[2024] 7 S.C.R. 1001 : 2024 INSC 508

New Okhla Industrial Development Authority
v.
Darshan Lal Bohra & Ors.

(Civil Appeal No. 8048 of 2019)

10 July 2024

[Surya Kant* and K.V. Viswanathan, JJ.]

Issue for Consideration

(i) Whether the respondents-landowners forestalled their right to challenge the acquisition proceeding on the ground of non-compliance of Section 5A, Land Acquisition Act, 1894 because they have not filed objections; or they were not tenure holders as per the revenue records on the date of notification under Section 4 of the 1894 Act; or after submitting their objections, they have accepted compensation without any demur; (ii) If the answer to the aforementioned question is in negative, whether the mandatory procedure contemplated under Section 5A has been complied with in the instant case.

Headnotes†

Land Acquisition Act, 1894 – s.5A – Compliance with – Writ petitions were filed by the respondents-land owners challenging the acquisition proceedings on the ground of non-compliance of the procedure prescribed u/s.5A – Respondents claimed being unaware of the acquisition proceedings stating that they were not served with notices for hearings – High Court quashed the notification issued u/s.6(1) and annulled the land acquisition proceedings initiated by the appellant – Correctness:

Held: The person who submits objections u/s.5A must be accorded an opportunity of personal hearing – Such a hearing must precede with an advance notice served upon the objector – The failure to serve the notice would be sufficient to infer the defiance of s.5A – However, whether or not an advance notice of hearing was served upon an "objector" is a question of fact – Where the Collector takes a specific stand that notices were duly served upon the persons concerned and the record of service of such notices has been duly maintained, the statutory presumption inscribed u/s.114, Evidence

* Author

Act shall be drawn, wherein the Court may presume the existence of facts, including "that judicial and official acts have been regularly performed" – The rule of statutory presumption is a well-rooted principle in Common Law and founded upon the dictum '*omnia praesumuntur rite esse acta*', namely, that the act can be presumed to have been rightly and regularly done – The Court would presume that the official act was done rightly and effectively and the burden to prove contrary lies on the party who disputes the sanctity of such act – Thus, the onus lay on the landowners to demonstrate that the issuance or service of notices was inefficacious, which they failed to discharge given their presence at the time of hearings,as per the official record – Landowners were thus, duly served and the procedure as mandated by s.5A was substantially complied with – Impugned judgment of the High Court as well as all other judgments following the said judgment, set aside – Writ petitions filed by the respondents dismissed. [Paras 38-41, 56]

Maxim – '*Omnia Consensus Tollit Errorem*' – Applicability – Land Acquisition Act, 1894 – ss.5A, 6 – "person interested"; "objector" – Challenge to acquisition proceedings even by the respondents-landowners who did not file objections – High Court quashed the entire declaration issued u/s.6 and annulled the land acquisition proceedings initiated by the appellant:

Held: s.5A(1) gives a "person interested" the right to file objections, s.5A(2) affords only an "objector" the right to be heard – A person cannot claim hearing as a matter of right u/s.5A(2) unless he has filed objections – High Court erred while allowing the claim of even those landowners who did not invoke their remedy u/s. 5A(1) – An interested person who fails to file objections, is deemed to have acquiesced to the acquisition – Maxim '*Omnia Consensus Tollit Errorem*', i.e., every assent removes error is attracted in case of such owners – High Court could still have invalidated the acquisition qua these landowners had there been a reason going to the very root of the entire acquisition like the 'public purpose' of acquisition being conspicuously absent, or the acquisition process being an outcome of colorable exercise of power of eminent domain – In such cases, all the landowners, even if they had not filed objections, could seek annulment of the declaration issued u/s.6 – However, no such plea was taken in the instant batch of cases except that the procedure contemplated u/s.5A was deflated – Such objections were personal to the landowners, as they sought individual exemption on

the plea that they had raised residential constructions on their land under acquisition – Since it was a ground specific to each property, High Court was wrong to grant the benefit *en masse* and quash the entire declaration issued u/s.6 of the 1894 Act. [Paras 22, 23]

Land Acquisition Act, 1894 – Challenge to acquisition proceedings also by respondents-landowners who though filed objections u/s.5A but, subsequently accepted compensation:

Held: When a landowner receives compensation volitionally subsequent to filing of the objections u/s.5A and does not preserve the right to pursue such objections, there is implied consent to the acquisition – Having once acquiesced so, a landowner cannot be permitted to do a volte-face and re-agitate the objections – Holding otherwise, would open a Pandora's Box where the landowners will, on one hand, seek re-enquiry of their claims u/s.5A and, on the other, will also draw the compensation – Thus, there would, be no finality to the proceedings and the acquisition process would be tainted by uncertainty and unpredictability which would further have a chilling effect on the development projects – Therefore, such respondents non-suited on the ground that they accepted compensation without any protest. [Para 30]

Land Acquisition Act, 1894 – s.5A – Objections – If were effectively disposed – Owing to the similarities of contents and the fact that they pertained to the same parcel of land, several objections were disposed of by the Collector by a Common Order after grouping them together – High Court held that the objections were treated as an empty formality since the Collector disposed them by consolidating in groups:

Held: Objections were classified because of the similarity of substance and thus, it was plausible to group them together and dispose of by way of a Common Order – Not doing so would lead to sheer wastage of time and energy that would be spent in duplicating the recommendations for each individual objection – Similar objections can be consolidated and the Collector need not undertake the daunting and unnecessary task of disposing of thousands of objections separately – Thus, High Court erroneously held that the objections were disposed of cryptically merely because they were grouped – Furthermore, some of the objections were left out from the aforementioned groups wherein the Collector noted that the objectors sought exemption of their land on the ground of it being an 'abadi' area – This plea was rejected albeit while

disposing of other objections observing that the lands claimed to be 'abadi' merely have temporary and illegal constructions, and no person was residing there and finally, the Collector noted that all the objections were disposed of "in aforementioned terms" – Also, the absence of a formal rejection order in the case of a few objections would not per se vitiate the acquisition proceedings as the non-consideration of such objections is inconsequential, because even if it was an 'abadi' land, there is nothing in law that bars the State Government from acquiring the same – Exemption of such lands from the acquisition is a matter of State Policy and depends on the government's discretion – If the State Government opines that the land is needed for a larger public purpose and development projects, such land can be acquired, notwithstanding the fact that it was a residential property – Further, also in the instant case, admittedly the acquisition proceedings attained finality, most landowners accepted compensation and are deemed to have acquiesced to the acquisition process whereafter, significant investment had been made into the development projects – Thus, even if it is accepted that a handful of respondents did not get a fair enquiry u/s. 5A, the same may not be a sufficient ground to annul the acquisition process as substantial compliance had already been made. [Paras 47-52]

Land Acquisition Act, 1894 – s.4 – Notification under – Challenge to acquisition proceedings by the respondents-landowners who were subsequent purchasers – If such respondents had a locus:

Held: No – Notification issued u/s.4 creates an impediment on the transfer of title in a property – Subsequent purchasers do not acquire an unencumbered title over the property and they deliberately run the risk of securing a defective title – Thus, the respondents who clandestinely got sale deeds executed with or without collusion with the Registering Authorities after the acquisition process had commenced and/or whose names were not recorded in the revenue records before issuance of notification u/s. 4 of the Act, were also denuded of any cause of action u/s. 5A to object against the acquisition proceedings – No cause of action ever accrued in favour of the respondents in these cases to invoke writ jurisdiction of the High Court. [Paras 26, 28]

Land Acquisition Act, 1894 – s.5A – Construction and import – Discussed.

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Land Acquisition Act, 1894 – s.5A – Notices when not served as per the procedure, acquisition proceedings if get vitiated:

Held: Even in cases where the notices were not served as per the procedure known in law, that by itself may not vitiate the acquisition proceedings unless it is shown that severe prejudice was caused to the landowners – Even when there is no material to show that the landowner was heard, it would not invalidate the acquisition proceedings if the objections are duly considered. [Para 43]

Case Law Cited

Talson Real Estate (P) Ltd. v. State of Maharashtra **(2007) 13 SCC 186;** *Rajasthan State Industrial Development & Investment Corpn. v. Subhash Sindhi Coop. Housing Society* [2013] 4 SCR 978 **: (2013) 5 SCC 427;** *Tej Kaur v. State of Punjab* [2003] 2 SCR 707 **: (2003) 4 SCC 485;** *Anand Singh v. State of U.P.* [2010] 9 SCR 133 **: (2010) 11 SCC 242 – relied on.**

Sam Hiring Company v. A.R. Bhujbal [1996] 1 SCR 475 **: (1996) 8 SCC 18;** *Narayan Govind Gavate v. State of Maharashtra* [1977] 1 SCR 763 **: (1977) 1 SCC 133;** *Savitri Devi v. State of U.P.* [2015] 7 SCR 512 **: (2015) 7 SCC 21;** *Babu Ram v. State of Haryana* [2009] 14 SCR 1111 **: (2009) 10 SCC 115;** *Shri Farid Ahmed Abdul Samad v. Municipal Corporation* [1977] 1 SCR 71 **: (1976) 3 SCC 719;** *Nareshbhai Bhaggubhai v. Union of India* [2019] 10 SCR 88 **: (2019) 15 SCC 1;** *NOIDA v. Lt. Col. J.B. Kuchhal* **(2020) 18 SCC 619;** *Competent Authority v. Barangore Jute Factory* [2005] Supp. 5 SCR 421 **: (2005) 13 SCC 477;** *Women's Education Trust v. State of Haryana* **(2013) 8 SCC 99;** *J.E.D. Ezra v. Secretary of State for India* **(1902) SCC OnLine Cal 179;** *Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai* [2005] Supp. 3 SCR 388 **: (2005) 7 SCC 627;** *Delhi Admn. v. Gurdip Singh Uban* [2000] Supp. 2 SCR 496 **: (2000) 7 SCC 296;** *Abhey Ram v. Union of India* [1997] 3 SCR 931 **: (1997) 5 SCC 421;** *V. Chandrasekaran v. Administrative Officer* [2012] 10 SCR 603 **: (2012) 12 SCC 133;** *Meera Sahni v. Lt. Governor of Delhi* [2008] 10 SCR 1012 **: (2008) 9 SCC 177;** *Kailash N. Dwivedi v. State of U.P.* **(2011) 15 SCC 98;** *Aflatoon v. Lt. Governor of Delhi* [1975] 1 SCR 802 **: (1975) 4 SCC 285;** *Anand Buttons Ltd. v. State of Haryana* **(2005) 9 SCC 164;** *Om Prakash v. State of U.P.* [1998] 3 SCR 643 **: (1998) 6 SCC 1;** *M.S.P.L. Ltd. v. State of Karnataka* [2022] 14 SCR 591 **: (2022) SCC OnLine SC 1380 – referred to.**

Gajraj v. State of U.P. **(2011) SCC OnLine All 1711 – referred to.**

List of Acts

Land Acquisition Act, 1894; Evidence Act, 1872; Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950.

List of Keywords

Challenge to acquisition proceedings; Land acquisition proceedings annulled; Compliance of Section 5A of Land Acquisition Act, 1894; Objections filed under Section 5A of Land Acquisition Act, 1894; Objections rejected; "Objector"; Annulment of acquisition process; Abadi land; Abadi area; Abadi deh; Notices to the affected landowners; Service of notices; Subsequent purchasers; Landowners were subsequent purchasers; Tenure holders; "person interested"; Implied consent to the acquisition; Estoppel; Acquiescence; Acquiesced to the acquisition; Notices for hearings not served; Personal hearing; Advance notice of hearing; Landowners duly served; Landowners received compensation; Consolidation of objections; Public purpose of acquisition; Public interest; Colorable exercise of power; Compensation accepted without any protest/demur; Development projects; Residential property; *Omnia Consensus Tollit Errorem*.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 8048 of 2019

From the Judgment and Order dated 05.01.2017 of the High Court of Judicature at Allahabad in WC No. 36231 of 2015

With

Civil Appeal Nos. 8049, 8050, 8051, 8052, 8053, 8054, 8055, 8056, 8057, 8058, 8059, 8060, 8061, 8062, 8063, 8064 and 8065 of 2019

Appearances for Parties

Ravindra Kumar, Sr. Adv., Binay Kumar Das, Vipin Kumar Saxena, Ms. Priyanka Das, Ms. Neha Das, Shivam Saksena, Rachit Mittal, Parish Mishra, Adarsh Srivastava, Advs. for the Appellant.

Ravindra Kumar Raizada, Dhruv Mehta, Sr. Advs., Shashank Shekhar Singh, Abhinav Singh, Smarhar Singh, Jai Krishna Singh, Ms. Shweta Kumari, Manoj Kumar, Vikas Chopra, Rajesh Kumar Gautam, Anant

Gautam, Samir Mudgil, Ms. Anani Achumi, Dinesh Sharma, Ms. Shivani Sagar, R.P. Daida, Dr. Rajeev Sharma, Prashant Sharma, Pankaj Dubey, Pankaj Y, Dharmendra Sharma, Vipin Kumar Sharma, Raghuvir Sharma, Raghuvir Shy, Ms. Devjani Dekka Bharali, Jasbir Singh Malik, Sanjay Sharma, Ms. Chandni Sharma, Tej Singh Yadav, Varun Punia, Rahul Sharma, Ms. Jyoti Dutt Sharma, Ms. Jaikriti S. Jadeja, Adesh Choudhary, Shivang Goel, Ms. Usha Nandini V., Advs. for the Respondents.

Judgment / Order of the Supreme Court

Judgment

Surya Kant, J.

1. These appeals are preferred by New Okhla Industrial Development Authority (NOIDA) against the main judgment dated 05.01.2017 rendered in Writ C. No. 36231/2015 (in Civil Appeal No. 8048 of 2019, titled *NOIDA v. Darshan lal Bohra & Ors.*), passed by the High Court of Judicature at Allahabad (hereinafter, 'High Court'), whereby the land acquisition proceedings initiated at NOIDA's behest have been annulled by quashing the declaration dated 14.01.2015 issued under Section 6(1) of the Land Acquisition Act, 1894 (hereinafter, '1894 Act').

A. Facts

2. Given the broad similarity in all the connected matters, the factual matrix can be understood from the details of the lead matter, i.e., Civil Appeal No. 8048 of 2019, titled *NOIDA v. Darshan Lal Bohra & Ors.*

3. A notification under Section 4(1) of the 1894 Act was issued for the acquisition of land measuring 83.761 hectares situated in Village Badoli Banger, Tehsil Dadri, District Gautam Budh Nagar (hereinafter, 'Acquired Land'). The acquisition was intended for the "Planned Industrial Development in Gautam Budh Nagar" by NOIDA. The notification was published in the State Gazette on 28.09.2013 and in the daily newspapers "Amar Ujala" and "Dainik Jagran" on 27.11.2013. Additionally, a public announcement (*munadi*) was conducted on 18.01.2014. Through such mechanism, the persons interested were invited and allowed to lodge their objections, if any, against the proposed acquisition.

4. On 09.12.2013, Darshan Lal Bohra (hereinafter, 'Respondent No. 1') filed his objections under Section 5A of the 1894 Act (hereinafter, 'Section 5A') before the Collector-cum-Additional District Magistrate (hereinafter, 'Collector'), Gautam Budh Nagar, Uttar Pradesh. He submitted that his land was in '*abadi'* area and thus ought to be excluded from the acquisition process as per policy decision(s) of the State Government. He further stated that the land was being used for cattle rearing and he had his farm buildings constructed. Respondent No.1 emphasized that the acquisition would not only jeopardize his means of livelihood but also render him homeless.

5. Most of the other land-owners also objected to the acquisition of their lands primarily on the ground that such lands fell within '*abadi deh'.* The objections raised by Respondent No. 1, as well as by other landowners (*respondents in connected matters*), were to be adjudicated by the Collector. The notice fixing the date of hearing was forwarded to 'interested persons' through the Gram Pradhan, but the date of hearing was deferred on multiple occasions on the ground that only a few farmers came who also sought time to present their case(s). As a final opportunity, the matter was posted on 03.07.2014, when the Collector dismissed the objections and submitted a report under Section 5A(2) recommending for acquiring the subject land.

6. Following the rejection of objections, a declaration under Section 6(1) of the 1894 Act was issued on 14.01.2015, for acquiring 81.819 hectares of land. This declaration was also published in the daily newspapers "Amar Ujala" and "Dainik Jagran." Subsequently, *munadi* was conducted on 16.02.2015.

7. Feeling aggrieved by the said declaration, Respondent No. 1 filed Civil Misc. Writ Petition No. 36231/2015 before the High Court and sought quashing of the notifications issued under Section 4(1) and Section 6(1) of the 1894 Act.

8. During the pendency of the writ petition, the Collector passed an award on 17.06.2016, determining the total compensation for the acquired land to the tune of INR 2,21,79,27,378/- (INR 221.79 crores approximately). This was followed by the possession letters issued on 20.06.2016.

9. The High Court, *vide* impugned judgment, scrutinized the procedural aspects of the proceedings conducted by the Collector in hearing objections filed under Section 5A. It has held that though the notices

to the affected land-owners were purportedly issued through the Gram Pradhan for informing the date of hearing, there was nothing on record to show how effectively the Gram Pradhan intimated all tenure holders. The High Court has consequently inferred that the respondent-landowners were not properly informed of the date of personal hearing. The High Court has also found fault with the Collector in consolidating the objections without adequate consideration and treating them as an empty formality. The High Court, in light of the fact that the Collector attempted to rectify his earlier order by issuing a corrigendum, has also raised doubts on the fairness of the procedure. Consequently, the High Court has annulled the notification dated 14.01.2015, issued under Section 6(1) of the 1894 Act, with a direction that a fresh opportunity be given to the respondents and similarly situated tenure holders before proceeding further with the land acquisition process.

10. Discontented with the quashing of notification issued under Section 6(1) of the 1894 Act, NOIDA is in appeal before us.

B. Contentions on behalf of NOIDA/State

11. Mr. Ravindra Kumar, learned senior counsel representing NOIDA and Mr. Ravindra Kumar Raizada, learned senior counsel and Additional Advocate General for the State of Uttar Pradesh, vehemently argued that the High Court erred in nullifying the notification dated 14.01.2015 issued under Section 6(1) of the 1894 Act. Substantiating this, they made the following submissions:

On maintainability of challenge against the acquisition proceedings

a) It was explained that the respondent-tenure holders fall into four categories: (i) those who lodged objections and contested the acquisition; (ii) those who did not lodge objections but contested the acquisition; (iii) those who initially objected but later accepted compensation; and (iv) the subsequent purchasers. It was urged that the respondents falling in the second, third, and fourth categories, namely, those who did not object, accepted compensation, or are subsequent purchasers, do not have *locus standi* and/or have waived their right to challenge the subject acquisition.

b) NOIDA has already disbursed a compensation amount of INR 147,72,68,871 (approximately INR 147 crores) and nearly

185 out of total 210 affected land-owners have accepted such compensation. Additionally, INR 72,56,43,151 (approximately INR 72 crores) have been distributed to the farmers as no litigation bonus. Consequently, the challenge brought in by a miniscule group of land-owners ought not to have been entertained.

c) Moreover, post the acquisition, NOIDA has incurred a huge expenditure of INR 202.17 crore (approximately) on subsequent developments at the site. Hence, the annulment of acquisition process at this juncture defeats the *bona fide* public purpose and public interest.

On the effectiveness of hearing under Section 5A

d) It was then argued that the High Court fell in grave error in holding that the landowners were deprived of the opportunity to present evidence. Once an objector had submitted the objection in writing, no further oral hearing was obligated to be accorded. In this instance, affidavits were duly filed supporting the objections presented through legal counsels and thus the statutory requirements prescribed for an administrative enquiry as contemplated under Section 5A have been substantially complied with.

e) Relying upon ***Sam Hiring Company v. A.R. Bhujbal***,[1] it was canvassed that the Land Acquisition Officer functions as an administrative authority and not as a judicial or quasi-judicial forum. That the Act mandates consideration of objections by affording an opportunity of hearing, if it is so requested by the aggrieved persons. However, in this case, no such opportunity was sought by the landowners from the Collector.

f) ***Narayan Govind Gavate v. State of Maharashtra***[2] was pressed into aid to submit that Section 5A mandates an expeditious enquiry, focusing on objections lodged by landowners challenging the 'public purpose' behind the acquisition. The objections that are personal to the objectors would be irrelevant to such enquiry. In the instant case, since the objections did

1 [1996] 1 SCR 475 : 1996 (8) SCC 18

2 [1977] 1 SCR 763 : 1977 (1) SCC 133

not assail the genuineness or nature of the public purpose of acquisition, the personal claims did not warrant any one-to-one adjudication through the summary enquiry.

g) The objections raised by the respondent-landowners, seeking exemption of their land owing to it being within village '*abadi*', are wholly misconceived. Before the issuance of Section 4 notification on 28.09.2013, a survey was conducted by the Revenue Department to identify '*abadi*' land. The State has not acquired most of the land identified as '*abadi*' in the survey, except such parcels where unauthorized and illegal constructions had been raised as per the Collector's report.

C. Contentions on behalf of the Respondents

12. *Per contra,* respondent-landowners, represented by Mr. Dhruv Mehta, learned senior counsel along with learned Counsels S/Shri Dr. Rajeev Sharma, Jasbir Singh Malik, Smarhar Singh, Rahul Sharma and Ms. Jaikriti S. Jadeja, attempted to rebuff the submissions made on behalf of the appellant(s) in the following terms:

On maintainability of challenge against the acquisition proceedings

a) Acceptance of compensation does not preclude the respondents from challenging the acquisition proceedings. Respondent No. 1 asserts that the compensation was received in good faith, based on a mutual agreement with NOIDA. Under this settlement, Respondent No. 1 agreed to relinquish 0.5671 hectares of his land in favour of NOIDA in lieu of the release of remainder of his '*abadi*' land. The compensation was taken to safeguard Respondent No. 1's land from demolition. However, after accepting the compensation, NOIDA failed to honor the settlement and proceeded to acquire his remaining '*abadi*' land as well. Respondent No. 1 thus alleges *mala fide* intentions of NOIDA authorities behind initiating the acquisition process.

b) Reference was made to the Full Bench decision of the High Court in ***Gajraj v. State of U.P.***,[3] which was subsequently upheld by this Court in ***Savitri Devi v. State of U.P.***,[4] emphasising

3 2011 SCC OnLine All 1711.

4 [2015] 7 SCR 512 : (2015) 7 SCC 21

that accepting compensation does not amount to acquiescence to the acquisition if such proceedings are otherwise wrongful and illegal.

On the effectiveness of hearing under Section 5A

c) Citing ***Babu Ram v. State of Haryana***,[5] Mr. Dhruv Mehta, Learned Senior Counsel, emphatically argued that Section 5A of the 1894 Act is far more than a statutory edict, embodying Fundamental Rights enshrined in Articles 14 and 19 of the Indian Constitution. Hence, objections filed by the landowners were required to be considered in a quasi-judicial manner, and as the provision expressly confers the right to hearing, the Collector was obligated to accord such an opportunity to the affected landowners.

d) Learned Senior Counsel further submitted that the record of proceedings conducted by the Collector leaves no room to doubt that: i) the respondents were not served with notices for hearings; ii) personal hearings were not granted; and iii) there was a complete non-application of mind in addressing Section 5A objections. The personal hearing was crucial in the present case since the objections varied from owner to owner. The failure to provide such hearing amounts to gross violation of Section 5A, justifying the quashing of acquisition process. In this regard, he relied upon ***Shri Farid Ahmed Abdul Samad v. Municipal Corporation***.[6]

e) It was also pointed out that the Collector manipulated the official record of adjudication of the objections. The Collector claims to have decided the objections through a corrigendum, which was signed by such individuals who were either strangers to the acquisition or were not the objectors. NOIDA has not disputed the manipulation of records in relation thereto.

f) S/Shri Jasbir Singh Malik and Samarhar Singh, learned counsels, further argued that the respondents had already utilised a part of their lands for residential purposes – the same being within '*abadi*' area. They relied upon an order dated

5 [2009] 14 SCR 1111 : (2009) 10 SCC 115

6 [1977] 1 SCR 71 : (1976) 3 SCC 719

19.07.1992 passed by the Assistant Collector, Secunderabad in purported exercise of powers under Section 143 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, whereby the subject land was classified as non-agricultural land. They also referred to the objections which Respondent No.1 had filed against a previous notification issued under Section 4 of the 1894 Act on 07.11.2007. In those objections, it was pointed out that the subject land was a part of the '*abadi*' area of the village and hence deserved to be exempted from acquisition. Those objections statedly found favour with the State Government and the land was accordingly excluded from the 2007 acquisition. It was, thus, contended that NOIDA or the State Government cannot initiate a fresh acquisition process as the subject land continues to be a part and parcel of '*abadi*' land.

g) Furthermore, most of the land adjoining their lands has been exempted from acquisition as it already stands declared as '*abadi*' area. Since only the respondents are sought to be singled out, the impugned action does not satisfy the equality test of Article 14 of the Constitution.

h) Lastly and alternatively, learned counsels for the respondents urged that in the event of acquisition process being upheld by this Court due to exigency or for regulated development of the area, in that case, the land-owners be held entitled to receive compensation at the current market value and in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter '2013 Act). In support thereto, they have placed reliance on the decisions in (i) ***Nareshbhai Bhaggubhai v. Union of India***;[7] (ii) ***NOIDA v. Lt. Col. J.B. Kuchhal;***[8] and (iii) ***Competent Authority v. Barangore Jute Factory,***[9] wherein, this Court after taking notice of the facts and circumstances, granted compensation on the current market value of the land.

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7 [2019] 10 SCR 88 : (2019) 15 SCC 1

8 (2020) 18 SCC 619

9 [2005] Supp. 5 SCR 421 : (2005) 13 SCC 477

D. Analysis

13. Having given our thoughtful consideration to the submissions at length, we find that primarily the following two issues arise for consideration of this Court:

a) Whether the respondents have forestalled their right to challenge the acquisition proceeding on the ground of non-compliance of Section 5A because:

i) they have not filed objections; or

ii) they were not tenure holders as per the revenue records on the date of notification under Section 4 of the 1894 Act; or

iii) after submitting their objections, they have accepted compensation without any demur?

b) If the answer to the aforementioned question is in negative, whether the mandatory procedure contemplated under Section 5A has been complied with in the instant case?

14. Before delving into these specific issues, it would be worthwhile to briefly discuss the construction and import of Section 5A of the 1894 Act.

15. The 1894 Act embodies the State's power of eminent domain, bestowing the sovereign right to appropriate private property for the public good. However, since the Right to Property is a significant Constitutional Right under Article 300A and losing one's land has grave repercussions for a landowner, the 1894 Act also contains various provisions to compress the State's power of expropriation from becoming a source of exploitation. One of such salient features is Section 5A, which *inter alia* provides thus:

> *"5-A. Hearing of objections.—(1) Any person interested in any land which has been notified under Section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days from the date of the publication of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.*
>
> *(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any*

person authorised by him in this behalf or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under Section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government. The decision of the appropriate Government on the objections shall be final.

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

16. It may be seen from the plain language of Section 5A that it manifests the cardinal principle of *audi alteram partem*, and obligates the Collector to hear the person whose land is being compulsorily acquired by the State. This provision serves as a crucial safeguard, enabling the landowners to challenge the arbitrary acquisition and demonstrate the absence of 'public purpose' or presence of *mala fide* motive. Considering its vital importance, there are a string of decisions by this Court affirming that Section 5A is a mandatory provision with the flavour of fundamental rights.[10]

17. Section 5A was not originally a part of the 1894 Act. It was introduced later by the Land Acquisition (Amendment) Act, 1923, to rectify the defect pointed out in case of ***J.E.D. Ezra v. Secretary of State for India***.[11] The Calcutta High Court in that case expressed its inability to grant relief to the person whose property was being acquired, noting that the 1894 Act did not allow the landowners to raise objections against the acquisition. Consequently, the legislature thought it appropriate to amend the 1894 Act and insert a provision mandating that no declaration under Section 6 of the 1894 Act shall be issued unless time has been allowed to the 'persons interested' in the land to put in their objections.

10 *Women's Education Trust v. State of Haryana*, (2013) 8 SCC 99, para 1.

11 1902 SCC OnLine Cal 179.

18. The landowners thus became entitled to lodge their objections within thirty days of the notification published under Section 4 of the 1894 Act. The Collector is thereafter expected to give an opportunity of hearing to the objectors and make recommendations to the Appropriate Government after thorough consideration of their objections. Importantly, the hearing under Section 5A must be an effective opportunity and not an empty formality. If necessary, the Collector shall also make further enquiries and give final recommendations based on due application of mind.[12] If it is found that there has been total and utter non-compliance with Section 5A, thereby causing severe prejudice to the landowner, the Court shall give such affected person an appropriate remedy and, if feasible, even vitiate the acquisition proceedings.

19. Having understood the nuances of Section 5A, we shall now proceed to analyse each issue separately.

D.1. Maintainability of the respondents' challenge

D.1.1. Respondents who have not filed objections

20. The High Court has vitiated the acquisition proceedings on the premise that the hearing accorded under Section 5A was ineffective. NOIDA's grievance is that the High Court has jumped to such a conclusion without taking notice of the fact that some of the writ petitioners had never lodged their objections. Having failed to avail the remedy under Section 5A, such landowners cannot be heard to say that they were deprived of personal hearing or that their objections were disposed of without any application of mind.

21. We find merit in NOIDA's contention. We say so for this reason that while Section 5A(1) gives a "person interested" the right to file objections, Section 5A(2) affords only an "objector" the right to be heard. Given this conscious departure in the use of the terminology, a person cannot claim hearing as a matter of right under Section 5A(2) unless he has filed objections. This is what has been precisely held by this Court in ***Talson Real Estate (P) Ltd. v. State of Maharashtra***,[13] observing that:

12 *Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai*, (2005) 7 SCC 627, para 9.

13 *Talson Real Estate (P) Ltd. v. State of Maharashtra* (2007) 13 SCC 186, para 15

> *"15. […] In the present case, as noticed above, the respondents have wholly complied with the requirements of the provisions of law. The appellant Company has not brought on record any iota of evidence to show that the abovenamed newspapers are not widely circulated in the locality where the land, in question, was situated. The High Court has rightly come to the conclusion that the provisions of Section 45 of the Act will not be attracted in cases where there is no obligation cast upon the authorities to issue notice to the persons interested once it is clear that* ***neither Section 4 nor Section 5-A of the Act contemplates any personal notice to the person interested other than the objectors for the purpose of conducting inquiry under Section 5-A of the Act****. Therefore, the question of applicability of Section 45 in the case of the appellant Company would not arise at all as the appellant Company had not filed any objection under Section 5-A to the acquisition proceedings consequent to the issuance of notification under Section 4 of the Act."*
>
> [emphasis supplied]

22. There is no gainsaying that a "person interested" under Section 5A(1), can seek annulment of the acquisition process if no opportunity to file objections, is accorded. However, such person cannot seek hearing as a statutory right unless has lodged the objections. Notably, the respondents' case is not that the objections were improperly invited. Rather, their grievance is that the notices of hearing were clumsily issued and the objections were mechanically rejected. It seems to us that even if their contention is factually correct, such a plea can be availed by those landowners only who had filed objections under Section 5A. An interested person who fails to file objections, is deemed to have acquiesced to the acquisition. The maxim *'Omnia Consensus Tollit Errorem',* i.e., every assent removes error, will thus be squarely attracted for such owners. Similarly, it is also not permissible for a landowner to contend that the Collector failed to apply his mind to objections, which were never filed before him in the first place.[14]

14 *Delhi Admn. v. Gurdip Singh Uban* (2000) 7 SCC 296, para 30

23. In our considered opinion, the High Court fell in error while allowing the claim of even those landowners who did not invoke their remedy under Section 5A(1) of the 1894 Act. We may, however, hasten to add that the High Court could still have invalidated the acquisition *qua* these landowners also had it found a reason going to the very root of the entire acquisition. For instance, where the 'public purpose' of acquisition is conspicuously absent, or the acquisition process is an outcome of colorable exercise of power of eminent domain, all the landowners, even if they had not filed objections, can seek annulment of the declaration issued under Section 6 of the 1894 Act. However, no such plea was taken in the instant batch of cases except that the procedure contemplated under Section 5A was deflated. Such objections were surely personal to the landowners, as they sought individual exemption on the plea that they have raised residential constructions on their land under acquisition. Since it is a ground specific to each property, the High Court was wrong to grant the benefit *en masse* and quash the entire declaration issued under Section 6 of the 1894 Act.[15]

24. It may be noted at this stage that the respondents in Civil Appeals No. 8055, 8056, 8058, 8059, 8060, and 8062 of 2019 have not been able to demonstrate that they ever filed objections under Section 5A of the Act. In most instances, the objections have not been produced, and the respondents have mentioned inconsistent dates of their filing. Further, while objections have been produced in Civil Appeal No. 8058 and 8059 of 2019, they precede the date of publication of the notification under Section 4 of the 1894 Act. Since these respondents could not show as to how they became aware of the acquisition proceedings, more so when NOIDA has cogently contested the veracity of such objections, we find it difficult to accept the respondents' stance with reference to the issue discussed hereinabove.

D.1.2. Locus of the Respondents who are subsequent purchasers

25. The second sub-issue regarding maintainability of the respondents' claim stems from the fact that a few of them are stated to have purchased their lands after the notification under Section 4 of the 1894 Act was issued. The short question that falls for consideration

15 *Delhi Admn. v. Gurdip Singh Uban* (2000) 7 SCC 296, para 53 and 54; *Abhey Ram v. Union of India* (1997) 5 SCC 421, para 13; *V. Chandrasekaran v. Administrative Officer* (2012) 12 SCC 133, para 24

is whether such landowners have *locus standi* to seek abrogation of the acquisition proceedings.

26. This issue is no longer *res-integra*. This Court has, in a wide range of judicial pronouncements, held that the notification issued under Section 4 of the 1894 Act creates an impediment on the transfer of title in a property.[16] The subsequent purchasers do not acquire an unencumbered title over the property and they deliberately run the risk of securing a defective title. The axiom that 'a public right cannot be altered by the agreement of private persons', will thus clog their right to raise objection against the acquisition.

27. We may usefully cite ***Rajasthan State Industrial Development & Investment Corpn. v. Subhash Sindhi Coop. Housing Society***,[17] in this context which summed up the past precedents observing that:

> *"13.* ***There can be no quarrel with respect to the settled legal proposition that a purchaser, subsequent to the issuance of a Section 4 notification in respect of the land, cannot challenge the acquisition proceedings****, and can only claim compensation as the sale transaction in such a situation is void qua the Government. Any such encumbrance created by the owner, or any transfer of the land in question, that is made after the issuance of such a notification, would be deemed to be void and would not be binding on the Government. (Vide Gian Chand v. Gopala [(1995) 2 SCC 528] , Yadu Nandan Garg v. State of Rajasthan [(1996) 1 SCC 334 : AIR 1996 SC 520], Jaipur Development Authority v. Mahavir Housing Coop. Society [(1996) 11 SCC 229], Jaipur Development Authority v. Daulat Mal Jain [(1997) 1 SCC 35], Meera Sahniv. Lt. Governor of Delhi [(2008) 9 SCC 177], Har Narain v. Mam Chand [(2010) 13 SCC 128 : (2010) 4 SCC (Civ) 793] and V. Chandrasekaran v. Administrative Officer [(2012) 12 SCC 133 : (2013) 2 SCC (Civ) 136: JT (2012) 12 SC 260].)"*
>
> [emphasis supplied]

16 *Meera Sahni v. Lt. Governor of Delhi* (2008) 9 SCC 177

17 [2013] 4 SCR 978 : (2013) 5 SCC 427, para 13

28. Those respondents who clandestinely got executed sale deeds with or without collusion with the Registering Authorities after the acquisition process had commenced and/or whose names were not recorded in the revenue records before issuance of notification under Section 4 of the Act, are thus denuded of any cause of action under Section 5A to object against the acquisition proceedings. In the present batch, NOIDA has taken a categorical and unrebutted stand that respondents in Civil Appeals Nos. 8057, 8062, and 8064 of 2019 fall under this category. That being so, no cause of action ever accrued in favour of the respondents in these cases to invoke writ jurisdiction of the High Court.

D.1.3. Respondents who have accepted the compensation

29. In addition to the plea that several landowners did not file objections and/or are subsequent purchasers, NOIDA/State have contended that some of the respondents had filed objections, but subsequently, they accepted compensation without any demur. Indeed, it is largely undisputed that Respondent No. 1 in the lead case was paid INR 1.54 cr. on 28.11.2016, and the balance amount of INR 2.61 cr. was deposited with District Judge, Gautam Budh Nagar under Section 31 of the Act on 05.12.2016. Similarly, in Civil Appeal 8050 of 2019, the landowner was paid INR 5.81 cr. on 04.07.2016. On this plank, it was strenuously urged on behalf of NOIDA/State that such of the landowners who have accepted compensation, partly or fully, without any protest, are estopped by their act and conduct from pursuing their objections under Section 5A. Secondly, possession of the acquired properties having been taken through the possession letters dated 20.06.2016, and the acquisition process being complete in all respect, the issue of procedural lapses under Section 5A has been rendered infructuous.

30. As regard to the question whether the landowners can still pursue their claims under Section 5A, we are of the considered opinion that NOIDA or the State can draw no milage out of the fact that possession of the acquired land had since been taken. We say so for the reason that the landowners cannot forcibly resist the delivery of possession to the beneficiary, namely, NOIDA. Such a state action cannot impinge upon their legal right to challenge the acquisition for non-compliance of the procedure prescribed under Section 5A. However,

if a landowner receives compensation volitionally subsequent to filing of the objections under Section 5A and does not preserve the right to pursue such objections, it may constitute a valid ground to implied consent to the acquisition. Having once acquiesced so, a landowner cannot be permitted to do a *volte-face* and re-agitate the objections.[18] If we were to hold otherwise, it would open a Pandora's Box where the landowners will, on one hand, seek re-enquiry of their claims under Section 5A and, on the other, will also draw the compensation. There would, thus, be no finality to the proceedings, and the acquisition process would be tainted by uncertainty and unpredictability. This would further have a chilling effect on the development projects, since the looming threat of potential litigation and exemptions from acquisitions would discourage the State from investing huge amounts and incurring development costs.

31. The respondents in Civil Appeals Nos. 8048 and 8050 of 2019 are, therefore, liable to be non-suited on the ground that they have accepted compensation without any protest.

32. We may in all fairness also deal with the contention of the respondents in Civil Appeal No. 8048 of 2019, who admittedly received the compensation but claim that it was part of a settlement wherein NOIDA purportedly agreed to exempt the land from acquisition. It was argued that since this settlement was not honoured by NOIDA, the acceptance of compensation cannot be fatal to their case. However, no such settlement has been produced on record by the respondents. Their claim is not substantiated by any document on record, hence their explanation is devoid of any merit.

33. Similarly, the respondents in Civil Appeal 8050 of 2019 have also not disputed the receipt of compensation, but they are said to have not been paid the full amount. In contrast, NOIDA has furnished detailed information, including the calculation chart and payment record. Be that as it may, there lies an independent remedy in law to recover the balance amount of compensation, if any. Once these respondents have received a substantial part of the compensation amount, their cause to pursue objection has eclipsed.

18 *Kailash N. Dwivedi v. State of U.P.* (2011) 15 SCC 98, para 14.

34. The respondents have relied upon ***Gajraj v. State of U.P.***,[19] in which a Full Bench of the High Court held that accepting the compensation would not amount to acquiescence. Since the cited decision was affirmed by this Court in ***Savitri Devi v. State of U.P.***,[20] the respondents have argued that acceptance of compensation by some of them, does not attract principles like estoppel or acquiescence. A closer examination of the ***Savitri Devi (supra)***, however, unfolds that this Court has affirmed our foregoing analysis:

> *"42. We have to keep in mind that in all these cases, after the land was acquired, which was of very large quantity and in big chunks, further steps were taken by passing the award, taking possession and paying compensation. In many cases, actual possession was taken and in rest of the cases, paper possession was taken where because of the land under abadi, actual possession could not be taken on spot immediately.* ***Fact remains that in many such cases where possession was taken, these landowners/ appellants even received compensation. All these petitions have been filed only thereafter which may not be maintainable stricto sensu having regard to the law laid down by the Constitution Bench of this Court in Aflatoon v. Lt. Governor of Delhi [(1975) 4 SCC 285: AIR 1974 SC 2077] and the dictum of this judgment is followed consistently by this Court in various cases*** *(see Murari v. Union of India [(1997) 1 SCC 15], Ravi Khullar v. Union of India [(2007) 5 SCC 231] and Anand Singh v. State of U.P. [(2010) 11 SCC 242 : (2010) 4 SCC (Civ) 423])."*
>
> [emphasis supplied]

35. In ***Savitri Devi (supra)***, this Court considering the peculiar circumstances and the intent of the High Court's order to provide increased compensation, seconded the grant of that relief in the larger public interest.[21] This is explicitly observed by this Court noting that:

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19 W.P. No. 37443/2011.

20 [2015] 7 SCR 512 : (2015) 7 SCC 21

21 Ibid, para 43 and 46.

> *"50. Keeping in view all these peculiar circumstances, we are of the opinion that these are not the cases where this Court should interfere under Article 136 of the Constitution.* ***However, we make it clear that directions of the High Court are given in the aforesaid unique and peculiar/ specific background and, therefore, it would not form precedent for future cases."***
>
> [emphasis supplied]

36. Having held so, we further find that there are several respondents in this batch of appeals who had raised the objection; did not accept any compensation; and their names were duly recorded in the land records when the notification under Section 4 of the 1894 Act was published. Since each one of them has an indefeasible right to seek compliance of the procedure engrafted under Section 5A, we shall now proceed to analyse whether the Collector faithfully complied with the said provision in these cases.

D.2. Compliance with Section 5A of the 1894 Act

37. It may be recapitulated that according to the High Court, the Collector failed to adhere to the mandate of Section 5A as no record of authenticity as to how effectively the Gram Pradhan intimated all tenure holders, was produced. This was sufficient to infer that the respondent-landowners were not properly informed the date of personal hearing; their objections were treated as an empty formality since the Collector disposed them by consolidating in groups; and there are doubts about the procedural fairness as the Collector attempted to rectify an earlier order by issuing a corrigendum. To ascertain whether the High Court rightly attained these conclusions, we shall deal with each of these issues separately.

D.2.1. Presumption regarding notices not being served

38. It is timeworn law that the person who submits objections under Section 5A must be accorded an opportunity of personal hearing. Such a hearing must precede with an advance notice served upon the objector. As a necessary corollary, the failure to serve the notice would be sufficient to infer the defiance of Section 5A of the 1894 Act. Consequently, the acquisition process would be liable to be hammered.

39. However, it is essentially a question fact as to whether or not an advance notice of hearing has been served upon an "objector". Where the Collector has taken a specific stand that notices were duly served upon the persons concerned and the record of service of such notices has been duly maintained, the statutory presumption inscribed under Section 114 of the Evidence Act shall be drawn, which *inter alia* provides that the Court may presume the existence of facts, including "*that judicial and official acts have been regularly performed*".

40. The rule of statutory presumption is a well-rooted principle in Common Law and founded upon the dictum '*omnia praesumuntur rite esse acta',* namely, that the act can be presumed to have been rightly and regularly done. The Court would presume that the official act was done rightly and effectively and the burden to prove contrary lies on the party who disputes the sanctity of such act. The High Court unfortunately misconstrued this legal proposition while observing that there should be a presumption regarding notices not being served on the respondents.

41. The onus thus lay on the landowners to demonstrate that the issuance or service of notices was inefficacious. The official record suggests that several landowners were present at the hearings on 25.04.2014 and 05.06.2014, and the proceedings were further postponed at their request. Had the notices not been served, these landowners could not have been aware of the date of hearing or attended such proceedings. Given their presence at the time of hearings, it can be safely inferred that they were duly served. The burden to prove otherwise on the respondents, which they have failed to discharge.

42. In the absence of any allegation of *mala fide* exercise of power, the vague and overly broad claim of being unaware of the acquisition proceedings taken by the respondents during the course of hearing cannot be countenanced. This is especially noteworthy that only a small fraction of landowners have contested the acquisition, with nearly 90% not objecting to the proceedings. We are thus satisfied that the proceedings carried out under Section 5A ought not to have been set at nought on this ground.

43. We may also hasten to add that even where the notices were not served as per the procedure known in law, that by itself may not vitiate the acquisition proceedings unless it is shown that severe

prejudice was caused to the landowners. This Court, in ***Tej Kaur v. State of Punjab***,[22] viewed that even when there was no material to show that the landowner was heard, it would not invalidate the acquisition proceedings because the objections were duly considered:

> *"6. It is true that Section 5-A inquiry is an important stage in the acquisition proceedings and a person who is aware of Section 4(1) notification can raise objection to the effect that his property is not required for acquisition and he is also at liberty to raise the contention that the property is not required for any public purpose. It is also true, that the objector must also be given a reasonable opportunity of being heard and any violation of the procedure prescribed under Section 5-A would seriously prejudice the rights of the owner of the property whose land is sought to be acquired.* ***In the instant case, however, it is pertinent to note that the Collector had, in fact, conducted the Section 5-A inquiry, though there is no material on record to show that the appellants in Civil Appeal No. 66 of 1998 were heard in person. The facts and circumstances of Civil Appeal No. 66 of 1998 clearly show that the objection raised by the appellants was considered and partly allowed by the Collector.*** *About eight acres of land was sought to be acquired from the appellants as per the notification, but out of that, an extent of six acres was excluded from acquisition and only one-and-a-half acres of land was actually acquired by the authorities.* ***This would clearly show that the objection filed by the appellants was considered by the Collector****."*
>
> [emphasis supplied]

44. Although ***Taj Kaur*** ***(supra)*** does support the NOIDA/State with reference to the issue of compliance of Section 5A in its letter and spirit, we need not dependent on the said reasoning in the instant case in view of overwhelming material on record which shows that the procedure as mandated by Section 5A has been substantially complied with. We shall now accordingly, analyse whether the Collector had disposed of the objections fairly and effectively?

22 [2003] 2 SCR 707 : (2003) 4 SCC 485, para 6.

D.2.2. Effectiveness of disposal of objections

45. In this regard, the High Court has held that the Collector disposed of the objections improperly by a Common Order after grouping them, instead of evaluating merit of each claim separately.

46. The Collector undoubtedly decided 47 objections by clubbing them into five groups. However, such grouping was done keeping in view the similarities of contents and the fact that they pertained to the same parcel of land. For instance, Objection Nos 1, 17, 30, and 31 were grouped because they pertained to the same land, i.e., Gata No. 448 and 449, and had a common concern regarding existing construction on that land. Wherever the objections were distinct in nature, such as Objection No. 25 (which was regarding the quantum of compensation), the same was considered and decided separately.

47. Since the objections were classified because of the similarity of substance, it was plausible to group them together and dispose of by way of a Common Order.[23] If we were to endorse the High Court's view on this point, it would lead to sheer wastage of time and energy that would be spent in duplicating the recommendations for each individual objection. Moreover, this might be nearly impossible in some cases, such as the one mentioned in ***Aflatoon v. Lt. Governor of Delhi***,[24] where more than 6000 objections were filed under Section 5A. It will be preposterous to say that objections cannot be consolidated even when they are similar or that the Collector must undertake the daunting—and at the same time unnecessary—task of disposing of thousands of objections separately. Let us appreciate that it will serve no public purpose.

48. The High Court has thus erroneously held that the objections were disposed of cryptically merely because they were grouped. Had the respondents substantiated that the consolidation was done arbitrarily, impairing the fairness in adjudication, then only it could be said that each objection ought to have been dealt with separately.

49. We, however, find from the record that some of the objections have ostensibly been left out from the aforementioned five groups. For instance, the objection filed by the respondent in Civil Appeal No.

23 *Women's Education Trust v. State of Haryana*, (2013) 8 SCC 99, para 33.

24 *Aflatoon v. Lt. Governor of Delhi* (1975) 4 SCC 285, para 13.

8053 of 2019 was summarised as Objection No. 22, but have not been included in any of the groups *per se* while disposing it off. Similar is the case with the objections in Civil Appeals Nos. 8054 and 8061 of 2019, which were mentioned as Objection No. 23 and 8, respectively, in the Collector's report but were not included in any of the groups.

50. This would nevertheless lead to no legal implications. We say so for the reason that the Collector first summarized each of these objections separately, and noted that the objectors have sought exemption of their land on the ground of it being an '*abadi*' area. Thereafter, the Collector went on to reject this plea, albeit while disposing of other objections. He specifically observed that the lands claimed to be '*abadi*' merely have temporary and illegal constructions, and no person is residing there. Finally, the Collector noted that all the objections are disposed of "in aforementioned terms". The objections that were left out from the groups are also squarely covered by the above-cited reasoning.

51. In addition to what has been found on facts, it seems to us that the absence of a formal rejection order in the case of a few objections would not *per se* vitiate the acquisition proceedings for two reasons. Firstly, the non-consideration of such objections is inconsequential, because even if it was an '*abadi*' land, there is nothing in law that bars the State Government from acquiring the same. Instead, the exemption of such lands from the acquisition is a matter of State Policy and depends on the government's discretion.[25] If the State Government opines that the land is needed for a larger public purpose and development projects, such land can be acquired, notwithstanding the fact that it was a residential property.

52. Secondly, it is an admitted position that the acquisition proceedings in the instant case have nearly attained finality. Most landowners (i.e., 185 out of 210) have accepted compensation and, as discussed previously in ***Section D.1.3. (supra)***, are deemed to have acquiesced to the acquisition process. Subsequently, significant investment has been made into the development projects conceptualised there. Accepting the respondents' claim would require turning back the clock, which would adversely impact the larger public interest. In

25 *Anand Buttons Ltd. v. State of Haryana*, (2005) 9 SCC 164, para 13.

some cases, reversal of small pockets of land might be impossible also since they may lie in the middle of large development projects. In such peculiar circumstances, even if we accept that a handful of respondents did not get a fair enquiry under Section 5A, the same may not be a sufficient ground to annul the acquisition process as substantial compliance has already been made.

53. In ***Anand Singh v. State of U.P.***,[26] this Court held that:

> *"56.* ***In the written submissions of the GDA, it is stated that subsequent to the declaration made under Section 6 of the Act in the month of December 2004, award has been made and out of the 400 landowners more than 370 have already received compensation****. It is also stated that out of the total cost of Rs. 8,85,14,000 for development of the acquired land, an amount of Rs. 5,28,00,000 has already been spent by the GDA and more than 60% of work has been completed. It, thus, seems that barring the appellants and few others all other tenure-holders/landowners have accepted the "takings" of their land.* ***It is too late in the day to undo what has already been done. We are of the opinion, therefore, that in the peculiar facts and circumstances of the case, the appellants are not entitled to any relief although dispensation of enquiry under Section 5-A was not justified****."*
>
> [emphasis supplied]

Somewhat similar view has been taken by this Court in ***Om Prakash v. State of U.P.***[27] and ***M.S.P.L. Ltd. v. State of Karnataka***.[28]

D.2.3. Issuance of the corrigendum

54. Lastly, the High Court has held that the Collector wrongly issued a corrigendum to its previous order on 03.07.2014, which had raised suspicion on the fairness of the proceedings. A perusal of the corrigendum, however, suggests that it was largely insignificant as it merely contained the record of proceedings held before the hearing

26 [2010] 9 SCR 133 : (2010) 11 SCC 242, para 56.

27 [1998] 3 SCR 643 : (1998) 6 SCC 1, para 30.

28 [2022] 14 SCR 591 : 2022 SCC OnLine SC 1380, para 48.

on 03.07.2014. The corrigendum mentioned that the proceedings were postponed on 10.02.2014 since the decision on the implementation of the 2013 Act was awaited. Subsequently, after the proceedings were adjourned on multiple dates, the matter was finally posted for hearing on 03.07.2014.

55. It appears that the only purpose of the corrigendum was to bring further clarity into the ongoing process and not to tinker with the merits of the objections. There is nothing in the contents of the corrigendum to draw adverse inference or doubt the fairness of the procedure followed for deciding the objections.

E. Conclusion and Directions

56. For the afore-stated reasons:

(a) the appeals are allowed; the impugned main judgment dated 05.01.2017 of the High Court as well as all other judgments following the said judgment, which are under challenge in this batch of appeals, are hereby set aside;

(b) consequently, the writ petitions filed by the respondents on the ground that there is non-compliance of the procedure mandated by Section 5A of the 1894 Act are hereby dismissed without any order as to costs;

(c) the compensation amount, if already not paid, fully or partly, as per the award of the Collector, shall be paid to the respondents and other land-owners along with interest at the statutory rate within 4 weeks;

(d) the payment or receipt of compensation by the respondents shall be without prejudice to their right to seek further enhancement in compensation in accordance with provisions of the 2013 Act;

(e) with a view to remove any ambiguity and to prevent avoidable future litigation, it is clarified that since the 2013 Act came into force while the land acquisition process was still pending, the respondents and other land-owners/tenure holders are entitled to be paid compensation in accordance with Section 24(1) read with other relevant provisions of the 2013 Act; and

(f) since the respondents have been pursuing their objections filed under Section 5A of the 1894 Act in a *bona-fide* manner,

they shall be entitled to seek reference, if already not filed, for further enhancement of compensation and the limitation period for filing such reference shall commence from the date of pronouncement of this order.

57. All the matters stand disposed of in the aforementioned terms.

Result of the case: Appeals allowed.

†*Headnotes prepared by:* Divya Pandey