

(2010) 12 KAR CK 0024
In the Karnataka High Court
Case No : Writ Petition No's. 8955-56 of 2010

Sri Lakshminaryana and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 09-12-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 4 (1), 5 (1), 6 (1)

Citation : (2011) 3 KarLJ 312 : (2011) 1 KCCR 459

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : L. Rajanna, for the Appellant; Venkatesh Dodderi, A.G.A. for Respondent-1 to Respondent-3, D.R. Anandeeswara, for Respondent-4 and Vijaya Kumar, for Respondent 5, for the Respondent

Final Decision : Allowed

Judgement

D.V. Shylendra Kumar, J.—Land acquisition proceedings have become a farce. State Government embarking on exercising its power to acquire private lands in the name of public purposes and more often than not yielding to sub-serve interest of private individuals in the name of public purpose/interest.

2. A drastic draconian power in favour of the State for forced/ compulsory acquisition of private lands in the name of public purpose, while is undoubtedly a legacy of colonial rule wherein prevailed the concept of power of eminent domain, is anathema to individual, liberated citizens' rights recognized and respected in a society which is, as envisaged under the Constitution of India, but even the power to acquire private lands by the State for a public purpose may nevertheless have some significance and role as is enabled under the land acquisition enactments, particularly, the Indian State being visualized to be a welfare State by framers of our Constitution and there being situations wherein for achieving the larger public good, private or individual interest though affected has to yield, it can only be strictly within this parameter and only when there is a real public purpose sought to be achieved by the State exercising its power for

compulsory acquisition of private lands, but not for more and definitely not when in the name of achieving public/good purpose benefit is sought to be conferred on private individuals! The present case appears to be one such.

3. In recent times, such tendency on the part of the public authorities to misuse the power, subvert the power, abuse the power, has been on the rise and it has become inevitable that more and more affected landowners approach Courts for relief challenging the validity of acquisition proceedings. This writ petition is no exception.

4. Petitioners, three in number, are complaining because of the acquisition proceedings initiated at the instance of Swandenahalli gram panchayat by the State Government for acquiring an extent of 16 guntas of land in Sy. Nos. 77 and 78 of Beeranakllu village, with the extent of land proposed for acquisition, in which Petitioners 1 and 2 claim interest for about A1/2 guntas and third Petitioner claims interest in 3 guntas.

5. Initiation for such acquisition proceedings began in terms of the preliminary notification dated 5-2-2005 [copy at Annexure-C to the writ petition]. This had been followed by a declaration dated 7.7.2006 issued by the State Government u/s 6 of the Land Acquisition Act, 1894.

6. This preliminary notification and the declaration had been questioned by the very Petitioners through W.P. No. 13598 of 2006, presented before this Court and this writ petition came to be allowed as per the order dated 8-12-2008 and while the final notification issued u/s 6 of the Act was quashed, the matter was remitted to the land acquisition officer to consider the objections, if any, of Petitioners in terms of the provisions of Section 5A of the Act, as the complaint of the Petitioners was that they had not been given an opportunity to object to the acquisition proceedings.

7. On the matter going back, the Assistant Commissioner and Land Acquisition Officer, Tumkur sub-division, Tumkur, has gone through the motion of 5A enquiry and has also made a report to the State Government and the State Government in its turn has come up with a declaration u/s 6 of the Act in terms of the notification dated 7-1-2010 [copy at Annexure-F to the writ petition].

8. Petitioners, who had tasted success earlier, when they had filed writ petitions before this Court but which was short lived, due to this declaration dated 7-1-2010, have again approached this Court by filing these petitions, complaining that the acquisition proceedings are vitiated, as in reality, there is no public purpose sought to be sub-served by acquisition of a part of Petitioners' land and parts of lands of other two persons, particularly, by acquiring a small extent of 16 guntas of land for forming a road, said to be for the purpose of providing access to a nearby Government road to the neighboring agriculturists and also to provide better access to their houses located in the neighborhood of the proposed road; that the sole intention and the purpose of forming the road is to benefit the fourth Respondent, who, it is claimed, has built a luxurious house

in his land located in Sy. No. 74 of the very village: that the proposed road is sought to be made by carving out 16 guntas of land from the two other survey numbers viz., Sy. Nos. 77 and 78 of this village and the road actually passes in between these two survey numbers; that the records built up for acquisition proceedings at the instance of the gram panchayat, wherein the fifth Respondent is the president and it is more out of vindictive and to victimize the Petitioners that the acquisition proceedings are initiated and are sought to be taken to its conclusion, but does not really sub-serve any public purpose and, have, therefore, sought for quashing of the acquisition proceedings.

9. Respondents - State of Karnataka, Deputy Commissioner, Tumkur District and Assistant Commissioner and Land Acquisition Officer, Tumkur Sub-division, figuring as Respondents 1 to 3, fourth Respondent is a former gram panchayat member and the fifth Respondent is the current president of the very gram panchayat, all are served and while Sri Venkatesh Dodderi, learned AGA appears for Respondents 1 to 3, fourth Respondent is represented by Sri D.R. Anandeshwara, learned Counsel, and Sri Vijaya kumar, learned Counsel, appears for fifth Respondent.

10. Petitions had been formally admitted by issue of rule on 19-3-2010, but with the Respondents having not responded promptly by filing any statements of objections or otherwise, the following order had come to be passed on 29-10-2010:

Writ petition was admitted for examination on 19.3.2010

2. Writ petition by some of the landowners bearing Survey Numbers 77/1 and 77/2B2, whose lands are sought to be acquired under the provisions of Land Acquisition Act, 1894 (hereinafter referred to as the Act") in terms of a preliminary notification dated 5.2.2005 u/s 4(1) of the Act, as per Annexure-C to the petition, which was followed by a declaration dated 7.01.2010 as per Annexure F to the petition.

3. Petitioners contend that their land is unnecessarily being acquired ostensibly for a public purpose viz., a private road/way to a farmhouse in the vicinity. It is not really for the public purpose but for private purpose of a member of Grama Panchayath and he has been subsequently impleaded as party Respondent as per the order of this Court dated 29.09.2010. Respondents have sought for acquiring the land in terms of the notification u/s 4(1) of the Act and Section 6(1) of the Act. Though the petition was admitted and rule issued more than 7 months earlier, no counter has been filed on behalf of Respondents 1 to 3, who are represented by Sri N.B. Vishwanath, learned Additional Government Advocate appearing for the Respondents.

4. Though there was no appearance on behalf of the proposed 4th Respondent on the day, when the matter was taken up for considering the application pertaining to impleadment of the proposed Respondent, after issue of notice to the 4th Respondent, there is no representation and no objections is filed to the

application for impleadment and it had been ordered on 29.9.2010.

5. Mr. D.R. Anandeeswara learned Counsel for the 4th Respondent appeared today and submitted that he has not been furnished with a copy of the writ petition; that the 4th Respondent intends to file objections.

6. Submission is not justified as no one represented the 4th Respondent on 29.9.2010. Nothing prevented the Advocate for the 4th Respondent, who claims that he had already filed vakalath in the registry on 28.9.2010, which on verification is found to be presented in the registry on 29.9.2010 from obtaining a copy of the writ petition. No efforts is made by the learned Counsel for the 4th Respondent to obtain a copy of the writ petition either from the registry or from the Advocate for the Petitioners and file objections by today, as it is already more than one month.

7. Non-appearance of the Advocate on 29.9.2010 even though the learned Counsel claims to have filed vakalath, is not justified, as the notice issued by this Court to the proposed 4th Respondent clearly indicated that matter will be taken up on 29.10.2010 and it was the duty of the learned Counsel, who has filed vakalath, to have appeared in the Court and to have made submissions on behalf of his client, irrespective of the name of the Advocate being shown in the cause-list or not.

8. If the vakalath is filed in the registry only on 29.9.2010 as per the High Court seal on the presentation form of the vakalath, there is absolutely no possibility for the registry to show name of the Lawyer in the cause-list, who has filed power for the proposed Respondent.

9. Be that as it may, when even the State Government against whom the contentions are raised in the writ petition contending that acquisition of private lands is sought to be misused and abused for the benefit of the 4th Respondent having not met or answered by the State and its officers, petition averments have to be accepted and if so, a writ of certiorari will have to be issued to quash the notifications issued to acquire the land in terms of Annexures-C and F notifications.

10. Though Sri. Vishwanath, learned AGA submits that procedure has been followed; that the Government having realized that there is a public purpose sought to be sub-served by acquiring the lands of the Petitioners, having issued the declaration u/s 6(1) of the Act, that becomes conclusive and it cannot be gone into further by this Court, such is not the legal and the constitutional provisions, as when landowners come before this Court as Petitioners and complain that a public authority, as also even the State Government is misusing or abusing the statutory provisions to the detriment of Petitioners, it is the bounden duty of the Court to examine such grievances of Petitioners/citizens and to look into the conduct of the public authorities, review their actions and also it is for the Court to be satisfied as to any power and authority conferred on the State Government and its officials under any statutory provisions is not misused.

11. A mere submission that in the present case, the Land Acquisition Act is being used in a proper manner and for a proper purpose is not an end in itself.

12. Prima facie it appears such is not the case in the present acquisition proceedings, moreso, when the State Government keeps blissfully silent and is not even placing the records before this Court.

13. However, Sri Vishwanath, learned AGA requests 10 days time to place the records before this Court and it is also open to the Respondents to file statement of objections, if not already filed within 10 days.

14. Bring up the matters for further orders on 11.11.2010. Original records of acquisition proceedings to be made available before the Court, on that day, by Sri N.B. Viswanath, learned Additional Government Advocate appearing for the Respondents.

The matter had been heard further thereafter and this Court passed a further order on 11-11-2010, reading as under:

First Respondent - State of Karnataka, second Respondent-Deputy Commissioner and third Respondent-Assistant Commissioner-cum-land acquisition officer are represented by Sri D. Vijaya Kumar, learned Additional Government Advocate.

Sri D. Vijaya Kumar, learned Additional Government Advocate appearing for Respondents 1 to 3 points out that though no counter has been filed, the very notification issued u/s 6 of the Land Acquisition Act, 1894 [for short "the Act"], clearly spells out that the subject land belonging to the Petitioners are required for public purpose and that is conclusive proof.

Sri D. Vijaya Kumar, learned Additional Government Advocate appearing for Respondents 1 to 3 also points out that Petitioners while hold much larger extent of lands and what is sought to be acquired from them is only small part and their grievance that they are not inclined to part with even this extent of land for public purpose cannot stand scrutiny before law; that the question as to whether subject lands are required or otherwise has been thoroughly examined by the authority and as indicated in the notification issued u/s 6 of the Act that had been issued, copy of which is produced as Annexure-E to the writ petition and a perusal of this notification is clear indication that all relevant aspects have been considered and it definitely indicates that the objections raised on behalf of the Petitioners has been as indicated in column No. 10 of the notification at Annexure-E and it is obvious that many other landowners having realized the need for forming a road to provide for connectivity to as many as twelve families and also to the people beyond the village such as to the villagers of Doddayyanapalya had themselves voluntarily given up parts of their lands for the purpose of formation of the road and when such is the conduct of many other villagers, Petitioners' personal grievance by itself cannot be the criteria to hold that the proceedings for acquisition of land for formation of a road is not either valid or is hit by mala fides or for favouring the fourth Respondent as is

contended by the Petitioners.

Sri D. Vijaya Kumar, learned Additional Government Advocate appearing for Respondents 1 to 3, however concedes that neither any counter has been filed on behalf of Respondents 1 to 3 nor records placed before this Court.

Whether or not any counter is filed on behalf of Respondents 1 to 3 and while it is the prerogative of these Respondents to file or not to file, any assertion contrary to the writ petition on factual basis cannot be accepted on oral submissions made by the learned Additional Government Advocate as such factual assertions has to be affirmed on oath by a competent officer having knowledge of such facts and that cannot be merely by a submission made by the learned Additional Government Advocate.

While learned Additional Government Advocate can definitely make submissions on the question of law with or without counter, submission relating to facts of the case, particularly, for countering the facts averred in the writ petition cannot be by mere oral submissions made by the Government Advocate, but can only be on a counter/statement of objections filed on behalf of these Respondents supported by an affidavit sworn to by a competent officer having personal knowledge of the facts and not otherwise. If not, even in terms of the law declared by the Supreme Court, factual averments in the writ petition has to be accepted and the writ petition examined on such premise.

However, Respondents-State and its officers cannot claim immunity or seek to adopt evasive tactics from placing original records before this Court as these writ petitions had already been admitted by this Court by issue of rule even as on 19.3.2010 and counter if any on behalf of these Respondents should have been filed within two weeks there from. It has not been done so nor any excuse pleaded before this Court for non-production of the records.

It is also the bounden duty of the Government Advocate to keep available the records in all cases where rule has been issued and no excuses can be offered for non-production of the records.

However, as requested by Sri D. Vijaya Kumar, learned Additional Government Advocate, a week's time is granted for production of original records before this Court. Counter, if any, may also be filed within that time furnishing copy of the counter to learned Counsel for the Petitioners by or before next week.

Sri Anandeeswara, learned Counsel for the fourth Respondent submits with reference to the counter filed on behalf of this Respondent that it is not as though the acquisition proceedings are either at the behest of the fourth Respondent or for the benefit of the fourth Respondent alone, but it was initiated only at the instance of many other villagers who do not have a proper access or approach to their houses and also to provide facilities to the villagers; that the representations had been made to the authorities by the villagers ever since the year 2002 onwards and while the fourth Respondent was not even a Member of

Svandenahalli Grama Panchayat at the time of the issue of notification u/s 4 of the Act and it was subsequently he had been elected i.e., as on 5.3.2005.

However, such assertions has to be supported by proper counterfiled on behalf of the acquiring authority and not merely by fourth Respondent, who in fact, is accused of causing the acquisition proceedings for his own benefit. A self serving statement by the fourth Respondent cannot be accepted on the mere ipso-dixy of the fourth Respondent even assuming it is placed before the Court on an affidavit.

Neither it is demonstrated before this Court nor any material placed before this Court to dispel or to counter the averments/ allegations in the writ petition that the acquisition proceedings were initiated at the behest of the fourth Respondent and mainly for the purpose of fourth Respondent who has built a huge house in his farm land and to provide for royal approach to the house.

The mere fact that fourth Respondent had become a Member of the Panchayat after issue of the notification u/s 4 of the Act in itself is not the end.

Apart from this, Sri Vijayakumar, Advocate - a native of Gousaramenahalli, Koratagere Taluk, Tumkur District has submitted before this Court that one Ramesh, President of Svandenahalli Grama Panchayat has filed an application under Order 1, Rule 10 of CPC seeking permission of the Court to come on record as a party Respondent.

However, no such application is listed before the Court today. It is open to the Advocate to follow up the matter and to ensure that it is listed and as and when application is ready, registry is directed to list it for orders immediately.

In the circumstances, without going into further merits of this matter for the present, registry is directed to list this matter for further orders on 19.11.2010 and if the application said to have been filed for impleadment under Order 1, Rule 10 of the CPC is in order, registry to list the matter for orders, whichever is earlier.

11. In fact, fifth Respondent - president of the gram panchayat - got himself impleaded as a party Respondent to these proceedings as per order dated 19-11-2010 and thereafter statements of objections on behalf of all the Respondents have been filed before this Court. With the objections on behalf of Respondents 1 to 3 having been filed on 18-11-2010, supported by the affidavit of one Kumara s/o Basavaraja, Assistant Commissioner of Tumkur Sub-division, Tumkur, while fourth Respondent had filed his statement of objections on 10-11-2010 and the fifth Respondent had filed his statement of objections on 1-12-2010. The Petitioners, on their part, had also filed rejoinder on 7-12-2010 along with is produced a sketch of the village map indicating the location of the proposed road and houses and lands in the surrounding area.

12. During the course of the arguments, as it was noticed that there were yawning gaps in the version of the Petitioners as submitted Sri L. Rajanna,

learned Counsel, and Sri Venkatesh Dodderi, learned AGA, as also Sri Anandeswhara, learned Counsel for fourth Respondent, it was felt necessary to peruse the original records and as even a spot inspection mahazar was said to have been drawn at the time of personal inspection conducted by the Assistant Commissioner, accompanied by the tahsildar and his office assistants, was very strongly characterized as an incorrect or misleading spot inspection report, it was found necessary to summon the very Assistant Commissioner, who also happens to be the land acquisition officer, to appear before this Court and explain the stand of the Respondents with reference to the record.

13. Today, the matter was taken up and heard further. Sri Kumara, Assistant Commissioner, who is present before the Court, assisted by his office assistant Sri Chandrashekar, has sought to explain the contents of the record, particularly the spot mahazar dated 2-5-2009 as also the report made by the land acquisition officer to the State Government pursuant to 5-A enquiry held by him after hearing the landowners-objectors.

14. On behalf of the state and its officials, for better appreciation and clarification, an independent sketch of the village map is also placed before the Court. Though I have heard at considerable length not only Sri Venkatesh Dodderi, learned AGA, but also Sri Anandeshwara, learned Counsel for fourth Respondent and Sri Vijayakumar, learned Counsel for fifth Respondent and the Assistant Commissioner was given an ample opportunity to explain with reference to the record, particularly inconsistencies found in his sport mahazar and the report with reference to the sketch and the proposed road to be formed for public purpose, none of them have either explained to this Court or convinced the Court that the whole object of the acquisition proceedings is nothing better than to benefit the private interest of fourth Respondent and if at all the formation of the road serves anybody's purpose and benefits any one, it is only the fourth Respondent and no one else. The proposed road is only a road from the Government road leading to the house of fourth Respondent and by acquiring portions of lands from out of Sy. Nos. 77 and 78, through which the road passes, to reach the house of fourth Respondent.

15. The proposal to form a road for such purpose while can never be characterized as a road formation to subserve public purpose, the mentioning of the reasons in the acquisition proceedings as for providing access to the land owners and persons having houses in such lands in the neighborhood is neither real nor present, but is a misleading reason/ cause mentioned in the acquisition proceedings.

16. Though learned AGA has very vehemently urged that the State Government has only acted on the recommendations of the Assistant Commissioner and at the instance of the gram panchayat, who have been making concerted efforts to ensure that a road of this nature is formed to sub-serve larger public purpose and particularly to benefit school going children from villages beyond the neighborhood, the argument is only a rhetoric not supported either by record nor

can be understood to be so on a perusal of even a mere sketch of the village map.

17. It is in this background, the writ petitions are required to be examined, particularly, as it is urged on behalf of the Petitioners that such persons for whose benefit the road is sought to be formed, have access even otherwise to the public road; that it is not as though they have been to put into great inconvenience or any hardship, but for such formation of the road and it is only for an ostensible purpose to have a dig at the Petitioners, as Respondents 4 and 5 are not on friendly terms with the Petitioners and it is only to victimize the Petitioners, the entire acquisition proceedings are being initiated and therefore the acquisition proceedings deserve to be quashed.

18. The Assistant Commissioner, who is present, even after elaborate questioning and being given opportunity to explain things, was not in a position to explain either the existence of the real public purpose, though it is the State Government which forms such opinion, but as to in what manner the Assistant Commissioner was convinced of the existing public purpose was not at all explained.

19. Though the name of the village Gunda hanumantharayana Palya [G.H. Palya] was in fact repeatedly mentioned not only by the learned AGA, but also the learned Counsel for the Respondents 4 and 5, and it was pointed out with reference to the preliminary notification that this name is mentioned, it is obviously a reference only to the Government road to which the link is established from the house of fourth Respondent and nothing beyond. It is not as though either the villagers around or the students of the area are benefited by getting a better access to the village G.H. Palya, wherein, it is mentioned, schools are located, and formation of the present road is to the benefit of all such school going children also. This again is nothing short of an ostensible purpose, as the present road does not connect anybody else to the Government road with the name G.H. Palya road, but only the house of fourth Respondent. When the record is so clear to indicate that the entire benefit of the formation of the road is exclusively in favour of fourth Respondent and does not benefit any other person, it is a misnomer to call the formation of proposed road as for the benefit/purpose of general public.

20. This is nothing short of a gross abuse of power and a colourable exercise of power and in the name of achieving public purpose, what is really achieved is only private benefit.

21. While the acquisition proceedings can never stand the scrutiny in the examination of judicial review of administrative action, even the section-5A enquiry report submitted by the Assistant Commissioner is vitiated by non-application of mind. But more importantly it suffers from a blatant distortion of record and projecting a distorted picture to make out a case of existence of a public purpose.

22. It is rather unfortunate that a responsible officer in the rank of Assistant

Commissioner is surrendering his decision particularly while discharging a statutory responsibility like hearing affected landowners who are objecting to an acquisition proceeding and while is required to make an objective report to the Government indicating the hearing officer's recommendation in the context of the objections, the report, which forms part of the record and which is placed before the Court today, is rather lengthy and only highlights sacrifices of some villagers, who, it is claimed, have volunteered to surrender portions of their lands for the formation of public road, but this is a misleading report, for the simple reason that the acquisition proceedings are only to acquire an extent of 16 guntas of land belonging to four persons and the report indicate that all the four persons clearly objected to such acquisition proceedings. As to whether some other residents of the village having their ownership of lands in other survey numbers, which is not either needed for formation of the proposed road or their land is not proposed for acquisition, making a declaration that they are voluntarily willing to surrender their lands, is a hollow claim, and is made only to distort the picture and to project as though the Petitioners' alone are very selfish, while there are other chivalrous villagers who are ready and willing to give up their lands for a public purpose. In fact, it is not so. The report of the Assistant Commissioner is thoroughly misleading vitiated by distortions and also due to non-application of mind for not adhering to requirements of Section 5A of the Act, reading as under:

5-A. Hearing of objections.-(1) Any person interested in any land which has been notified u/s 4, Sub-section (1) as being needed or likely to be needed for a public purpose or for a Company may, within thirty days from the date of the publication of the notification, object to the acquisition of the land or of any land in the locality, as the case may be

(2) Every objection under Sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorised by him in this behalf or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified u/s 4, Sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government. The decision of the appropriate Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

23. The effort through invoking the powers of the State Government for compulsory acquisition of private lands in the name of public purpose is to acquire a meagre extent of 16 guntas of agricultural land in a remote village of Beeranakallu village, Tumkur taluk and district, that too, as it has become

obvious, to provide for a road to the house of fourth Respondent. The mighty power of state being employed to acquire a small extent of 16 guntas of agricultural land in a remote village in itself betrays the lack of bona fides on the part of the State Government and the acquiring authority, as the State Government has failed to provide proper transport and communication facilities even in bigger places and for the benefit of a large number of members of the society. When such is the state of affairs and the performance level of governance, to embark on the acquisition proceedings in respect of a small extent of 16 guntas of agricultural land in itself speaks volumes of misuse and abuse of the powers under the Act for the benefit of only a private individual, though it is claimed that on the spot verification and report of the Assistant Commissioner, who doubled as land acquisition officer, that there are 12 residential units likely to be benefited on the formation of the proposed road, it transpires on a perusal of the very sketch of the village map placed by the very Respondents before this Court that there are no such dwelling units on either side of the proposed road, except for one cowshed in the land of one of the Petitioners. In fact, the proposed road ends up into the house of fourth Respondent and connects his house to G.H. Palya road. Formation of such a road Court can never be characterized for achieving a public purpose. In a situation of this nature, legal mala fides is writ large. Whether factual mala fides on the part of the fourth or fifth Respondent is made out or not, misuse and abuse of the statutory power is very obvious. This is nothing short of another instance of colourable exercise of power for private benefits.

24. Though it was sought to be urged on behalf of the Respondents that the Court should not interfere when the affectation is so small to the Petitioners, particularly the Petitioners using meagre extents of land viz., Petitioners 1 and 2 claim interest for about 41/2 guntas and third Petitioner claims interest in 3 guntas, and therefore it is not a matter for interference in writ jurisdiction, but on the other hand, that precisely is the reason why this Court is interfering with, as it is the duty of this Court to protect the gullible, the weak, the ignorant and more so, when statutory powers are misused and abused, which virtually victimizes such poor and gullible people and powerful and politically influential and the affluent, are sought to be conferred with further benefits by use of statutory powers and authority. Such kind of conduct on the part of the public authorities and such arbitrary and illegal manner of exercising statutory powers cannot be permitted by this Court when matter is brought to the scrutiny of this Court. It is the constitutional mandate on the superior Courts of this country that in the exercise of the power of judicial review of administrative action, it is for the Courts to ensure that rule of law prevails, illegalities are all frowned upon and such illegal actions and orders are quashed and necessary consequential directions issued to ensure that public authorities act within the bounds or limits of law and procedure. It is for this reason, these writ petitions inevitably have to be allowed and the acquisition proceedings should be quashed.

25. Petitioners having questioned the acquisition proceedings, not only on the

ground of want of compliance and adherence of the statutory provisions under the Act, but also as having been vitiated by mala fides and having heard the matter at length and having perused the original record in some detail, I am convinced that this is a clear case of blatant misuse and abuse of powers under the Act and is an instance of colourable exercise of power and therefore the entire acquisition proceedings starting from the issue of preliminary notification and all further proceedings initiated in pursuance of it, including the declaration at Annexure-F, are all quashed by issue of certiorari.

26. Writ petitions are allowed, levying exemplary cost of 10,000/-(Rupees ten thousand only) on the Respondents 1 to 3. It is open for the state to recover the cost personally from any of the Respondent-officers who will be held accountable for such misadventure and misdirecting the Government for embarking on the acquisition proceedings. Cost shall be deposited before this Court within six weeks from today and on such deposit, Petitioners are permitted to withdraw the amount through their Counsel. In the event of failure to deposit the cost within the stipulated time, the registry is directed to issue a certificate in favour of the Petitioners, for recovery of the cost, as though it is a decree passed by a civil Court.

27. Writ petitions stand allowed accordingly. Rule made absolute.