
(1991) 10 KAR CK 0019

In the Karnataka High Court

Case No : W.P. Nos. 15931-32/1988, 3709/1989, 14872/1989 and 14931/1989

Rajendrababu and Another

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 03-10-1991

Acts Referred:

Land Acquisition Act, 1894 — Section 6(1)

Citation : (1992) 1 KarLJ 542

Hon'ble Judges : S. Mohan, C.J.;N. Y. Hanumanthappa, J

Judgement

Hanumanthappa, J.-Since the question of law involved in all these petitions is common, these petitions are clubbed together and disposed of by a common order.

2. The petitioners in Writ Petition Nos. 15931 and 15932 of 1988 are residents of Bijapur Town. They have challenged the notification bearing No. RB/LAQ/SR/5/1987-88, dated 13-1-1988 published in Karnataka Gazette, dated 25-2-1988 (Annexure-A) issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) by the Deputy Commissioner, Bijapur District, proposing to acquire the lands notified therein totalling to 104 acres 29 guntas out of which the petitioners are the owners of the lands in Survey Nos. 105/3 measuring 5 acres 9 guntas and in S. No. 105/4 measuring 3 acres of Bhutnal village of Bijapur Taluk for the purpose of 4th Respondent/BLDE Association which is an Association running educational institutions to construct a Medical College and Hospital.

The grounds of attack to the notification issued under Section 4(1) of the Act (Annexure-A) are as follows:

1. The lands of the petitioners proposed to be acquired for the construction of Medical College and Hospital of the 4th Respondent/Association are neither suitable nor there is any need to acquire the said lands;
2. The acquisition is not for a public purpose as the 4th respondent/Association is

a society registered under the Societies Registration Act and running the educational institutions, viz., the Medical College and Hospital as a private one;

3. No opportunity of being heard was given to the petitioners before submitting Section 5-A report;

4. The proposal to acquire the lands of the petitioners is resultant of mala fides as the Deputy Commissioner made the proposal yielding to the influence of the Management of the 4th respondent/Association without noticing that the 4th respondent/Association has already constructed Medical College in Survey No. 903 of Mahalbagayat, Bijapur Taluk.

5. There is non-compliance with the requirements of Section 5-A of the Act; and

6. In the notification the boundaries of the lands of the petitioners which are proposed to be acquired are not given.

3. The petitioner in Writ Petition No. 3709 of 1989 has challenged the notification issued under Section 4(1) of the Act which is the one challenged in Writ Petition Nos. 15931 and 15932 of 1988 by the petitioners therein and also the final notification issued under Section 6(1) of the Act in KE/166/LAQ 88, dated 9-6-1989 published in Karnataka Gazette, dated 6-7-1987 declaring that altogether 19 acres 30 guntas situate in Bhutnal village, Bijapur Taluk is required for the purpose of constructing Medical College and Hospital by and on behalf of BLDE Association. It includes the land of the petitioner measuring 4 acres and 10 guntas in Survey No, 106/1B/1 of Bhutnal village, Bijapur Taluk.

The grounds of attack to both the notifications, viz., the notifications issued under Section 4(1) and under Section 6(1) of the Act are the same as contended by the petitioners in Writ Petition Nos. 15931 and 15932 of 1988 above.

4. The petitioner in Writ Petition No. 14872 of 1989 has challenged the notification issued under Section 4(1) of the Act in RB/LAQ/SR-3/1988-89, dated 18-4-1988 published in the Karnataka Gazette, dated 5-8-1988 and the notification issued under Section 6(1) of the Act in RD 164 BSWAV/1988, dated 6-6-1989 published in Karnataka Gazette, dated 22-6-1989 (Annexures-A and B respectively) declaring that the land of the petitioner is required for the purpose of constructing Medical College and its staff quarters of BLDE Association/4th respondent. The total extent of land is 27 acres and 11 guntas.

The grounds of attack to the notifications are the same as contended by the petitioners in Writ Petition Nos. 15931 and 15932 of 1988. The additional grounds are:

The respondents before making declaration under Section 6(1) of the Act failed to follow the procedure as contemplated under Part VII of the Act and the Rules framed thereunder on the ground that the Association/4th Respondent is a company as defined under Section 3(e) of the Act. Further, the acquisition is bad as neither any scheme was framed nor any agreement between the Government

and the respondent/Association was executed. Construction of dwelling houses-Staff Quarters of the Association-is not a public purpose. One more reason is that the acquisition is not for a public purpose since the Government has not made any contribution out of public revenue. That apart, the mandatory requirements under Section 4(1) were not complied with and no notice was served on the petitioner/Trust under the name and style of Bagalkotkar Family Trust and the name of Balwant Rao was not shown in the notification.

5. The petitioner in Writ Petition No. 14931 of 1989 has challenged the notification issued under Section 4(1) of the Act, dated 13-1-1988 published in Karnataka Gazette, dated 25-2-1988 and the final notification under Section 6(1) of the Act, dated 6-6-1989 published in Karnataka Gazette, dated 29-6-1989 declaring to acquire 16 acres 6 guntas belonging to the petitioner for the purpose of constructing Medical College and Hospital of the respondent/Association. According to the petitioner, he is the owner of Survey No. 22 in Mahal Bagayat, Bijapur Taluk.

The grounds of attack by the petitioner to the notifications are the same as contended by the petitioners in Writ Petition Nos. 15931 and 15932 of 1988 and 3709 of 1989. Additional grounds of attack in this petition are:

- (i) that the land in question is a garden land;
- (ii) the land is tenanted and thus vested in the Government and, therefore, no acquisition proceedings can be made in respect of this land.

6. It is the case of the petitioners in all these cases that pursuant to the notification under Section 4(1) of the Act they filed their objections before the Land Acquisition Officer. The objections raised by the petitioners came to be rejected by the Land Acquisition Officer. The same was informed to the petitioners by issuing endorsements. One such endorsement issued to the petitioners is Annexure-C to Writ Petition No. 3709 of 1989 which is extracted below:

7. After service of notice to the respondents, particularly, to the 4th respondent/Association, the 4th respondent filed its objections in all these petitions denying each and every allegation made by the petitioners in their respective writ petitions as untenable.

8. The case of the 4th respondent is that it is public trust registered under the Bombay Public Trust Act, 1950. Regarding non-issue of notice, the case of the 4th respondent/Association is that whenever required notices were served and in Writ Petition No. 14872 of 1989 pursuant to service of notice one Satish, joint owner of the property, filed his objections and as such service of notice to other owners, according to the 4th respondent, shall be deemed as dispensed with. Further case of the 4th respondent is that when a request was made to the Government that the Association in question requires land for the purpose of construction of Medical College and Hospital, Staff Quarters and Hostel, as the

land already in possession of the Association is insufficient, the authorities after satisfying with the need and suitability took steps to acquire the lands. According to the 4th respondent, the purpose for which the lands are now acquired is a public purpose inspite of the Association being the one registered under the Societies Registration Act. Regarding the acquisition it is for a public purpose, the Association has taken the following stand in para 3.2 of its statement of objections in Writ Petition No. 14872 of 1989. It reads thus:

"The expression public purpose is defined by Drvyion 3(f) of the Act as amended by Act 68 of 1984. The definition is inclusive and not exhaustive. Section 3(f)(vi) says inter alia that the provision of land for carrying out any educational scheme by a society registered under the Societies Registration Act or under any correspondent law for the time being in force in a State is for a public purpose. The expression Company defined by Section 3(e) as amended by Act 68 of 1984 includes, inter alia, a society registered under the Societies Registration Act or under any corresponding law for the time being in force in a State. The proposed acquisition is for the purpose of erecting buildings for expanding the Medical College and the hospital attached to it, which have been established and are under the management of the 4th respondent. The 4th respondent has also denied the allegation that the acquisition of lands in question is for a company and also the contention that the provisions of the Act is not applicable to the acquisition in question by stating in para 3.5 to 3.7 of its Statement of Objections as follows:

"3.5: The I.M.C. norms stipulate that in a teaching hospital accommodation must be provided for Dean's and Nursing Superintendent's offices and various other offices. A teaching hospital has several clinical and non-clinical departments which require specious buildings. Accommodation is also needed to house a central hospital pharmacy, a central laundry with drying arrangements, a central kitchen and quarters for the nursing staff, residential staff, teaching staff and Class IV staff. A central disinfection plant and incinerating plant are also to be housed. In addition to the aforesaid, provision must be made or vacant land set apart for erecting structures keeping in mind the expansion of the College and its activities.

3.6: The Medical College was established on land owned by the association. More land was needed to put up buildings to conform to the I.M.C. norms for housing the various auditoriums, halls, departments and quarters for the different types of staff. The association learnt that the State Government had acquired lands in Bijapur for the purpose of erection of buildings to house the Medical College established and managed by the Al-Ameen Charitable Fund Trust. The State Government was therefore requested by this respondent to exercise its powers under the relevant laws to acquire land for the purpose of enabling this respondent to expand the Medical College and the teaching hospital by erecting buildings. After examining all aspects and being convinced that the association needs lands for putting up buildings, and in the back-ground of the aforesaid

facts that the State Government initiated proceedings for acquisition.

3.7: There is no merit in the petitioner's averment that the proposed acquisition is for a Company and that the provisions of part VII of the Act are applicable. Under Section 38-A of the Act when an industrial concern shall be deemed to be a Company for certain purposes. Section 39 says that the provisions of Sections 6 to 16 (both inclusive) and Sections 18 to 37 (both inclusive) of the Act shall not be put in force in order to acquire land for any Company under Part VII unless with the previous consent of the appropriate Government, nor unless the Company shall have executed the agreement mentioned in the sections that follow. Section 40 provides for an enquiry by the appropriate Government before giving the consent contemplating by Section 39. Under Section 41 the Company, for whose benefit land is acquired has to enter into an agreement with the appropriate Government providing to its satisfaction the matters specified in sub-section (1) to (5) thereof."

9. In spite of the stand taken in these writ petitions, the counsel for the petitioners now contends as follows:

The acquisition proceedings are (i) bad for non-compliance with the mandatory requirements under Section 4(1) of the Act in that no notices were served on the persons concerned; (ii) as the petitioners were not heard at the enquiry under Section 5-A of the Act; (iii) for the reason that, since the acquisition is for construction of Medical College and Hospital and Staff quarters of a Private Medical College, the same is not a public purpose; (iv) for the reason that, since no contribution has been flown from public revenue, the acquisition cannot be said as a public purpose, merely because the Karnataka Amendment Act has dispensed with the requirement of State's contribution to attract the acquisition within the definition of "public purpose"; (v) for the reason that the acquisition proceedings are not in conformity with the provisions of the Central Act, viz., the Act, and some of the provisions of the State Act are repugnant to the Central Act.

10. In support of the above contentions, learned counsel for the petitioners, relied upon some of the authorities of this Court as well as of the Supreme Court which will be referred later.

11. The respondents contend that requirements under Section 4(1) of the Act have been fully complied with and notices were served on the person interested in the lands in question.

During the enquiry under Section 5-A of the Act, the petitioners participated in the proceedings and thereafter their objections were overruled and the same was intimated to them.

Merely because the lands in question were required for the purpose of Medical College and Hospital and Staff Quarters of the 4th respondent/Association not followed by any contribution from the State, that itself is not sufficient to contend that the acquisition does not come under the definition of "public purpose."

Provision of the Karnataka Amendment Act is in no way repugnant to the Central Act.

12. In support of these contentions, counsel for the respondent relied upon some of the authorities which will be referred later.

13. After giving our careful thought to the rival contentions of both sides and in order to appreciate the validity or otherwise of acquisition proceedings, the following points which have been cropped up in these petitions are now to be decided. The points for consideration are:

(i) Whether the acquisition proceedings are bad for non-compliance with the mandatory requirements of Section 4(1) of the Act;

(ii) Whether the petitioners were not facilitated to participate in the 5-A Enquiry;

(iii) Whether need and necessity to acquire the lands can be gone into by this Court by substituting its own finding;

(iv) Whether the acquisition is for public purpose or for private one;

(v) Whether the acquisition proceedings to acquire the lands for the 4th respondent/Association should have been followed after complying with the provisions of Part VII of the Act;

(vi) Whether some of the provisions of the Karnataka Amendment Act are in any way repugnant to the Central Act.

14. In order to decide the points raised for consideration, it is proper and relevant to bear in mind some of the provisions of Central Act and of the State Act.

Section 3(cc), (e) and (f) of the Act (Central Act) reads as follows:

"3(cc): the expression "corporation owned or controlled by the State" means any body corporate established by or under a Central, Provincial or State Act, and includes a Government Company as defined in Section 617 of the Companies Act, 1956, a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, being a society established or administered by Government and a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, being a co-operative society in which not less than fifty-one per centum of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments;"

"(e): the expression "Company" means- (i) a company as defined in Section 3 of the Companies Act, 1956, other than a Government company referred to in clause (cc);

(ii) a society registered under the Societies Registration Act, 1860, or under any

corresponding law for the time being in force in a State, other than a society referred to in clause (cc);

(f) the expression "public purpose" includes- (i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites;

(ii) the provision of land for town or rural planning- (iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;

(iv) the provision of land for a corporation owned or controlled by the State;

(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;

(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State;

(vii) the provision of land for any other scheme of development sponsored by Government, or, with the prior approval of the appropriate Government, by a local authority;

(viii) the provision of any premises or building for locating a public office, but does not include acquisition of land for companies:"

Whereas the Land Acquisition (Mysore Extension and Amendment) Act XVII of 1961 substitutes Section 3(e) of the Central Act in the following manner:

"(c) the expression "Company" means- (i) a company formed and registered under the Companies Act, 1956 (Central Act 1 of 1956);

(ii) a company formed and registered under any previous Company Law for the time being in force in any part of India other than the State of Jammu and Kashmir;

(iii) a company formed and registered under any law for the time being in force in the State of Jammu and Kashmir;

(iv) a company- (a) incorporated under any law relating to companies for the time being in force in any foreign Country; and (b) having its principal place of

business in India;

(v) a company incorporated by an Indian Law relating to a particular company;

(vi) a co-operative society;

(vii) a society registered under the Societies Registration Act, 1860 (Central Act XVI of 1860), or under any law corresponding to that Act for the time being in force in any part of India; and (viii) a corporation created by or under any law for the time being in force in any part in India not being a corporation owned or controlled by the State."

Clause (f) of Section 3 of the Central Act is substituted by the Land Acquisition (Mysore Extension and Amendment) Act XVII of 1961 as under:

For clause (f) the following clause shall be substituted, namely:

"(f) the expression "public purpose" includes- (i) the provision of village-sites;

(ii) the provision of land for planned development from public funds and subsequent disposal thereof in whole or in part, by lease, assignment or outright sale with the object of securing further development as planned;

(iii) the provision of land for town or rural planning under any law relating to such planning;

(iv) the provision of land,- (a) for carrying out any housing scheme or health scheme sponsored by the Central Government or any State Government or a local authority; or (b) for clearing slum areas; or (c) for relieving congestion; or (d) for housing poor, landless, or displaced persons or persons residing in areas affected by floods;

(v) the provision of;

(a) residence for any person holding an office of profit under the Central Government or a State Government, or accredited as a diplomatic consular or trade representative of a foreign Government;

(b) building for locating a public office;

(vi) the provision of land for corporations owned or controlled by the State, or other nationalised industries or concerns;

(vii) the provision of land for any local authority and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development;

(viii) the provision of land for a company- (a) where the land is needed for the construction of some work and such work is likely to prove substantially useful to the public, or (b) where the land is needed by a building, a co-operative society or corporation for the construction of houses;

(ix) the provision of land for any charitable trust.

Explanation.-"Charitable trust" includes a trust established or to be established for the relief of the poor, education, medical relief, or advancement of any other object of general public utility."

Section 4(1) of the Central Act reads thus:

"Whenever it appears to the appropriate Government that land in any locality (is needed or) is likely to be needed for any public purpose (or for a company), a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification).

The amendment to this section in the State Act reads as follows:

In Section 4 of the Act- (1) in sub-section (1)-

(a) after the words "appropriate Government" the words "or the Deputy Commissioner" shall be inserted;

(b) for the words "notification to the effect", the words, "notification stating the purpose for which the land is needed, or likely to be needed, and describing the land by its survey number, if any, and also by its boundaries and its approximate area" shall be substituted;

(c) after the words "the said locality", the following sentence and explanation shall be added, namely-

"The Deputy Commissioner may also cause a copy of such notification to be served on the owner, or where the owner is not the occupier on the occupier of the land.

Explanation.-The expression "convenient places" includes, in the case of land situated in a village, the office of the Panchayat within whose jurisdiction the land lies."

Section 6(1) of the Central Act reads thus:

"subject to the provisions of Part VII of this Act, when the (Appropriate Government) is satisfied, after considering the report, if any, made under Section 5-A, sub-section (2), that any particular land is needed for a public purpose, or for a company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under Section 4, sub-section (1), irrespective of whether one report or different reports has or have been made (whenever required) under Section 5-A, sub-section (2).

Provided that no declaration in respect of any particular land covered by a notification under Section 4, sub-section (1)- (i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of three years from the date of the publication of the notification;

The amendment to this section in the State Act reads as follows:

In Section 6 of the Principal Act,- (1) in sub-section (1), for the portion commencing with the words "a declaration shall be made to that effect" and ending with the words "some fund controlled or managed by a local authority", the words, brackets, figure and letter "such Government shall direct the Deputy Commissioner to proceed under sub-section (1-A)" shall be substituted.

(2) after sub-section (1), the following sub-section shall be inserted, namely,-

"(1-A) The Deputy Commissioner shall, thereupon within two months from the date on which he receives such direction,- (a) cause the land (unless it has been already marked out under Section 4) to be marked out;

(b) also cause it to be measured, and, if no plan has been made therefor, a plan to be made of the same, and

(c) report to the appropriate Government the result of his operations under this sub-section. The appropriate Government shall then make a declaration that the land is needed for a public purpose or for a company and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under sub-section (1) of Section 4;

Provided that no declaration in respect of any particular land covered by a notification under sub-section (1) of Section 4, published after the commencement of the Land Acquisition (Mysore Amendment and Validation) Act, 1967, shall be made after the expiry of three years from the date of such publication.

Explanation: In computing the period of three years specified in this subsection, any period during which any action or proceeding to be taken in pursuance of the notification issued under sub-section (1) of Section 4 is held up on account of stay or injunction by order of a Court shall be excluded."

(3) in sub-section (2),- (a) after the words "the purpose for which it is needed" the words "the precise boundaries and survey number, if any, of the land and" shall be inserted; and (b) for the words "where a plan shall have been made of the land and the place where such plan may be inspected" the words "the place where a plan of the land may be inspected" shall be substituted.

(c) for the words "the declaration", substitute the words "every declaration."

Thus, if the Central Act and the Amendments made by the State Act are read

together so far as they relate to Sections 3(cc), (e), (f), 4(1) and 6(1) of the Central Act, it is clear that the acquisition is useful to the public even though the acquisition is for a society or a charitable institution or a trust, etc. All that is required is the prior approval from the Government. Further, the requirements of the Central Act that prior approval of the Government in respect of acquisition by a private person has been omitted in the State Acts. The effect of amendment to Section 6 of the Central Act by the Amendment Act is that the State Act expressly omitted the compensation to be paid wholly or partly out of public revenue or other agencies controlled or managed by the local authority. Thus, reading of the above provisions, it is clear that there can be acquisition of land for a company also. There need not be any contribution from the public revenue. All that is required is that the purpose shall be a public purpose.

15. Point Nos. 1 and 2 are overlapping, from the material produced by both sides including the averments made it is clear that immediately after issuing the notification under Section 4(1) of the Central Act, notices were served on the persons interested. The notifications were also published in the newspapers and affixed in the notice boards of the concerned Tahsildar or the Village chavadi. Pursuant to the service of individual notices the persons interested filed their objections before the Land Acquisition Officer who held enquiry under Section 5-A of the Central Act. After hearing the parties and the persons interested L.A.O. came to a conclusion that the objections raised by the petitioners or the persons interested are untenable. Accordingly, endorsement as per Annexure-C in Writ Petition Nos. 15931 and 15932 of 1988 was issued to the petitioners informing that the objections raised by them were overruled as untenable. Hence, it is to be said that the contention that the acquisition proceedings are the resultant of non-compliance with the requirements of Section 4(1) of the Central Act as not available to be petitioners, as it is contrary to the facts existing.

16. Regarding Point No. 3, i.e., whether the need and necessity to acquire the lands can be gone into by this Court by substituting its own finding, the contentions of the petitioners in these petitions are almost identical in nature. Their case is that there is no need to acquire the lands of the petitioners. More over, the lands are not suitable. According to them, the Medical College and Hospital proposed to be constructed by the 4th respondent/Association have already been constructed on the lands of the association in Survey No. 903. Thus the acquisition proceedings now initiated are nothing but colourable exercise of power by the Government. This fact has been disputed by the 4th respondent/Association by filing its statement of objections. It is said that the Association is a charitable trust registered under the Bombay Public Trust Act. As it was in need of more extent of land to build Medical College and Hospital, College hostel and staff quarters, the Association requested the Government to acquire some more land. Thus the Government taking into consideration the need and the suitability of the land initiated proceedings under Section 4(1) of the Central Act followed by final notification under Section 6(1) of the Central Act. It is true that when it is contended that the lands acquired are not at all for public purpose but only to

serve the interest of private individuals or private bodies that too when suitable lands were available for acquisition in the same vicinity which can be acquired even at a lesser cost and the Government has taken action to acquire the land taking into consideration the need and the suitability of the lands, it cannot be said that the same is resultant of mala fides and attributable to colourable exercise of power by the Government. Whether the need exists or the lands are suitable or otherwise, it is the Government who is the best arbiter and the Court cannot substitute its opinion already formed by the Government. Except in a case where the power to exercise a colourable one. In fact, the Supreme Court in *Smt. Somavanti & Others v. The State of Punjab and Others*, AIR 1963 SC 151 explaining the need and necessity and the propriety on the part of the Court to give its opinion on such factors has held as follows:

Para 26.-After a notification under sub-section (1) of Section 4 is published a person interested in the land is entitled to object to the acquisition. That objection may be raised on any ground as for instance that the land is not in fact needed at all for any purpose or that it is not suitable for the purpose for which it is sought to be acquired or that the purpose is not a public purpose or what is said to be a company is not a company and so on. Finality is attached to the decision of the Government which ultimately has to decide such objections. Then follows Section 6 which enables the Government to make a declaration provided that it is satisfied that a particular land is needed for a public purpose or for a company. No doubt, it is open to the State Government in an emergency, by exercising its powers under sub-section (4) of Section 17, to say that the provisions of Section 5-A would not apply. But for construing the provisions of Section 6 it would be relevant to bear in mind that section. The scheme of the Act is that normally the provisions of Section 5-A have to be complied with. Where, in pursuance of the provisions, objections are lodged, these objections will have to be decided by the Government. For deciding them the Government will have before it the Collector's proceedings. It would, therefore, be clear that the declaration that a particular land is needed for a public purpose or for a company is not to be made by the Government arbitrarily, but on the basis of material placed before it by the Collector. The provisions of sub-section (2) of Section 5-A make the decision of the Government on the objections final while those of sub-section (1) of Section 6 enables the Government to arrive at its satisfaction. Sub-section (3) of Section 6 goes further and says that such a declaration shall be conclusive evidence that the land is needed for a public purpose or for a company.

(27) It is, however, argued by learned counsel that the conclusiveness or finality attached to the declaration of Government is only as regards the fact that the land is "needed" but not as regards the question that the purpose for which the land is needed is in fact a public purpose or what is said to be a company is really a company. Sub-section (1) does not effect a dichotomy between "need" and "public purpose or a company." There is no justification for making such a dichotomy. By making it, not only will the language of the section be strained but

the purpose of the law will be stultified. The expression must be regarded as one whole and the declaration held to be with respect to both the elements of the expression.

(28) The Government has to be satisfied about both the elements contained in the expression "needed for a public-purpose or a company." Where it is so satisfied, it is entitled to make a declaration. Once such a declaration is made, sub-section (3) invests it with conclusiveness. That conclusiveness is not merely regarding the fact that the Government is satisfied but also with regard to the question that the land is needed for a public purpose or is needed for a company, as the case may be. Then again, the conclusiveness must necessarily attach not merely to the need but also to the question whether the purpose is a public purpose or what is said to be a company is a company. There can be no need in the abstract. It must be a need for a "public purpose" or for a company. As we have already stated the law permits acquisition only when there is a public purpose or when the land is needed for a company for the purposes set out in Section 40 of the Act. Therefore, it would be unreasonable to say that the conclusiveness would attach only to a need and not to the fact that that need is for a public purpose or for a company. No land can be acquired under the Act unless the need is for one or the other purpose and, therefore, it will be futile to give conclusiveness merely to the question of need dissociated from the question of public purpose or the purpose of a company. Upon the plain language of the relevant provisions it is not possible to accept the contention put forward by learned counsel.

(29) Learned counsel put the matter in a slightly different way and said that Section 6(3) presupposes that the jurisdictional fact exists, namely, that there is a public purpose or the purpose of a company behind the acquisition and, therefore, the question whether it exists or not is justiciable. The Act has empowered the Government to determine the question of the need of land for a public purpose or for a company and the jurisdiction conferred upon it to do so is not made conditional upon the existence of a collateral or extraneous fact. It is the existence of the need for a public purpose which gives jurisdiction to the Government to make a declaration under Section 6(1) and makes it the sole judge whether there is in fact a need and whether the purpose for which there is that need is a public purpose. The provisions of sub-section (3) preclude a Court from ascertaining whether either of these ingredients of the declaration exists.

(36) Now whether in a particular case the purpose for which land is needed is a public purpose or not is for the State Government to be satisfied about. If the purpose for which the land is being acquired by the State is within the legislative competence of the State the declaration of the Government will be final subject, however, to one exception. That exception is that if there is a colourable exercise of power the declaration will be open to challenge at the instance of the aggrieved party. The power committed to the Government by the Act is a limited power in the sense that it can be exercised only where there is a public purpose,

leaving aside for a moment the purpose of a company. If it appears that what the Government is satisfied about is not a public purpose but a private purpose or no purpose at all the action of the Government would be colourable as not being relatable to the power conferred upon it by the Act and its declaration will be a nullity. Subject to this exception the declaration of the Government will be final.

(40) Though we are of the opinion that the Courts are not entitled to go behind the declaration of the Government to the effect that a particular purpose for which the land is being acquired is a public purpose we must emphasize that the declaration of the Government must be relatable to a public purpose as distinct from a purely private purpose. If the purpose for which the acquisition is being made is not relatable to public purpose then a question may well arise whether in making the declaration there has been, on the part of the Government a fraud on the power conferred upon it by the Act. In other words the question would then arise whether that declaration was merely a colourable exercise of the power conferred by the Act, and, therefore, the declaration is open to challenge at the instance of the party aggrieved. To such a declaration the protection of Section (3) will not extend. For, the question whether a particular action was the result of a fraud or not is always justiciable, provisions such as Section 6(3) notwithstanding. Hence Point No. 3 is held against the petitioners.

17. Regarding Point No. 4, i.e., whether the lands acquired for the purpose of the respondent/Association can be termed as public purpose or otherwise; the respondent/Association is not a Government or a local authority. When that is so can it not be said that the acquisition of land for the purpose of such Association to build medical college and hospital, hostel, and staff quarters is construed as public purpose? The term "public purpose" is not defined in the Central Act. Clause (f) of Section 3 as substituted by the Amendment Act is inclusive definition. No limit has been fixed to include anything in the definition of "public purpose." Great discretion and elasticity have been conferred on the State Government to judge whether there is any public purpose or not. While dealing with the term "public purpose" the Supreme Court in *The State of Bihar v. Maharajadhiraja Sir Kameshwar Singh of Darbhanga and Others*, AIR 1952 SC 252, held as follows:

(i) The expression "public purpose" is not capable of a precise definition and has not a rigid meaning. It can only be defined by a process of judicial inclusion and exclusion. The definition of the expression is elastic and takes its colour from the statute in which it occurs, the concept varying with the time and the state of society and its needs. The point to be determined in each case is whether it is in the interest of the community as distinguished from the private interest of an individual.

In the case of *Babu Barkya Thakur v. State of Bombay (Now Maharashtra) and Others*, AIR 1960 SC 1203 dealing with the term "public purpose" the Supreme Court held thus:

Further, though it may appear on the words of the Act contained in Part II, which contains the operative portions of the proceedings leading up to acquisition by the Collector that acquisition for a Company may or may not be for a public purpose, the provisions of Part VII make it clear that the appropriate Government cannot permit the bringing into operation the effective machinery of the Act unless it is satisfied as aforesaid, namely, that the purpose of acquisition is to enable the Company to erect dwelling houses for workmen employed by it or for the provision of amenities directly connected with the Company or that the land is needed for construction of some work of public utility. These requirements indicate that the acquisition for a Company also is in substance for a public purpose inasmuch as it cannot be seriously contended that constructing dwelling houses, and providing amenities for the benefit of the workmen employed by it and construction of some work of public utility do not serve a public purpose. It is not necessary for the purposes of this case to go into the question whether acquisition for a Company, even apart from the provisions of Section 40, will be for a public purpose, or justifiable under the provisions of the Act, even on the assumption that it will not serve a public purpose. The facts of the present case have not been investigated, as this Court was moved when only a notification under Section 4 of the Act had been issued; and the purpose of the acquisition in question was still at the enquiry stage. By Section 38-A, which was inserted by the amending Act of 1933, it has been made clear that an industrial concern not being a Company, ordinarily employing not less than 100 workmen, may also take the advantage of land acquisition proceedings if the purpose of the acquisition is the same as is contemplated by Section 40 in respect of Companies. It has been recognised by this Court in the case of *State of Bombay v. Bhanji Munji*, 1955(1) SCR 777: AIR 1955 SC 41, that providing housing accommodation to the homeless is a public purpose. In an industrial concern employing a large number of workmen away from their homes it is a social necessity that there should be proper housing accommodation available for such workmen. Where a large section of the community is concerned, its welfare is a matter of public concern. Similarly, if a Company is generous enough to erect a hospital or a public reading room and library or an educational institution to open to the public, it cannot be doubted that the work is one of public utility and comes within the provisions of the Act. We are not in possession of all the relevant facts in the present case as to the exact purpose for which the land is sought to be acquired. That investigation was in progress when the petitioner moved this Court. Hence, the contention raised on behalf of the respondents that the application is premature is not wholly devoid of merit.

In *Somavanthi's* case, AIR 1963 SC 151, the public purpose is held as follows:

(30) It is, however, said that that does not mean that in so far as the meaning to be given to the expression public purpose is concerned the Courts have no power whatsoever. In this connection the decision of the Privy Council in *Hamabai Framjee Petit v. Secretary of State of India*, 42 Ind. App. 44: AIR 1914 PC 20, was referred to. In that case certain land in Malabar Hill in Bombay was being

acquired by the Government of Bombay for constructing residences for Government officers and the acquisition was objected to by the lessee of the land on the ground that the land was not being taken or made available to the public at large and, therefore, the acquisition was not for a public purpose. When the matter went up before the High Court Batchelor, J., observed:

General definitions are, I think, rather to be avoided where the avoidance is possible, and I make no attempt to define precisely the extent of the phrase "public purpose" in the lease; it is enough to say that, in my opinion, the phrase, whatever else it may mean, must include a purpose, that is, an object or aim, in which the general interest of the community, as opposed to the particular interest of individuals, is directly and vitally concerned

In that case what was being considered was a re-entry clause in a lease deed & not provisions of the Land Acquisition Act. That clause left it absolutely to the lessor, the East India Company to say whether the possession should be resumed by it if the land was required for a public purpose. It was in this context that the question whether the land was needed for a public purpose was considered. The argument before the Privy Council rested upon the view that there cannot be a "public purpose" in taking land if that land, when taken, is not in some way or other made available to the public at large. Rejecting it they held that the true view is that expressed by Batchelor, J., and observed:

"That being so, all that remains is to determine whether the purpose here is a purpose in which the general interest of the community is concerned. Prima facie the Government are good Judges of that. They are not absolute Judges. They cannot say "sic volo sic jebec", but at least a Court would not easily hold them to be wrong. But here, so far from holding them to be wrong, the whole of the learned Judges, who are thoroughly conversant with the conditions of Indian life, say that they are satisfied that the scheme is one which will redound to public benefit by helping the Government to maintain the efficiency of its servants. From such a conclusion their Lordships would be slow to differ, and upon its own statement it commends itself to their Judgment."

Mr. Pathak strongly relied on these observations and said that the Privy Council have held that the matter is justiciable. It is enough to say that that was not a case under the Land Acquisition Act and, therefore, conclusiveness did not attach itself to the satisfaction of the Government that a particular purpose fell within the concept of public purpose.

(31) Mr. Pathak then contended that the question as to the meaning to be given to the phrase "public purpose" is not given conclusiveness but sub-section (3) of Section 6. According to him, all that sub-section (3) of Section 6 says is that the Government's declaration that particular land is needed for a public purpose or a company shall be conclusive and that it does not say that the Government is empowered to define what is a public purpose and then say that the particular purpose falls within that definition. As already stated no attempt has been made

in the Act to define public purpose in a compendious way. Public purpose is bound to vary with the times and the prevailing conditions in a given locality and, therefore, it would not be a practical proposition even to attempt a comprehensive definition of it. It is because of this that the legislature has left it to the Government to say what is a public purpose and also to declare the need of a given land for a public purpose.

Again in *Valjibhai Muljibhai Soneji and Another v. The State of Bombay (Now Gujarat) and Others*, AIR 1963 SC 1890 while dealing with the scope of public purpose the Supreme Court held as follows:

"Coming to the first point raised on behalf of the appellants it is sufficient to point out that the notification under Section 4 of the Act clearly states that the acquisition is for a public purpose, namely, for "State Transport". The notification under Section 6 reiterates this fact in addition says that the land was needed to be acquired for the purposes of and at the expense of the State Transport Corporation. There is thus a clear declaration of the Government that the purpose of acquisition was a public purpose and as has been consistently held by this Court in a number of cases, including the most recent one *Smt. Somawanti v. State of Punjab*, AIR 1963 SC 151 the declaration as to public purpose by the Government is final except where it is a colourable exercise of power. Unless, therefore, it is shown that there was collusion as alleged by the appellants, between the respondents-1 and 3 on the one hand and respondent No. 2 on the other, the notification will have to be regarded as conclusive on the question that the land was required for a public purpose. Thus, even though the land was being acquired for a corporation and not for the State the acquisition must nonetheless be said to be for a public purpose, as has been held in *Somawanti's* case, AIR 1963 SC 151 provided that it is not found to be a colourable exercise of power by the Government."

Further in para 6 of its Judgment it is held whether the acquisition of land by Government is colourable exercise or not as follows:

"What is then to be considered is whether the action of the Government can be regarded as colourable being collusive or mala fide. The question whether the acquisition was collusive or mala fide is one of fact and on this point the High Court and the two Courts-below have come to the conclusion that the appellants have not been able to substantiate their pleas. It is not for this Court to review the evidence in a case where there are concurrent findings of fact, unless there be exceptional reasons and we find one here. It must, therefore, be held that the notifications of the Government issued under Sections 4 and 6 are conclusive on the question that the land was required for a public purpose."

In *Pandit Jhandu Lal and Others v. The State of Punjab and Another*, AIR 1961 SC 343, the Supreme Court, while dealing with the scope of Section 7 of the Central Act and also Sections 6 and 7 of the Punjab Amendment Act, took a view that the essential conditions for acquisition of land for a public purpose, cost of

acquisition should be borne wholly or in part out of public fund. In para 8 of the Judgment, the Supreme Court held as follows:

"There is no doubt that as pointed out in the recent decision of this Court AIR 1960 SC 1203, the Act contemplates acquisition for a public purpose and for a Company, thus conveying the idea that acquisition for a Company is not for a public purpose. It has been held by this Court, in that decision, that the purposes of public utility, referred to in Sections 40 and 41 of the Act, are akin to public purpose. Hence, acquisition for a public purpose is also acquisitions for a Company are governed by considerations of public utility. But the procedure for the two kinds of acquisitions is different, in so far as Part VII has made substantive provisions for acquisitions of land for Companies. Where acquisition is made for a public purpose, the cost of acquisition for payment of compensation has to be paid wholly or partly out of Public Revenues, or some fund controlled or managed by a local authority. On the other hand, in the case of an acquisition for a Company, the compensation has to be paid by the Company. But, in such a case, there has to be an agreement, under Section 41, for the transfer of the land acquired by the Government to the Company on payment of the cost of acquisition, as also other matters not material to our present purpose. The agreement contemplated by Section 41 is to be entered into between the Company and the Appropriate Government only after the latter is satisfied about the purpose of the proposed acquisition, and subject to the condition precedent that the previous consent of the Appropriate Government has been given to the acquisition. The "previous consent" itself of the appropriate Government is made to depend upon the satisfaction of that Government that the purpose of the acquisition was as laid down in Section 40. It is, thus, clear that the provisions of Sections 39 and 41 lay down conditions precedent to the application of the machinery of the Land Acquisition Act, if the Acquisition is meant for a Company. Now, Section 6 itself contains the prohibition to the making of the necessary declaration under that section in these terms- "Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority."

Section 6 is, in terms, made subject to the provisions of Part VII of the Act. The provisions of Part VII, read with Section 6 of the Act lead to this result that the declaration for the acquisition for a Company shall not be made unless the compensation to be awarded for the property is to be paid by a Company. The declaration for the acquisition for a public purpose, similarly, cannot be made unless the compensation, wholly or partly, is to be paid out of public funds. Therefore, in the case of an acquisition for a Company simpliciter, the declaration cannot be made without satisfying the requirements of Part VII. But, that does not necessarily mean that an acquisition for a Company for a public purpose cannot be made otherwise than under the provisions of Part VII, if the cost or a portion of the cost of acquisition is to come out of public funds. In other words, the essential condition for acquisition for a public purpose is that the cost of the

acquisition should be borne, wholly or in part, out of public funds. Hence, an acquisition for a Company may also be made for a public purpose, within the meaning of the Act, if a part or the whole of the cost of acquisition is met by public funds. If, on the other hand, the acquisition for a Company is to be made at the cost entirely of the Company itself, such an acquisition comes under the provisions of Part VII. As in the present instance, it appears that part at any rate of the compensation to be awarded for the acquisition is to come eventually from out of public revenues, it must be held that the acquisition is not for a Company simpliciter. It was not, therefore, necessary to go through the procedure prescribed by Part VII. We., therefore, agree with the conclusion of the High Court, though not for the same reasons."

However, in para 7 of the Judgment, the Supreme Court held thus:

It will appear from the (amended) Section 17(2)(b), quoted above, that the construction of labour colonies, under a Government-sponsored Housing Scheme, has been included in the category of "words of public utility". As already indicated, even apart from the indication given by the (amended) Section 17, quoted above, this Court has held, in the recent decision AIR 1960 SC 1208 that building of residential quarters for industrial labour is public purpose. Hence, even apart from the amended provisions of Section 17, it is clear on the authorities that the purpose for which the land was being acquired was a public purpose.

Thus, in order to know whether the acquisition of the lands is a public purpose or otherwise the Court has to see whether the purpose for which the lands are intended to be acquired would include a purpose of general interest of the community as against the interest of a particular individual. The ultimate aim of acquisition shall be for the welfare of the community and the society.

18. The next point for consideration is when the land is acquired for an Association in the absence of any contribution from State Revenue can it be said as public purpose. Earlier thinking was that acquisition when made for a society was to be treated as a public purpose, if the contribution had flown from the Government. In order to overcome such a thinking, apart from Government or local authority, even corporate institutions, Co-operative Societies, philanthropic and other institutions have undertaken public purpose activities, an amendment has been brought to the State Act substituting altogether a different provision to Section 3 of the Central Act. Reading of Section 3(f) of the State Act makes it clear as thus: 3(f)(viii) the provision of land for a Company,- (a) where the land is needed for the construction of some work and such work is likely to prove substantially useful to the public, or (b) where the land is need by a building, a co-operative society or Corporation for the construction of houses;

(ix) the provision of land for any charitable trust.

Explanation.-"Charitable trust" includes a trust established or to be established for the relief of the poor, education, medical relief, or advancement of any other

object of general public utility.

Further, Section 6 of the State Act has made a departure from the Central Act regarding payment of compensation by the Government either wholly or in part. At the risk of repetition it is extracted hereunder:

In Section 6 of the Principal Act,- (1) in sub-section (1), for the portion commencing with the words "a declaration shall be made to that effect" and ending with the words "some fund controlled or managed by a local authority", the words, brackets, figure and letter "such Government shall direct the Deputy Commissioner to proceed under sub-section (1-A)" shall be substituted.

(2) after sub-section (1), the following sub-section shall be inserted, namely,- (1-A) The Deputy Commissioner shall, thereupon within two months from the date on which he receives such direction,- (a) cause the land (unless it has been already marked out under Section 4) to be marked out;

(b) also cause it to be measured, and, if no plan has been made therefor, a plan to be made of the same; and (c) report to the appropriate Government the result of his operations under this sub-section.

The appropriate Government shall then make a declaration that the land is need for a public purpose or for a Company and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under sub-section (1) of Section 4:

Provided that no declaration in respect of any particular land covered by a notification under sub-section (1) of Section 4, published after the commencement of the Land Acquisition (Mysore Amendment and Validation) Act, 1967, shall be made after the expiry of three years from the date of such publication.

Explanation.-In computing the period of three years specified in this sub-section, any period during which any action or proceeding to be taken in pursuance of the notification issued under sub-section (1) of Section 4 is held up on account of stay or injunction by order of a Court shall be excluded.

(3) in sub-section (2),- (a) after the words "the purpose for which it is needed" the words "the precise boundaries and survey number, if any, of the land and" shall be inserted; and

(b) for the words "where a plan shall have been made of the land and the place where such plan may be inspected" the words "the place where a plan of the land may be inspected" shall be substituted.

(c) for the words "the declaration", substitute the words "every declaration".

The effect of substitution of the Central Act by State Act No. XVII of 1961 is that the land can be acquired for a Company. There need not be any contribution from the Government. But all that is required is whether the purpose is a

purpose for the general public or not. Provision made by the State Act even dispensing with flowing of contribution or compensation from the Government is highly purposeful and in tune with the need of the welfare of the public to acquire the land so as to cater to the needs of various organisations to accomplish the public utility activities. Merely because the acquisition is going to benefit an individual or a group or a society at large is not the criterion to decide whether the acquisition is for a public purpose or otherwise. All that is to be seen is whether by such acquisition even though initially an individual or a group is going to be benefited but ultimately the society or general public is going to be benefited. Similar is the view taken by this Court in *Narayana Raju v. State of Karnataka*, ILR 1989 Kar. 376. While dealing with Section 3(f)(vi) this Court took a view that acquisition of land for co-operative housing scheme with prior approval of the Government is a public purpose. This Court also dealt with payment of compensation. Relevant paras are 12, 15 and 16 which read as follows:

All these principles, it was contended, flow out of the inclusive definition of "public purpose" and even an acquisition for a Company may be for a public purpose. But by virtue of the exclusion, now made by the Amendment Act, it was contended that, an acquisition for a Company can never fall within the concept of "public purpose"; acquisition for a Company can only be by resort to Part VII.

It is not possible to accept this contention, without any qualification. Definition of "Company" and "public purpose" under the Amendment Act, 1984, are as follows:

Section 3. Definitions.-In this Act, unless there is something repugnant in the subject or context,- (e) the expression "Company" means- (i) A Company as defined in Section 3 of the Companies Act, 1956, other than a Government Company referred to in clause (cc);

(ii) a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in any State, other than a society referred to in clause (cc);

(iii) A Co-operative Society within the meaning of any law relating to Co-operative Societies for the time being in force in any State, other than a Co-operative Society referred to in clause (cc);

3(f) the expression "public purpose" includes- (i) the provision of village sites, or the extension, planned development or improvement of existing village sites;

(ii) the provision of land for town or rural planning;

(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease; assignment or outright sale with the object of securing further development as planned;

(iv) the provision of land for a Corporation owned or controlled by the State;

(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a Corporation owned or controlled by the State;

(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government, by a local authority, or a Society registered under the Societies Registration Act, 1860 or under any corresponding law for the time being in force in a State, or a Co-operative Society within the meaning of any law relating to Co-operative Societies for the time being in force in any State;

(vii) the provision of land for any other scheme of development sponsored by Government, or, with the prior approval of the appropriate Government, by a local authority;

(viii) the provision of any premises or building for locating a public office, but does not include acquisition of land for Companies.

The inclusive definition of public purpose, comprehends within it the provisions for land, stated in Clause (vi) of Section 3(f). Apart from the Governmental agencies, societies registered under Societies Registration Act as also Co-operative Societies are covered by the said clause. Other conditions relating to the scheme, if satisfied, acquisition of land for a Society or a Co-operative Society, also is for a public purpose.

However, Sri Ranga Rao, learned counsel for a few petitioners, contended that, the Society and the Co-operative Society referred in Clause (vi) are of the nature, covered by the definition of expression "Corporation owned or controlled by the State", in Section 3(cc), which presupposes, in the case of a Co-operative Society in which not less than 51% of paid up share capital is held by any of the Governments. The learned counsel tried to sustain his contention by reference to earlier part of Clause (vi), which refers to scheme sponsored by Government or by any authority established by Government, or by a local authority and argued that these expressions throw colour on the subsequent "Co-operative Societies".

It is not possible to accept this contention. Whenever, a Society or a Co-operative Society referred in Section 3(cc) is referred, they are expressly referred as such as seen from various sub-clauses of Section 3(e). Further, the purpose sought to be achieved by Section 3(f)(vi) is to enable acquisition of lands for various laudable objects such as educational, housing, health or slum clearance schemes which are sponsored with the prior approval of the Government. In such a situation the ambit of the provision, which serves various public purposes, should not be curtailed unless the language of the provision, clearly restricts its scope.

The exclusion of "acquisition of land for a Company" from the definition in Section 3(f), has to be read harmoniously with other clauses specifically included therein. The exclusion, can be from the general concept, without cutting down the ambit of the provision specifically added. Consequently, it is to be held, that a land can be acquired for a Co-operative Society, for the implementation of a housing scheme sponsored by it with the prior approval of the Government, as a public purpose under the Amended Act.

.. . . .

While interpreting the Amendment Act and its impact on pending proceedings, a measure of transitional accommodation, is necessary. Definition of "public purpose" still continues to be an inclusive one. It has a wide connotation. Government is, still, the final authority whose satisfaction as to the existence of public purpose, is conclusive, even after the Amendment Act.

On the facts of the case, it is to be held that, even the requirements of Amendment Act are satisfied. Admittedly, the lands here, are sought to be acquired for a Co-operative Society, Members of which are several hundred employees of a Bank. The proposal for acquisition and the object behind it have been thoroughly examined by the State Government through the Designated Authority, under Section 5-A. A Three Member Committee also independently examined the question. The implementation of the scheme has been guaranteed by the Society, by entering into two agreements with the Government. Vast sum of money has been already deposited towards the cost of acquisition by the Society. The Government was satisfied that the Society needed the lands for construction of houses by its members. The achievement of this goal was also ensured by appropriate agreements.

It is not in dispute that under the Amendment Act, if a case falls under Section 3(f)(vi), land can be acquired, as for a public purpose. Confining the words relevant to the present context, it reads, as-

Public purpose includes the provision of land for carrying out any housing scheme sponsored, with the prior approval of the Government, by a Co-operative Society.

This provision requires a housing scheme sponsored with the prior approval of the Government by a Co-operative Society. The nature of the scheme is not stated, nor the manner as to how the approval of Government should be given prescribed. The word "scheme" has many meanings; one such meaning is "mode" or "manner". It may also mean, stages or steps to achieve a particular end. If the Government decides to acquire a land for a Co-operative Society, on its being satisfied that the land was to put up houses after forming layouts, etc., the approval to such a scheme can be inferred from the very fact that the Government was a party to an agreement which ensures that lands would be utilised for the purpose for which they were acquired. In the circumstances of the case we hold that there has been a substantial compliance with the requirements of law governing the acquisitions in question.

This position has been clearly laid down in the following 2 cases of the Madras High Court. In *P. Thambiran Padayachi and Others v. The State of Madras*, represented by the Secretary to the Government, Revenue Department, Government of Madras and Others, 1952(2) Madras Law Journal 298. The Madras High Court held thus:

Acquisition of property for public purpose under Article 31(2) of the Constitution includes whatever results in advantage to the public. It is not necessary that it should be available to the public as such. It might be in favour of individuals provided they are benefited not as individuals but in furtherance of a scheme of public utility. Schemes for construction of houses for clearing slums areas, relieving congestion and housing poor people are for a public purpose as they tend to promote social welfare and prosperity. Where Government issues a notification under the powers vested in them under the Land Acquisition Act acquiring lands for a Co-operative Society for a scheme of house building for its members it must be presumed that the purpose of the acquisition is a public one until it is shown to involve an impossibility. The acquisition for such a purpose must therefore be held to be valid.

In *Belegal Gundachar and Another v. The State of Madras*, represented by the Collector of Bellary and Others, AIR 1953 Madras 537, the Madras High Court took the same view. It reads thus:

"It is now well established that one of the most important functions of the State in India is to provide for the irrigation of lands capable of being cultivated with wet crops. With this end in view the State is bound to maintain works of irrigation already existing and also to construct new works of irrigation and expand the old works. The State has both the right and is under a duty to regulate the distribution of water in the interests of the public. The Government have the right to distribute the water from Government channels for the benefit of the public subject to the rights of landholders to continue to receive such supply as is sufficient for their accustomed requirements vide-*Krishna Ayyan v. Venkatachala Mudali*, 7 Mad. HCR 60(F); *Sankaravadeivelu Pillai v. Secretary of State*, 28 Mad. 72 at 75(G) and *Sundararaja Aiyangar's Land Tenures in the Madras Presidency*, 2nd Edn., page 181. Any scheme under which the Government provide for the utilisation of the available water in Government sources of supply for the extension of cultivation will be a public purpose. The Government for this purpose has not only to construct and maintain the main sources of supply but also to provide for distribution of the water to the various pieces of land which could be irrigated with the available water by means of distributory channels. Such channels must necessarily be of two kinds, namely, the major distributory channels and the smaller distributory channels which ultimately lead the water to the several fields. All these together constitute a net work of water supply for irrigation.

An acquisition for carrying out any part of this scheme will certainly be an acquisition for a public purpose, which is also a State purpose. In the present

case, it appears from the correspondence that passed between the Revenue officials before the acquisition was finally sanctioned that though immediately S. No. 404 alone would be benefited by the excavation of the small field channel in S. No. 406, in course of time the new channel would also serve to benefit other lands as well. Therefore the present acquisition must be held to be an acquisition for a public and State purpose, namely, extension of irrigation. The fact that now only one individual stands to benefit by the channel proposed to be excavated on the site acquired would not make the acquisition any the less an acquisition for a public purpose. It was observed by this Bench in a recent case that, it is not necessary that it (property) should be available to the public as such. It might be, in favour of individuals provided they are benefited not as individuals but in furtherance of scheme of public utility. *Thambiran Padayachi v. State of Madras*, AIR 1952 Mad. 756(H).

The present acquisition would fall with the category indicated in that decision."

In *A. Natesa Asari v. The State of Madras and Another*, 1953(1) Madras Law Journal, 684 the High Court while dealing with the scope of Sections 5-A and 17(4) of the Land Acquisition Act incidentally observed that acquisition of land for a Company can also be treated as public purpose. It reads:

What all is required under Section 17(4) of the Land Acquisition Act is that the Government must be satisfied that there is such urgency as is contemplated by Section 17(4). If they are so satisfied, they are entitled to pass an order under Section 17(4) suspending the application of Section 5-A. Whether an urgency exists or not is a matter solely for the determination of the Government and it is not a matter for judicial review.

The true scope of Section 40 of the Land Acquisition Act is not to abridge the rights of the Government to acquire property for public purpose whether it is for a Company or not but to enlarge that power so as to enable them to acquire property even in cases coming under Section 40(1)(a) irrespective of the question whether the purposes are public or not. While there is a public purpose, the powers of the Government to acquire are not excluded because the acquisition is for the benefit of a Company. There is no prohibition in the Act against the Government acquiring lands for a Company when there is a public purpose and following the procedure prescribed in Section 6 to 37.

In *State of West Bengal and Others v. P.N. Talukdar and Others*, AIR 1965 SC 646 while dealing with the scope of Sections 3(e) and 39 of the Land Acquisition Act the Supreme Court took the view that when the land was acquired for Ramakrishna Mission for construction of staff quarters, hostel buildings and play ground, the acquisition is public purpose. In the said case, the Supreme Court held that where the three purposes which were specified in the notification under Section 6 for which the land was to be acquired for the Ramakrishna Mission were, construction of (i) staff quarters, (ii) hostel buildings and (iii) playground, construction of hostel buildings and playground comes within clause (b) of

Section 40(1), but the construction of staff quarters cannot come under that clause. Hostel buildings and play ground are obviously meant for the students of the institution and such students as a body are a section of the public and therefore the hostels and play ground can be directly useful to this section of the public, and may in certain circumstances be used by other sections of the public also, as for example, the parents or guardians of the students concerned.

19. Perusal of some of the provisions of the State Act and the Central Act and the principle laid down by this Court, various other High Courts and the Supreme Court, makes it clear that flowing contribution from the State or the local authorities are dispensed with in respect of acquisition for a public purpose and, thus, it can be easily said that in view of the peculiar circumstances explained above, regarding Point No. 5 that acquisition proceedings to acquire the lands for the 4th respondent/Association should have been followed after complying with the provisions of Chapter VII of the Act does not arise.

20. Thus, the various purposes mentioned in clauses (i) to (xi) of Section 3(f) of the Central Act are illustrative and not exhaustive, because the object behind the word "inclusive" is that besides the ordinary meaning and expression of "public purpose" whatever that may be, other purposes also for the benefit of the public may be included. Because, the word "inclusive" has to be interpreted so as to be said that it is to retain its ordinary meaning and the clauses enlarge the meaning of the terms and make it included all the matters which the ordinary meaning would not include. Meaning of public purposes has been explained by this Court in the following decisions:

i) Narayana Raju's case, ILR 1989 Kar. 376 the acquisition of land for a housing scheme sponsored with the prior approval of the Government by Co-operative Society is for a public purpose by making reference to the effect of Section 3(cc), 3(e) and 3(f)(vi) of the Central Act. However, some of the Amendments to the Act including dispensing with contributing money by the Government or paying compensation were not brought to the notice of this Court, when that case was argued. In fact some of the points raised in the present case were not cropped up for consideration before this Court in Narayana Raju's case. Hence, it is to be said that the facts and the points of law to be considered in the present case are different from the ones considered in that case.

ii) V.T. Krishnamoorthy v. State of Karnataka, 1991(2) Kar. L.J. 158: ILR 1991 Kar. 1183 wherein this Court in para 11 of the Judgment, while considering the point held following the decision of the Supreme Court in Manubhai v. State, AIR 1984 SC 120 that where contribution flows from the Government to acquire land for Bank and HMT, etc. Part VII of the Act does not apply. This Court further held that even if there is no contribution from Public revenue, if the Government is satisfied that the acquisition is for a public purpose, compliance with the requirements of Chapter VII of the Act is not necessary.

iii) Narayana Reddy v. State of Karnataka, ILR 1991 Kar. 2248, wherein this

Court explaining the meaning of the term "public purpose" held that the land acquired for Co-operative Societies is to be treated for a public purpose.

21. The next point for consideration is whether some of the provisions of the Karnataka Amendment Act are in any way repugnant to the Central Act. It is not in dispute the Amendment Act received the assent of the President of India where some departure has been made to the conditions imposed in the Central Act. It is also not in dispute that the subject-matter in question falls under the concurrent list at Item 42 to Schedule III to the Constitution. To say a particular provision is repugnant to the Central Act, it is necessary to take into consideration the effect of Article 254 of the Constitution and the interpretation given by the Supreme Court about the scope of Article 254 in respect of matters which are similar to the one under consideration in these writ petitions. Article 254 reads thus:

"254. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of Clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

In *Zaverbhai Amaidas v. The State of Bombay*, AIR 1954 SC 752: 1955(1) SCR 799, while dealing with Article 254(2) of the Constitution, the Supreme Court in para 11 of its Judgment held as follows:

In the present case, there was no express repeal of the Bombay Act by Act No. LII of 1950 in terms of the proviso to Article 254(2). Then the only question to be decided is whether the amendments made to the Essential Supplies (Temporary Powers) Act by the Central Legislature in 1948, 1949 and 1950 are "further legislation" falling within Section 107(2) of the Government of India Act or "law with respect to the same matter" falling within Article 254(2). The important thing to consider with reference to this provision is whether the legislation is "in respect of the same matter." If the later legislation deals not with the matters which formed the subject of the earlier legislation but with other

and distinct matters though of a cognate and allied character, then Article 254(2) will have no application. The principle embodied in Section 107(2) and Article 254(2) is that when there is legislation covering the same ground both by the Centre and by the Province, both of them being competent to enact the same, the law of the Centre should prevail over that of the State.

In *M. Karunanidhi v. Union of India*, AIR 1979 SC 898, the Supreme Court took a view that it is repugnancy when both the Acts, viz., the Central Act and the State Act are inconsistent and absolutely irreconcilable and not otherwise. The relevant portion is at para 8 of its Judgment which reads thus:

"It would be seen that so far as Clause (1) of Article 254 is concerned it clearly lays down that where there is a direct collision between a provision of a law made by the State and that made by Parliament with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of Clause (2), the State law would be void to the extent of the repugnancy. This naturally means that where both the State and Parliament occupy the field contemplated by the Concurrent List then the Act passed by Parliament being prior in point of time will prevail and consequently the State Act will have to yield to the Central Act. In fact, the scheme of the Constitution is a scientific and equitable distribution of legislative powers between Parliament and the State Legislatures. First, regarding the matters contained in List I, i.e., the Union List to the Seventh Schedule, Parliament alone is empowered to legislate and the State Legislatures have no authority to make any law in respect of the entries contained in List I. Secondly, so far as the Concurrent List is concerned, both Parliament and the State Legislatures are entitled to legislate in regard to any of the entries appearing therein, but that is subject to the condition laid down by Article 254(1) discussed above. Thirdly, so far as the matters in List II, i.e., the State List are concerned, the State Legislatures alone are competent to legislate on them and only under certain conditions Parliament can do so. It is, therefore, obvious that in such matters repugnancy may result from the following circumstances:

1. Where the provisions of a Central Act and a State Act in the Concurrent List are fully inconsistent and are absolutely irreconcilable, the Central Act will prevail and the State Act will become void in view of the repugnancy.
2. Where however a law passed by the State comes into collision with a law passed by Parliament on an entry in the Concurrent List, the State Act shall prevail to the extent of the repugnancy and the provisions of the Central Act would become void provided the State Act has been passed in accordance with Clause (2) of Article 254.
3. Where a law passed by the State Legislature while being substantially within the scope of the entries in the State List entrenches upon any of the entries in the Central List the constitutionality of the law maybe upheld by invoking the doctrine of pith and substance if on an analysis of the provisions of the Act it

appears that by and large the law falls within the four corners of the State List and entrenchment, if any, is purely incidental or inconsequential.

4. Where, however, a law made by the State Legislature on a subject covered by the Concurrent List is inconsistent with and repugnant to a previous law made by Parliament, then such a law can be protected by obtaining the assent of the President under Article 254(2) of the Constitution. The result of obtaining the assent of the President would be that so far as the State Act is concerned, it will prevail in the State and overrule the provisions of the Central Act in their applicability to the State only. Such a state of affairs will exist only until Parliament may at any time make a law adding to, or amending, varying or repealing the law made by the State Legislature under the proviso to Article 254."

Similar is the view taken by the Supreme Court in *M/s. Hoechst Pharmaceuticals Ltd. and Another v. State of Bihar and Others*, AIR 1983 SC 1019 that repugnancy arises only when both the Legislatures are competent to legislate in the same field, i.e., with respect to one of the matters enumerated in the Concurrent List. The Supreme Court further held that Article 254(1) cannot apply unless both the Union and the State laws relate to a subject specified in the Concurrent List and they occupy the same field. The relevant paras of the Judgment read thus:

"The question of repugnancy under Article 254(1) between a law made by Parliament and a law made by the State Legislature arises only in case both the legislations occupy the same field with respect to one of the matters enumerated in the Concurrent List, and there is direct conflict between the two laws. It is only when both these requirements are fulfilled that the State law will, to the extent of repugnancy become void. Article 254(1) has no application to cases of repugnancy due to overlapping found between List II on the one hand and List I and List III on the other. If such overlapping exists in any particular case, the State law will be ultra vires because of the non-obstante clause in Article 246(1) read with the opening words "Subject to" in Article 246(3). In such a case, the State law will fail not because of repugnance to the Union law but due to want of legislative competence. It is no doubt true that the expression "a law made by Parliament which Parliament is competent to enact" in Article 254(1) is susceptible of a construction that repugnance between a State law and a law made by Parliament may take place outside the concurrent sphere because Parliament is competent to enact law with respect to subjects included in List III as well as "List I". But if Article 254(1) is read as a whole, it will be seen that it is expressly made subject to Clause (2) which makes reference to repugnancy in the field of Concurrent List-in other words, if Clause (2) is to be the guide in the determination of scope of Clause (1), the repugnancy between Union and State law must be taken to refer only to the Concurrent field. Article 254(1) speaks of a State law being repugnant to (a) a law made by Parliament, or (b) an existing law.

There was a controversy at one time as to whether the succeeding words "with

respect to one of the matters enumerated in the Concurrent List" govern both (a) and (b) or (b) alone. It is now settled that the words "with respect to" qualify both the clauses in Article 254(1), viz., a law made by Parliament which Parliament is competent to enact as well as any provision of an existing law. The underlying principle is that the question of repugnancy arises only when both the Legislatures are competent to legislate in the same field, i.e., with respect to one of the matters enumerated in the Concurrent List. Hence, Article 254(1) cannot apply unless both the Union and the State laws relate to a subject specified in the Concurrent List, and they occupy the same field."

While dealing with some of the provisions of the Motor Vehicles Act and the Karnataka Motor Vehicles Amendment Act with reference to Article 254 of the Constitution of India, the Supreme Court in *Vijay Kumar Sharma and Others v. State of Karnataka and Others*, AIR 1990 SC 2072 held that both the Acts hold different fields and as such there is no repugnancy. The majority view in the said case is as follows:

"It was then contended that when there is a repugnancy between the legislations under Article 254 of the Constitution, the doctrine of pith and substance does not apply, and even if some of the provisions of the impugned State legislation are in conflict with some of the provisions of the Central legislation, the conflicting provisions of the State legislation will be invalid. In support of this contention reliance was placed on two decisions one of the Federal Court in the case of *Meghraj v. Allahrakhiya*, AIR 1942 FC 27 and the other of the Privy Council reported in AIR 1947 PC 722 (or AIR 1947 PC 60-Ed.) confirming the former.

The Federal Court in the above decision has observed that when a provincial Act is objected to as contravening not Section 100 but Section 107(1) the Government of India Act, 1935 (corresponding to Article 254(1) of the Constitution) the question of the pith and substance of the impugned Act does not arise. In that case, the validity of the Punjab Restitution of Mortgage Lands Act was challenged on the ground that some of its provisions were repugnant to certain provisions of the Contract Act and of the Civil Procedure Code. The Court held that there was no repugnancy between the legislations. But while holding so, the Court made a one sentence observation as follows: In the Judgment of the High Court here is some discussion of the question of the "pith and substance" of the Act; but that question does not arise as objection is taken not under Section 100 of the Constitution Act but under Section 107. There is no discussion on the point. The arguments, if any, advanced on the question are neither reproduced nor dealt with. The observation further was not necessary for the decision in that case, since as is pointed out above, the Court had held that there was no repugnancy between the two statutes since they covered two different subject-matters. Hence the issue as to whether the impugned Punjab Restitution of Mortgage Lands Act was valid because the pith and substance of the Act covered an area different from the one covered by the Contract Act and the Civil Procedure Code did not fall for consideration before the Court. What is

more, when the matter went in appeal before the Privy Council, the said point was not even remotely referred to and I find no observation in the Judgment either confirming, or dissenting from, the said observations. This being the case the said observations cannot be regarded as more than general in nature. They are not even an obiter dicta much less are they the ratio decidendi of the case. Hence the said observations do not have a binding effect.

Even otherwise, I am of the view that not to apply the theory of pith and substance when the repugnancy between the two statutes is to be considered under Article 254 of the Constitution would be illogical when the same doctrine is applied while considering whether there is an encroachment by the Union or the State Legislature on a subject exclusively reserved for the other. When the legislative encroachment is under consideration the doctrine of pith and substance comes to the aid to validate a legislation which would otherwise be invalid for the very want of legislative competence. When the repugnancy between the two legislations is under consideration, what is in issue is whether the provisions of the State enactment, though otherwise constitutionally valid, has lost its validity because the Parliament has made a legislation with a conflicting provisions on allegedly the same matter. If it is open to resolve the conflict between two entries in different list, viz., the Union and the State List by examining the dominant purpose and therefore the pith and substance of the two legislations, there is no reason why the repugnancy between the provisions of the two legislations under different entries in the same list, viz., the Concurrent List should not be resolved by scrutinizing the same by the same touchstone. What is to be ascertained in each case is whether the legislations are on the same subject-matter or not. In both cases the cause of conflict is the apparent identity of the subject-matters. The tests for resolving it therefore cannot be different."

The Supreme Court making reference to its earlier decision in *Deepchand v. State of UP*, 1959(2) Supp. SCR 8: AIR 1959 SC 648 held as follows:

"The Court, however, hastened to add that there is no rule of law to prevent repeal of special and local statute by a later general statute and, therefore, where the provisions of the special statute are wholly repugnant to the general statute, it would be possible to infer that the special statute was repealed by general enactment. However, the Court observed that where it is doubtful whether the special statute was intended to be repealed by the general statute, the Court should try to give effect to both the enactments as far as possible, since the general statute applies to all persons and localities within its jurisdiction and scope as distinguished from the special one which in its operation is confined to a particular locality. Where the repealing effect of a statute is doubtful, the statute is to be strictly construed to effectuate its consistent operation with previous legislation as observed by Sutherland on Statutory Construction. The Court also approved of the observations of Suleman, J. in *Shyamkant Lal v. Rambhajan Singh*, 1939 FCR 193: AIR 1939 FC 74-that repugnancy must exist in

fact, and not depend merely on a possibility. After discussing the principles of repugnancy as above, the Court answered the question that fell for consideration before it in favour of the Municipal Council by observing as follows:

It seems to us, however, clear that bearing in mind the fact that the provisions of Section 72 of the Travancore-Cochin Motor Vehicles Act were intended to apply to a much wider area than those of Sections 286 and 287 of the Travancore District Municipalities Act it cannot be said that Section 72 was intended to replace those provisions of the Travancore District Municipalities Act. The proper way of construing the two sets of provisions would be to regard Section 72 of the Travancore-Cochin Motor Vehicles Act as a provision in continuity with Sections 286 and 287 of the Travancore District Municipalities Act so that it could be availed of by the appropriate authority as and when it chose. In other words the intention of the Legislature appears to be to allow the two sets of provisions of co-exist because both are enabling ones. Where such is the position, we cannot imply repeal. The result of this undoubtedly would be that a provision which is added subsequently, that is, which represents the latest will of the Legislature will have an overriding effect on the earlier provision in the sense that despite the fact that some action has been taken by the Municipal Council by resorting to the earlier provision the appropriate authority may nevertheless take action under Section 72 of the Travancore-Cochin Motor Vehicles Act, the result of which would be to override the action taken by the Municipal Council under Section 287 of the District Municipalities Act. No action under Section 72 has so far been taken by the Government and, therefore, the resolutions of the Municipal Council still hold good. Upon this view it is not necessary to consider certain other points raised by learned counsel."

While referring to the decision in *Ratan Lal Adukia v. Union of India*, 1989(3) SCC 537: AIR 1990 SC 104 dealing with the provisions of Section 80 of the Railways Act, 1890 as amended by the Railway (Amendment) Act, 1961 on the one hand and the provisions of Section 20 of the Code of Civil Procedure, 1908, and Section 18 of the Presidency Small Cause Courts Act, 1882, the Supreme Court held as follows:

"It will thus be apparent that in that case the provisions which were in conflict related to the same subject-matter unlike in our case. The provisions with regard to application and grant of permits in Sections 14 and 20 have nothing in common with the provisions of Sections 74 and 80 of the Motor Vehicles Act, 1988. The former provisions are ancillary to giving effect to the acquisition and nationalisation of the road transport within local territorial limits. The later provisions are general in nature and in furtherance of the object of the Act which is to regulate transport. The subject-matters of both the statutes and the two sets of provisions are, therefore materially different. In our case both the statutes can stand together. The legislative intent is clear. Since, further, the Parliament had enacted the later knowing fully well the existence of the earlier statute and yet it did not expressly repeal it, it will be presumed that the

Parliament felt that there was no need to repeal the said statute."

Further the Supreme Court held:

"The aforesaid review of the authorities makes it clear that that whenever repugnancy between the State and Central Legislation is alleged, what has to be first examined is whether the two legislations cover or relate to the same subject-matter. The test for determining the same is the usual one, namely, to find out the dominant intention of the two legislations. If the dominant intention, i.e., the pith and substance of the legislation is different, they cover different subject-matters. If the subject-matters covered by the legislations are thus different, then merely because the two legislations refer to some allied or cognate subjects they do not cover the same field. The legislation, to be on the same subject-matter must further cover the entire field covered by the other. A provision in one legislation to give effect to its dominant purpose may incidentally be on the same subject as covered by the provision of the other legislation. But such partial coverage of the same area in a different context and to achieve a different purpose does not bring about the repugnancy which is intended to be covered by Article 254(2). Both the legislations must be substantially on the same subject to attract the article."

22. From the above discussion, it is clear that there is no repugnancy between the law made by the Union and the law made by the State on the subject, because the definitions of both the Acts merely catalogue what a public purpose is. If we proceed on that basis, it is only clause (ix) of Section 3(f) of the State Act would apply. Hence it is to be held that the acquisition of land in question is definitely for public purpose. Assuming that there is repugnancy in both the law, then the Central Act will definitely prevail in view of the law laid down by the Supreme Court referred to earlier. Thus, if it is the Central Act that would apply, then it is Clause (vi) would apply. Therefore, it is viewed from any angle, the acquisition of the lands in question for the 4th respondent/Association can be termed as for public purpose.

23. Having answered all the points, now the conclusion is that there is no merit in any of the contentions raised by the petitioners in these petitions. Accordingly, all the contentions raised by the petitioners are held to be unsustainable.

Accordingly, all these writ petitions are dismissed.

No costs.