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**(2015) 10 RAJ CK 0072**

**In the Rajasthan High Court**

**Case No :** Civil Writ Petition No. 12234/2012

Santushti Homes Pvt. Ltd.

APPELLANT

Vs

Union of India and Others

RESPONDENT

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**Date of Decision :** 29-10-2015

**Acts Referred:**

Constitution of India, 1950 — Article 226, 300A

Land Acquisition Act, 1894 — Section 17(4), 4, 48, 5A, 5A(2)

Railways Act, 1989 — Section 20A, 20A(1), 20D, 20D(1), 20D(2)

**Citation :** (2015) 10 RAJ CK 0072

**Hon'ble Judges :** Alok Sharma, J.

**Bench :** Single Bench

**Advocate :** A.K. Sharma, Senior Advocate and Vishnu Kant Sharma, for the Appellant; Kamalakar Sharma Advocate and P.C. Sharma, for the Respondent

**Final Decision :** Allowed

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## Judgement

Alok Sharma, J.—A challenge has been made to the order dated 1-8-2014 passed by the Competent Authority under Section 20D of the Railways Act, 1989 (hereinafter "the Act of 1989"), the consequent declaration dated 12-8-2014 under Section 20E of the said Act published in Rajasthan Patrika on 15-8-2014 as also to the award dated 15-9-2014 passed by the Competent Authority under Section 20F thereof. It has been prayed that the petitioner not be dispossessed from its land in khasra No. 327, village Thara Tehsil Tijara District Alwar.

2. The background facts are that in respect of very same land in khasra No. 327 village Thara an earlier notification under Section 20A(1) of the Act of 1989 was issued on 23-1-2011. Objections filed by the petitioner company before the competent authority under Section 20D(2) were accepted vide order dated 26-9-2011. The petitioner company's aforesaid land was consequently not included in the declaration under Section 20E of the Act of 1989. It however appears that thereafter on reconsideration of the matter, the Central Government

realised that the exclusion of petitioner's land in khasra No. 327 village Thara was a veritable faux pass in the context of other lands having been acquired with reference to the approved alignment of the Delhi-Mumbai dedicated Freight Corridor (DFC), and that the competent authority passing the order dated 26-9-2011 had misdirected itself in releasing the petitioner's land from acquisition on a misrepresentation of fact if not worse. The acquisition of the petitioner's land was therefore an absolute technical necessity.

3. In these circumstances a fresh notification under Section 20A (1) of the Act of 1989 was issued on 18-5-2012 qua the petitioner's land in khasra No. 327 Village Thara and published in newspapers on 22-6-2012. The petitioner company filed its objections thereto on 20-7-2012, but soon approached this court on 13-8-2012 by way of this petition under Article 226 of the Constitution of India. On the matter coming up before this court, on 30-10-2012 it was directed that till 27-11-2012 publication of declaration under Section 20E(2) of the Act of 1989 not be issued. The said interim order was continued till 23-7-2014 when the earlier interim order was modified and the respondents were allowed to proceed with the acquisition and issue the notification under Section 20E(2) of the Act of 1989--however with restraint on the petitioner's dispossession. Pursuant to the modified interim order aforesaid, the objections of the petitioner company to the notification dated 18-5-2012 was dismissed on 1-8-2014 by the competent authority. The notification under Section 20E(2) of the Act of 1989 followed on 12-8-2014 and was published in news-paper on 15-8-2014. Inevitably the award under the Act of 1989 was passed on 15-9-2014. Possession however remains with the petitioner as per the interim protection under the court's order dated 23-7-2014.

4. Mr. A.K. Sharma, Senior counsel appearing for the petitioner has submitted that acquisition of the petitioner's land under Chapter IV-A of the Act of 1989 commencing with the second notification dated 18-5-2012 under Section 20A(1) of the Act of 1989 is wholly without jurisdiction, ultra vires the Act of 1989, discriminatory in nature, malafide and in breach of principles of natural justice. Therefore it is liable to be quashed and set aside. He submitted that the objections of petitioner company against acquisition of his land in khasra No. 327 village Thara pursuant to notification under Section 20A(1) of the Act of 1989 first issued on 23-1-2011 having been allowed by the competent authority on 26-9-2011, finality attached thereto under Section 20D(3) of the Act of 1989. It was submitted that this "finality" could not be circumvented by the respondents by issue of a fresh notification under Section 20A(1) of the Act of 1989 on 18-5-2012 qua the very same parcel of land. The said subsequent notification therefore is a colourable exercise of powers and hence ultra vires the Act of 1989. It was further submitted that the alleged final alignment for the DFC between Delhi-Mumbai by the Dedicated Freight Corridor Corporation of India Limited (DFCCIL) including the petitioner's land in khasra No. 327 village Thara was wholly arbitrary and discriminatory and determined with the sole intent of benefiting one AMCO Limited and another, Balaji Tirupati Buildcom Limited,

whose land were to be acquired for the DFC as per the earlier alignment determined. It was submitted that petitioner's land is duly converted to residential use and construction plans therefor released by the UIT Bhiwari on its evaluation on 6-9-2010 in consultation with the State Government, that the petitioner company's land in khasra No. 327 village Thara did not fall within the approved alignment of the DFC. It was finally submitted that even otherwise the notification dated 12-8-2014 under Section 20E of the Act of 1989 as published on 15-8-2014 as also the subsequent award dated 15-9-2014 determining compensation to petitioner company for acquisition of its land in khasra No. 327 village Thara is liable to be quashed and set aside on the ground of denial of the statutorily prescribed hearing as mandated under Section 20D(2) of the Act of 1989.

5. Mr. Kamlakar Sharma, Senior Advocate appearing for respondents submitted that vide order dated 26-9-2011 objections of the petitioner company to acquisition of land in khasra No. 327 village Thara pursuant to notification dated 23-1-2011 under Section 20A(1) of the Act of 1989 were indeed allowed. But the order dated 26-9-2011 was malafide, illegal and a result of presentation of fabricated documents by the petitioner company with regard to alignment of the DFC before the competent authority, wrongly alleging change of alignment to its detriment. It was submitted that the only alignment finalized by DFCCIL, a special purpose vehicle constituted by the Railways and Government of India for the DFC was the one on the basis of which the notification dated 23-1-2011 was issued under Section 20A(1) of the Act of 1989. It was never changed to the petitioner company's detriment. Reliance of the petitioner company on Annexure-4 to the writ petition relates to an in-process drawing (before the finalization by DFCCIL) on which the competent authority had not appended its signatures. The said drawing/blue print was never communicated by DFCCIL either to the State Government, the UIT Bhiwadi or the competent authority under the Act of 1989. It was submitted that the power under Section 20A(1) of the Act of 1989 is a reservoir of power which can be drawn upon from time to time for reasons of public purpose obtaining. It was submitted that lands on both sides of petitioner's land, which was released from acquisition vide order dated 26-9-2011, having been acquired after alignment of the DFC finalized by experts, the Central Government could not conceivably visualize a situation where land in the petitioner company's ownership in Khasra No. 327, village Thara would remain unacquired and the whole DFC's project delayed, or costs unaffordably enhanced prejudicial to public revenues and interest. Acquisition of petitioner's land therefore was an absolute imperative and was warranted by the public purpose of completion of a special railway project i.e. DFC. In these circumstance the notification dated 18-5-2012 under Section 20A(1) of the Act of 1989 qua petitioner's land in khasra No. 327 village Thara came to be re-issued. It was also submitted that the alignment based on which the notification under Section 20A(1) of the Act of 1989 was issued in January, 2011 and then in May, 2012 is the one as also reflected in Master-plan of Bhiwari-Tapokhara-Khushkhera

Complexes 2031. This indicates that the only alignment conveyed by DFCCIL to the State Government is one going through the petitioner's land in Khasra No. 327, village Thara. Thus evidently, the land in khasra No. 327 in village Thara having been "accidentally" excluded by the competent authority on 26-9-2011, it was well within the power of the Central Government to issue the second notification under Section 20A(1) of the Act of 1989, as it did on 18-5-2012 qua the said land. Thereafter the petitioner having filed objections under Section 20D (2) of the Act of 1989 on 20-7-2012, they were in terms of the liberty granted by this court on 23-7-2014, considered and dismissed on 1-8-2014. Declaration vide notification under Section 20E(1) of the Act of 1989 was then issued by the central Government qua the land in issue and with the passing of the award on 15-9-2014 the said land vests in the Central Government, with compensation payable as per law. It has been submitted that this court should therefore direct that the respondents should be put in possession of the land acquired.

6. On the issue of discrimination, it has been submitted that the writ petition is liable to be dismissed at the threshold for the reason that neither AMCO Limited nor Balaji Tirupati Buildom Limited have been impleaded as party to writ petition. Further the entire misplaced basis for the allegation of discrimination is Annexure-4 which dates relates back to February, 2010 and pertains to Preliminary work--on Detail Engineering Construction Survey for Construction of Dedicated Freight Corridor for Section 15 and 16 from km 42 of Section 15 (at around Khorī near Rewari) to km 64 of Section 16 (km 1415.69 of NCR, Dadar) on Western Freight Corridor under AGM/Dadri Rewari]. That was a mere proposal--work in process--with no finality. The alignment for DFC, was finalized subsequent to November, 2010, based whereupon notification dated 23-1-2011 was issued. It has been prayed that the writ petition be therefore dismissed.

7. Heard. Considered.

8. I find no force in the contention of Mr. A.K. Sharma with regard to lack of jurisdiction in the Central Government to re-issue the notification dated 18-5-2012 under Section 20A(1) of the Act of 1989, in respect of khasra No. 327 village Thara Tehsil Tijara District Alwar. Section 20A of the Act of 1989 is a reservoir of power on which the Central Government can draw whenever warranted for the public purpose of the execution of a Special Railway Project. The said power is not exhausted when once exercised qua a parcel of land. A notification under Section 20A of the Act of 1989 may lapse or not be followed by one under Section 20E of the Act of 1989 for multiple reasons including for the reason of the Competent Authority while exercising powers under Section 20D(2) of the Act of 1989 allowing an objection. The finality under Section 20D(3) of the Act of 1989 is for the purpose of declaration under the following Section 20E notification under the Act of 1989 and land excluded in a given acquisition process cannot be included within the same process. But if public purpose for the special Railway project warrants, for re-issue of Section 20A notification qua such land earlier excluded from the acquisition process, no prohibition can be found or

even be impliedly read into. No doubt a subsequent notification under Section 20A(1) of the Act of 1989 qua the earlier excluded land, if challenged, the scrutiny by the court would be close and the issue of colourable exercise of power would be addressed. The reason for this conclusion lies in the fact that it is not difficult to conceive a situation where the Competent Authority hearing objections under Section 20D of the Act of 1989 could be misled for one or the other reason including fraud or manipulation or corruption or even commit a shocking error or be motivated by extraneous consideration. The Act of 1989 does not otherwise provide for any validation of the decision of the Competent Authority under Section 20D of the Act of 1989 to exclude land from acquisition. The possibilities illustratively detailed above are buttressed from the facts of the instant case where the Competent Authority hearing objections under Section 20D(2) of the Act of 1989 proceeded to accept the petitioner company's objections to the notification under Section 20A of the Act of 1989 issued on 23-1-2011 qua petitioner's land on the basis of a purported alignment which was neither final nor based whereon the notification under Section 20A(1) of the Act of 1989 dated 23-1-2011 was issued-- with the result that the petitioner's land has been excluded from acquisition while that of others similarly placed in the line of alignment of the DFC acquired. The alignment of the DFC was a matter for the experts to determine. It was so determined and based thereon notification dated 23-1-2011 issued. The competent authority--not an expert--could not have interfered with and second guessed the appropriate alignment for the DFC as it did while accepting the petitioner company's objections on 26-9-2011. All that the competent authority had to determine was whether the land sought to be acquired was falling in the final alignment of the railway track proposed. However, he oddly digressed and perversely held that the petitioner company's land was not in the "original alignment" approved by the DFCCIL but only in the purported realignment. The specific averments of the DFCCIL to the contrary were overlooked without as much as any plausible reason. The file notings of UIT Bhiwadi and correspondence with the UDH department Government of Rajasthan were adverted to, overlooking the fact that the public purpose of the special railway project was to be determined in law by the Central Government not the State Government or local authority. Or that neither the local authorities nor the State Government were competent to determine the alignment of a railway project. All this despite the fact that the competent authority was the signatory to the final alignment of the DFC based on which the notification dated 23-1-2011 was issued including land in khasra No. 327 village Thara.

9. It has been rightly stated by the respondents that no other objection even though similar in nature such as of M/s. AMCO Limited and Balaji Tirupati Buildcom Ltd. was accepted by the Competent Authority, yet that of the petitioner allowed vide order dated 26-9-2011. In the circumstances, acquisition of the petitioner company's land in khasra No. 327, Village Thara was an absolute technical necessity for the DFC project. The public purpose for the acquisition of petitioner company's land in khasra No. 327, Village Thara for the

special railway project DFC was clearly made out. Hence the fresh notification under Section 20A of the Act of 1989 on 18-5-2012. Nothing illegal or arbitrary in the said notification can thus be made out.

10. I also find no force in the allegation of discrimination against the petitioner company vis-a-vis AMCO Limited and Balaji Tirupati Buildcom Limited. For one, the said two companies have not been impleaded as parties to the writ petition as they ought to have been, on the allegations made. Besides, there is no material on record to support the contention. From the facts on record it appears that only one alignment for the DFC project was finalised--based whereon notification dated 23-1-2011 under Section 20A of the Act of 1989 was issued and which also is the basis of the subsequent notification under Section 20A on 18-5-2012. Any other alignment not conveyed by DFCCIL to the competent authority and which way have been prepared in the process of finalisation was of no avail and any person acting thereon did so only at his peril. Annexure-4 of the petition, the bedrock of the petitioner company's case was never communicated by DFCCIL. The final alignment approved by DFCCIL also finds incorporation in UIT Bhiwari's master plan-2031. Besides, the question of alignment even otherwise is a matter in the domain of experts. This court is not at all in a position to address the technical aspects and feasibility with regard to alignment of a Railway project 1483 kms. long from JNPT (Mumbai to Dadri (Delhi) via Surat-Badodara-Ahmedabad-Palanpur-Ajmer-Ringas-Rewari-Dadri. The design of alignment of a Railway track is quite obviously a complex matter involving multiple parameters to be evaluated before its finalization, and for this reason the work is entrusted to experts in the field of design of Railway alignment. Considering the complexities involved in design of Railway alignment and the Court's limitations on challenges in respect thereof, the hon'ble High court of Gujarat in civil Application No. 12438/2012 has held that the question of alignment cannot be considered by the court as it involves highly technical assessment of the requirements of the Railways. The contentions based on the grounds of arbitrariness in the finalization of alignment and discrimination vis-a-vis AMCO Limited and Balaji Tirupati Buildcom Limited are therefore liable to be rejected.

11. However the petitioner company has a substantial case on the issue of Section 20D(2) of the Act of 1989 being violated. Section 20D(2) reads as under:-

"Every objection under sub-section (1) shall be made to the competent authority in writing, and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections."

12. It is thus apparent that the objector to a notification under Section 20A of the Act of 1989 has a right to be heard and order of the competent authority is

to be passed after such hearing. The case of the petitioner is that the notification dated 18-5-2012 having been published in the newspaper on 22-6-2012, it approached this court on 20-7-2012 on various grounds. No hearing was done nor a decision on the objection taken and communicated to the petitioner till the passing of the interim order dated 30-10-2012 in this petition when it was directed that publication of declaration under Section 20E(2) of the Act of 1989 not be issued till 27-11-2012. That interim order continued till 23-7-2014 when it was modified and the respondents allowed to proceed in the matter, complete the process as provided under Section 20E of the Act of 1989 even while being put to restraint on dispossessing the petitioner company from its land in khasra No. 327, Village Thara. Subsequent to order dated 23-7-2014 the petitioner was not given any opportunity of hearing on its objections nor had it earlier been given any opportunity of hearing on its objections including either on 22-8-2012, or 3-9-2012 or on 20-9-2012. Further in any event the competent authority namely Sub Divisional Magistrate Tijara, i.e. Shri Suresh Kumar Yadav, who passed the order dated 1-8-2014 dismissing petitioner's objections under Section 20D(1) of the Act of 1989 was not the officer who was holding office of Sub Divisional Magistrate cum Competent Authority on 22-8-2012, 3-9-2012 or on 20-9-2012 where the petitioner-Company was allegedly heard. Besides, the alleged hearing even if earlier granted by another officer was of no effect in law. It was incumbent upon the officer who passed the order dated 1-8-2014 to have himself heard the petitioner as it is trite that one who hears must decide, lest the opportunity of hearing be reduced to an empty formality. The objections were thus rejected on 1-8-2014 without any opportunity of hearing to the petitioner-Company. Therefore the declaration under Section 20E of the Act of 1989 following rejection of petitioner's objection was in the circumstances wholly illegal as was the award, submitted counsel for the petitioner.

13. Mr. Kamlakar Sharma, Sr. Counsel appearing with Mr. P.C. Sharma, for the respondents 1, 2 and 4 has however submitted that as the order dated 1-8-2014 is a speaking order setting out the reasons for rejection, and is compliant with Section 20D(2) of the Act of 1989.

14. There is no force in Mr. Kamlakar Sharma's argument. Admittedly the rejection of the petitioner-Company's objections to the notification dated 18-5-2012 vide order dated 1-8-2014 is not by the competent authority who even allegedly heard it on 3-9-2012 and 20-9-2012. Besides the record does not bear out any hearing on the aforesaid dates and the respondents assertion on this count is incorrect. Further, that no prejudice was allegedly caused is besides the point as the right to be heard has been statutorily provided. The argument that the DFC project is one of great national importance or that the order dated 26-9-2011 in the earlier proceedings for land acquisition was founded upon fraud, or manipulation or rank inefficiency is also besides the point on the issue of the right of an objection to be heard. I am also disinclined to succumb to the argument of overriding public interest to overlook the statutory right to be heard on objections to land acquisition which has been recognized by the Hon'ble Apex

Court to be akin to a fundamental right even though right to property is now only a constitutional right. The public interest of acquisition of land can be secured by acquisition proceedings afresh, contravention of a statutory right if upheld by this Court damages the rule of law, a basic feature of the Constitution of India and can strengthen brazen and arbitrary execution action and entail condonation of dereliction of duty by public officials.

15. Reliance by Senior Counsel for the respondents has been placed on various judgments of the Hon''ble Supreme Court to argue that even if procedural illegality in the acquisition proceedings be found, this court should balance equities and instead of quashing acquisition, grant some monetary or other relief to the petitioner company. Senior Counsel stated that in *Ramniklal N. Bhutta and another Vs. State of Maharashtra and others*, the Hon''ble Supreme Court held so. In the case of *Om Prakash and Another Vs. State of U.P. and Others*, , the Hon''ble Supreme Court even while finding that there was a statutory infraction of Section 5A of the Land Acquisition Act, 1894 by the State Authorities, when they invoked their power under Section 17(4) of the Act of 1894 without just cause while issuing notification under Sections 4 and 6 of the Act of 1894, refused to interfere with acquisition proceedings inter alia for the reason that a huge majority of persons whose land had been acquired had not objected to the acquisition which had become final qua them and public interest would not be subserved by stalling the development of land acquired by setting aside the land acquisition qua the petitioners before the court. It would however be well to note that in the aforesaid case the Hon''ble Apex Court allowed that petitioners before it to seek de-acquisition under Section 48 of the Act of 1894 to the extent of their holdings and user in consonance with the development plan for the area in issue. Reliance was also placed on the judgment of the Apex Court in case of *Anand Singh and Another Vs. State of Uttar Pradesh and Others*, , wherein again invocation of urgency clause by the Government for dispensation of enquiry under Section 5A of the 1894 Act was held to be not sustainable, yet taking into consideration that out of 400 land holders more than 378 land holders had already received compensation and out of the total cost of the project Rs. 8,85,14,000/- for development of acquired land an amount of Rs. 5,28,00,000/- had already spent and more than 60% work completed, the Hon''ble Supreme Court held that it would be too late in the day to undo what had already been done and set aside the award despite lacunae found in the procedure prescribed for acquisition under the Act of 1894. In the circumstances the aggrieved persons were not granted relief of quashing acquisition proceedings despite a legal point being made. But in that case too, liberty to seek deacquisition of the land acquired was granted. It has been submitted that 98.4% of the land for the Mumbai-Delhi DFC having been acquired, setting aside the rejection of the petitioner company''s objection on 1-8-2014 for reason of a hearing not being granted, the subsequent Section 20E notification and the consequential award under Section 20F on 15-9-2014 would be contrary to public interest. The acquisition proceedings thus be saved although the petitioner be compensated

for breach of Section 20D(2) and denial of principles of natural justice in the manner and to the extent deemed fit by this court, submitted senior counsel.

16. Mr. A.K. Sharma, appearing for the petitioner has relied on the judgment in case of Raghbir Singh Sehrawat Vs. State of Haryana and Others, where the Hon"ble Supreme Court held that when an opportunity of hearing was not granted to the aggrieved person under Section 5A(2) of the Land Acquisition Act, 1894 the entire land acquisition proceedings stood vitiated and were liable to be quashed qua such person. Referring to its earlier judgment in the case of State of Punjab and Another Vs. Gurdial Singh and Others, , Shyam Nandan Prasad and Others Vs. State of Bihar and Others, , Union of India (UOI) and Others Vs. Mukesh Hans etc., , Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai and Others, and Sri Radhy Shyam (Dead) through L.Rs. and Others Vs. State of U.P. and Others, the Hon"ble Supreme Court in Raghbir Singh (supra) held that where any person is deprived of his land by way of compulsory acquisition he must be allowed, as statutorily prescribed, an opportunity to oppose the acquisition and be heard to try convince the competent authority/Land Acquisition Officer to make a recommendation against the acquisition of his land inter alia for the reason that the land proposed to be acquired is not suitable for the purpose or show that another piece of land available to the government could be utilized for the particular project or scheme for which land was sought to be acquired. Holding that although it was neither possible nor desirable to elucidate on all grounds which a land owner could persuade the Collector with making recommendations against acquisition of his land, the Hon"ble Supreme Court emphasised that it was important that the person aggrieved got a fair opportunity of hearing and his pleas was objectively considered by the competent authority/Land Acquisition Officer. In this context it was held by the Hon"ble Apex Court that the Land Acquisition Officers were under a duty to strictly comply with relevant statutory provisions and principles of natural justice in the course of compulsory acquisition and failing to do so would entail vitiation of land acquisition proceedings and consequent setting aside of award/s passed. Mr. A.K. Sharma submitted that it is well settled that where hearing is provided for in law, one who hears must decide, and on this first principle, the order dated 1-8-2014 passed by the Sub Divisional Magistrate Tijara as the competent authority is liable to be set aside. It was submitted that the petitioner company after filing its objections on 20-7-2012 to the notification under Section 20A of the Act of 1989 published on 22-6-2012 was never heard on 22-8-2012, 3-9-2012 or 20-9-2012 when on each of the dates the matter was adjourned. In any event, thereafter the competent authority holding office on said dates was transferred. One Shri Suresh Kumar Yadav was then posted as competent authority who admittedly allowed no hearing to the petitioner and yet dismissed the objections on 1-8-2014. The rejection of objection was thus in contravention of 20D(2) of the Act of 1989 and hence all subsequent proceedings upto the passing of the award dated 15-9-2014 stand vitiated and are deserving to be set aside. Mr. A.K. Sharma then submitted that judgments relied upon by counsel for

the respondents turned on their own facts, where the Hon"ble Supreme Court while dismissing the challenge to acquisition proceedings, allowed the petitioners to file applications under Section 48 of the Act of 1894 for release of their land from acquisition. The reliefs moulded by the Hon"ble Supreme Court cannot be so moulded in this case as no provision for deacquisition obtains under the Act of 1989 nor such relief can even be granted in the present case with reference to the purpose of acquisition.

17. I am of the considered view that the case of the petitioner company on the acquisition proceedings being vitiated is wholly covered by the judgment of the Hon"ble Supreme Court in the case of Raghbir Singh (supra). The petitioner company has not been heard nor was given an opportunity of being heard on its objections in a blatant and clear breach of Section 20D(2) of the Act of 1989. In the case of Union of India (UOI) and Others Vs. Shiv Raj and Others, , albeit the enunciation aforesaid by the Hon"ble Apex Court was in the context of Section 5A of the Land Acquisition Act, 1894, that section is on its language *pari materia* with Section 20D(2) of the Act of 1989, the Hon"ble Supreme Court has held that the law is that the very officer, who accords hearing to the objector must also himself take a decision on the objections and in case his successor decides the case without giving a fresh hearing, the order on the objection to acquisition would stand vitiated having been passed in violation of the principles of natural justice. The right of being heard on objection/s filed in Land Acquisition proceeding by "persons interested" is a statutory right and not a mere formality. The formation of opinion of the competent authority/Land Acquisition Officer as regards the public purpose as also suitability of land sought to be acquired must be based on application of mind by the concerned officer after hearing/taking into account all relevant facts. The decision of the competent authority/Land Acquisition Officer must not be vitiated by any misdirection in law nor be a farcical formality. It was held that right to be heard under Section 5A of the 1894 Act conferred a valuable right for the protection of right to property under Article 300A of the Constitution of India and hence the Land Acquisition Officer was duty bound to objectively consider the argument of objectors and then conclude as to why particular piece of land should be acquired. Referring to its earlier judgment in case of Gullapalli Nageswara Rao and Others Vs. Andhra Pradesh State Road Transport Corporation and Another, and Rasid Javed and Others Vs. State of U.P. and Another etc. etc., the Hon"ble Supreme Court in the course of its opinion quoted with approval the dictum earlier enunciated and held that a person who hears objections must decide himself. Reference was also made to the case of Automotive Tyre Manufacturers Association Vs. The Designated Authority and Others, wherein it was held that when a person hears and another decides, personal hearing becomes an empty formality and the final order passed by the new officer, without himself having heard the objection offends the basic principle of natural justice.

18. Reverting to the facts of the present case, from the record it is evident that Shri Suresh Kumar Yadav as the competent authority under the Act of 1989 who

rejected the petitioner's objection on 1-8-2014 filed pursuant to notification dated 18-5-2012 did not at all provide an opportunity of hearing to the petitioner company. In fact the petitioner company was not heard either on 22-8-2012, 3-9-2012 or on 20-9-2012 as claimed by the respondents even by the person then acting as the competent authority. The petitioner company's objections to the notification dated 18-5-2012 filed on 20-7-2012 have been rejected vide order dated 1-8-2014 without any opportunity of being heard in contravention of Section 20D(2) of the Act of 1989. The order dated 1-8-2014 is thus liable to be set aside. It is so. Consequently the declaration under Section 20E of the Act of 1989 issued on 12-8-2014 and the award dated 15-9-2014 are also set aside qua the petitioner company's land in Khasra No. 327, village Thara Tehsil Tijara District Alwar. The writ petition stands accordingly allowed.

19. However, as observed by the Hon'ble Supreme Court Delhi Airtech Services Pvt. Ltd. and Another Vs. State of U.P. and Another, the State Government is directed to initiate disciplinary proceedings against the official/s recklessly faltering in the acquisition process.

20. However having held that the power under Section 20A of the Act of 1989 can be invoked on more than one occasion qua the same parcel of land for the public purpose of executing a special railway project, the respondents shall be free to resort to the acquisition process afresh in accordance with law, if so advised.