioner's land by dispensing with inquiry u/s 5-A of the Land Acquisition Act. In this case, it is to be noticed that the industrial expansion was started in the year 1996 pursuant to the requisition sent by the APIIC and already land to an extent of Ac.202.83 cents was allotted to the Company and even for the present acquisition, requisition was sent as early as in January 2007 itself to the District Collector, and thereafter, notification u/s 4(1) of the Land Acquisition Act was issued on 12.04.2007, which was published in the newspapers on 19.04.2007. It is also pertinent to note that the purpose is for construction of Intake Well and Pump House for supply of Contour to M/s. Rak Ceramics Limited. Having regard to the purpose for which the land is notified for acquisition, this Court is of the view that it is not of such urgent requirement, so as to invoke the power u/s 17(1) and (4) of the Land Acquisition Act, 1894.

When the respondents have waited for months together in taking steps for acquisition itself pursuant to the requisition sent by APIIC, there is no reason for dispensing with inquiry u/s 5-A of the Land Acquisition Act. Having regard to the steps taken by the respondents and the purpose of acquisition for which the land in question is sought to be notified, and keeping in mind the principles laid down by the Hon''ble Supreme Court in the recent judgment in the case of Radhy Shyam (3 supra), it cannot be said that acquisition of such urgent nature, which cannot brook any delay so as to invoke the urgency clause by dispensing with inquiry u/s 5-A of the Act. In that view of the matter, I find force in the contention advanced by the learned counsel for petitioner, that urgency clause is invoked in a routine and mechanical manner, though there is no real urgency, as held by the Hon''ble Supreme Court in the judgment referred above (3 supra). In that view of the matter, this Court is of the view that it is evidently a fit case to give an opportunity to the petitioner to put-forth his objections for the proposed acquisition.

14. The further argument advanced by the learned counsel for petitioner is that the acquisition is for a private Company, and as such, in the absence of any public purpose, the respondents ought to have followed the procedure as contemplated under Chapter-VII of the Land Acquisition Act, 1894. On the other hand, it is the case of respondents that the acquisition is in an industrial area and is in continuation of the earlier acquisition, by which, an extent of Ac.202.83 Cents of land was already allotted to the Company by name Rak Ceramics Limited, and in view of need for construction of Intake Well and Pump House for supply of Contour to the said Company, the present land is required, as such, it cannot be said that there is no element of public purpose in the present acquisition. "Public Purpose" is defined under the provisions of the Land Acquisition Act, 1894. In application to the State of Andhra Pradesh, "Public Purpose" includes the provision of land for a Corporation owned or controlled by the State. In this case, it is the case of respondents that in 1996 itself, the APIIC had filed requisition before the District Collector, East Godavari for acquisition of a total extent of Ac.338.53 cents of land in Peddapuram and Jaggammagaripeta villages of Samalkot Mandal in East Godavari District for expansion of the existing industrial development area, which is originally covered about 1970 acres in three villages. It is stated that pursuant to such requisition, land was acquired by the Government in Bhimavaram village of Samalkot Mandal to an extent of Ac.228.56 cents and to an extent of Ac.61.75 cents in Jaggammagaripeta village, thus, the total extent of Ac.290.31 cents of land was notified, which is covered by three awards. It is further stated that pursuant to the Memorandum of Understanding, dated 07.01.2004, entered into by the Government of Andhra Pradesh with Rak Ceramics Limited of UAE, it is agreed to facilitate for procurement of land for the purpose of said Company, which has agreed to set up a Unit for manufacturing Ceramic tiles and sanitaryware, with a capital outlay of US \$ 23 to 25 Million. Accordingly, pursuant to such agreement, Ac.202.83 cents of land is already allotted to the Unit and sale deeds were also

executed to that effect. The proposed acquisition is for the purpose of additional requirement of construction of Intake Well and Pump House for supply of Contour. In the context of the facts as stated by the respondents, in this case, a holistic approach is to be made for the purpose of determining whether the land which is covered by the impugned notification at the instance of the industry, is for public purpose or not. While deciding whether the present acquisition which is an additional requirement, is for public purpose or not, this Court cannot lose sight of the fact that the industry has come up in an industrial area notified by the Government, which is stated to have been administered and controlled by APIIC. In view of the fact that substantial portion of land is already transferred to the Unit, the additional requirement is in continuation of the efforts of respondents to bring the industry with a laudable object of inviting private investments, and also thinking that it will create employment to about 400 people. As much as the land is acquired by the Corporation, which is owned and fully controlled by the State, in view of the expression "Public Purpose", as in its application to the State of Andhra Pradesh, it cannot be said that there is no element of public purpose in acquiring the land. In the judgment relied on by the learned counsel for petitioner in the case of Sooraram Pratap Reddy (1 supra), the Hon'ble Supreme Court has held that the decision of the State whether in a particular case public purpose exists or not, is not beyond judicial scrutiny and in appropriate cases, whether such power is exercised mala fide or for collateral purposes or for purported action, Writ Court can undoubtedly interfere. In the very same judgment, it is held that it is primarily for the State to decide as to whether the public purpose exists or not. In the aforesaid judgment, it is also held that in case of integrated and indivisible project, the project has to be taken as a whole and must be judged whether it is in the larger public interest or not, but it cannot be split into different components and to consider whether each and every component will serve public good and a holistic approach is to be adopted in such matters. It is further held that if the project taken as a whole is an attempt in the direction of bringing foreign exchange, generating employment opportunities and securing economic benefits to the State and the public at large, it will serve public purpose. In the context of the aforesaid judgment, this Court is of the view that having regard to the nature of acquisition and "public purpose" involved in it, it cannot be said that the respondents have exercised the power mala fide and such decision is either irrational or unreasonable so as to interfere with the decision of respondents.

15. Coming to another judgment relied on by the learned counsel for petitioner in the case of Devinder Singh (2 supra), wherein, the Hon'ble Supreme Court has mainly considered the effect of Rule 4 of Land Acquisition (Companies) Rules, 1963, and found fault with the respondent/authorities in exercising jurisdiction under Part-VII of the Land Acquisition Act. In the aforesaid case, while dealing with the issue of "public purpose", on facts, it was found that when the writ petition was pending, State has taken steps for contributing only Rs.100/-towards the cost of acquisition and in that view of the matter, it was

held that the Government has ignored mandatory provisions under the Act, and accordingly, struck down the acquisition. In the instant case, it is to be noticed that such a question does not arise and having regard to the fact situation in the present case, and taking into account the fact that the present acquired land is required for the Company, which has already set up its Unit in an industrial area notified by the Government, which is fully controlled and administered by APIIC, the aforesaid judgment will not render any assistance in support of the argument advanced by the learned counsel for petitioner, to invalidate the present acquisition.

16. On the other hand, the judgment relied on by the learned Advocate-General in the case of Pratibha Nema (6 supra), supports the case of respondents. In the aforesaid judgment, the Hon''ble Supreme Court has upheld the acquisition where the State Government has issued notification for acquisition of land for public purpose of establishing diamond park with a view to place the same at the disposal of the State owned Corporation for allotting to various Companies for setting up of diamond cutting and polishing Units. In the said case also, advances are received by entering into Memorandums of Understanding with the Companies, and in turn, the same was used for the purpose of paying compensation. In such event, the Hon''ble Supreme Court has held that the payment of such amount, amounts to paying out of public revenues, which satisfies the provisions under the Land Acquisition Act. Even in this case, even assuming that the entire cost of the proposed acquisition is borne by the Company for which the land is acquired, and as it is paid to the requisition Department so as to deposit the same with the acquisition authority for payment of compensation, it has to be held that such payment amounts to paying public revenue. In that view of the matter, the contention advanced by the learned counsel for petitioner that as entire cost of acquisition is borne by a private Company, no public purpose is involved in the acquisition, cannot be accepted in view of the judgment referred above.

17. By applying the above principles and keeping in mind that the acquisition covered by the impugned notification is in continuation of the original allotment, for the purpose of additional requirement and by taking a holistic approach including the fact that the entire industrial area is controlled and administered by APIIC, this Court is of the view that the purpose for which the land in question is acquired, is only for public purpose within the meaning of the Land Acquisition Act, 1894.

18. For the aforesaid reasons, I accept the contention advanced by the learned counsel for petitioner that invoking urgency clause under Sections 17(1) and (4) of the Land Acquisition Act by dispensing with inquiry u/s 5-A of the said Act while issuing notification, dated 12.04.2007, in Reference No.G5/148/07, is illegal. At the same time, I do not find any merit in the plea of the petitioner that the respondents ought to have followed the procedure under Chapter-VII of the Land Acquisition Act while issuing the impugned proceedings.

19. Accordingly, the writ petition is allowed in part, declaring the notification, dated 12.04.2007, issued in Reference No.G5/148/07, to the extent of invoking urgency clause by dispensing with inquiry u/s 5-A of the Land Acquisition Act, 1894, as illegal, and consequently, the declaration issued u/s 6 of the Act, in Reference No.G5/143/2007, dated 21.04.2007, is hereby quashed. There shall be a direction to the respondents to conduct inquiry as contemplated u/s 5-A of the Land Acquisition Act, 1894, as expeditiously as possible, and take further steps in accordance with law. No order as to costs.