

S.B. Civil Writ Petition No. 744/2017

Narayan Sharma v. State of Rajasthan

2017 SCC OnLine Raj 2238

In the High Court of Rajasthan at Jaipur
(BEFORE M.N. BHANDARI, J.)

1. S.B. Civil Writ Petition No. 744/2017

1. Shri. Narayan Sharma S/o Shri. Laxmi Narayan Sharma, Aged About 69 Years, Narakala, Nindar, Ward No. 1, Nagar Nigam, Jaipur, Rajasthan
2. Hanuman Sahai Sharma S/o Shri. Laxmi Narayan Sharma, 17, Shiv Colony, New Sanganer Road, Sodala, Jaipur, Rajasthan
3. Sitaram Sharma S/o Shri. Laxmi Narayan Sharma, 17, Shiv Colony, New Sanganer Road, Sodala, Jaipur, Rajasthan
4. Smt. Choti Devi Wife of Late Shri. Badri Narayan Sharma (S/o Shri. Ghasi Ram), Narakala, Nindar, Ward No. 1, Nagar Nigam, Jaipur, Rajasthan
5. Chitarmal Sharma S/o Shri. Ghasiram Sharma, Narakala, Nindar, Ward No. 1, Nagar Nigam, Jaipur, Rajasthan
6. Jagdish Prasad Sharma S/o Shri. Ghasiram, Narakala, Nindar, Ward No. 1, Nagar Nigam, Jaipur, Rajasthan
7. Surajmal Sharma S/o Shri. Ghasiram Sharma, Narakala, Nindar, Ward No. 1, Nagar Nigam, Jaipur, Rajasthan
8. Kishori Lal Sharma S/o Shri. Ghasiram Sharma, Narakala, Nindar, Ward No. 1, Nagar Nigam, Jaipur, Rajasthan
9. Ramrai Sharma S/o Shri. Ghasiram Sharma, Narakala, Nindar, Ward No. 1, Nagar Nigam, Jaipur, Rajasthan
10. Ajay Sharma S/o Shri. Ghasiram Sharma, Narakala, Nindar, Ward No. 1, Nagar Nigam, Jaipur, Rajasthan Petitioners

v.

1. State of Rajasthan Through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur, Rajasthan
2. Land Acquisition Officer, Urban Development Scheme, Ramkishore Vyas Bhawan, JLN Marg, Jaipur Rajasthan
3. Jaipur Development Authority, Jaipur, JLN Marg, Jaipur, Rajasthan Respondents

With

2. S.B. Civil Writ Petition No. 7322/2012

1. Prabhati Lal Sharma son of Shri. Narayan Lal Sharma, age near about 62 years, resident of Plot No. 313, Subhash Colony, Shastri Nagar, Jaipur.
2. Smt. Pushpa Sharma wife of Shri. Prabhati Lal, age near about 60 years, resident of Plot No. 313, Subhash Colony, Shastri Nagar, Jaipur Petitioners

v.

1. Union of India through Sretary, Ministry of Environment and Forests, New Delhi.
2. State of Rajasthan through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
3. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
5. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

3. S.B. Civil Writ Petition No. 7935/2015

Prabhu S/o Bhonri Lal, by caste Brahmin, R/o Village **Nindar**, Tehsil Amer, District Jaipur Petitioner

v.

1. State of Rajasthan Principal Secretary, Urban Development and Housing Department, Govt. of Rajasthan, Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

4. S.B. Civil Writ Petition No. 9183/2015

Baburam Pabari S/o Govind ram, Aged about 85 years by caste Meena, R/o Plot no. 46, Indira colony, Bani Park, Jaipur (Raj) Petitioner

v.

1. State of Rajasthan Principal Secretary, Urban Development and Housing Department, Govt. of Rajasthan, Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

5. S.B. Civil Writ Petition No. 9295/2015

1. Banwari lal S/o Raghunath, aged about 59 years by caste Jangid Brahmin, R/o Village **Nindar**, Tehsil Amer, District Jaipur.
2. Dinesh Kumar S/o Raghunath, aged about 50 years by caste Jangid Brahmin, R/o Village **Nindar**, Tehsil Amer, District

Jaipur Petitioners

v.

1. State of Rajasthan Principal Secretary, Urban Development and Housing Department, Govt. of Rajasthan, Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur Respondents

With

6. S.B. Civil Writ Petition No. 9421/2015

Radhakrishna nair S/o narayan nair aged 65 years by caste nair
R/o Village **Nindar**, Tehsil Amer, District Jaipur Petitioner

v.

1. State of Rajasthan Principal Secretary, Urban Development and Housing Department, Govt. of Rajasthan, Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur Respondents

With

7. S.B. Civil Writ Petition No. 15983/2016

1. Maal Chand S/o Bhura, by caste Brahmin, R/o Village Neendar, Tehsil Amer, District Jaipur.
2. Gopal Lal S/o Bhura, by caste Brahmin, R/o Village Neendar, Tehsil Amer, District Jaipur.
3. Shishpal S/o bhura, by caste Brahmin, R/o Village Neendar, Tehsil Amer, District Jaipur.
4. Bheru Lal S/o Bhura, by caste Brahmin, R/o Village Neendar, Tehsil Amer, District Jaipur Petitioners

v.

1. Union of India through Secretary, Ministry of Environment and Forests, New Delhi.
2. State of Rajasthan through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
3. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
5. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

8. S.B. Civil Writ Petition No. 17516/2016

1. Nathuram S/o late Shri. Bhanwar Lal;
2. Jagdish Prasad S/o late Shri. Bhanwar Lal;
3. Kalyan S/o late Shri. Bhanwar Lal;
4. Rajendra Prasad S/o late Shri. Gopal;

5. Sanjay Kumar S/o late Shri. Gopal;
 6. Dinesh Kumar S/o late Shri. Gopal;
 7. Prabhati Lal S/o late Shri. Narayan;
 8. Ramlal Sharma S/o late Shri. Narayan;
 9. Hanuman S/o late Shri. Sheonath;
 10. Kanhaiyalal S/o late Shri. Sheonath;
 11. Smt. Sarju Devi W/o late Shri. Ramchandra;
 12. Kailash S/o late Shri. Ramchandra;
 13. Rameshwar S/o late Shri. Ramchandra;
 14. Mohan S/o late Shri. Ramchandra;
 15. Ashok S/o late Shri. Ramchandra;
- All residents of Lalaram Bohra Ki Dhani, Village Neendar, Ward No. 1, Tehsil Amer, District Jaipur Petitioners

v.

1. Union of India through Secretary, Ministry of Environment and Forests, New Delhi.
2. State of Rajasthan through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
3. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
5. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

9. S.B. Civil Writ Petition No. 7323/2012

Balaji City Vikas Samiti, through Ranjeet Singh Rathore, President, son of Shri. Bhanwar Singh Rathore, aged 40 years, C/o Ward No. 1, Village Neendar, Sikar Road, Jaipur Petitioner

v.

1. Union of India through Secretary, Ministry of Environment and Forests, New Delhi.
2. State of Rajasthan through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
3. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
5. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

10. S.B. Civil Writ Petition No. 7325/2012

Ramnath son of Shri. Govinda, by caste Kumawat, aged

years, resident of Village Neendar, Tehsil, Amer, Dist. Jaipur
Petitioner

v.

1. Union of India through Secretary, Ministry of Environment and Forests, New Delhi.
2. State of Rajasthan through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
3. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
5. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur
Respondents

With

11. S.B. Civil Writ Petition No. 8313/2012

1. Om Prakash, aged 60 years,
2. Munna Lal,
3. Gopal, No. 1 to 3 are sons of Shri. Chhotu Ram
4. Sundar Kanwar widow of Shri. Kailash
5. Roop Kanwar daughter of Shri. Kailash
6. Himmat Singh son of Shri. Kailash

All residents of village Neendar, Tehsil Amer, District Jaipur
Petitioners

v.

1. State of Rajasthan through the Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur Respondents

With

12. S.B. Civil Writ Petition No. 8318/2012

1. Gheesa, aged 80 years,
2. Prabhu, aged 74 years,

Both sons of Shri. Dhanna, by caste Brahmin, residents of Village Neendar, Tehsil Amer, District Jaipur Petitioners

v.

1. State of Rajasthan through the Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur Respondents

With

13. S.B. Civil Writ Petition No. 7199/2012

1. Gopal Lal son of Shri. Sukhdev, age about 69 years, by caste Haryana Brahmin, resident of village Neendar, tehsil Amer, Dist. Jaipur.
2. Govind Narayan son of Shri. Sukhdev, age near about 64 years by caste Haryana Brahmin, resident of village Neendar, tehsil Amer, Dist. Jaipur. caste Haryana Brahmin, resident of village Neendar, tehsil Amer, Dist. Jaipur.
3. Ramesh Chand son of Shri. Sukhdev, age near about 45 years by caste Haryana Brahmin, resident of village Neendar, tehsil Amer, Dist. Jaipur.
4. Satyanarayan son of Shri. Sukhdev, age near about 40 years, by caste Haryana Brahmin, resident of village Neendar, tehsil Amer, Dist. Jaipur.
5. Nanu son of Kana Ram, age near about 60 yers, by caste Haryana Brahmin, resident of village Neendar, tehsil Amer, Dist. Jaipur.
6. Rameshwar son of Kana Ram, age near about 55 years, by caste Haryana Brahmin, resident of village Neendar, tehsil Amer, Dist. Jaipur.
7. Chouthmal son of Kana Ram, age near about 50 years, by caste Haryana Brahmin, resident of vilage Neendar, tehsil Amer, Distt. Jaipur.
8. Moti son of Prabhu Lal, age near about 35 years, by caste Haryana Brahmin, resident of village Neendar, tehsil Amer, Dist. Jaipur Petitioners

v.

1. Union of India through Secretary, Ministry of Environment and Forests, New Delhi.
2. State of Rajasthan through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
3. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
5. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

14. S.B. Civil Writ Petition No. 7321/2012

1. Smt. Supyar Kanwar wife of Shri. Prem Singh Shekhwat, age near about 50 resident of village Neendar, Tehsil Amer, Dist. Jaipur.
2. Seeta Devi wife of Shri. Suresh Kumar Sharma, age near about 30 years resident of village Neendar, tehsil Amer, Dist. Jaipur Petitioners

v.

1. Union of India through Secretary, Ministry of Environment and

Forests, New Delhi.

2. State of Rajasthan through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
3. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
5. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

15. S.B. Civil Writ Petition No. 9141/2012

1. Gopal,
2. Laxmi Narayan,
3. Hanuman Sahay,
4. Omprakash,
5. Bholaram,

Both sons of Shri. Sadharam @ Sadiya, by caste Brahmin, residents of village Neendar, Tehsil Amer, District Jaipur Petitioners

v.

1. State of Rajasthan through the Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur Respondents

With

16. S.B. Civil Writ Petition No. 9144/2012

Gopal Lal son of Shri. Sadharam @ Sadiya, by caste Brahmin, residents of village Neendar, Tehsil Amer, District Jaipur Petitioner

v.

1. State of Rajasthan through the Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur Respondents

With

17. S.B. Civil Writ Petition No. 9885/2012

1. Laxmi Narayan son of Shri. Sadharam @ Sadiya.
2. Bhol Ram son of Shri. Sadharam @ Sadiya.

Both by caste Brahman, residents of Village Neendar, Tehsil Amer, District Jaipur Petitioners

v.

1. State of Rajasthan through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

18. S.B. Civil Writ Petition No. 9956/2012

Gopal son of Shri. Ramla, by caste mali, residents of village Neendar, Tehsil Amer, District Jaipur Petitioner

v.

1. State of Rajasthan through the Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur Respondents

With

19. S.B. Civil Writ Petition No. 4838/2014

1. Smt. Sushila W/o Shri. Puran Mal, age about 59 years, by-caste Jat, R/o Plot No. B-40, Sanjay Colony, Nehru Nagar, Jaipur.
2. Sushila D/o Ganga Singh, age about 60 years, by-caste Jat, R/o Plot No. 1, Sanjay colony, Nehru Nagar, Jaipur Petitioners

v.

1. State of Rajasthan through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

20. S.B. Civil Writ Petition No. 4839/2014

1. Ranveer Singh S/o Late Shri. Rao Surendra Singh, aged about 64 years
2. Manhendra Singh S/o Late Shri. Rao Surendra Singh,
3. Virendra Singh S/o Late Shri. Rao Surendra Singh,
4. Ravindra Singh S/o Late Shri. Rao Surendra Singh,
5. Gajendra Singh S/o Late Shri. Rao Surendra Singh,

6. Smt. Mahendra Kumari W/o Late Shri. Rao Surendra Singh,
All By-Caste Rajput R/o Village **Nindar**, Tehsil Amer, District Jaipur
at present R/o Neendar House, Topkhana Ka Rasta, Chandpole
Bazar, Jaipur Petitioners

v.

1. State of Rajasthan Principal Secretary, Urban Development and Housing Department, Govt. of Rajasthan, Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

21. S.B. Civil Writ Petition No. 3176/2015

1. Om Prakash Sharma S/o Late Shri. Ridh Narayan Ji Sharma, age about 55 years,
 2. Smt. Premlata Sharma W/o Shri. Om Prakash Sharma, aged about 50 years,
- Both by caste Brahmin, R/o JMC 599, Kheda Mahapura, Road No. 1, Sikar Road, Jaipur Petitioners

v.

1. State of Rajasthan Principal Secretary, Urban Development and Housing Department, Govt. of Rajasthan, Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

22. S.B. Civil Writ Petition No. 6411/2015

1. Gopal S/o Shri. Jeevan
 2. Kalyan Sahai S/o Shri. Hanuman Sahai
 3. Bhuri Devi W/o Late Bodu Ram
 4. Prabhati Lal S/o Bodu Ram
 5. Sedu Ram S/o Jhutha Ram
 6. Madan Lal S/o Jhutha Ram
 7. Vinod S/o Late Sharwan Kumar
 8. Jitendra S/o Late Sharwan Kumar
 9. Surajmal S/o Hanuman
 10. Mohan Lal S/o Hanuman
- All by caste Kumawat, R/o Village **Nindar**, Tehsil Amer, District Jaipur Petitioners

v.

1. State of Rajasthan Principal Secretary, Urban Development and Housing Department, Govt. of Rajasthan, Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

23. S.B. Civil Writ Petition No. 6412/2015

1. Smt. Bhuri Widow of Bodu
2. Prabhat adopted son of Bodu both by caste Kumawat, R/o Village Nindar, Tehsil Amer, District Jaipur Petitioners

v.

1. State of Rajasthan Principal Secretary, Urban Development and Housing Department, Govt. of Rajasthan, Secretariat, Jaipur.
2. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
3. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. Principal Secretary, Government of Rajasthan Environment and Forest Department, Government Secretariat, Jaipur Respondents

With

24. S.B. Civil Writ Petition No. 9140/2012

Hanuman Sahay Son of Shri. Sadhram @ Sadiya, by Caste Brahmin, Village Neendar, Tehsil Amer, District Jaipur Petitioner

v.

1. State of Rajasthan Through the Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur
2. Land Acquisition Officer Urban Development Schemes, Ramkishore Vyas Bhawan, J.L.N. Marg, Jaipur
3. Jaipur Development Authority Through Its Secretary, Ramkishore Vyas Bhawan, J.L.N. Marg, Jaipur Respondents

With

25. S.B. Civil Writ Petition No. 7324/2012

1. Ravi Gemini son of Shri. Radheyshyam Gemini, age near about 38 years, resident of D-240, Bihari Marg, Banipark, Jaipur.
2. Kapil Gemini son of Shri. Radheyshyam Gemini, age near about 30 years, resident of D-240, Bihari Marg, Banipark, Jaipur.
3. Smt. Shakuntala Gemini wife of Shri. Radheyshyam Gemini, age near about 60 years resident of D-240, Bihari Marg, Banipark, Jaipur Petitioner

v.

1. Union of India through Secretary, Ministry of Environment and

Forests, New Delhi.

2. State of Rajasthan through Principal Secretary, Urban Development and Housing Department, Government Secretariat, Jaipur.
3. The Land Acquisition Officer, Urban Development Schemes, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
4. The Jaipur Development Authority, through its Secretary, Ramkishore Vyas Bhawan, JLN Marg, Jaipur.
5. Principal Secretary, Government of Rajasthan, Environment and Forest Department, Government Secretariat, Jaipur

Respondents

S.B. Civil Writ Petition No. 744/2017, S.B. Civil Writ Petition No. 7322/2012, S.B. Civil Writ Petition No. 7935/2015, S.B. Civil Writ Petition No. 9183/2015, S.B. Civil Writ Petition No. 9295/2015, S.B. Civil Writ Petition No. 9421/2015, S.B. Civil Writ Petition No. 15983/2016, S.B. Civil Writ Petition No. 17516/2016, S.B. Civil Writ Petition No. 7323/2012, S.B. Civil Writ Petition No. 7325/2012, S.B. Civil Writ Petition No. 8313/2012, S.B. Civil Writ Petition No. 8318/2012, S.B. Civil Writ Petition No. 7199/2012, S.B. Civil Writ Petition No. 7321/2012, S.B. Civil Writ Petition No. 9141/2012, S.B. Civil Writ Petition No. 9144/2012, S.B. Civil Writ Petition No. 9885/2012, S.B. Civil Writ Petition No. 9956/2012, S.B. Civil Writ Petition No. 4838/2014, S.B. Civil Writ Petition No. 4839/2014, S.B. Civil Writ Petition No. 3176/2015, S.B. Civil Writ Petition No. 6411/2015, S.B. Civil Writ Petition No. 6412/2015, S.B. Civil Writ Petition No. 9140/2012 and S.B. Civil Writ Petition No. 7324/2012

Decided on July 4, 2017

For Petitioner(s): Mr. Manish Sharma

Mr. Bharat Vyas, Sr. Adv with Kapil Vyas

Mr. KN Sharma

Mr. Govind Sharma

Mrs. Neetu Bhansali for Mr. SK Jindal

For Respondent(s): Mr. Rajendra Prasad, Additional Advocate General with Mr. Jatin Agrawal

Mr. Amit Kuri

Mrs. Manjeet Kaur, CGPC for Mr. RD Rastogi, Additional Solicitor General of India for Union of India

The Judgment of the Court was delivered by

M.N. BHANDARI, J.:— By this bunch of writ petitions, a challenge is made to the Notification under section 4 of the Land Acquisition Act, 1894 (for short “the Act of 1894”) followed by declaration under section 6 of the Act of 1894. The award dated 31.5.2013 has also been assailed. The prayer is to declare acquisition as lapsed and, accordingly, land may be made free from acquisition.

2. Learned counsel submit that the land situated in Village - Neendar, Tehsil - Amer, Jaipur was recorded in the name of petitioners. It has been acquired despite being fertile land and surrounded by hills having water harvesting zone.

3. The Notification under section 4 was issued on 4.10.2010 and published in the official gazette on 7.11.2010 to propose acquisition of 286.27 hectares land. The petitioners submitted their objections under section 5A of the Act of 1894. The Jaipur Development Authority (for short “the JDA”) filed reply to the objections. The petitioners thereupon submitted written arguments before the Land Acquisition Officer. No proceedings thereupon took place between 20.1.2011 to 1.12.2011. The

Land Acquisition Officer issued notice to the JDA on 1.12.2011 pointing out discrepancies in the revenue record. A clarification was given by the JDA and on 2.12.2011, Land Acquisition Officer prepared the report and gave direction to send it to the State Government. The declaration under section 6 was made on 7.12.2011. The petitioners made an application under the Right to Information Act, 2005 (for short 'the Act of 2005') to get a copy of the Gazette Notification published under section 6 of the Act of 1894. It was not supplied despite an order by the Appellate Authority under the Act of 2005 thus a presumption should be drawn that no declaration under section 6 of the Act of 1894 was made. The award was passed on 31.5.2013.

4. It is stated that acquisition of land was not for public purpose but to earn profit. The fact aforesaid is coming out from the note-sheet of the Dy Commissioner where calculations have been given. It was assessed that out of the total land sought to be acquired, 50% area would be developed for residence and 10% for commercial. 25% land would be given towards compensation. The revenue generated from it would be of Rs. 909 crore. The cost of development would be around Rs. 343 crore apart from Rs. 55 crore towards misc. expenses. The JDA would earn profit of Rs. 511 crore and if the compensation is given in terms of money then the profit would be Rs. 711.60 crore. The fact aforesaid shows that the land was not acquired for public purpose but to earn profit.

5. The prior approval before issuance of Notification under section 4 of the Act of 1894 was not taken. The compliance of section 3(f)(vi) of the Act of 1894 has not been made. The approval by the Chairman, JDA cannot be considered to be of the government for issuance of notification under section 4 of the Act.

6. It is also submitted that the survey, as contemplated under section 4(2) of the Act, was also not conducted. As per the provision aforesaid, an officer authorised by the government needs to carry out detailed survey. The purpose of the survey is to check feasibility, qua public purpose. In absence of survey, there was no occasion for the government to issue notification under section 6 of the Act. In fact, no scheme prior to issuance of notification under section 4 of the Act was formulated in terms of section 38 and 39 of the Jaipur Development Authority Act 1982 (for short 'the JDA Act'). It is held to be mandatory by the Apex Court in the case of "*Sanjeet Singh v. State of Punjab*", (2007) 6 SCC 292. In absence of the scheme, acquisition proceedings to vitiate. It is also stated that environmental clearance was also not taken despite required in the instant case.

7. Learned counsel submit that even personal hearing on the objections under section 5A of the Act of 1894 was not given to the petitioners. The petitioners submitted objections under section 5A of the Act. On 3.2.2011, respondents submitted their reply to the objections. On 21.2.2011, petitioners submitted their written arguments. The matter was kept pending by the Land Acquisition Officer for the reasons best known to him. On 2.12.2011, a report was prepared and sent to the government. It was without providing an opportunity of hearing to the petitioners.

8. It is also a fact that when written arguments were filed by the petitioners, the Land Acquisition Officer was somebody else. In absence of personal hearing, provisions of section 5A of the Act of 1894 has been flouted. The acquisition of land deserves to be set aside. Reference of following judgments has been given to support the argument -

1. *Kamal Trading v. State of West Bengal*, (2012) 2 SCC 25
2. *Shri. Mandir Sita Ramji v. Lt Governor of Delhi*, (1975) 4 SCC 298
3. *Farid Ahmed v. Municipal Corporation, Ahmedabad*, (1976) 3 SCC 719
4. *Shyam Nandan v. State of Bihar*, (1993) 4 SCC 255
5. *Sukumar M Khot v. State*, (2006) 2 LACC 607

6. *Ramesh v. State of Maharashtra*, 2006 (2) LACC 6002

7. *Sumer Khan v. State of Rajasthan*, 2009 (3) WLC 363

8. *Union of India v. Mukesh Hans*, (2004) 8 SCC 14.

9. It is also stated that the Land Acquisition Officer has failed to decide the objections with application of mind. In absence of finding on each objection, report under section 5A of the Act of 1894 remains for the sake of it. Reference of following judgments has been given to support their argument -

1. *Surinder Singh Brar v. Union of India*, ((2013) 1 SCC 403

2. *Kamal Trading v. State of West Bengal*, (2012) 2 SCC 25

3. *Usha Stud & Agricultural Farms v. State of Haryana*, (2013) 4 SCC 210

4. *Women Education Trust v. State of Haryana*, (2013) 6 SCALE 684

5. *Raghubir Singh Sehrawat v. State of Haryana*, (2012) 1 SCC 792

10. The declaration under section 6 of the Act of 1894 was made after one year from the last publication of notice under section 4 of the Act. The public notice under section 4 was issued on 1.11.2010, whereas, it has been taken to be on 14.12.2010. The declaration under section 6 was made on 16.12.2011, which is after one year. It cannot be taken on 7.12.2011 as it was published in gazette on 16.12.2011. The acquisition vitiates on the aforesaid ground also.

11. Learned counsel further submitted that report under section 5A was not sent to the government along with the record of the proceedings though required as per section 5A(2). The State Government failed to apply its mind objectively before accepting the report for declaration under section 6 of the Act of 1894. It could not have been in absence of the record.

12. It is urged that the Land Acquisition Officer fabricated the order sheet to make a report on a manipulated day. In view of the above, acquisition of land becomes illegal. The Land Acquisition Officer prepared the report on 2.12.2011 and sent it to the State Government. 3rd and 4th December, 2011 were Saturday and Sunday thus no decision could have been taken by the State Government on the aforesaid dates. The remaining days were 5th and 6th December, 2011 and, according to the respondents, declaration was made on 7.12.2011. There was hardly any time for the State Government to apply its mind to make declaration under section 6 of the Act of 1894. Reference of following judgments of the Apex Court has been given to support the argument -

1. *Usha Stud & Agricultural Farms v. State of Haryana*, (2013) 4 SCC 210

2. *Women Education Trust v. State of Haryana*, (2013) 6 SCALE 684

13. A further argument of learned counsel is regarding fraud in preparation of report by the Land Acquisition Officer and colourable exercise of power by the State Government. It is in reference to report under section 5A of the Act of 1894. It is stated that report was prepared on the back date thus fraud has been played therein. Learned counsel has made reference of following judgments in support of their argument -

1. *Raghubir Singh Sehrawat v. State of Haryana*, (2012) 1 SCC 792

2. *Kamal Trading v. State of West Bengal*, (2012) 2 SCC 25

3. *Surinder Singh Brar v. Union of India*, (2013) 1 SCC 403

4. *Usha Stud & Agricultural Farms v. State of Haryana*, (2013) 4 SCC 210

5. *Women Education Trust v. State of Haryana*, (2013) 6 SCALE 684

14. The State Government has given written submissions stating several facts which are not part of the reply. The contention that land is not part of ecological/environmental sensitive zone has no foundation. The plea of delay and laches raised by the State Government is misplaced in view of the fact that most of

the writ petitions were filed in the year 2012 followed by few more writ petitions subsequently. The plea of delay and laches is thus not made out. The prayer is accordingly to set aside the acquisition proceedings and the award passed subsequently.

15. Learned Additional Advocate General Shri. Rajendra Prasad has contested the writ petitions. It is stated that master development plan was published on 06.11.2009 to invite objections from the public. In the said plan, area was proposed for housing purpose. The plan was prepared after considering requirement of housing for Jaipur city with its expansion. After considering the objections, the plan was approved by the authority and it became effective as a consequence thereof. The Jaipur City is expanding in view of increase in population. Taking into consideration all the relevant aspects, scheme was planned and after the PT survey, followed by approval of the competent authority, decision to acquire the land was taken. The reference of the document at annexure-16 to 19 in CW 744/17, *Shri. Narayan Sharma v. State of Rajasthan* has been given.

16. The notification under section 4 of the Act was published on 4.10.2010 followed by a corrected notification on 10.11.2010. The publication of notice under section 4 in the locality was made on 14.12.2010. The declaration under section 6 was made on 7.12.2011. The publication of declaration in the locality was made on 13.4.2012 followed by the award on 31.5.2013. The facts given above show that proceedings for acquisition were made as per the provisions of the Act of 1894.

17. Learned Additional Advocate General has taken objection about delay and laches. It is in respect of those petitions preferred in the year 2014 and onwards. Reference of following judgments has been given -

1. *State of Rajasthan v. DR. Laxmi*, (1996) 6 SCC 445,
2. *Andhra Pradesh Industrial Infrastructure Corporation Limited v. Chinthamaneni Narasimha Rao*, (2012) 12 SCC 797,
3. *Chairman, UP Jal Nigam v. Jaswant Singh*, (2006) 11 SCC 464,
4. *State of Maharashtra v. Digambar*, (1995) 4 SCC 683,
5. *Aflatoon v. Lt. Governor of Delhi*, (1975) 4 SCC 285,
6. *Banda Development Authority, Banda v. Moti Lal Agarwal*, (2011) 5 SCC 394, and
7. *Virendra Singh v. State of Rajasthan*, 2016 (3) WLC(Raj.) 454

18. It is also stated that no objection under section 5A was submitted by many petitioners thus they cannot raise issue in reference to it. The details of such writ petitions are as under -

1. CW 8313/2012, *Om Prakash v. State of Rajasthan*
2. CW 8318/2012, *Gheesa v. State of Rajasthan*
3. CW 9140/2012, *Hanuman Sahay v. State of Rajasthan*
4. CW 9141/2012, *Gopal v. State of Rajasthan*
5. CW 9144/2012, *Gopal Lal v. State of Rajasthan*
6. CW 9956/2012, *Gopal v. State of Rajasthan*
7. CW 6411/2015, *Gopal v. State of Rajasthan*
8. CW 6412/2015, *Smt. Bhuri v. State of Rajasthan*
9. CW 9183/2015, *Baburam Pabari v. State of Rajasthan*
10. CW 9295/2015, *Banwari Lal v. State of Rajasthan*
11. CW 9421/2015, *Radhakrishna Nair v. State of Rajasthan*

19. In absence of objections under section 5A of the Act of 1894, petitioners therein deemed to have waived and relinquished their rights and estopped to question the acquisition in reference to the aforesaid provision. Reliance on the judgment of the

Apex Court in the case of "*Delhi Administration v. Gurdip Singh Uban*", (2000) 7 SCC 296 : AIR 2000 SC 3737 has been made.

20. It is also stated that writ petitioner in Civil Writ No. 4838/2014, *Smt. Sushila v. State of Rajasthan* has voluntarily surrendered the land for getting compensation in the shape of developed land. The petitioner No. 1 has even applied for withdrawal of the writ petition. On surrender of rights by land holders, they are estopped to challenge the acquisition. Reference of the judgments in the case of "*Sikkim Subba Associates v. State of Sikkim*", (2001) 5 SCC 629 : AIR 2001 SC 2062, "*Chairman, UP Jal Nigam v. Jaswant Singh*" and "*Virendra Singh v. State of Rajasthan*", 2016 (3) WLC (Raj) 454 has been given.

21. Other objection is regarding maintainability of the CW 7323/2012, *Balaji City Vikas Samiti v. Union of India* which has been filed by Vikas Samiti of the plot holders. It is alleged that co-operative society purchased the land through agreement to sale is not entitled to question validity of acquisition what to say about Vikas Samiti of plot holders given 'patta' by such a co-operative society. The rights of the co-operative society to challenge acquisition based on agreement to sale has not been accepted by this court in the case of "*Krishna Housing Cooperative Society Ltd. v. Rajasthan Housing Board, Jaipur*, 1993 (3) WLC (Raj.) 583 thus on the preliminary objections, the writ petitions mentioned above may be dismissed.

22. Learned Additional Advocate General Mr. Rajendra Prasad submitted that allegations have been made about availability of land in the scheme developed by the JDA, yet land of Village - Neendar has been acquired. It is to benefit the colonisers who developed their schemes and otherwise land is cultivated by the petitioners. The facts aforesaid could not be proved by the petitioners. It is also submitted that the area in question was never declared to be ecological zone. It does not exist even in the Master Development Plan - 2011. The petitioners have failed to prove it to be in ecological zone.

23. It is also submitted that the area has been developed by the JDA and no private scheme of any developer exists, rather, all those schemes are on the opposite direction and are far away from the land so acquired. The required consideration before proposing acquisition was made and, in fact, the area was declared to be residential even in the Master Development Plan. Hence, it is erroneous to say that exercise, as envisaged under section 3(f)(vi), has not been made.

24. The allegation of profiteering has been made by referring to a note sheet. It is in ignorance of the fact that before a project is conceived, its viability has to be looked into. All relevant aspects, which includes quantum of compensation, has to be taken into consideration. The compensation is calculated tentatively based on DLC rate but, at times and invariably, it is enhanced on a reference to the civil court. Thus the figures in the note sheet were tentative. The petitioners have failed to consider that if the quantum of compensation is increased and aforesaid is not taken into consideration by keeping a margin, how it would be paid. In view of the above, vague allegations of profit making have been made. It cannot be only due to use of word "profit".

25. It is also a fact that while carrying out development work, prices may increase with passage of time as it is going to happen in this case. In view of the above, allegations of profit making are without any basis. The development of residential scheme is otherwise an important function of the JDA as held by the Apex Court in the case of "*Gandhi Grah Nirman Sahkari Samiti v. State of Rajasthan*", (1993) 2 SCC 662.

26. Learned counsel for respondents has further made a reference of the note sheet of the Land Acquisition Officer after submission of the objections under section 5A of the Act. It is alleged that no notice for personal hearing was issued and date of the

report has been manipulated to bring declaration within prescribed time. Most of the petitioners have not filed objections thus the argument aforesaid is not available to them. In those cases where objections were filed, they were mostly identical or verbatim the same. The petitioners were represented through the counsel. The report under section 5A of the Act of 1894 discloses that on receipt of the objections, reply of the JDA was sought and filed. It was given to the counsel appearing for the objectors. Counsel submitted written arguments and they have been considered. When written arguments had been submitted personally, question of issuance of further notice does not arise. The allegation of violation of principles of natural justice or non-grant of personal hearing is not made out. The order for preparation of report under section 5A was made after referring to the reply submitted by the JDA. The objectors were represented through Advocates and had submitted their written arguments.

27. The petitioners have relied on the note sheet dated 2.12.2011 prior to the note sheet dated 1.12.2011 to argue the case of fabrication. It is based on mistaken belief. The note sheet dated 1.12.2011 was dealing with separate issue. It was on the representation of the khatedar regarding change of their address and for making payment of compensation. A decision was taken for its consideration at the appropriate stage. The note sheet dated 2.12.2011 was for the report under section 5A of the Act.

28. The report dated 2.12.2011 was to be maintained separately but due to acquisition of one and same land, it was taken with other issues. The petitioners want to take benefit of mixing up on two note sheet dealing with separate issues. In fact, note sheet dated 2.12.2011 was not required to be placed before the note sheet dated 1.12.2011, because it was to be drawn separately and is subsequent to 1.12.2011. If it would have been prior to 1.12.2011, question of manipulation could have been raised.

29. The argument about declaration under section 6 of the Act of 1894 after lapse of one year is in ignorance of the facts that after initial Notification under section 4 on 4.10.2010, corrected Notification was issued on 9.11.2010. It was published in the gazette on 10.11.2010 followed by publication in news paper on 13.11.2010. The pasting of the notice was made on 13.12.2010 and 14.12.2010. Copy of the notice dated 14.12.2010 indicates the fact aforesaid. The last date of publication of the notice under section 4 is on 13/14.12.2010. The declaration under section 6 was made within one year i.e. on 7.12.2011.

30. An argument has been raised that the report was sent without record. The government could not have considered the report in absence of record to make declaration within five days.

31. The argument aforesaid is hypothetical as no reason exist as to why the government cannot consider and make declaration within the time intervening. The record of proceedings was sent along with the report.

32. It is also submitted that notification under section 4 of the Act of 1894 was issued after compliance of section 38 and 39 of the Jaipur Development Act, 1982.

33. Learned counsel has further raised the issue of permissibility of judicial review about objective satisfaction of the government for declaration under section 6 of the Act. A reference of the judgment in the case of "*Smt. Somavanti v. State of Punjab*", AIR 1963 SC 151 and "*Sooraram Pratap Reddy v. District Collector, Ranga Reddy District*", (2008) 9 SCC 552 has been given. The prayer is accordingly made to dismiss all the writ petitions. Learned counsel for respondents has given reference of several judgments to support his arguments which would be considered while dealing with the issues.

34. I have considered rival submissions of the parties and scanned the matter carefully.

35. The facts of the case have already been narrated thus need not to be reiterated. The challenge to the acquisition has been made on many grounds. Before dealing, it would be relevant to consider preliminary objections to the maintainability of the writ petition.

36. The first objection is of delay and laches in filing the writ petitions. The writ petitions have been filed in the year 2014 and onwards. The others in the year 2012 to challenge the Notification under Section 4 of the Act of 1894, issued in the year 2010, followed by declaration under Section 6 in the year 2011. An award was passed on 31st May, 2013 but ground of challenge is not in reference to it. The writ petitions preferred by the petitioners in the year 2014 and onwards are after expiry of period of nearly three years or more from the date of declaration. The petitioners have failed to give justification of delay other than to say that when earlier writ petitions have been filed to challenge the acquisition, subsequent petitions may not be dismissed on the ground of laches.

37. I find that there is a delay of around three years and more to challenge the declaration under Section 6 of the Act of 1894 and all the actions taken prior to it which includes a report under section 5A. The award has been challenged but no ground for it has been urged thus it has not given cause of action to the petitioners. It applies only to the writ petitions preferred in the year 2014 and onwards. The delay to challenge the acquisition is fatal in the light of the judgments of the Apex Court in the cases of *State v. D.R. Laxmi* (supra), *A.P. I.I.C.L. v. Chintamanani* (supra), *U.P. Jal Nigam v. Jaswant Singh* (supra), *State of Maharashtra v. Digamber* (supra), *Aflatoon v. LTG Delhi* (supra), *Banda Development v. Moti Lal* (supra) and of this court in the case reported in 2016 (3) WLC (Raj.) 454. However, I am considering other issues also.

38. The other objection is about waiver, acquiescence and estoppel in those cases where objections under Section 5A of the Act of 1894 were not raised. Those writ petitions are detailed out as under:

Item No.	Case No.	Title
107	C.W. 8313/2012	<i>OM PRAKASH v. STATE</i>
108	C.W. 8318/2012	<i>GHEESA v. STATE</i>
109	C.W. 9140/2012	<i>HANUMAN SAHAY v. STATE</i>
110	C.W. 9141/2012	<i>GOPAL v. STATE</i>
111	C.W. 9144/2012	<i>GOPAL LAL v. STATE</i>
113	C.W. 9956/2012	<i>GOPAL v. STATE</i>
117	C.W. 6411/2015	<i>GOPAL v. STATE</i>
118	C.W. 6412/2015	<i>SMT. BHURI v. STATE</i>
120	C.W. 9183/2015	<i>BABURAM PABARI v. STATE</i>
121	C.W. 9295/2015	<i>BANWARI LAL v. STATE</i>
122	C.W. 9421/2015	<i>RADHAKRISHNA NAIR v. STATE</i>

39. In the writ petitions referred above, objections under Section 5A of the Act of 1894 were not raised thus argument in reference to the aforesaid provision cannot be accepted. In absence of objections under Section 5A of the Act of 1894, petitioners have waived their rights given therein. The view aforesaid is supported by the judgment of the Apex Court in the case of *Delhi Administration v. Gurdeep Singh Uban*, reported in (2000) 7 SCC 296 : AIR 2000 SC 3737. The relevant paras 53 to 56 and 60 of the said judgment are quoted hereunder:

"53. In *Abhev Ram* as well as in the judgment in the Civil Appeals. it has been

clearly stated that those claimants who have not filed objections to the section 4 notification cannot be permitted to contend before Court that the section 5A inquiry is vitiated so far as they are concerned. Nor can they be permitted to seek quashing of section 6 declaration on that ground. We shall elaborate this aspect further.

54. Now objections under section 5A, if filed, can relate to the contention that: (i) the purpose for which land is being acquired is not a public purpose (ii) that even if the purpose is a public purpose, the land of the objector is not necessary, in the sense that the public purpose could be served by other land already proposed or some other land to which the objector may refer or (iii) that in any event, even if this land is necessary for the public purpose, the special fact-situation in which the objector is placed, it is a fit case for omitting his land from the acquisition. Objection (ii) is personal to the land and objection (iii) is personal to the objector.

55. Now in the (ii) and (iii) type of objections, there is a personal element which has to be pleaded in the section 5A inquiry and if objections have not been filed, the notification must be conclusive proof that the said person had "waived" all objections which were personal and which he could have raised. However, so far as objection (i) is concerned, even in case objections are not filed, the affected party can challenge in Court that the purpose was not a public purpose.

56. Learned Solicitor General Sri. Salve rightly argued that in respect of each land owner whose land is acquired, the section 4 notification if it is sought to be avoided on personal grounds as stated in (ii) and (iii) above, it is necessary that objection be filed to avoid a voidable notification. Otherwise, the notification which is not avoided on any personal grounds, remains operative and personal objections are deemed to be waived.

60. In the present cases there is no dispute that the purpose is a public purpose. The applicant had not filed objections on grounds personally applicable to him or to his land seeking exclusion from acquisition, and the objections in that behalf must be deemed to have been waived. Such a person cannot be allowed to file a writ petition seeking the quashing of section 5A inquiry and section 6 declaration on personal grounds if he had not filed objections. Points 4 and 5 are decided accordingly against the applicants."

40. In one Writ Petition bearing No. 4838/2014, those petitioners, who have surrendered title of the land to get compensation in the shape of 25% developed land, cannot contest the writ petition. It is settled law that once title of the land is surrendered, the acquisition cannot be questioned. It would cover only those petitioners in the writ petitions referred above, who had surrendered title of the land and not to others.

41. The objection has also been taken about maintainability of the writ petition filed by Balaji City Vikas Samiti. It is of the plot-holders given plots by a Co-operative Society. It is submitted that no sale deed exists in favour of the Co-operative Society. In absence of sale deed, right would not confer even on the Cooperative Society what to say on the plot-holders to challenge the acquisition. They are not considered to be persons interested in view of the judgment of this court in the case of "*The Krishna Cooperative Housing Society Ltd. v. Rajasthan Housing Board, Jaipur*", reported in 1993 (3) WLC (Raj.) 583. Thus, writ petitions in the hands of Vikas Samiti is not maintainable because plot-holders cannot claim better title than possessed by the Cooperative Society. The preliminary objections are decided with the aforesaid.

The arguments on merit of the case:

42. The first issue is regarding acquisition of land to make profit and not for public purpose. The argument has been raised in reference to a notesheet where calculation about feasibility of acquisition has been made. It shows that there would be surplus of Rs. 5.11 crore if compensation is given in the shape of allotment of developed land

and otherwise to be of Rs. 711.6 crore. It is to make profit thus acquisition is not for public purpose. It is not in dispute that acquired land is going to be used for development of residential as well as commercial areas to cater future need of the public. It is due to expansion of Jaipur City. The acquisition to develop housing scheme with commercial area is a public purpose.

43. The JDA is to work to urbanised development and has been accepted by the Apex Court in the case of *Gandhi Grah Nirman Sahkari Samiti Ltd. v. State of Rajasthan*, reported in (1993) 2 SCC 662. The development of the residential scheme is held to be one of the important functions of the JDA, thereby, acquisition is for public purpose. There exists even presumption of existence of public purpose in view of Section 63 of the Act of 1894.

44. The issue aforesaid was earlier considered by the Apex Court in the case of *Smt. Somavanti v. The State of Punjab*, reported in AIR 1963 SC 151 and in the case of *Sooraram Pratap Reddy v. District Collector, Ranga Reddy District*, reported in (2008) 9 SCC 552 also. If acquisition of land is for development of residential scheme, it is for public purpose. It is, however, alleged that JDA would be making profit.

45. The notesheet referred by the petitioners shows surplus amount but it is only to see viability and the figures therein cannot be said to be final. They are tentative figures because what would be the amount of compensation is always dependable on the award, that too, subject to reference under section 18 of the Act of 1894. In the same manner, development charges remain tentative because with passage of time, it may increase. If surplus amount remains, it cannot be said to be profiteering because JDA keep funds for development of the city and related purpose. It is not a company to make profit thus first argument raised by the petitioners cannot be accepted only for the reason that word 'profit' has been mentioned in the notesheet.

46. The second argument is about approval of the Government before issuance of Notification under Section 4 of the Act of 1894 and no survey under Section 4(2) of the Act of 1894 was conducted after Notification under Section 4. The noncompliance of Section 3(f)(vi) apart from section 39 of the Jaipur Development Authority Act, 1982 has been alleged.

47. The issues aforesaid have been replied by the respondents. It is stated that before initiation of aquisition, a draft plan was published to invite objections. It was proposed for residential area. After dealing with the objections, Master Development Plan was finalised. The land in dispute was shown for housing purposes. The facts given above reveal that after proper survey and inviting objections, area was kept for residential purpose. The nature of the land has otherwise been indicated in the Jamabandi and it does not show that entire land was irrigated. The environmental clearance has not been taken, however, petitioners could not show as to how it vitiates acquisition.

48. The argument in reference to objections under Section 5A of the Act of 1894 has also been raised. This would not be available to those who did not raise it. The fact available on record and as has been presented by both the parties shows that few petitioners submitted objections under Section 5A of the Act of 1894 which were verbatim the same. It was raised through an Advocate. On submission of the objections, reply of the JDA was sought and given with a copy to the learned counsel appeared on behalf of objectors. The petitioners' Advocate then presented written arguments which were given personally and with the presentation of the written arguments, requirement of personal hearing stands completed. It is not that even if somebody is appearing before the Land Acquisition Officer either in person or through a Pleader, he needs to be given notice. It is moreso when appearance was on the dates fixed by the Land Acquisition Officer. With the submission of written arguments, hearing gets completed thus allegation of denial of personal hearing cannot be

accepted. It is, however, true that written arguments were not submitted before a Land Acquisition Officer, who decided it subsequently. The aforesaid does not mean that personal hearing is not given though in strict term, the petitioners, could have been called again but written arguments having been submitted, no purpose was existing to call the Pleader.

49. The objections submitted by the objectors were dealt with by the Land Acquisition Officer. The report need to be submitted after consideration of the objections. It is not in the manner an order is passed in the judicial side. Learned counsel for the petitioners has made reference of the judgment of the Apex Court in the case of *Kamal Trading* (supra) and *Sita Ramji* (supra) apart from other judgments. Learned counsel for the respondents has also cited the judgments to support his arguments. The perusal of the judgments referred by the petitioners reveal that Section 5A of the Act of 1894 is of significance. The Land Acquisition Officer has to consider the objections. The perusal of the report shows required consideration with the finding that land is required for public purpose thus objections cannot be accepted. The objections were the same as raised in the writ petition. It is the nature of land and absence of environment clearance apart from non-compliance of Section 39 of the JDA Act etc. The Land Acquisition Officer has made reference of the objections followed by reply by the JDA and the written arguments of petitioners. Each objection has been dealt with thereupon with the finding referred above. It cannot be said that objection under Section 5A of the Act has not been considered.

50. The issue about backdating of the report has also been raised. It is stated that after recording notesheet of 1st December, 2011, report was prepared on 2nd December, 2011. It is, no doubt, true that ordersheet dated 2nd December, 2011 is placed prior to notesheet of 1st December, 2011 but both are dealing with different issues. The perusal of the notesheet dated 1.12.2011 reveals it to be in reference to the prayer of the khatedar to allow compensation to them. It has nothing to do with the report on the objections under Section 5A of the Act of 1894 which were decided on 2nd December, 2011. It is true that different issues should have been dealt with in the separate file. It does not mean that there is fabrication of dates because there was no need for it. After recording of the note sheet on 1st December, 2011, it is not that a report was made prior to it. If that would have been so, argument of learned counsel for petitioners could have been accepted. The report was prepared on 2nd December, 2011 i.e. subsequent to 1st December, 2011. Hence, argument of fabrication of the documents is not made.

51. It is true that in one case, where objections have been raised by Vikas Samiti, it has not been considered. It is for the reason that Vikas Samiti is not considered to be a person interested. It is in view of judgment of this court in the case of *The Krishna Co-operative Housing Society Ltd. v. Rajasthan Housing Board, Jaipur* (supra). The Vikas Samiti was created by the plot-holders who were given plots by the Co-operative Society. It was based on agreement to sell in favour of the society but without a sale deed, title is not passed on so as to consider Cooperative Society or its allottees to be person interested, so as the Vikas Samiti. Thus non-consideration of the objections in the hands of person not falling in the definition of "person interested" cannot be said to be illegal.

52. The argument regarding delay in issuance of declaration under Section 6 of the Act of 1894 is another issue. It is stated that after issuance of Notification under Section 4 of the Act of 1894 on 4th October, 2010, last publication was made on 1st November, 2010, which has been disputed by the respondents. It is submitted that after issuance of Notification under Section 4 of the Act of 1894 on 4th October, 2010, corrected Notification was issued followed by its publication in the newspaper. After the aforesaid, an order was passed on 13th December, 2010 to place the file on 12th January, 2011 after publication of notice in the locality. It cannot be said to be a

manipulated notesheet. The public notices were affixed in locality on 13th December, 2010 and 14th December, 2010. The aforesaid fact is coming out from the notesheet. In view of the above, last publication under Section 4 of the Act of 1894 is on 13th and 14th December, 2010. The declaration under Section 6 of the Act of 1894 was made on 7th December, 2011 with its publication in the gazette on 16th December, 2011. The petitioners have taken date of publication in Gazette to be relevant date i.e. 16th December, 2011. The question is as to whether publication of declaration is the date it is published in the Gazette or on issuance of it. Section 6 of the Act of 1894 is quoted hereunder for the aforesaid purpose:

"6. Declaration that land is required for a public purpose. - (1) Subject to the provision of Part VII of this Act, [appropriate Government] is satisfied, after considering the report, if any, made under section 5A, sub-section (2)], that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders [and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1) irrespective of whether one report or different reports has or have been made (wherever required) under section 5A, sub-section (2)];

Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1)-

- (i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), shall be made after the expiry of three years from the date of the publication of the notification; or
- (ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), shall be made after the expiry of one year from the date of the publication of the notification:]

Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

Explanation 1. - In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (1), is stayed by an order of a Court shall be excluded.

Explanation 2. - Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by the State, such compensation shall be deemed to be compensation paid out of public revenues.]

(2) Every declaration shall be published in the Official Gazette [and in two daily newspapers circulating in the locality in which the land is situated of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state] the district or other territorial division in which the land is situate, the purpose for which It is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be; and, after making such declaration, the [appropriate Government] may acquire the land in manner hereinafter appearing."

53. The publication of the Notification is required and that is to be in Official Gazette, newspapers and even in the locality. In the instant case, declaration was made on 7th December, 2011 but it was published in the gazette on 16th December, 2011. If the date of gazette notification is taken then declaration is after one year but the relevant date is when the notification was made and it is on 7th December, 2011. In view of the above, declaration is not after one year. The judgment of the Apex Court in the case of "*SH. Rangappa v. State of Karnataka*", (2002) 1 SCC 538 is relevant on the aforesaid issue. Therein, the same issue was considered by the Apex court. The relevant paras 8, 9 and 12 of the said judgment are quoted hereunder:

"8. We wish to clarify that the words "publish" and "from the date of publication of the notification occurring in provision (ii) to Section 6(1) refer to the publication of the Section 4 notification and have no reference to the publication of any notification under Section 6. Under Section 6(1), it is only a declaration which is required to be made, the time limit being within one year of the publication of the Section 4 notification. The main purpose for the issuance of declaration under Section 6 is provided by sub-section (3), namely, that the declaration is conclusive evidence that the land is needed inter alia for a public purpose and after the making of the declaration the appropriate Government may acquire the land in the manner provided by the Act. Sub-section (2) requires the declaration to be published in the Official Gazette and in two daily newspapers circulating in the locality in which the land is situate and in addition thereto the Collector is also required to cause public notice of the substance of the declaration to be given in the convenient places in the said locality.

9. It is pertinent to note that sub-section (2) of Section 6 does not prescribe any time limit within which the declaration made under Section 6(1) is to be published. It is well known that after an order or declaration is made there can be a time gap between the making of the order or a declaration and its publication in the Official Gazette. Whereas the time limit for the making of an order is provided under Section 6(1), the legislature advisedly did not provide for any time limit in respect of the steps required to be taken under sub-section (2) of Section 6. If the contention of Mr. G.L. Sanghi, the learned senior counsel for the appellant is correct, the effect would be that not only the declaration would have to be published within the time prescribed under the proviso to Section 6(1) but all other steps, like publication in the daily newspaper and the Collector causing public notice of the declaration to be given at a convenient places in the locality, must also be completed within a period of one year of Section 4 notification. This could certainly not be a consequence contemplated by the legislature. As already observed, the purpose of Section 6 notification being no give a final declaration with regard to the need of the land for public purpose, the interest of the land owners was sufficiently safeguarded with the requirement of the making of the declaration under Section 6 (1) within a prescribed period. It is difficult for us to read into sub-section (2) the provisions of the proviso to Section 6(1) which relate to the time limit for issuance of the notification under Section 6(1).

12. Mr. Sanghi also drew our attention to the observations of this Court in *Sanjeeva Nagar Medical and Health Employees Co-operative Housing Society v. Mohd. Abdul Bawahab*, [1996] 2 SCR 308. While referring to the various provision of the Act at page 606, it was observed that "the declaration should be within one year." Mr. Sanghi contends that this is a decision of three judges which we should follow. We are unable to accept this for the reason that what arose for consideration before the Court in *Sanjeeva Nagar's case* was the provision of Section 4 as amended by the State of A.P. which fixed time limit of 40 days for giving public notice on the substance of a notification under Section 4(1). The Court was called upon in that case to consider whether a declaration under Section 6(1)

was required to be published in a Gazette within one year of the publication of Section 4 Notification. Therefore, the aforesaid observation is only an obiter and contrary to the decision of this Court of a larger Bench in *Khadim Hussain's case* which decision has neither been referred to in the *Senjeeva Nagar's case* or in the *Krishi Utpadhan Mandi's case* and in *Eugenia's case*."

54. As against the aforesaid, no judgment has been cited by learned counsel for the petitioners.

55. An argument has further been raised that report under Section 5A was not accompanied with the record. The reply to the writ petition shows that record pertaining to the report was sent to the Government. The petitioners alleged that it should be entire record and not copy of the objections, reply and written arguments submitted by the parties. To appreciate the argument, I have gone through Section 5A (2) of the Act of 1894 and find that what is required to be sent along with report is record of the proceedings held by the Land Acquisition Officer. The proceedings under Section 5A are objections followed by reply and arguments and it has been sent by the respondents. Thus I do not find violation of Section 5A(2) of the Act of 1894 in the instant case. It is also alleged that consideration of report could not have been in one or two days. It is for the reason that after the report dated 02.12.2011, 3rd and 4th December were Saturday and Sunday thus the only available days were 5th and 6th December, 2011. I do not find any substance in the argument. Why report cannot be considered in a day or two has not been clarified.

56. The last argument is regarding non-consideration of the report by the State. The argument aforesaid has been raised in reference to the judgment of the Apex Court in the case of *Usha Stud & Agricultural Farms* (supra) so as *Women Education Trust* (supra). Before making a declaration, authorised officer of the Government needs to consider the report. The judicial review, as to what extent mind has been applied, is not permissible in view of the judgment of the Apex Court in the case of *Smt. Somavanti and Sooraram Pratap Reddy* (supra). Section 6(3) makes a presumption and gives conclusive evidence that land is acquired for public purpose. In the instant case, it is for the development of residential scheme. It is after taking into consideration the future need of Jaipur City thus is for public purpose. It is, however, stated by the petitioners that vacant land is available but failed to give details, that too, after showing that it would be sufficient for the future need. The allegation to extend benefit to the developers is also for the sake of it as no material has been produced.

57. In the light of discussion made above, I do not find any merit in the writ petitions. They are, accordingly, dismissed with no order as to costs.

58. A copy of this judgment be placed in each connected file.