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**(2009) 07 MP CK 0094**  
**In the Madhya Pradesh High Court**  
**Case No : Writ Petition No. 3154 of 2009**

Rajiv Agnihotri

APPELLANT

Vs

Union of India and others

RESPONDENT

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**Date of Decision :** 13-07-2009

**Acts Referred:**

Land Acquisition Act, 1894 — Section 17(1), 4, 6

**Citation :** (2009) 4 MPLJ 72

**Hon'ble Judges :** Viney Mittal, J

**Bench :** Single Bench

**Advocate :** Nand Kishor Dube, for the Appellant; Abhisheikh Tugnawat, for respondent No. 1, Shailendra Mukati and Ms. Rashmi Pandit, Dy. Govt. Advocate for respondent Nos. 3 and 4, for the Respondent

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## Judgement

Viney Mittal, J.

With consent of the Learned Counsel for the parties, arguments in the case have been heard for final disposal.

This order shall dispose of three writ petitions, being W.P. No. 3154/2009, W.P. No. 3155/2009, and W.P. No. 3156/2009, as an identical challenge has been raised by all the writ petitioners to the acquisition of their respective lands, for a public purpose i.e. "for establishment of Power Sub Station" by Power-grid Corporation of India Limited, respondent No. 2. For the sake of convenience, main order is being passed in Writ Petition No. 3154/2009.

Facts on record depict that a notification u/s 4, read with section 17(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the Act), was issued on March 6, 2009, whereby it was proposed to acquire the land of the petitioners for setting up of a Power Sub Station. There being some error in the said notification, an amendment was issued to the said proposal through a notification dated March 27, 2009. A declaration u/s 6 of the Act was subsequently issued on April 3, 2009. The land in question, belonging to the petitioners, was declared to

be acquired, A notice was also issued to the land owners on April 22, 2009, which indicated that 80% compensation amount, as assessed by the Collector, had been deposited; and that land owners were required to receive the same. The possession of the land was taken on May 6, 2009.

The petitioners have now approached this Court through the present petitions, claiming that they had suggested to the respondent-Power-grid Corporation, and other concerned Authorities, that their land be not acquired, since some alternative suitable land was available for the purpose of setting up the Power Sub Station. Various other pleas have been raised by the petitioners in challenging the acquisition proceedings.

The claim made by the petitioners has been contested by the respondents. A detailed reply has been filed by the Power-grid Corporation, respondent No. 2. In the reply filed by the said respondent, it has been maintained that the Corporation had acquired the land for establishing a Power Sub Station, and after complete survey of the area, land in question had been identified and earmarked for that purpose. Consequently, a notification u/s 4 of the Act was issued on March 6, 2009, as amended on March 27, 2009, whereby the land in question was proposed to be acquired. Urgency clause was also invoked, since the purpose was found to be urgent. A declaration u/s 6 was issued thereafter on April 3, 2009. On April 22, 2009, 80% of the amount of the compensation, as determined by the Collector, was deposited, as required under the law. Possession of the land in question had been taken on May 5, 2009.

With regard to the suggestion given by the petitioners that alternative land was available, and should have been so utilized for public purpose, the respondent-Corporation has maintained that the said land was, in fact, also considered for acquisition, but had been found unsuitable. All other pleas raised by the petitioners in the petition have been denied.

I have heard Shri Nand Kishor Dube, Learned Counsel for the petitioners, Shri Abhisheikh Tugnawat, Learned Counsel appearing for respondent No. 1, Shri Shailendra Mukati, Learned Counsel for Corporation, respondent No. 2, and Ms. Rashmi Pandit, learned Deputy Government Counsel for respondents No. 3 and 4.

Shri Nand Kishor Dube, Learned Counsel for the petitioners has contended that an alternative land, as had been suggested by the petitioners, was very suitable, and should have been so utilized for the purpose of Power Sub Station/ and therefore, the land of the petitioners should not have been acquired. Learned Counsel further maintains that the petitioners had spent a huge and substantial amount for getting diversion orders and developing the land, and also for laying underground pipes etc., and therefore, the petitioners would now suffer a huge loss, if the said expenses are not reimbursed to them.

I have duly considered the aforesaid contentions raised on behalf of the petitioners by their Learned Counsel. I find no force in the same.

It is apparent that the suggestion put forward by the petitioners with regard to the alternative land being available, has been duly considered by the Power-grid Corporation of India, but the alternative land has been found not suitable. In these circumstances, this Court, while exercising powers of judicial review, cannot sit as a Court of appeal over the requirements/decision taken by the acquiring authority. It is not even a matter of any dispute between the parties that establishment of a Power Sub Station is concededly a public purpose. In such circumstances, for the aforesaid public purpose, which land is required and more suitable, is a matter within the sole discretion/objective judgment of the acquiring authorities. The said discretion/judgment has been exercised. It has not been indicated by the petitioners that the said decision making process of the acquisition authorities suffers from any vice, requiring interference from this Court. Therefore, it has to be held that the land of the petitioners has been rightly acquired, being so required, by the acquisition authorities.

With regard to the objections raised on behalf of the petitioners, that they had spent a huge amount for obtaining diversion orders and thereafter for developing the land etc., needless to say that the aforesaid claims can be made by the petitioners before the Land Acquisition Collector, in the proceedings for assessment of the market value, at the time of rendering of the award. If they are dissatisfied thereafter, the petitioners can still resort to further remedies under the Act. At this stage, the aforesaid grievance raised by the petitioners cannot be even entertained, being premature.

Consequently, I do not find any merit in the present petitions. The same are hereby dismissed.