

**(2011) 03 DEL CK 0269**

**In the Delhi High Court**

**Case No :** Letters Patent Appeal No. 480-481 of 2005

Union of India (UOI) and Another

APPELLANT

Vs

Gopal Seth and Others

RESPONDENT

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**Date of Decision :** 10-03-2011

**Acts Referred:**

Constitution of India, 1950 — Article 19(1), 226, 300A, 32  
Land Acquisition Act, 1894 — Section 17(4), 4, 5A, 6

**Citation :** (2011) 03 DEL CK 0269

**Hon'ble Judges :** Dipak Misra, C.J; Sanjiv Khanna, J

**Bench :** Division Bench

**Advocate :** Rajeev Sharma, for the Appellant; Neeraj Kishan Kaul and V.K. Rao, Saket Sikri, for Respondent Nos. 1 and 2 and Anusuya Salwan, for DDA, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Sanjiv Khanna, J.—Gopal Seth and Anand Kumar Seth, Respondent Nos. 1 and 2 respectively, are legal representatives of Girdhari Lal. By the impugned judgment dated 27th October, 2004, the Writ Petition (Civil) No. 1658/1999 filed by the Respondent Nos. 1 and 2 has been allowed and the Appellant herein, Land and Development Officer has been directed to allot or direct DDA to allot a plot of land of the size as per the entitlement of Girdhari Lal as determined in their files. It has been also directed by the impugned judgment that the Appellant shall raise a demand and the Respondent Nos. 1 and 2 shall pay the differential in the current pre-determined rates and the pre-determined rates as on 1st January, 1970.

2. The challenge to the impugned judgment by the Appellant is principally on two grounds. Firstly, the Respondent No. 1 and 2 had belatedly and after great delay filed Writ Petition (Civil) No. 1658/1999 and the same should have been dismissed on the ground of laches. It was submitted that Writ Petition (Civil) No. 3011/2002 filed by R.K. Mehra and Another was dismissed on the ground of

delay and laches and the said order was upheld by the Division Bench of this Court in LPA No. 1763-64/2005 and the SLP filed against the said order has also been dismissed. The second contention was that the Respondent Nos. 1 and 2 were not entitled to allotment as they could not produce documents or evidence to show that their father Girdhari Lal had paid the entire sale consideration for the plot to Sunlight of India Insurance Company Limited.

3. As the two contentions raised in the appeal are somewhat inter-connected and require reference to the facts. They have been examined and dealt with together. The admitted facts which were not disputed or denied before us are as under:

(a) Sunlight of India Insurance Company Limited had purchased land abutting Factory Road, Delhi in the revenue estate of village Mohammadpur, Munirka. The land was leveled and developed into plots and was sold to individuals between 1952 and 1955. Some of the purchasers had paid full price and had got regular conveyance deed executed. Girdhari Lal, father of the Respondent Nos. 1 and 2 had made some payment to Sunlight of India Insurance Company Limited but it is not clear whether he had paid the full amount towards the price of the plot. No conveyance deed was executed by Sunlight of India Insurance Company Limited in favor of Girdhari Lal. However, there is evidence on record to show that plot No. 13, admeasuring 400 square yards was allotted to Girdhari Lal.

(b) On 8th March, 1957, the Chief Commissioner of Delhi issued a notification u/s 4 of the Land Acquisition Act, 1894 (Acquisition Act, for short) to acquire the aforesaid land which was being developed by the Sunlight of India Insurance Company Limited. Objections u/s 5A were dispensed with and provisions of Section 17(4) were invoked. Notification u/s 6 was also issued.

(c) Girdhari Lal and 27 other plot holders filed civil suits before the Sub-Judge, Delhi for declaration that the notification u/s 4 of the Acquisition Act dated 8th March, 1957 was illegal, void and invalid and a decree of permanent injunction restraining the Government from interfering with their possession was prayed. The suits were decreed vide judgment dated 29th April, 1960. First appeals were dismissed vide judgment dated 21st August, 1961. Second appeals filed by the Government were also dismissed on 25th January, 1966. The Special Leave to Appeal filed by the Government met with the same fate when the Supreme Court dismissed the appeals on 8th November, 1968. Thus, the decree of declaration that the notification u/s 4 of the Acquisition Act dated 8th March, 1957 was illegal, void and invalid and permanent injunction restraining the Government interfering with the possession of Girdhari Lal attained finality and became binding.

4. In normal course, the effect thereof would have been that right, title and interest of Girdhari Lal in respect of the said land remained unaffected, despite the acquisition proceedings. In actual effect, however, the Land Acquisition Collector had proceeded to make his award. The Government was faced with the predicament of what to do and whether fresh proceedings should be initiated for

acquiring the land. Learned single Judge in this regard has examined in depth and detail the original file which was produced before him. We would like to reproduce the findings of the learned single Judge in paragraphs 9 to 21 in the impugned judgment:

9. Since the notification issued u/s 4 and Section 6 were quashed, the government considered the matter from the point of view as to what should be done. Should fresh proceedings be initiated for acquiring the land or it should be settled. A letter dated 1.7.1969 shows the mind of the government. Sh. S. Chaudhuri, Deputy Secretary wrote letter dated 1.7.1969 to Sh. A.S. Choudhri, Joint Secretary, Ministry of Law, Dept. of Legal Affairs. Paras 2 and 4 of the letter read as under:

As you will observe, 28 owners of plots in the Sunlight Colony, which was also acquired, went to court and have won the case finally. The total area of these plots is about 2.5 acres. When we consulted the Ministry of Law about the consequence of the verdict of this case on the remaining area acquired, we were advised vide their u.o.note No. D35662/68-Adv W and H dated the 31st August, 1968, that the entire land stood free from acquisition and would have to be re-acquired except for the portions the owners of which had accepted, without protest, the compensation awarded by the competent authority. 52 parties owning 35.25 acres had accepted the compensation finally.

We have now been considering how to settle the matter with the many land owners whose land was acquired. We are unable to decide upon the precise steps to be taken because of the apparent conflict between the two opinions expressed by your Ministry and referred to in paras 2 and 3 above. These need reconciliation before the case can be put up to our Minister and the Dy. Prime Minister with specific proposals. For the formulation of such proposals, my Secretary has asked me to discuss the case with you and seek reconciliation of the two opinions and also advice on further action that can be taken to safeguard Government's interests.?"

10. A meeting was held on 25.9.1969. Inter alia, following was minuted

J.S. (H) stated that he will be appearing before the convener of the Action Taken Sub-Committee of the Committee on Government Assurances on 3rd October, 1969 in connection with the acquisition of land in Munirka. Secretary felt that all that we should state at this stage is that the issues are pending in court. Secretary felt that it will have to be considered whether it is worthwhile to acquire the 2.8 acres of land at a cost of Rs. 3 lakhs per acre or more for the purpose of the shopping centre or whether alternatively we could arrange to retain the area by exchange of other land. This should be examined quickly; possibly Secretary and Joint Secretary should visit the area.

11. Deliberations continued. On 20.11.1969, following note was recorded on the file:

A piece of land, namely, Sunlight Estate, situated on the Ring Road at Ramakrishnapuram, New Delhi, was acquired in 1957. The 28 plot holders, aggrieved by such acquisition, appealed to the Court. The case was heard by two Lower Courts, High Court of Delhi and the Supreme Court of India. Right from the Administrative Court up to the Supreme Court of India, which by its decision on 7 November, 1968, the said 28 plot holders were vested with the possession of their land and the acquisition proceedings were held illegal, null and void. The plot holders are, however, unable to proceed further until your Ministry decides whether or not the plots were required for your proposed District Centre. In view of this the plot-holders appeal to you to take a quick decision and consider the possibility of their being grouped on one side of the District Centre or offered alternative plots at the nearest and equally good comparable site. The plot holders feel, that to avoid complexities of the legal problems, it would be easier to group these plot holders on one side of the District Centre than to shift them from their present site. Whatever the decision is it would be most welcome to the plot holders since it will end their long suffering and make them possible to construct their houses whose costs are rising every day.

12. The 28 litigant plot holders had nominated one Sh. B.K. Bhowmik as their nominee to discuss the matter with the government and decide future course of action. He participated in a meeting held on 8.12.1969. Following was minuted

Minutes of the meeting held in Secretary's room at 12.00 noon on 8.12.69 with the plot-holders (28 litigants) in Sunlight Colony, R.K. Puram, New Delhi. Present:

1. Shri P.R. Nayak, Secretary..... In Chair.
2. Shri C. Chaudhuri, Director (LP)
3. Shri G.C. Sinha, Under Secretary(Lands)
4. Shri B.K. Bhowmik)
5. Mrs. Paul )
6. Mrs. Moitra )
7. Mrs. Bakshi ) Plot-holders.
8. Mrs. Goswami )

Shri Bhowmik said that the plot-holders (litigants) were very adversely affected due to the non-availability of the plots allotted to them by the Sunlight Insurance Company. Secretary told the deputation that alternative plots might be given to them in lieu of the plots which were in the adverse possession of Government. He suggested some land in the Masjid Moth Area. Shri Bhowmik, after some discussion, said that alternative plots should be given to the affected persons near about the Sunlight Colony, R.K. Puram, preferably, within a radius of one mile of the Sunlight Colony. He stated that a chunk of land adjoining Vikram hotel was lying vacant. Secretary proposed a further meeting in this connection

at 11 a.m. on 15.12.69. He desired that, in the meantime, it should be checked up from C.P.W.D./D.D.A./Land DO about the availability of land near Vikram Hotel, in Raj Nagar, opp: Sarojini Nagar, area behind Nauroji Nagar, in Nanakpur and in the area of the Gwalior Potteries Ltd.

13. In terms of the minutes aforesaid, on 8.12.1969 itself a letter was addressed by Sh. C.C. Sinha, Under Secretary, Lands, Dept. of Works, Housing and Urban Development to Sh. C.P. Malik, Chief Engineer CPWD. It reads:

Secretary met a deputation of the representatives of the litigant plot-holders in the Sunlight Colony, R.K. Puram, New Delhi on 8.12.69. This group of 28 persons won their case in the lower courts as well as in the High Court and the Supreme Court. Government is in adverse possession of the land of these plot-holders. After discussion with the representatives of the group today, it was intended that alternative plots of land should be allotted to these 28 plot-holders.

It was tentatively considered that they may be allotted plots of land in one or more of the following areas:

- i) Land adjoining Vikram hotel, opposite to Mool Chand hospital;
- ii) Raj Nagar, opposite to Sarojini Nagar;
- iii) Behind Nauroji Nagar; and
- iv) Nanakpura.

C.E.(NDZ), C.P.W.D./D.D.A./L&DO may kindly look into the matter and intimate availability of land, in detail, in these areas. The size of the plot which should be given to these 28 plot-holders will range from 200-500 sq. yds. The total area of the plot is 2.5 acres.

A reply by 12.12.69 positively is requested, to enable Secretary to discuss the matter again with the representatives on 15.12.69.

14. Since only 28 plot holders had challenged the acquisition, government proceeded to consider further action as per the note aforesaid. It was decided to take follow up action as per the decision dated 8.12.1969 aforesaid. On 12.2.1970 a meeting was held. Summary of the discussions is recorded in the file. It reads:

Regarding the acquisition of land in the Sunlight Colony, the Director (LP) stated that he was in touch with the Chief Architect regarding the preparation of the layout of 28 plots and that the layout would soon be shown to Secretary for approval. Secretary stated that another matter which should be looked into is what these affected persons should do, who did not want to contest the acquisition of the plots but wanted enhanced compensation to be paid to them. The Director (LP) stated that he would look into the matter in consultation with the Ministry of Law. Secretary stated that, with regard to the District Centre Plan, there are probably a number of areas covered by the Plan which have not been

acquired so far and we should study this matter properly with a view to seeing what action is needed.

15. On 6.4.1970, Sh. B.K. Bhowmik wrote a letter as under:

The Secretary

Department of Works Planning,

Ministry of Health Family Planning,

Works Housing and Urban Development

Government of India,

NEW DELHI.

6 April, 1970

Dear Shri Nayak,

You would recall my attending two meetings with you and your Officers on 8th and 15th December 1969 as the representatives of the Sunlight Estate Plot holders' Association in which various aspects in connection with the exchange of our plots in Sunlight Colony, Ramakrishnapuram, New Delhi, were discussed and agreed upon.

Consequent to the lead that you very kindly gave we had further meetings with your Deputy Secretary Mr. S. Chaudhury. After protracted negotiations and discussions in a meeting on 6 March, where besides Mr. Chaudhury, Mr. C.P. Malik, PWD Chief Engineer and Mr. Yardi, Chief Architect, the President of our Association and myself were present, a plan with the new plots to be carved out in Masjid Moth area was discussed and, under great pressure on our minds, we agreed to accept plots on the 80 feet wide road instead of 150 feet which was originally agreed to. I understand that the Plan of plots to be allotted to various constituent members has already been approved by you. This, I must put on the record, is a great forward leap to relieve the hardship of the plot holders and this also could not have been achieved if we did not have full authorization from the members. The areas of the plots were drawn after taking into account the specific understanding between the representatives of the plot-holders and the constituent members after detailed discussions with them.

On 3 April I had contacted Mr. Tirath Ram, Under Secretary of your Ministry on the advice of Mr. S. Chaudhury. Mr. Tirath Ram asked me for the addresses of all plotholders as they were considering to write individual letters to them seeking their consent to the proposed allotment of plots at the Masjid Moth area. I explained to Mr. Tirath Ram and later to Mr. Chaudhury that this method of writing direct to them is fraught with the following draw-backs and may not conclude the bargain as expeditiously and as satisfactorily as the Government and the plot holders would like to arrive at:

(a) It will be impossible for the Government to enter into negotiation with individual plot holders till such time as the plots are ready for handing over.

(b)The plot holders, who have/had vested their full authority to me and Mr. H.K.L. Chaddha to conduct negotiations with the Governmental authorities through the ""Letter of Authority?" will come back to us with the letter (to be received from the Government) to seek our advice and guidance making the progress more delayed.

(c)Two members have already agreed to part with their excess area viz. 88.8 sq.yds. and 67.50 sq.yds. in favor of their friends for which consideration has already been received, and naturally they will not agree to the suggestion of the Government allotting their excess areas to any one else. Relinquishment Deeds have already been made and as such two more plots of 500 sq.yds. had been added to the already seven. The Plan of plots was drawn up in accordance with our wishes and advice.

(d)Some of the members, at our Association's meetings, voluntarily agreed to forego a few yards of their plots to ensure better layout and equitable distribution in a spirit of "give and take" and will feel agitated if the Government distributes the excess yardage to those who have less than 430 sq.yds. to make their plots 500 sq.yds.

In view of the above I pleaded with Mr. Tirath Ram and Mr. Chaudhuri to centralize negotiations to avoid delay and dissension. I am afraid the policy laid down by Mr. Tirath Ram and Mr. Chaudhuri will naturally introduce a spirit of divide and rule amongst the hitherto consolidated brotherhood.

The individual plot holders, as a team, have given full authority, through their ""Letters of Authority?" to me and Mr. H.K.L. Chaddha, to negotiate with the Governmental authorities. I do not understand the logic behind Mr. Chaudhuri's contention that he had to complete his file. Why the letter from the Government addressed to me for getting the consent of the plot holders and my reply thereto on the basis of ""Letters of Authority

from them cannot make your file complete, I fail to understand. If your Deputy Secretary or Under Secretary had any doubts about my bonafide regarding the representation of these plot holders at any level of the Government, this should and could have been raised at the time of my meeting with you, along with other few members of the Association, on 8 and 15 December 1969. If you did not cast any doubt about my representing these plot holders at these meetings, and, on the basis of my representation, you had ordered to make the plan and chalk out the plots of the areas we had suggested to your Chief Architect, Mr. Yardy and Mr. Choudhuri, I do not see any reason at this stage to write individual letters to get their consent. After all, what this ""consent?" Mr. Choudhuri and Mr. Tirath Ram are trying to obtain from individual plot holders now when I and Mr. Chaddha have, on behalf of all the plot holders, given consent to carve out the plots to meet our needs and avoid any confrontation amongst the plot holders. I

do not want your officials to create any dissension amongst the plot holders whom I represent with full authority. If you or Mr. Chaudhuri had in mind to approach individual plot holders that could have been done from the very beginning and should not have allowed me to represent any one of them at any time.

You will carry with you our blessings if you are able to hand over the possession of the plots to all of us before your retirement in November. We have become afraid that the new trend of attitude of your senior Officers will harden more after you have retired and the noble action started by you may be completely defeated.

In the circumstances, I shall request you on behalf of the constituent members of the Association to kindly honor the authority once vested by the members in writing and the trust they reposed all these years in us. During the discussions with your Officers on 3 April I even made it plain that they can send me individual letters care of my address and it will be our responsibility to have the allotment accepted by them. But this too was turned down. In conclusion, may I request you to lend good counsel to those concerned to kindly accomplish negotiations and finalize the deals at the earliest. I shall be grateful, nay all the plot holders, for your putting a final seal on this problem before your retirement. You know that this vexed problem put all of us to a great disadvantage and denied us the construction of our homes for a number of years.

I shall be too happy to explain further if you kindly give me an opportunity to see you in person.

With kindest regards.

Yours sincerely,

Sd/-

( B.K. Bhaumik )

16. Making a grievance that matter was being proceeded with very slowly, Sh. B.K. Bhowmik wrote a letter on 20.4.1970 as under:

Subject: Sunlight Estate Colony,

Ramakrishnapuram, Ring Road, New Delhi.

Dear Mr. Nayak,

Kindly refer to my letter of 6 April addressed to you.

I should be grateful if you direct some one to send me an early communication intimating your views on the points raised and in regard to our representing the 28 plot holders from whom I and Mr. H.K.L. Chaddha hold the "Letters of Authority?" to negotiate with governmental authorities for the exchange of our plots at the above Colony. Your reticence has completely stalled our further



initiative to push forward and spell out your decision to give us plots, in exchange, at Masjid Moth area.

Incidentally, I would like you to recall your own words at our meeting on 15 December 1969 that you ""would give (us) the possession of the plots within 15 days?" if we selected plots in Masjid Moth. Since then one-third (1/3) of a year has rolled by and it will be worth watching to what extent your Officers adopt the ""go -slow?" technique to carry out the pledge you had given at that meeting and in their presence.

May I expect your decision either way, at an early date, to enable me to inform my fellow-sufferers as to what they should do in future and relieve myself of the tension I am undergoing because of my social and moral obligations I had undertaken, on their behalf, to fulfill.

With kind regards.

Yours sincerely,

Sd/-

( B.K. Bhaumik)

17. Government responded to letters dated 6.4.1970 and 20.4.1970 written by Sh. B.K. Bhowmik as under:

Shri B.K. Bhowmik,

7-A/14, Western Extension Area,

Karol Bagh,

New Delhi.

Subject: Sunlight Estate, R.K. Puram,

Ring Road,

New Delhi.

Dear Sir,

I am directed to refer to your letters dated April 6, 1970 and April 20, 1970 addressed to Shri P.R. Nayak, Secretary of this Department, and subsequent discussion held in his room with you and Shri Chadha on the subject noted above on April 25, 1970, and to send herewith a layout showing 31 plots, which are proposed to be allotted to the 28 plot-holders including Shri Chadha and yourself, in exchange for their land which was acquired by Government in the Sunlight Estate in Village Mohdpur-Munirka and which was the subject matter of litigation between them and the Union of India. As you will see, 4 of the plots are of 200 sq.yds each, 18 are of 400 sq.yds each and the remaining plots are of 500 sq.yds. each. The smallest plots, i.e. of 200 sq.yds each are proposed to be

given to the persons named at Serial numbers 2, 12, 20 and 28 of the list at page 3 of the copy of judgment of the Sub-Judge, Ist Class, Delhi. The 400 sq.yds plots are to 8, 10, 11, 16, 18, 19 and 21 to 27 of that list. Those at Serial numbers 3, 9, 13, 15 and 17 will be given a plot of 500 sq.yds each. It is proposed to give 4 plots of 500 sq.yds to the person at Serial number 14. Insofar as the plots of 200 sq.yds each and 400 sq.yds each are concerned, there should be no difficulty as the maximum area that an allottee in these groups will lose will be 6.25 sq.yds only. In the third group of 500 sq.yds, however, variations are a little more pronounced. For instance, the person at Serial number 15 of the list will get 80.75 sq.yds is more and the person at Serial number 3 will get 73.75 sq.yds more without having to pay anything extra. As against this, the person at Serial number 14 will get 88.8 sq.yds less without any compensation for the loss in area. These are undoubted drawbacks of the layout but these cannot be avoided for the sake of planning in conformity with the wishes of all the prospective allottees to have plots facing the same road.

During your discussion with Secretary on April 25, 1970, you suggested that the negotiations should continue to be centralized in Shri Chadha and yourself and that you will arrange to obtain from individual litigants and send to Govt. affidavits conveying their agreement to your negotiating on their behalf and their willingness to accept the plot/plots offered to them as a result of such negotiations in exchange for their plot/plots in the Sunlight Estate in Village Mohdpur-Munirka. You also suggested to at a draft of the proposed affidavit to be signed and sworn by each prospective allottee may be given to you for this purpose. Secretary had no objection to your collecting such affidavits and sending them on to Government provided the affidavit was duly sworn on a stamp paper of requisite value and before a Ist Class Magistrate, a Notary Public or a Justice of Peace, as the case may be. In the case of those who are outside the country, the affidavit may be sworn before a Justice of Peace or a corresponding judicial authority but should be countersigned by the Embassy/ High Commission, etc. of this country. You undertook to do this in a month's time. It was agreed that, on receipt of these affidavits from you, a meeting will be arranged in the room of Secretary when all those prospective allottees, who are in Delhi, could come and confirm their acceptance in person.

I am now to spend herewith a draft of the affidavit to be signed by each individual allottee. This may kindly be got signed by all the 28 prospective allottees separately and individually and sent to this Ministry as early as possible the layout plan (Drawing No. T.P.2236) may also please be returned.

Yours faithfully,

Sd/-

( Tirath Ram )

Under Secretary to the Govt. of India

18. Letter aforesaid shows that 31 plots were to be given to 28 persons (obviously some had booked more than 1 plot) and issue to be decided was about layout and size of the plot.

19. Formalities required to be completed by the allottees were discussed. Letters exist in the file showing exchange of correspondence between Sh. B.K. Bhowmik and the government.

20. In the meanwhile one more person, Shri Kali Prasad won in the suit filed by him. He had purchased 2 plots from the Sunlight of India Insurance Company. He too staked a claim for 2 plots. on 13.5.1972, a note stand recorded that layout be amended to carve out 2 more plots i.e. 33 in all.

21. Records produced reflects a slightly hazy picture as to what happened post June, 1972 for the reason that it appears from some of the notings that ultimately 38 plots came to identified for allotment. One of the original Plaintiffs who had challenged the acquisition, Smt. Shakuntla Devi had 4 plots and as noted above Sh. Kali Prasad who subsequently won the litigation had 2 plots. further, records reveal that one plot was earmarked for allotment to late Sh. Girdhari Lal, being plot No. 13 at Siri Fort Road.

5. It may be stated here that these facts are not disputed or challenged in the appeal.

6. The aforesaid facts reveal that 35.25 acres of land had already been acquired and the original owners had accepted the acquisition. As far as 28 Plaintiffs were concerned, they had formed an association and had nominated one B.K. Bhaumik to discuss and negotiate with the Government. During the course of negotiations, they agreed to take allotment of plots at a different location in lieu of the plots of land in village Mohammadpur, Munirka. As many as 38 plots came to be identified for allotment to said persons. This is so because some of the original Plaintiffs who had challenged the acquisition had rights in more than one plot. Further, one Kali Prasad had also filed a separate suit and had succeeded. Girdhari Lal was earmarked plot No. 13 at Siri Fort Road, New Delhi.

7. In spite of the aforesaid facts, Girdhari Lal was not allotted and given possession of the plot. Girdhari Lal expired on 7th April, 1977 and his widow Ms. Savitri Devi also expired in 1986. The Respondent Nos. 1 and 2 on 10th December, 1998 wrote to the Appellant stating that they had made enquiries from B.K. Bhaumik and have come to know that their father was allotted plot No. 13, Siri fort Road in lieu of the land pertaining to their father in village Mohammadpur, Munirka. This was followed by some correspondence between the Appellant and the said Respondents, but not getting any positive response, the Respondent Nos. 1 & 2 filed the aforesaid writ petition which has been allowed by the impugned judgment. The facts stated above do show hiatus on the part of the said Respondents or their predecessor Girdhari Lal between 1975 till 1998 when there was no correspondence and steps taken on their part to call upon the Appellant to give possession of the land. The stand of the Respondent Nos. 1 and

2 in the writ petition was that their father before his death was terminally ill & they were not aware of the full facts. However, what is important and relevant is the factor that the Appellant had not cancelled the allotment or at any time written to Girdhari Lal or his legal representatives that the allotment in favor of Girdhari Lal was liable to be cancelled. It may be noted that the alternative allotment was not for consideration or on payment of any price. The Appellant had to act and take requisite steps. The alternative allotment was in lieu of the land in village Mohammadpur, Munirka. It was to get over the difficulty, in view of the judgment of the civil court by which notification u/s 4 of the Acquisition Act dated 8th March, 1957 was declared to be illegal and the decree of permanent injunction which was passed in favor of Girdhari Lal and 27 other Plaintiffs. The effect thereof was that Girdhari Lal now represented by his legal representatives was entitled to retain possession of the plot in village Mohammadpur and the Appellant Government had no right. The Appellant did not abide and act in compliance with the decree and at the same time is now contesting the claim of the Respondent Nos. 1 and 2 on the ground of delay. In *Ram Chand and Others Vs. Union of India (UOI) and Others*, the Supreme Court has observed that if the statutory authority has not performed its duty within a reasonable time, it cannot justify the same by taking the plea that the person who has been deprived of his right has not approached the appropriate forum for relief. It was held:

16. On behalf of the Respondents, it was pointed out that the Petitioners have approached this Court only after making of the awards, or when awards were to be made, having waited for more than fourteen years, without invoking the jurisdiction of the High Court under Article 226 or of this Court under Article 32. It is true that this Court has taken note of delay on the part of the Petitioners concerned in invoking the jurisdiction of the High Court or of this Court for quashing the land acquisition proceedings on the ground that the proceedings for acquisition of the lands in question have remained pending for more than a decade, in the cases of *Aflatoon v. Lt. Governor of Delhi* and *Ramjas Foundation v. Union of India*. According to us, the question of delay in invoking the writ jurisdiction of the High Court under Article 226 or of this Court under Article 32, has to be considered along with the inaction on the part of the authorities, who had to perform their statutory duties. Can the statutory authority take a plea that although it has not performed its duty within a reasonable time, but it is of no consequence because the person, who has been wronged or deprived of his right, has also not invoked the jurisdiction of the High Court or of this Court for a suitable writ or direction to grant the relief considered appropriate in the circumstances? The authorities are enjoined by the statute concerned to perform their duties within a reasonable time, and as such they are answerable to the Court why such duties have not been performed by them, which has caused injury to claimants. By not questioning, the validity of the acquisition proceedings for a long time since the declarations were made u/s 6, the relief of quashing the acquisition proceedings has become inappropriate, because in the meantime, the lands notified have been developed and put to public use. The lands are being

utilized to provide shelter to thousands and to implement the scheme of a planned city, which is a must in the present set-up. The outweighing public interest has to be given due weight. That is why this Court has been resisting attempts on the part of the landholders, seeking quashing of the acquisition proceedings on ground of delay in completion of such proceedings. But, can the Respondents be not directed to compensate the Petitioners, who were small cultivators holding lands within the ceiling limit in and around Delhi, for the injury caused to them, not by the provisions of the Act, but because of the non-exercise of the power by the authorities under the Act within a reasonable time?

(emphasis supplied)

7A. Aforesaid passage refers to statutory duties and neglect thereof. In the present case the Appellants have acted contrary to law and the decree of the Court. They have wronged and deprived right and property of a citizen without authority of law and without payment of any compensation. It was equally the Appellant's duty to act within reasonable time. State is a virtuous litigant and should meet honest claims (See *Dilbagh Rai Jarry Vs. Union of India (UOI) and Others*, and *Madras Port Trust Vs. Hymanshu International by its Proprietor V. Venkatadri (Dead) by L.R.s*, ). The aforesaid view finds resonance in the State of U.P. and Others Vs. Manohar, , in the following words:

5. As a matter of fact, the Appellants were unable to produce even a scrap of evidence indicating that the land of the Respondent had been taken over or acquired in any manner known to law or that he had ever been paid any compensation in respect of such acquisition. That the land was thereafter constructed upon, is not denied.

6. Having heard the learned Counsel for the Appellants, we are satisfied that the case projected before the court by the Appellants is utterly untenable and not worthy of emanating from any State which professes the least regard to being a welfare State. When we pointed out to the learned Counsel that, at this stage at least, the State should be gracious enough to accept its mistake and promptly pay the compensation to the Respondent, the State has taken an intractable attitude and persisted in opposing what appears to be a just and reasonable claim of the Respondent.

7. Ours is a constitutional democracy and the rights available to the citizens are declared by the Constitution. Although Article 19(1)(f) was deleted by the Forty-fourth Amendment to the Constitution, Article 300A has been placed in the Constitution, which reads as follows:

300-A. Persons not to be deprived of property save by authority of law.-No person shall be deprived of his property save by authority of law.

8. This is a case where we find utter lack of legal authority for deprivation of the Respondent's property by the Appellants who are State authorities. In our view, this case was an eminently fit one for exercising the writ jurisdiction of the High

Court under Article 226 of the Constitution. In our view, the High Court was somewhat liberal in not imposing exemplary costs on the Appellants. We would have perhaps followed suit, but for the intransigence displayed before us.

8. On the question of delay, whether it has caused any prejudice and the stand of the Appellant, some more relevant facts may be noticed. In response to the letter dated 10th December, 1998 written by the Respondent Nos. 1 and 2, the Appellant had written a letter dated 21st January, 1999. By this letter the Appellant had asked the said Respondents to furnish an attested copy of the sale deed in respect of plot No. 13, Sunlight Estate owned by Girdhari Lal and also asked them to explain why they had not made any request for alternative site. The letter reads as under:

With reference to your letter dt. 10.12.98 on the above mentioned subject and to inform you that you are requested to furnish attested copy of the sale deed in respect of Plot No. 13, sunlight Estate owned by Late Sh. Girdhari Lal.

You are also requested to explain the reasons as to why no request for alternative site were made by Late Sh. Girdhari Lal or his legal heirs for such a long time.

9. By subsequent letter dated 26th March, 1999, the Respondents were again asked to furnish information/document called upon by the earlier letter dated 21st January, 1999.

10. On the question of delay and laches, it is also appropriate if we refer to the judgment dated 19th September, 1997 in W.P. (Civil) Nos. 1385 and 1387/1997 in the case of Anandi Devi v. Delhi Development Authority and Ors. Anandi Devi had filed a writ petition claiming similar rights which was allowed by the aforesaid decision which is reported in 1997 (43) DRJ 660. This judgment was challenged without success before the Division Bench and then was made subject matter of Special Leave to Appeal before the Supreme Court without success. The Supreme Court while dismissing the Special Leave to Appeal had passed the following order:

We decline to interfere since despite several opportunities the principal case made out in the SLP cannot be sustained by the Petitioners. The SL Ps are dismissed. Learned ASG states that there are, no plots available for allotment to the Respondents (writ Petitioners in one of the petitions). It is for the Petitioners to move the High Court if they think it appropriate.

11. Before the Supreme Court, the Appellant herein had filed an additional affidavit as Anandi Devi had claimed right to allotment of plot No. 13, Siri Fort Road, New Delhi. It was alleged that the said plot was available for allotment. In the said appeal the Appellant had filed an affidavit, in which it was stated that:

(iv) That in so far as Plot Nno.(sic) 13, Siri Fort Road, New Delhi, is concerned which is directed to be allotted by the High Court vide its order dated 19.9.1997 in favor of one of the Respondents, it is stated that all the plots in Masjid Moth

area were earmarked for the 28 successful litigants. A list of 28 litigants and the plots allotted/earmarked to them is at Annexure-I. Plot Nno. 13, as per the information available on record, stands allotted/earmarked to one out of 28 litigants, namely, Shir(sic) Girdhari Lal. It is a matter of record that the plot has not been handed over so far so Sh. Girdhari Lal or his successors as the requisite documents were not received by the Petitioners.

12. It is clear from the aforesaid affidavit that even on 30th October, 1998 the Appellant had stated and pleaded before the Supreme Court that plot No. 13 was earmarked to Girdhari Lal but the plot had not been handed over to Girdhari Lal or his successors as requisite documents had not been received from them. Allotment had not been cancelled or treated as void. The learned single Judge balancing out equities in the impugned judgment dated 27th October, 2004 has held as under:

35. When arguments were concluded on 6.8.2004, counsel for the Petitioners had made a statement that in case Petitioners were to succeed, they would be willing to pay the differential premium at the pre-determined rates based on the current pre-determined rates and the pre-determined rates as on 1.1.1970. This statement was made on a court query (sic) as to why should the government bear additional expenditure for the apparent delay attributable to the Petitioners. Process of allotment of alternative plot to others who were found entitled commenced in the year 1970 and on the Petitioners predecessor-in-interest being found eligible when claims were being processed, alternative plot would have been allotted in exchange, i.e. without money consideration. Admittedly they had slept over the matter. An alternative plot if allotted today would be on a land acquired much later and developed much later. To balance equities, query (sic) was made by the court as to in what way government should be equalized. Accordingly, statement afore-noted was made.

13. Thus, the Respondent Nos. 1 and 2 have been directed to pay the difference in the pre-determined market as it existed in 1970 and the then pre-determined rate fixed by the Government. In view of the aforesaid discussion, we do not find any merit in the first contention raised by the Appellant. We may, however, notice the difference in the case of the Respondent Nos. 1 and 2 and R.K. Mehra and Others, which was also noticed by the learned single Judge while dismissing writ petition No. 3011/2002 by the same judgment dated 27th October, 2004. R.K. Mehra and their predecessors had not filed any civil suit and were not the Plaintiff decree holders. There was no decree in their favor. As noticed above, the Government had decided to allot plots in lieu of the land/plots in village Mohammadpur, Munirka to only those who had filed civil suits and had succeeded and not to third parties. The case of R.K. Mehra and others was, therefore, distinguishable and in their case the doctrine of delay and laches was applicable as they never challenged the acquisition proceedings initiated in 1957.

14. With regard to the second contention, our attention has been drawn to the findings recorded by in the impugned judgment in paragraphs 22 and 23 which

read as under:

22. There are some notings on the file which are relevant and are, therefore, being noted. When actual allotment came to be considered, a note was put up as to what should be the form of the conveyance deed to be executed by the government. Notings reveal that government proceeded to take a decision to allot alternative plot to only those persons who established title to the plot allotted by Sunlight of India Insurance Company Ltd. to them. This got scotched as per note dated 20.5.1980 written by one Mr. S. Ramaswamy. The note reads as under:

As desired a list of litigants to whom allotment has been made and also other litigants who were allotted plot of lands subsequently is placed below. In this connection I would like to state that this is not merely a case of allotment of land in lieu of some other plot but this is in satisfaction of a court order and Government is committed to make the allotment to the litigants. The issue involved in this case is allotment of the alternative plot to the legal heirs of the deceased litigants.

23. Government proceeded to execute the necessary conveyance deeds in favor of not only the 28 persons who had filed the suits at the first instance and Sh. Kali Prasad subject to these persons submitting the necessary documents. Some persons who had not filed suits but had submitted the necessary documents also were the beneficiaries. One fact is relevant and needs to be noted. The format of the exchange deed required to be signed contains no recital of ownership of title pursuant to a registration to the plot allotted by Sunlight of India Insurance Company Ltd. in favor of the allottee.

15. The aforesaid findings are not disputed before us. It is clear from the aforesaid findings that the plots were to be allotted to the litigants, that is, the Plaintiffs who had succeeded in the civil litigation and had decree of declaration as well as permanent injunction. Allotment was not to be made in lieu of some other plot/land but in satisfaction of the court decree which was arrived at by mutual consent.

16. This apart, our attention was drawn to the court judgment decreeing the suit for declaration and permanent injunction. One of the issues framed by the trial court was whether or not the 28 Plaintiffs including Girdhari Lal were in possession of the plots. In paragraph 6 of the judgment Girdhari Lal's name figures at serial No. 22 and it is further mentioned that he had right in respect of plot No. 13, Sunlight Colony, measuring 400 square yards khasra No. 114. While deciding issue No. 6, learned trial court held as under:

18. The Plaintiffs produced ample evidence to show that they are still in possession of the land in dispute. Almost all of them stepped into the witness box and stated on oath that they had never been dispossessed of this land by the C.P.W.D. The only evidence produced on behalf of the Defendants, as already noted, is that possession of this land was taken and transferred to the C.P.W.D.



by the Land Acquisition Collector on 8.6.57. No Evidence has been produced to prove that the C.P.W.D. was still in possession of this land at the time of the filing of these suits. It seems legitimate to presume that the Defendants' so called possession of this land did not go beyond the proceedings of possession held on 8.6.57 and that the C.P.W.D. and other concerned Officers took no subsequent steps to assert their possession.

17. In the light of the aforesaid findings, we repel and reject the arguments of the Appellant on the second contention. Accordingly, we do not find any merit in the present appeal and the same is dismissed but without any order as to costs.