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**(2018) 07 RAJ CK 0214**

**In the Rajasthan High Court**

**Case No : Special Appeal Writ No. 646 of 2018**

**Tejsingh @APPELLANT@Hash State of Rajasthan & Ors**

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**Date of Decision : 23-07-2018**

**Acts Referred:**

Rajasthan Urban Improvement Trust Act, 1959 — Section 52(1), 52(2), 52(3), 52(4)  
Constitution of India, 1950 — Article 14

**Citation : (2018) 07 RAJ CK 0214**

**Hon'ble Judges :** Kalpesh Satyendra Jhaveri, J; Vijay Kumar Vyas, J

**Bench :** Division Bench

**Advocate :** Saket Pareek, Aditya Pareek, R.K. Mathur, A.K. Mathur, R.P. Garg, Shubham Jain

**Final Decision :** Dismissed

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## **Judgement**

1. By way of this appeal, the appellant has assailed the judgment and order of the learned Single Judge whereby learned Single Judge has dismissed

the writ petition preferred by the petitioner-appellant herein.

2. In the writ petition, the petitioner has prayed for following relief:-

(i) It may kindly be declared that the acquisition proceedings of the land of the petitioner of khasra no.342 situated in Village Daudpur, District

Alwar stand lapsed with effect from 1.8.1989

(ii) the Non-petitioner may kindly be restrained from interfering in the possession and enjoyment of the aforesaid land by the petitioner, if any way.

(iii) any other or direction, which this Hon'ble Court may deem just and proper in the facts and circumstances, stated hereinabove, may also kindly be

passed in favour of the humble petitioner.

(iv) Cost of the writ petition may kindly be awarded in favour of the petitioner.

3. The facts of the case are that the State Government issued a notification

under Section 52(2) of The Rajasthan Urban Improvement Trust; Act, 1959 (hereinafter referred to as "Act of 1959") dated 08.06.1976 for compulsory acquisition of land bearing Khasra No.343 measuring 2 Bigha 11 Biswa situated at Village Daudpur, Alwar for the purpose of housing project of the Urban Improvement Trust, Alwar (in short "UIT"). The said notice was issued in the name of Registered owner / Khatedar of the land in dispute i.e. Moti Lal s/o Budha Ram Jat. Again the State Government issued a notification under Section 52(1) of the Act of 1959 vide notification dated 18.11.1976. The said notice was also issued in the name of Registered owner/Khatedar i.e. Moti Lal S/o Budha Ram Jat. In pursuance to the notification issued under Section 52(1) of the Act of 1959 the registered owner/Khatedar of the land was further given notice under Section 53(3) of the Act of 1959 for appearing on 30.11.1976 for determination of compensation. In compliance of the notice the registered owner appeared in the office of UIT, Alwar and an agreement of compensation for the land acquired by the Government of Rajasthan under Section 52(1) & (3) of the Act of 1959 was executed between the UIT and the registered owner/Khatedar on 28.03.1977. Thereafter, the possession of the land in dispute was taken by the State Government on 30.03.1977. The compensation for the land in dispute was also paid to the registered owner/Khatedar of the land on the same day i.e. 30.03.1977. Thus, in pursuance to the provisions of Section 52(4) of the Act of 1959 the land in dispute vest absolutely in the State Government free from all encumbrances.

4. Counsel for the appellant has taken us to the order sheet passed in respect of regularization proceedings of disputed land in favour of the appellant on the basis of Notification issued by State of Rajasthan, relevant part of the note sheet reads as under: (a) Note No.21 at internal page no.4 of the order sheet is reproduced as under:-

izLrqr izdj.k U;kl vyoj ds xzke nkmniqj ds [kljk uEcj 311@348 {ks=Qy 64 ;j ds fu;eu ds laca/k esa gSA bl laca/k esa U;kl vyoj }kjk izsf"kr i= fnukad 01-12-2006 i`"B 15@lh d Å'i;k voyksdu djsa ftlds vuqlkj izkFkhZ us fo"mk;kUrxZr Hkwfe tfj;s bdjkjukek fnukad 21-05-1969 ds Å?; dj ekSds ij dCtk ys fy;k FkkA Jh eksrhyky us mDr [kljk uEcj 342 o vU; [kljk uEcj Jh lk/kq flag ls fnukad 26-07-1971 dks tfj;s jftLVMZ csukek Å?; fd;s] ftlls jktLo fjdkMZ

esa [kljk uEcj 342 dh Hkwfe eksrhyky ds uke ntZ gks xbZA vr% izkFkhZ us Jh eksrhyky o lk/kq flag ds fo:) eqfUIQ U;k;ky; esa ckn nk;j fd;k] tks

fnukad 12-07-1976 dks izkFkhZ ds i{k esa fuf.kZr gqvka

U;kl vyoj dh ,u-bZ-ch- ;kstuk ds vUrxZr [kljk uEcj 342 dh Hkwfe U;kl vf/kfu;e dh /kkjk 52¼1½ esa vf/klwfpr gksdj fnukad 25-11-1976 dks jkT;

ljdkj esa fufgr gks xbZA izkFkhZ }kjk fo'ks""kkf/kdkjh dks okn ,oa ekSds ij dkfct dh lwpuk ds cktwn Hkh U;kl vf/kfu;e dh /kkjk 52¼4½ esa

fnukad 28-03-1977 dks Jh eksrhyky ls fo'ks""kkf/kdkjh us vkilh le>kSrs dk ,xzhesaV dj Hkwfe dk isij its'ku ysdj U;kl dks laHkyok fn;kA eqvkotsa dk

Hkqxrku fnukad 28-03-1977 dks Jh eksrhyky dks 10]000@& :i;s izfr ch?kk dh nj ls 25]500@& :i;s tfj;s pSd dj fn;kA ftlds QyLo:i jktLo fjdkMZ esa

Hkwfe uxj fodkl U;kl ds uke ntZ gks xbZA izkFkhZ dks izkFkZuk i=ksa ij Jh eksrhyky dks dbZ ckj U;kl }kjk uksfVI fn;s x;s] ijUrq og mifLFkr ugha

gqvka fnukad 25-05-1981 dks eksrhyky o lk/kw flag dks lqudj iqu% izkFkhZ ds i{k esa fMxzh ikfjr dh xbZA U;k;ky; ds vkns'kksa dh ikyuk esa

fnukad 14-01-1985 dks [kljk uEcj 342 dh Hkwfe dk csukek izkFkhZ Jh rst flag ds uke U;k;ky; esa iathÄ'r dj;k;k x;kA

fdUrq izkFkhZ us fo""k;kUrxZr Hkwfe esa vkoafVr fd, x;s IyKWV/kkfj;ksa dks dCtk nsus dh tkudkjh ls O;fFkr gks izkFkhZ us uxj lq/kkj U;kl ds fo:)

1989 esa U;k;ky; esa nkok dj ekSds dh fLFkfr dks ;Fkkor j[kus dk Lfxu vkns'k izkIr fd;k] tks o""kZ 1999 esa Jo.k ;ksX; ugha gksus ds dkj.k fujLr gks

x;kA rRi'pkr~ izkFkhZ us ekuuh; mPp U;k;ky; t;iqj ls fnukad 20-07-1999 dks Lfxu vkns'k izkIr dj fy;k] tks orZeku esa Hkh izHkkoh gSA

ekSds dh fLFkfr ;Fkkor j[kus ds vkns'k izHkkoh gksus ls vHkh rd U;kl }kjk mDr [kljk uEcj 342 dh Hkwfe esa foÄ?; fd;s x;s Hkw[k.Mksa dk HkkSfrd

dCtk ugha ns ldk] QyLo:i Hkw[k.M/kkfj;ksa dks vU; ;kstukvksa esa Hkw[k.M fn;s tk pqds gS] o""kZ 2001 esa U;kl }kjk Jh eksrhyky ds xyr Hkqxrku

ysus ds fo:) izFke lwpuk fjiksVZ ntZ dj;k;h x;h gS] tks vU; [kljk uEcj esa eksrhyky dks fn;k tkus okyk Hkqxrku jksd fy;k x;k gSA

[kljk uEcj 342 jdck 2 ch?kk 11 fcLok dk u;k [kljk uEcj 311 {ks=Qy 1 gSDVs;j esa gSA izkFkhZ ds i{k esa U;k;ky; }kjk cSukek iathÄ'r gksus ls

fnukad 26-12-2002 dks [kljk uEcj 311 dh ,d gSDVs;j Hkwfe esa ls 64 ,;s j Hkwfe izkFkhZ Jh rst flag ds uke jktLo fjdkMZ esa ntZ gks xbZA foHkkxh;

ifji= fnukad 296-05-2000] 16-022002 ,oa 04-10-2002 ds vuqlkj jktLo fjdkMZ esa ntZ futh Ä'f""k Hkwfe ftldk isij its'ku fy;k x;k gS] jktldh; Hkwfe dh

Js.kh esa vkrh gSa nks ch?kk ls vf/kd jktdh; Hkwfe o 50 izfr'kr ls de fuekZ.k dk fu;eu jkT; ljdkj dh LohÄ'fr ds i'pkr~ gh fd;k tk ldrk gSA pwÄifd

Hkwfe 52Ä¼1Ä½ esa jkT; ljdkj esa fufgr gks pqdh gS] isij its'ku fy;k tk pqdk gS] fjdkMZ esa ekSds ij izkFkhZ Jh rst flag dkfct gS ,oa izkFkhZ fy;eu

djus ij okn okil ysus gsrq dgk gSA vr% U;kl us mDr rF;ksa dks vafdr dj izdj.k esa ekxZn'kZu nsus gsrq fuosnu fd;k gSA

izdj.k esa izkFkhZ ds izkFkZuk i= dk Ä'i;k 10@lh ij voyksdu djs] ftlds vuqlkj fo'''k;kUrxZr Hkwfe dk eqvкотk xyr :i ls Jh eksrhyky dks vnk fd;k x;kA

U;kl }kjk vafdr rF;ksa ls Li'''V gS fd mDr Hkwfe ds lECU/k esa vHkh Hkh dksbZ fof/kd vokMZ rRdkyhu Hkwfe vokfIr vf/kdkjh }kjk ikfjr ugh fd;k

x;k ,oa izkFkhZ }kjk yafcr fooknksa dh lwpuk rRdkyhu Hkwfe vokfIr vf/kdkjh] jkT; ljdkj ,oa uxj fodkl U;kl dks nsus ds mijkur Hkh Jh eksrhyky ds i{k

esa eqvкотk vnk dj fn;kA ftlls Li'''V gS fd Hkwfe vokfIr vf/kfu;e] 1894 dh /kkjk 11Ä¼,Ä½ ds vuqlkj 2 o'''kZ dh le;kof/k esa vokMZ ikfjr ugha gksus dh

otg ls Hkwfe vokfIr dh dk;Zokgh izkjEHk ls gh 'kwU; gks x;hA orZeku esa izkFkhZ ds izkFkZuk i= ds vuqlkj ,oa U;kl ds i= ds vuqlkj fo'''k;kUrxZr

Hkwfe ij izkFkhZ Jh rst flag dk dCtk gSA vr% esjs fouez er esa ;g Hkwfe fdlh Hkh :i esa jktdh; Hkwfe ;k vokIr'kqnk Hkwfe ugha gSA vr% jkT; ljdkj

}kjk bl lECU/k esa tkjh ifji= fnukad 10-07-1999] 27-09-1999\ 22-12-1999] 07-01-2000] 09-03-2000 ,oa 26-05-2000 ftlesa ,slh Hkwfe;ksa dks Hkh

vkoklh;@O;kolkf;d iz;kstukFkZ fu;fer djus dk izko/kku j[kk gS] tks fd 'kq: ls gh ;k rks jktdh; Hkwfe gks ;k ,slh vokIr'kqnk Hkwfe gks] ftudk dCtk jkT;

ldkj ;k Lfkkuh; fudk; }kjk ns fn;k x;k gks ,oa eqvкотk jkf'k dk Hkqxrku Hkh dj fn;k x;k gks] tc fd izkFkhZ dh Hkwfe fdlh Hkh :i esa u rks jktdh;

Hkwfe gS vkSj u gh vokIr'kqnk Hkwfe gSA vr% izkFkhZ dh mDr fo'''k;kUrxZr Hkwfe mDr ifji=ksa ds vk/kkj ij futh Hkwfe ds vk/kkj ij fu;eu fd;s tkus

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vr% i=koyh mDr fVIi.kh ds lkFk i`'''B 28@lh ds Ä?e esa ekuuh; ea=h egksn; dks fu;eu dh LohÄ'fr ds fcUnq ij fopkjFkZ]

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12-04-2007

mifof/k ijke'khZ

(b) Note No.43 of the order sheet is reproduced as under:-

UIT took possession (on paper only) from Sh. Motilal, who was not the khatedar nor in possession as it appear from the record. How can the title of

UIT be better than of the applicant? What procedure would need to be followed to provide relief to the applicant? Please advise.

(c) Note No.62 of the order sheet is reproduced as under:-

Grave injustice has been caused to the applicant because of the action of the employee of UIT, who willingly joined the hands with Sh. Motilal &

gave Sh. Motilal compensation of land showing that he was the legal owner of the land. In my opinion that land in question should be regularized in

favour of Sh. Tej Singh because he was not received compensation for the land (unreadable) he informed UIT of the decision of the court in his

favour.

Submitted for approval.

Signature

24.7.2007

5. He further contended that the learned Single Judge while considering the matter has not appreciated the judgment produced by the present

appellant. He invited our attention to sub-section 52(2) of the Rajasthan Urban Improvement Act, 1959 which reads as under:-

Sub-section 52(2) Before publishing a notice under Sub-section (1), the State Government shall by another notice call upon the owner of the land and

any other person who in the opinion of the State Government may be interested therein to show cause', within such time as may be specified in the

notice, why the land should not be acquired.

Such notice shall be individually served upon the owner of the land and any other person who in the opinion of the State Government may be

interested therein. It shall also be published in the Official Gazette at least 30 days, in advance and shall be pasted on some conspicuous place in the

locality, where the land to be acquired is situated. Such publication and pasting of notice shall be deemed as sufficient and proper service of notice upon

the owner of the land and upon all other persons who may be interested therein.

6. He further contended that the learned Single Judge has committed serious error in not following the judgment of this court in Urban Improvement

Trust vs. Balveer Singh reported in RLR 1984 378 wherein it has been held as

under:-

26. It appears from the language employed in Section 52 that the legislature is not only concerned with service of notice on the owners and the

persons interested, but appears to be equally very much concerned with publication of the notice in the Official Gazette and pasting of the same on

some conspicuous place of the locality. It is why emphasis was placed by the legislature that notice shall also be published in the Official Gazette 'at

least' 30 days in advance and 'shall' be pasted on some conspicuous place in the locality. It is well settled that when in the enactment, the words

'also' and 'at least' are used they signify peremptory legislative intent. The object of the provision is to give wider publicity of the intended acquisition,

so that all persons having any interest whatsoever may come to know of the intended acquisition and may file objections under Sub-section (3). It

should also be not lost sight of that after compliance with second para of Sub-section (2) and publication of the notice, the land vests absolutely in the

State Government free from all the encumbrances. It deserves to be considered that while determining the compensation for compulsory acquisition of

the land under Section 53, Clause (b) Subsection (6) thereof lays down that the value of the land shall be taken to be the market value of the land on

the date on which the notice calling upon the owners to show cause as to why the land should not be acquired is issued under Sub-section (2) of

Section 52 of the Act. Section 52 deals with compulsory acquisition of the land and its provisions have to be strictly complied with. The language of

Section 52(2) of the Act is imperative with respect to (i) issuance of notice and service of notice on the owners of the land or on the persons

interested; (ii) with regard to publication of notice in the official Gazette at least 30 days in advance and (iii) for pasting it at some conspicuous place of

the locality. It has to be remembered that it is only after complying with the provisions of second para of Section 52(2) of the Act that notice under

Subsection (1) of Section 52 can be issued. In other words, compliance of second para of Section 52(2) is a condition precedent, a pre-requisite

condition or a sine qua non for publishing a notice under Section 52(1). Considering the language used in Subsection (2) of Section 52, and the object

behind it, we hold that the provisions aimed in Section 52 in regard to the individual service of the notice on all the owners or persons interested and

also with regard to publication and pasting of notice, are mandatory.

7. Counsel for the appellant has relied upon the following judgments.

7.1 In *Durga Das vs. Collector and ors.* reported in (1996) 5 SCC 618, it has been observed as under:-

This appeal by special leave arises from the judgment of the High Court of Himachal Pradesh, Shimla made in M.F.A. No, 24/84 on May 5, 1984. The

only question is : whether the appellant is a tenant in occupation of the land? He claimed that he was entitled to compensation in respect of subject

matter of acquisition as tenant. The reference Court and the High Court recorded as a fact that the appellant is not a tenant and, therefore, is not

entitled to the share in the compensation as a tenant. The undisputed facts are that 14 canals 18 marlas of land belonged to the family consisting of

Kishori Lal, Kewal Krishan and Koushalya. their sister, Kishori Lal and Koushalya sold their respective suitable shares. Kewal Krishan also sold his

specified share to the appellant. It would appear that in the revenue records the name of the appellant has been entered as a qualifying tenant by

reason of sale when the land to an extent of land admeasuring one canal, 5 marlas; 2 canals, 3 marlas belonged to Vijay Kumar were acquired by the

Government. The appellant laid claim as a tenant in respect thereof. The courts below held that since he purchased a specified share from Kewal

Krishan he cannot be considered to be as a tenant in respect of in other lands and, therefore, is not entitled to the compensation. We find that the view

taken by the High Court is in conformity with law. Mutation entries do not confer any title to the property. It is only an entry for collection of the land

revenue from the person in possession. The title to the property should be on the basis of the title they acquired to the land and not by mutation entries.

Admittedly, the appellant has purchased some lands from Kewal Krishan one of the brothers of the family to the extent of his specified share. No

lease deed was executed in respect of other lands. In these circumstances, the appellant cannot be treated to be a tenant of Vijay Kumar to claim

compensation on the basis of this title as a tenant.

7.2 In *Jain Exports Pvt. Ltd. and anr. vs. Union of India & ors.* (1996) 5 SCC 619, it has been observed as under:-

8. In the first place, the interim order was passed upon the application for stay of recovery of the difference in duty made by the appellants. If the

appellants found the conditions imposed by the order unacceptable, they could have sold the caustic soda at a price higher than Rs. 5132 per metric

tonne and paid duty thereon at the rate of 92.5 per cent after applying to this Court to relieve them of their undertaking. The appellants acted upon the

interim order knowing full well that if the appeal was decided against them they would be required to pay duty at the rate of 92.5 per cent. Acting

upon the interim order created no equity in favour of the appellants, nor are these any special or peculiar circumstances.

9. In the second place, an undertaking given to Court is not an obligation imposed by the Court. It is a promise voluntarily made to the Court. Acting

upon its own undertaking to court creates no equity in favour of the party giving it, nor is it a special or particular circumstance.

10. In the third place, the passage from the decision in Jhangir Bhatushu's case does not assist the appellants.

11. In the fourth place, should a court come to the conclusion that an exemption is arbitrary or discriminatory or violative of Article 14, it may strike the

exemption down but it cannot widen its scope so as to cover those if finds have been discriminated against. Reference in this behalf may be made to

the judgment in *State of M.P. v. Mohan Singh* MANU/SC/0527/1996 : 1996CriLJ2878 , to which one of us (S.P. Bharucha, J.) was a party

Paragraph 6 is self-explanatory:

6. Here we part company with the High Court. Having come to the conclusion that the grant of special remission to Scheduled Caste and Scheduled

Tribe prisoners was unlawful, the proper course to adopt should have been to strike it down. It was beyond the High Court's power to expand the

reach of the remission so as to give the benefit of it to the writ petitioner, who did not belong to the Scheduled Castes or Scheduled Tribes. The power

to grant the remission lay with the State. If the power was improperly exercised, the High Court could quash the exercise. The High Court could not,

in effect, grant a general remission where the State had intended it to be restricted.

7.3 In *Sunder Lal vs. Paramsukhdas* (1968) 1 SCR 363, it has been held as under:-

These three cases are distinguishable inasmuch as they are dealing with the cases of persons who having a right to seek a reference failed to claim

that reference but ought to raise the point in a, reference made at the instance of another party.

The case of Karuna Sindhu Dhar v. Panna Lal Paramanik(1) also does not assist the appellant. The High Court held in that case that as Rajmohan

never claimed the entire compensation money before the Collector, the Land Acquisition Judge was not entitled to vary the awards by a declaration

that Rajmohan alone was entitled to get the compensation.

It seems to us that Paramsukhdas was clearly a person interested in the objections which were pending before the Court in the references made to it

and that he was also a person whose interest would be affected by the objections, within s. 21. He was accordingly entitled to be made a party. In the

result we uphold the order made by the High Court in this respect.

Mr. Desai says that at any rate direction should be given that Paramsukhdas should not be entitled to challenge the compromise entered into between

Sunderlal and Khushal Singh. We are unable to accept this submission. Paramsukhdas is entitled to raise all points to protect his interests which were

affected by the objections. It is also in the interest of justice that there should not be multifarious proceedings and all points arising which are not

expressly barred under s. 21 should be gone into by the Court.

This leaves only the two points regarding the jurisdiction of the High Court. In our view, the High Court is quite right in holding that the orders of the

Civil Judge, dated April 9, 1962, were not awards within s. 54 of the Act. The awards had still to be made. If no appeal lay, then the revisions were

competent and the High Court was right in entertaining the revisions because the Civil Judge had either refused to exercise jurisdiction vesting in him

or had acted with material irregularity in the exercise of his jurisdiction.

Â 7.4 In Gunwant Kaur and Ors.Â vs. Municipal Committee, Bhatinda and Ors. AIR 1970 SC 802, it has been held as under :-

16. In the present case, in our judgment, the High Court was not justified in dismissing the petition on the ground that it will not determine disputed

question of fact. The High Court has jurisdiction to determine questions of fact, even if they are in dispute, and the present, in our judgment, is a case

in which in the interests of both the parties the High Court should have entertained the petition and called for an affidavit in reply from the

respondents, and should have proceeded to try the petition instead of relegating

the appellants to a separate suit.

17. It was urged by Mr. Hazarnavis on behalf of the Municipal Committee, Bhatinda, that the three appellants were purchasers of the lands claimed by them after the notification under Section 4 was issued and they had no right to challenge the issue of the notification. If, however, the notification under Section 4 was vague, the three appellants who are purchasers of the land had title thereto may challenge the validity of the notification. The appellants have spent in putting up substantial structures considerable sums of money and we are unable to hold that merely because they had purchased the lands after the issue of the notification under Section 4 they are debarred from challenging the validity of the notification, or from contending that it did not apply to their lands.

18. The appeal is, therefore, allowed and the order passed by the High Court is set aside. The proceeding is remanded to the High Court with the direction that the petition be readmitted to its original Number and that in be heard and disposed of according to law after considering the affidavits in reply and the other evidence produced by the parties. Costs of the appeal will be the costs in the petition.

8. Counsel for the respondent has supported the order of the learned Single Judge and contended that learned Single Judge has rightly concluded that the name of the appellant was not registered in the revenue record and on the principle of lis pendence, the appellant cannot be said to be a person interested u/s 52 of the Act.

9. We have gone through the order of the learned Single Judge.

10. While considering the matter, the learned Single Judge has observed as under:-

14. The first argument raised by the counsel for the petitioner that acquisition proceedings stand lapsed as no notice for acquisition of land was given to the petitioner as per provisions of Section 52 Act of 1959 is not acceptable because the respondents have started the acquisition proceedings under the Act of 1959 and the notice of acquisition proceedings were duly served upon the Khatedar/registered owner of the land i.e. Sh. Moti Lal as per Revenue record and the possession of the land was also taken by the State Government and due compensation was also paid to the Khatedar by the State Government. Thus, in my considered view, once the possession of the land

in dispute was taken over by the State Government and the compensation was also paid to the Khatedar based on Revenue record therefore, in view of the provisions of Section 52 (4) once the notice under Section 52(1) is issued the land vest in the State Government free from all encumbrances. 15. The next argument raised by the counsel for the petitioner regarding applicability of Section 11(A) of the Act of 1894 in this matter is also not acceptable in view of the fact that the acquisition proceedings stands completed after taking over the possession of the land in dispute way back on 30.03.1977 after payment of compensation on 30.03.1977. Further in view of the Section 52(4) of the Act of 1959 the land vest in the State Government free from all encumbrances after publishing the notice under Section 57(1) in the Official Gazette. In my considered view Section 11(A) of the Act of 1894 is not applicable in the facts and circumstances of the present case. The judgment cited by the counsel for the petitioner are not applicable in view of the judgment passed by the Honâ??ble Supreme Court in the matter of Pratap (supra).

16. Thus, in view of the above discussion, the writ petition filed by the petitioner deserves to be dismissed, for the reasons: firstly, the petitioner was not a Khatedar of the land in dispute according to the Revenue records on the date when the first notice of acquisition was issued under Section 52(2) of the Act of 1959 on 08.06.1976; secondly, in view of the Section 52(4) of the Act of 1959 once the notice under Section 52(1) of the Act of 1959 is published in the Official Gazette on 25.11.1976, the land in dispute vest absolutely in the State Government free from all encumbrances; thirdly, the compensation was duly paid to the Khatedar of the land in dispute and possession was also taken over by the State Government on 30.03.1977; fourthly, the provisions of Section 11(A) of the Act of 1894 are not applicable in the present case, in view of the judgment passed by the Honâ??ble Supreme Court in the matter of Pratap (supra).

11. In that view of the matter, we are in complete agreement with the view taken by the learned Single Judge.

12. The appeal stands dismissed.

13. However, it will be open for the appellant to file suit for recovery of the compensation received by Moti Lal alongwith compound interest by way of appropriate proceedings.