



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.8269 OF 2026  
[ARISING OUT OF SLP (C) NO. 16742 OF 2026]**

**ALOK KOTAHWALA & ORS. ... APPELLANTS**  
**VS.**

**JAIPUR METRO RAIL CORPORATION  
LIMITED & ORS. ... RESPONDENTS**

**WITH**

**CIVIL APPEAL NO.8270 OF 2026  
[ARISING OUT OF SLP (C) NO.16743 OF 2026]**

**ALOK KOTAHWALA & ORS. ... APPELLANTS**  
**VS.**

**JAIPUR METRO RAIL CORPORATION  
LIMITED & ORS. ... RESPONDENTS**

**J U D G M E N T**

**DIPANKAR DATTA, J.**

**THE APPEALS**

1. These appeals, by special leave, are at the instance of the aggrieved landowners<sup>1</sup>. Appellants assail the correctness of the common judgment and order dated 30<sup>th</sup> April, 2026<sup>2</sup> of a Division Bench of the

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<sup>1</sup> Appellants/appellants

<sup>2</sup> impugned judgment

High Court of Rajasthan<sup>3</sup> allowing two intra-court appeals. One appeal<sup>4</sup> was preferred by the Jaipur Metro Rail Corporation Limited<sup>5</sup> while the other appeal<sup>6</sup> was at the instance of State of Rajasthan, Jaipur Development Authority<sup>7</sup> and its Land Acquisition Officer<sup>8</sup>. The impugned judgment set aside the judgment and order dated 9<sup>th</sup> May, 2023 of a Single Judge of the High Court allowing the writ petition<sup>9</sup> of the appellants, thereby resulting in its dismissal.

2. It is noted that the Single Judge, while allowing the writ petition of the appellants, interfered with a process of acquisition of lands initiated under the Land Acquisition Act, 1894<sup>10</sup> by the Urban Development Department, Government of Rajasthan<sup>11</sup> and quashed the relevant notification/declaration/notice issued under such enactment. An order was also passed restraining the respondents in the writ petition from interfering with the appellants' rights in respect of the land owned by them, which were sought to be acquired.

### **FACTUAL MATRIX**

3. Subject matter of the appeal is relatable to acquisition of 27 hectares of land<sup>12</sup> owned by both sets of appellants, situated in Village

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<sup>3</sup> High Court

<sup>4</sup> D.B. Special Appeal Writ No. 502/2023

<sup>5</sup> JMRCL

<sup>6</sup> D.B. Special Appeal Writ No. 739/2023

<sup>7</sup> JDA

<sup>8</sup> LAO

<sup>9</sup> S.B. Civil Writ Petition No. 10544/2012

<sup>10</sup> LA Act

<sup>11</sup> UDD

<sup>12</sup> subject land

Sheopura, Tehsil Sanganer, District Jaipur for the proposed construction of a metro car depot by the JMRCL as part of Phase II of the Jaipur Metro Rail Project.

**4.** The facts, leading to institution of the writ petition before the High Court, are undisputed. For the sake of completeness, we briefly refer to the same below:

- a. Notification 26<sup>th</sup> May, 2011 was issued under Section 4(1) of the LA Act by the UDD proposing to acquire the subject land.
- b. Pursuant to the notification issued under Section 4(1) of the LA Act, the appellants filed identical objections under Section 5A(1) of the LA Act<sup>13</sup> before the LAO on or about 27<sup>th</sup>/28<sup>th</sup> June, 2011. The LAO, pursuant to receipt of objections from the appellants, fixed various dates<sup>14</sup>. Appellants claimed to be present on those dates. JMRCL filed a reply on 18<sup>th</sup> August, 2011 dealing with one objection while it filed another reply on 9<sup>th</sup> March, 2012 dealing with the other objection.
- c. Upon filing of two sets of reply by the JMRCL on 18<sup>th</sup> August, 2011 and 9<sup>th</sup> March, 2012 and service thereof on the appellants, the LAO posted the matter to 9<sup>th</sup> April, 2012 to enable them file their rejoinder.

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<sup>13</sup> the objections filed only by M/s Shubh Agro Farms and Properties Private Limited are on record.

<sup>14</sup> 28<sup>th</sup> June, 2011, 5<sup>th</sup> July, 2011, 11<sup>th</sup> July, 2011, 28<sup>th</sup> July, 2011, 24<sup>th</sup> August, 2011, 14<sup>th</sup> September, 2011, 9<sup>th</sup> November, 2011, 8<sup>th</sup> December, 2011, 13<sup>th</sup> January, 2012 and 15<sup>th</sup> February, 2012

- d. Admittedly, on 9<sup>th</sup> April 2012, the appellants did neither appear before the LAO nor filed any rejoinder to the reply of the JMRCL. The LAO's order dated 9<sup>th</sup> April 2012 did not record any next date in the matter; however, it was recorded that *"the file be put at the time of sending recommendation under the provisions of section 5-A to the state government."*
- e. On 18<sup>th</sup> May 2012, the LAO in its order noted that *"Jaipur Metro Rail Corporation Limited is in need of the land for public purpose, therefore, the objections are not being considered and report under Section 5-A be sent to the State Government."* On the same date, the LAO forwarded its report prepared under Section 5A(2) of the LA Act to the UDD. Therein, the LAO observed that *"objections received are not being considered and recommendation is sent to the State Government for issuing declaration under section 6 in accordance with notification under Section 4."*
- f. Thereafter, the note sheet of the Government file dated 4<sup>th</sup> July, 2012 recorded that the report of the LAO was placed before the officials concerned and that pursuant to a careful consideration of the said report, the State Government was of the view that the appellants' land was essential for the construction of the metro car depot. It was proposed to issue a declaration under Section 6 of the LA Act. On 5<sup>th</sup> July 2012, the UDD issued the requisite declaration under Section 6(1) of the LA Act for acquiring the subject land,

following which a notice dated 11<sup>th</sup> July 2012 was issued under Section 9(3) of the LA Act by the LAO.

- g. Aggrieved, the appellants invoked the writ jurisdiction of the High Court challenging the aforesaid notification/declaration/notice issued under the LA Act, on the ground of non-compliance with the mandatory provisions of the statute by the LAO. They specifically alleged denial of an opportunity of hearing under Section 5A of the LA Act.
- h. On 11<sup>th</sup> September, 2012, the Single Judge of the High Court granted interim stay of acquisition of the subject land, pending the final adjudication of the writ petition. This interim order was later vacated by a Division Bench of the High Court while hearing an intra-court appeal<sup>15</sup>, *vide* order dated 6<sup>th</sup> November, 2012. Appellants then filed a special leave petition<sup>16</sup> before this Court, challenging the Division Bench's order. The same was disposed of *vide* order dated 1<sup>st</sup> January, 2014 with a direction to the Single Judge of the High Court to commence hearing of the writ petition within 1 (one) week of production of the order and adjudicate the same expeditiously, preferably within 2 (two) months of the date of commencement of hearing. *Status quo* in respect of the subject land was directed to be maintained. However, the writ petition remained pending on the file of the High Court until the year 2022.

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<sup>15</sup> D.B. Special Appeal (Writ) 1294/2012

<sup>16</sup> SLP (Civil) No. 37292/2012

- i. On 9<sup>th</sup> May 2023, the Single Judge quashed the notification/declaration/notice issued under the LA Act, observing that the appellants had not been given an effective and proper opportunity of hearing by the LAO. It was further observed that no date of hearing had been fixed by the LAO and instead, the LAO had decided to straight away forward its report under Section 5A to the State Government. The Single Judge also observed that the LAO had failed to consider the substantive objections raised by the appellants before the LAO and failed to forward the entire record to the State Government, as a result of which the State Government did not have the complete or relevant material before taking a decision for issuance of declaration under Section 6, LA Act.
- j. Intra-court appeal came to be carried challenging the Single Judge's order allowing the writ petition. The Division Bench, *vide* the impugned judgment, held that in writ jurisdiction, the court is only concerned with the decision-making process and not the final decision itself, and observed that the Single Judge had examined the LAO's report as if it were sitting in appeal. The Division Bench held that once the LAO submitted its report stating that the objections were rejected on the ground that the land was being acquired for a public purpose, the same should be treated as a sufficient decision on his part, particularly since the appellants had failed to file a rejoinder on the date fixed by the LAO. As the appellants had failed to pursue their objections between 9<sup>th</sup> April,

2012 and 18<sup>th</sup> May, 2012, they could not be permitted to challenge subsequent actions of the authorities under the LA Act. Accordingly, the Division Bench reversed the judgment of the Single Judge and directed the JMRCL to take possession of the subject land. Additionally, in light of several trees having grown on the subject land, the Division Bench also directed that the said trees be transplanted and regrown at appropriate sites earmarked by the JDA and the Forest Department; also, the JMRCL was directed to undertake additional plantation by growing twice the number of trees which were to be relocated from the subject land.

- k. The impugned judgment of the Division Bench has given rise to these appeals.
- l. In course of pendency of the present proceedings, this Court was informed that the LAO on 7<sup>th</sup> May 2026 has passed an award in relation to the acquired lands and owing to the appellants' purported refusal to accept the amount of compensation, the same has been deposited before the competent court under Section 11 of the LA Act.

#### **SUBMISSIONS BEFORE THIS COURT**

- 5. We have heard learned senior counsel Mr. Mukul Rohatgi, Mr. Shyam Divan and Mr. Abhay Kumar Bhandari appearing for the appellants, as well as Mr. Tushar Mehta, learned Solicitor General and other learned counsel appearing for the respondents.

**6.** Appellants' contentions are summarized hereinbelow:

- a. No personal hearing was granted to the appellants as required under Section 5A of the LA Act. The LAO had not given any next date of hearing in its order dated 9<sup>th</sup> April, 2012 and instead abruptly took up the matter on 18<sup>th</sup> May, 2012. Section 5A of the LA Act casts a positive duty on the LAO to provide a personal hearing. Since the LAO acts in a quasi-judicial capacity under Section 5A, hearing was all the more required.
- b. The LAO failed to apply its mind to the objections raised by the appellants and merely copy pasted the entire reply of the JMRC in its report. Such report did not contain any recommendation, and the objections of the appellants and the reply of the JMRCL were simply summarized with the explicit conclusion that "*objections received are not being considered*".
- c. Section 5A of the LA Act contemplates that after hearing the objections of the landowners, the LAO is required to make further inquiry. However, in the present case, no such inquiry was conducted.
- d. A landowner is entitled in law to place all materials for convincing the LAO that his land is not suitable and that there are other more suitable parcels of land for the concerned project. Appellants had pointed out the suitability of alternate lands such as those belonging to Rajasthan State Industrial Development and Investment

Corporation Limited<sup>17</sup>, Indian Oil Corporation Limited<sup>18</sup>, Stone Mart, Hindustan Petroleum Corporation Limited, Bharat Petroleum Corporation Limited, JDA and Rajasthan Housing Board for acquisition, but such objection was never considered.

- e. Objection as to ecological impact was also raised referring to the need to fell several trees on the subject land, which was not considered.
- f. The LAO was required to give reasons as to why a particular land should or should not be acquired, which is lacking.
- g. Since neither the entire record, nor the objections of the appellants were placed before the State Government, the declaration under Section 6(1) of the LA Act was issued without application of mind. The use of the expression "*required or likely to be required*" in the declaration issued under Section 6(1) shows that the State Government was not sure of how much land is actually needed to be acquired.
- h. Respondents have failed to show any urgency in acquiring the subject land. Till date there is no final approved Detailed Project Report<sup>19</sup> and since the metro line has now been extended to 41 km, with the new terminal point of the metro being 12 km away from the subject land, there is no immediate requirement to acquire the

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<sup>17</sup> RIICO

<sup>18</sup> IOCL

<sup>19</sup> DPR

subject land and the metro car depot can easily be shifted anywhere across the metro line.

- i. In the DPR of 2020, it was mentioned that the land earmarked for the metro car depot had land which was more than the actual requirement and that such extra land would be used for property development and commercial renting. Usage of the subject land for property development or commercial renting does not qualify as “public purpose” under the LA Act. The subject land is a highly fertile, multi crop low lying agricultural land with several trees, and is, as such, an ecologically sensitive land.

7. Reliance was placed on the decisions in ***Kamal Trading v. State of West Bengal***<sup>20</sup>, ***Farid Ahmed vs. Municipal Corporation of Ahmedabad***<sup>21</sup>, ***Kedar Nath Yadav v. State of West Bengal***<sup>22</sup>, ***Gojer Brothers Private Limited v. State of West Bengal***<sup>23</sup>, ***Surinder Singh Brar & Ors. v. Union of India***<sup>24</sup>, ***Women Education Trust v. State of Haryana***<sup>25</sup>, ***Shyam Nandan Prasad v. State of Bihar***<sup>26</sup> and ***State of Mysore v. V.K. Kangan***<sup>27</sup> to support the appellants’ contentions that the Single Judge was justified in interfering with the acquisition proceedings, while the Division Bench was unjustified in interfering with the Single Judge’s judgment.

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<sup>20</sup> (2012) 2 SCC 25

<sup>21</sup> (1976) 3 SCC 719

<sup>22</sup> (2017) 11 SCC 601

<sup>23</sup> (2013) 16 SCC 660

<sup>24</sup> (2013) 1 SCC 403

<sup>25</sup> (2013) 8 SCC 99

<sup>26</sup> (1993) 4 SCC 255

<sup>27</sup> (1976) 2 SCC 895

**8.** *Per contra*, the respondents contended:

a. Under Section 5A of the LA Act, the LAO does not act as a court or as a quasi-judicial authority and, thus, no detailed order is required to be passed either accepting or rejecting the objections raised. The only requirement is to prepare a report containing recommendations on the objections of the landowners. Further, the recommendations of the LAO are not binding on the State Government.

b. The LAO's report recorded the detailed objections of the appellants and the responses of the JMRCL and considered the overall public purpose of the project to recommend acquisition of the subject land.

c. The LAO provided an opportunity of hearing as well as an opportunity to submit rejoinder. However, the appellants did not avail the opportunity. They were wilfully absent on 9<sup>th</sup> April 2012 and, as such, it cannot be said that an opportunity of hearing was not granted to the appellants. Since the LAO is not a court or a quasi-judicial authority, it is not required to issue any separate notice of hearing to the appellants.

d. The State Government independently applied its mind to the LAO's report and, as such, all the requirements for issuing a declaration under Section 6(1) of the LA Act stood fulfilled.

e. The lands of RIICO and IOCL as suggested by the appellants cannot be utilized for the construction of the metro car depot. The land belonging to RIICO has been utilized for the purpose of developing an Exhibition cum Convention Centre in accordance with the State

Government's policy, on a public private partnership basis, while the land belonging to IOCL has a crude pipeline pumping station on the said land, and as such, this land is being utilized to pump crude petroleum from the Mathura pipeline to the Panipat refinery. The other lands were not considered suitable and such decision is not justiciable.

f. Based on the drone survey conducted under the directions of this Court *vide* order dated 15<sup>th</sup> May 2026, it is evident that the subject land is mostly vacant and the trees are planted on a small part of the land. The impugned judgment has issued directions with respect to plantation of trees which may be uprooted on account of construction of the metro car depot. The acquisition proceedings cannot be quashed on account of uprooting trees on a small area of the subject land.

9. Respondents relied on the decisions in ***Aircraft Employees Housing Co-op Society Ltd. v. Secretary, Rural Development***<sup>28</sup>, ***Rambhai Lakhabai Bhakt v. State of Gujarat***<sup>29</sup>, ***Jayantilal Amratlal Shodhan v F.N. Rana***<sup>30</sup>, ***Sam Hiring Co. v. A.R. Bhujbal***<sup>31</sup>, ***HUDA v. Abhishek Goyal***<sup>32</sup>, and ***National Highways Authority of India v. Madhukar Kumar***<sup>33</sup> in support of their contentions that the

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<sup>28</sup> (1996) 11 SCC 475

<sup>29</sup> (1995) 3 SCC 752

<sup>30</sup> AIR 1964 SC 648

<sup>31</sup> (1996) 8 SCC 18

<sup>32</sup> 2024 SCC OnLine SC 2991

<sup>33</sup> (2022) 14 SCC 661

impugned judgment being well-considered and well-reasoned needs no interference.

### **Analysis**

- 10.** The first question that arises for consideration is, whether there has been a colourable compliance/substantial non-compliance of the mandate of Section 5A of the LA Act by the LAO, if not a flagrant violation, or, whether there has been substantial compliance of such mandate?
- 11.** Since the answer to the first question lies at the heart of the controversy before us, it would be apposite to reproduce Section 5A of the LA Act hereunder:

5A. 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 authorized 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 purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

(emphasis ours)

- 12.** The marginal note of Section 5A is an indicator of what is contemplated by the provision. A plain reading of sub-section (1)

gives a right to a landowner, aggrieved by the proposal of acquisition of his land to object in writing, and sub-section (2) of Section 5A leaves little room for doubt that an opportunity of hearing has to be given. It is the command of the statute, which the Collector has to obey faithfully.

13. However, before we proceed further, the multiple precedents cited on either side need to be noticed.
14. We shall first advert to the precedents relied on by Mr. Rohatgi, not in the order they were cited, but in the order of their age for a better appreciation of how the law on the point has evolved.
15. In **V.K. Kangan** (supra), this Court was called upon to consider Section 5A, LA Act. After observing that all laws are mandatory since they impose duties and command obedience from them within the purview of such laws, this Court indicated the factors dependant whereupon determination as to whether a provision is mandatory or directory could be made. The relevant passage reads:

**10.** In determining the question whether a provision is mandatory or directory, one must look into the subject-matter and consider the importance of the provision disregarded and the relation of that provision to the general object intended to be secured. No doubt, all laws are mandatory in the sense they impose the duty to obey on those who come within its purview. But it does not follow that every departure from it shall taint the proceedings with a fatal blemish. The determination of the question whether a provision is mandatory or directory would, in the ultimate analysis, depend upon the intent of the law-maker. And that has to be gathered not only from the phraseology of the provision but also by considering its nature, its design and the consequences which would follow from construing it in one way or the other. We see no reason why the rule should receive a permissible interpretation instead of a pre-emptory construction. As we said, the rule was enacted for the purpose of enabling the Deputy Commissioner (Land Acquisition Collector) to have all the relevant materials before him for coming to a conclusion to be

incorporated in the report to be sent to the Government in order to enable the Government to make the proper decision. ...

- 16. *Farid Ahmed Abdul Samad*** (supra) is a precedent for the proposition that Section 5A of the LA Act does not rest on a person's demand for a personal hearing. The mandatory nature of the provision is captured in the following words:

**24.** We are clearly of opinion that Section 5-A of the Land Acquisition Act is applicable in the matter of acquisition of land in this case and since no personal hearing had been given to the appellants by the Commissioner with regard to their written objections the order of acquisition and the resultant confirmation order of the State Government with respect to the land of the appellants are invalid under the law and the same are quashed. It should be pointed out, it is not a case of failure of the Rules of natural justice as such as appeared to be the only concern of the High Court and also of the city civil court. It is a case of absolute non-compliance with a mandatory provision under Section 5-A of the Land Acquisition Act which is clearly applicable in the matter of acquisition under the Bombay Act.

(emphasis supplied by Mr. Rohatgi)

- 17.** To the same effect is the decision in ***Shyam Nandan Prasad*** (supra), where compliance of provisions of Section 5A being mandatory was held to be beyond dispute. This Court held that affording of opportunity of being heard to the objector is a must, since Section 5A embodies a just and wholesome principle that a person whose property is being, or is intended to be, acquired should have the occasion to persuade the authorities concerned that his property be not touched for acquisition.
- 18. *Kamal Trading (P) Ltd.*** (supra) is eloquent in laying down the law that the proceedings under the LA Act are based on the principle of eminent domain and Section 5A is the only protection available to a

person whose lands are sought to be acquired. It is a minimal safeguard afforded to him by law to protect himself from arbitrary acquisition by pointing out to the authority concerned, *inter alia*, that the important ingredient, namely, "public purpose" is absent in the proposed acquisition or the acquisition is *mala fide*. The LA Act being an expropriatory legislation, its provisions will have to be strictly construed.

- 19.** In ***Surinder Singh Brar*** (supra), this Court reiterated that hearing contemplated by Section 5A has to be an effective hearing by holding, *inter alia*, as follows:

**84.** What needs to be emphasised is that hearing required to be given under Section 5-A(2) to a person who is sought to be deprived of his land and who has filed objections under Section 5-A(1) must be effective and not an empty formality. The Collector who is enjoined with the task of hearing the objectors has the freedom of making further enquiry as he may think necessary. In either eventuality, he has to make report in respect of the land notified under Section 4(1) or make different reports in respect of different parcels of such land to the appropriate Government containing his recommendations on the objections and submit the same to the appropriate Government along with the record of proceedings held by him for the latter's decision. The appropriate Government is obliged to consider the report, if any, made under Section 5-A(2) and then record its satisfaction that the particular land is needed for a public purpose. This exercise culminates into making a declaration that the land is needed for a public purpose and the declaration is to be signed by a Secretary to the Government or some other officer duly authorised to certify its orders. The formation of opinion on the issue of need of land for a public purpose and suitability thereof is sine qua non for issue of a declaration under Section 6(1). Any violation of the substantive right of the landowners and/or other interested persons to file objections or denial of opportunity of personal hearing to the objector(s) vitiates the recommendations made by the Collector and the decision taken by the appropriate Government on such recommendations. The recommendations made by the Collector without duly considering the objections filed under Section 5-A(1) and submissions made at the hearing given under Section 5-A(2) or failure of the appropriate Government to take objective decision on such objections in the light of the recommendations made by the Collector will denude the decision of the appropriate Government of statutory finality. To put it differently, the satisfaction recorded by the appropriate Government that the particular land is needed for a public purpose and the declaration

made under Section 6(1) will be devoid of legal sanctity if statutorily engrafted procedural safeguards are not adhered to by the authorities concerned or there is violation of the principles of natural justice. The cases before us are illustrative of flagrant violation of the mandate of Sections 5-A(2) and 6(1). Therefore, the second question is answered in the affirmative.

(emphasis supplied by Mr. Rohatgi)

**20.** This Court in ***Women's Education Trust*** (supra) surveyed earlier precedents and culled out the principles emerging therefrom. Such principles are:

**5.1.** The rule of audi alteram partem engrained in the scheme of Section 5-A of the Act ensures that before depriving any person of his land by compulsory acquisition, an effective opportunity must be given to him to contest the decision taken by the State Government/competent authority to acquire the particular parcel of land.

**5.2.** Any person interested in the land, which has been notified under Section 4(1) of the Act, can file objections under Section 5-A(1) and show that the purpose specified in the notification is really not a public purpose or that in the guise of acquiring the land for a public purpose the appropriate Government wants to confer benefit upon private persons or that the decision of the appropriate Government is arbitrary or is vitiated due to mala fides.

**5.3.** In response to the notice issued by the Land Acquisition Collector under Section 5-A(2) of the Act, the objector can make all possible endeavours to convince the Land Acquisition Collector that the acquisition is not for a public purpose specified in the notification issued under Section 4(1); that his land is not suitable for the particular purpose; that other more suitable parcels of land are available, which can be utilised for execution of the particular project or scheme.

**5.4.** The Land Acquisition Collector is duty-bound to objectively consider the arguments advanced by the objector and make recommendations, duly supported by brief reasons, as to why the particular piece of land should or should not be acquired and whether the plea put forward by the objector merits acceptance. In other words, the recommendations made by the Land Acquisition Collector should reflect objective application of mind to the entire record including the objections filed by the interested persons.

**5.5.** The Land Acquisition Collector is required to submit his report and the recommendations to the State Government along with the record of proceedings to enable the latter to take final call on the desirability, propriety and justification for the acquisition of the particular parcel(s) of land.

**5.6.** The declaration under Section 6(1) of the Act can be issued only if the appropriate Government, on an objective application of mind to the objections filed by the interested persons including the landowners and the report of the Land Acquisition Collector, is satisfied that the land is

needed for the particular purpose specified in the notification issued under Section 4(1) of the Act.

(emphasis supplied by Mr. Rohatgi)

Thereafter, this Court expressed lament in the following words:

**6.** It is unfortunate that despite repeated judicial pronouncements, the executive authorities entrusted with the task of acquiring private land for any specified public purposes have time and again exhibited total lack of seriousness in the performance of their duties under the statute. Often they do not comply with the mandate of Section 5-A of the Act, which is sine qua non for making a valid declaration under Section 6(1) of the Act. This batch of appeals is illustrative of the malady that has afflicted the State authorities who are keen to acquire private lands in the name of planned development of various urban areas, but do not bother to comply with the relevant statutory provisions and the rules of natural justice.

(emphasis supplied by Mr. Rohatgi)

**21.** The relevant passage from ***Gojer Bros. (P) Ltd.*** (supra) is reproduced below to comprehend the reason which persuaded this Court to interfere. It reads:

**22.** ... Single Judge and the Division Bench of the High Court committed serious error by approving the acquisition proceedings ignoring that the report was prepared in clear violation of mandate of Section 5-A and the State Government mechanically accepted the report leading to the issue of declaration issued under Section 6(1). In the original and supplementary objections filed by it, the appellant had claimed that the entire exercise of acquisition was vitiated due to mala fides and colourable exercise of power. The history of litigation between the parties was also cited by the appellant to substantiate its plea that the acquisition proceedings were initiated only after the management of the School lost legal battle up to this Court. It was also pleaded that the acquisition was meant to bypass the direction given by this Court to the management of the School to hand over the possession of the School. Unfortunately, the Land Acquisition Collector did not deal with any of the objections and summarily rejected the same as if compliance with Section 5-A(2) was an empty formality. The State Government also did not apply mind and mechanically approved the one-line recommendation made by the Land Acquisition Collector.

**21.** In our view, non-consideration of the objections filed under Section 5-A(1) has resulted in denial of effective opportunity of hearing to the appellant. The manner in which the Joint Secretary to the Government approved the recommendation made by the Land Acquisition Collector favouring acquisition of the property is reflective of total non-application of mind by the competent authority to the recommendation made by the Land Acquisition Collector and the report prepared by him.

(emphasis supplied by Mr. Rohatgi)

- 22.** In ***Kedar Nath Yadav*** (supra), this Court upon consideration of the relevant facts and circumstances noticed that individual hearing notices were not served on all the objecting landowners and that the same have been rejected without assigning any clear reasons or application of mind. The report of the Collector was held not to be a valid report in the eye of the law. The Court also held that the State Government mechanically accepted the same without application of mind independently before issuing the notification under Section 6 of the LA Act declaring that the lands are required for establishment of an automobile industry. Eventually, the acquisition proceedings were invalidated.
- 23.** It would now be useful to look into the precedents cited by Mr. Mehta, as per their dates of origin.
- 24.** Mr. Mehta cited ***Jayantilal Amratlal Shodhan*** (supra) for the proposition that the nature of proceedings under Section 5A of the LA Act are of an administrative nature and the Collector is not required to arrive at a decision but merely submit the report to the Government with record of proceedings and recommendations.

Portion of the decision relied on reads as follows:

**20.** ... Again the Collector is not required to arrive at any decision. He has to submit the case for the decision of the appropriate Government together with the record of the proceedings, held by him and a report containing his recommendations, on the objections. Prima facie, such a report would be an administrative report, relying upon which the Government makes its decision under Section 6 whether or not to notify the land for acquisition. The decision that any particular land is needed for a public purpose is an administrative decision and it is for the purpose

of arriving at that decision that the Act requires that certain inquiries be made. It is true that the Collector is required to follow the procedure prescribed and to give an opportunity to the objector of being heard in person or by a pleader. It is, however, open as Section 5A expressly provides to the Collector to make an independent inquiry, apart from the enquiry on the objections submitted. It cannot in the circumstances be said that the inquiry is a judicial or a quasi-judicial inquiry. ...

(emphasis supplied by Mr. Mehta)

**25. *Rambhai Lakhabai Bhakt*** (supra) was cited where this Court declined to grant relief considering the landowner's conduct. This Court held as follows:

**6.** Notice in the present case did indicate that the petitioner was at liberty to file his objections within 30 days from the date of the publication of the notice and in case he wished to and at the time when he filed the objections, he was also asked to appear either in person or through authorised representative or advocate and he would be heard on his objections. Admittedly, the petitioner had not appeared, either in person or through advocate but had chosen to file his objections through post. It would be obvious he did not intend to avail the benefit of hearing while submitting objections. If it were a case that he personally appeared and filed objections and requested for hearing, but for one reason or other he was not heard, then time should be granted and perhaps it may be requested to be adjourned to a next short date to be heard. That would be a different circumstance to consider i.e. whether failure to give such a date for hearing violates Section 5-A(2). The petitioner having chosen to send the objections through post and when the notice does indicate that he was to appear either in person or through advocate or authorised representative along with objections but failed, then there would be no need to give any further date of hearing.

**7.** Right of hearing is mandatory under Section 5-A(2) and the Land Acquisition Officer is enjoined to give the opportunity of hearing to the owner or person known to be interested in the land. The ratio laid down by this Court in *Shyam Nandan Prasad v. State of Bihar* also referred by Shri Divan, is unexceptional and has to be complied with. Accordingly, the Land Acquisition Officer has not taken it lightly or casually in issuing the notice but the parties had not chosen to appear either in person or through counsel. No fault could be laid at the door of Land Acquisition Officer for not giving opportunity of hearing.

(emphasis supplied by Mr. Mehta)

**26.** This Court in ***Sam Hiring Co.*** (supra) declared that the Land Acquisition Officer exercises power under Section 5-A as an

administrative authority; he is not a judicial authority or a quasi-judicial authority. The LA Act requires that the Land Acquisition Officer should consider the objections and, if asked, to give an opportunity of hearing. However, it was found in the facts of the case before the Court that opportunity of hearing was given and the objections raised were considered. The principle of natural justice was, thus, held to have been complied with. Mr. Mehta laid stress on the ruling that the Land Acquisition Officer was not required to elaborately deal with each of the objections and submit the report.

- 27.** The decision in ***Aircraft Employees' Housing Coop. Society Ltd.*** (supra) is along similar lines as ***Rambhai Lakhabai Bhakt*** (supra). One of the questions arising for decision was whether the failure to give opportunity of hearing to the counsel for the respondent vitiated the inquiry under Section 5A. This Court held that the relevant high court had not correctly interpreted the legal position. It was noted that the respondent was given opportunity thrice to file his objections and at his instance, the case was posted for hearing on 30<sup>th</sup> November, 1981 on which date neither the respondent nor his counsel was present. Under such circumstances, it was held that the respondent having failed to present himself either in person or through counsel on 30<sup>th</sup> November, 1981, the omission to give a right of hearing to him does not vitiate enquiry under Section 5-A; on the other hand, it was the respondent who denied himself of the opportunity of being heard. This Court, therefore, concluded that the

enquiry under Section 5-A is not vitiated by error of law and, consequently, the declaration under Section 6 is also not vitiated by any error of law.

**28.** In *National Highway Authority of India* (supra), this Court held that unless provided in the statute, there is no general duty to give reasons when an administrative action is taken and the Court may not strike down administrative action for the mere reason that no reasons are to be found recorded. Relevant paragraphs from such decision read as follows:

**69.** We would hold that as noticed by the Bench of three Judges in *Mahabir Jute Mills Ltd.* [*Mahabir Jute Mills Ltd. v. Shibban Lal Saxena*, (1975) 2 SCC 818 : 1975 SCC (L&S) 460], there is no general duty, when an administrative decision is taken, to give reasons. A statute may, however, explicitly provide that the executive authority must provide reasons and it must be recorded in writing. A case in point is the first proviso to Rule 8 of the Rules itself. The desirability of a general duty, in the case of administrative action to support decisions with reason, is open to question. One of the most important reason is, the burden it would put on the administration.

**70.** It is apposite, at this juncture, to notice that administrative decisions are made in a wide spectrum of situations and contexts. The executive power of the Union and States are provided in Articles 73 and 162 of the Constitution of India, respectively. Undoubtedly, in India, every State action must be fair, failing which, it will fall foul of the mandate of Article 14. It is, at this juncture, we may also notice that the duty to give reasons, would arise even in the case of administrative action, where legal rights are at stake and the administrative action adversely affects legal rights. There may be something in the nature or the context, under which, the administrative action is taken, which may necessitate the authority being forthcoming with rational reasons. There are other decisions, which essentially belong more to the realm of executive policy-making, which ordinarily may not require the furnishing of reasons.

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**73.** The Constitution does not contemplate any public authority, exercising power with caprice or without any rationale. But here again, in the absence of the duty to record reasons, the Court is not to be clothed with power to strike down administrative action for the mere reason that no reasons are to be found recorded. In certain situations, the reason for a particular decision, may be gleaned from the pleadings of the authority, when the matter is tested in a court. From the materials, including the file notings, which are made available, the court may conclude that there

were reasons and the action was not illegal or arbitrary. From admitted facts, the court may conclude that there was sufficient justification, and the mere absence of reasons, would not be sufficient to invalidate the action of the public authority. Thus, reasons may, in certain situations, have to be recorded in the order. In other contexts, it would suffice that the reasons are to be found in the files. The court may, when there is no duty to record reasons, support an administrative decision, with reference to the pleadings aided by materials.

(emphasis supplied by Mr. Mehta)

- 29.** Reliance has also been placed upon a recent decision of this Court in ***Haryana Urban Development Authority*** (supra) in which the Court interpreted the different stages present in Section 5A as well as the different roles which are accorded by the section to the LAO and the State Government. Relevant paragraphs are reproduced below:

**13.** It would be pertinent to understand the object that Section 5A of the 1894 Act seeks to fulfil. A plain reading of the provision indicates that it codifies the fundamental safeguard of audi altrem partem. Landowners have the opportunity to demonstrate that the acquisition is against public purpose or marred by mala fides. In the event the landowner presents a cogent case, the appropriate government may exempt such land from acquisition. By enabling landowners to put forward their perspective and elucidate their remonstrances, Section 5A envisions a modus of deliberation and consultation, which must therefore be construed to be mandatory, akin to a right. [Women's Education Trust v. State of Haryana, (2013) 8 SCC 99, para 1]

**14.** Objections under Section 5A of the 1894 Act most often proceed in four distinct stages:

i. The filing stage : Landowners can file objections within thirty days of the notification issued under Section 4 of the 1894 Act; [Section 5A (1), 1894 Act]

ii. The hearing stage : The Collector must provide an oral hearing to the objecting landowners, either in person or through a pleader/authorized representative; [NOIDA v. Darshan Lal Bora, 2024 INS 508]

iii. The recommendation stage : The Collector—after hearing objections and upon further inquiry—makes a report to the appropriate government containing their recommendations; and

iv. The decision stage : The appropriate government considers the Collector's report and takes a final decision on the objections.

**15.** Reverting to the case in hand, although the Respondents have averred that their right under Section 5A has been infringed, however, they have failed to substantiate such claim. Onus was on the Respondents

to identify any fault in the procedure adopted by the State, which we find tracks closely with the aforementioned four-stage process. When the Section 4 notification was issued on 16.03.1999, objections were invited from the landowners. These objections were duly heard, and a report was prepared by the Collector. Subsequently, the State Government constituted a High-Powered Committee, and based on its findings and opinion, the Government ultimately took a final decision to acquire the Respondents' land. Section 5A mandates a procedure, not a particular outcome. The landowners in this case were thus certainly guaranteed a hearing and consideration, not relief.

**16.** Regarding the fourth stage, the Respondents have specifically argued that since the Collector had recommended the release of their land and the State Government deviated from such recommendation without any valid and sufficient reasons, its decision is bad in law. In effect, their claim seems to be that the Collector's recommendation ought to be final and binding on the Government. However, such an interpretation is at odds with the bare text of Section 5A, ... .

**17.** The choice of different terminologies for the role of the Collector and the role of the Government makes it evident that the Legislature intended different roles for each of them. The Collector has no power to "decide" the case and can only give "recommendations" to the Government. It is the Government which is the ultimate arbiter for determining whether the land is to be released or not. No other authority can dictate the outcome of Section 5A proceedings—neither the Collector nor the landowner [Shri Mandir Sita Ramji v. Lt. Governor of Delhi, (1975) 4 SCC 298, para 5]. While the Collector's report can form the "basis" of such decision, the Government is free to independently evaluate and take a final decision, of course, based on relevant and lawful considerations.

**18.** It is therefore patently clear that the State Government possessed the ability to disagree with the Collector's report and decide a different course. This is not to say that the Government's decision cannot be challenged or is beyond judicial review. Indeed, had the Respondents demonstrated that the decision was arbitrary or passed without due application of mind, then they could have been victorious in their challenge. However, the Respondents have not placed any evidence on record to lay such foundation. On the contrary, the State Government/Appellant have demonstrated that their decision was not whimsical but was predicated on the findings of a High-Powered Committee, which comprised qualified individuals, like officers of the Indian Administrative Services, officials working with the Appellant, experts from the Town Planning Department and the Department of Agriculture, etc. Having duly inspected the subject land, this Committee deduced that the building structures on the land were unauthorized and not in conformity with the Development Plan. Relying on this analysis, the Government deviated from the Collector's recommendation and proceeded with the acquisition. We are of the considered view that such departure was made in public interest, with due application of mind and was fully justified.

(emphasis supplied by Mr. Mehta)

- 30.** Though not cited by the parties, we may profitably take note of two other decisions of this Court of fairly recent origin in land acquisition cases.
- 31.** In *Kolkata Municipal Corpn. v. Bimal Kumar Shah*<sup>34</sup>, the appellant-Corporation contended that Section 352 of the Kolkata Municipal Corporation Act, 1980, when read together with Section 363 thereof providing for compensation, constituted a complete code for acquisition of property and, therefore, vested in the Corporation the power to compulsorily acquire land for the purposes contemplated therein. Examining the scheme of the KMC Act, this Court was unable to accept the contention. It was held that Section 352 merely empowers the Municipal Commissioner to identify or earmark land required for specified municipal purposes, such as the opening, widening or improvement of streets and other public works. The provision, however, does not confer any power of compulsory acquisition. In arriving at such conclusion, the Court also took note of Section 537 of the KMC Act, which expressly contemplates that where immovable property cannot be acquired by agreement, proceedings may be initiated under the LA Act. The existence of such a provision, according to the Court, clearly indicated that the power of compulsory acquisition was not traceable to Section 352 itself. The submission that such power could be implied from Section 352 was, therefore, rejected. Proceeding further, the Court observed that even

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<sup>34</sup> (2024) 10 SCC 533

assuming Section 352 were to be construed as authorising compulsory deprivation of property, the provision was conspicuously silent as regards the procedure to be followed before such deprivation could take place. Although Section 363 made provision for payment of compensation, the mere existence of a compensatory mechanism could not cure the constitutional infirmity arising from the absence of a fair, just and reasonable procedure. A person cannot be deprived of his property save by authority of law, and such authority must prescribe and adhere to a constitutionally compliant procedure. It was in this context that the Court elaborated upon the various constituent protections embedded in the constitutional guarantee against arbitrary deprivation of property and identified a set of sub-rights that must ordinarily accompany any valid process of compulsory acquisition. Among these was the right of the affected person to receive notice and to be afforded a meaningful opportunity of being heard before being deprived of property.

**32.** The set of sub-rights that this Court identified are:

**30.** What then are these sub-rights or strands of this swadeshi constitutional fabric constituting the right to property? Seven such sub-rights can be identified, albeit non-exhaustive. These are:

- (i) The duty of the State to inform the person that it intends to acquire his property — *the right to notice*,
- (ii) The duty of the State to hear objections to the acquisition — *the right to be heard*,
- (iii) The duty of the State to inform the person of its decision to acquire — *the right to a reasoned decision*,
- (iv) The duty of the State to demonstrate that the acquisition is for public purpose — *the duty to acquire only for public purpose*,
- (v) The duty of the State to restitute and rehabilitate — *the right of restitution or fair compensation*,

- (vi) The duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings — *the right to an efficient and expeditious process*, and
- (vii) The final conclusion of the proceedings leading to vesting — *the right of conclusion*.

**33.** Insofar as the right to notice, the right to be heard, the right to a reasoned decision and the duty of the State to acquire only for a public purpose, we quote the instructive passage below (without the footnotes):

### **33.1. *The Right to notice***

**33.1.1.** A prior notice informing the bearer of the right that the State intends to deprive them of the right to property is a right in itself; a linear extension of the right to know embedded in Article 19(1)(a). The Constitution does not contemplate acquisition by ambush. The notice to acquire must be clear, cogent and meaningful. Some of the statutes reflect this right.

**33.1.2.** Section 4 of the Land Acquisition Act, 1894, Section 3(1) of the Requisitioning and Acquisition of Immovable Property Act, 1952, Section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and Section 3-A of the National Highways Act, 1956 are examples of such statutory incorporation of the right to notice before initiation of the land acquisition proceedings.

**33.1.3.** In a large number of decisions, our constitutional courts have independently recognised the right to notice before any process of acquisition is commenced.

### **33.2. *The Right to be heard***

**33.2.1.** Following the right to a meaningful and effective prior notice of acquisition, is the right of the property-bearer to communicate his objections and concerns to the authority acquiring the property. This right to be heard against the proposed acquisition must be meaningful and not a sham.

**33.2.2.** Section 5-A of the Land Acquisition Act, 1894, Section 3(1) of the Requisitioning and Acquisition of Immovable Property Act, 1952, Section 15 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and Section 3-C of the National Highways Act, 1956, are some statutory embodiments of this right.

**33.2.3.** Judicial opinions recognising the importance of this right are far too many to reproduce. Suffice it to say that the enquiry in which a landholder would raise his objection is not a mere formality.

### **33.3. *The Right to a reasoned decision***

**33.3.1.** That the authorities have heard and considered the objections is evidenced only through a reasoned order. It is incumbent upon the authority to take an informed decision and communicate the same to the objector.

**33.3.2.** Section 6 of the Land Acquisition Act, 1894, Section 3(2) of the Requisitioning and Acquisition of Immovable Property Act, 1952, Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and Section 3-D of the National Highways Act, 1956, are the statutory incorporations of this principle.

**33.3.3.** Highlighting the importance of the declaration of the decision to acquire, the Courts have held that the declaration is mandatory, failing which, the acquisition proceedings will cease to have effect.

### **33.4. *The Duty to acquire only for public purpose***

**33.4.1.** That the acquisition must be for a public purpose is inherent and an important fetter on the discretion of the authorities to acquire. This requirement, which conditions the purpose of acquisition must stand to reason with the larger constitutional goals of a welfare State and distributive justice.

**33.4.2.** Sections 4 and 6 of the Land Acquisition Act, 1894, Sections 3(1) and 7(1) of the Requisitioning and Acquisition of Immovable Property Act, 1952, Sections 2(1), 11(1), 15(1)(b) and 19(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and Section 3-A(1) of the National Highways Act, 1956 depict the statutory incorporation of the public purpose requirement of compulsory acquisition.

**33.4.3.** The decision of compulsory acquisition of land is subject to judicial review and the Court will examine and determine whether the acquisition is related to public purpose. If the Court arrives at a conclusion that there is no public purpose involved in the acquisition, the entire process can be set aside. This Court has time and again reiterated the importance of the underlying objective of acquisition of land by the State to be for a public purpose.

## **34. *New Okhla Industrial Development Authority v. Darshan Lal***

**Bohra**<sup>35</sup> is the other decision. In that case, a notification under Section 4 of the LA Act was issued in respect of certain lands in the same village. The respondent-landowner objected to the proposed

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<sup>35</sup> 2024 SCC OnLine SC 1690

acquisition under Section 5A on the ground that his land constituted an *abadi* area and, therefore, deserved exclusion from the acquisition proceedings. Similar objections were also filed by other landowners and fell for consideration before the LAO. The notices fixing the dates of hearing were sought to be communicated to the interested persons through the Gram Pradhan. However, the hearing had to be deferred repeatedly since only a few landowners appeared. Eventually, after granting what was described as a final opportunity for hearing, the LAO rejected the objections and submitted his report under Section 5A(2) of the LA Act, whereupon a declaration under Section 6 came to be issued. Challenging the acquisition proceedings, the landowners approached the relevant high court by way of writ petitions. The High Court allowed the challenge, holding that the mandate of Section 5A had not been duly complied with. Although notices were stated to have been issued through the Gram Pradhan, there was no material on record to establish that the landowners had, in fact, been effectively informed of the dates fixed for hearing. On such reasoning, the declaration issued under Section 6 was quashed and the authorities were directed to afford a fresh opportunity of hearing to the landowners. Aggrieved thereby, the acquiring authority carried the matter in appeal before this Court.

- 35.** In allowing the appeal preferred by the acquiring authority, this Court undertook a detailed examination of the alleged non-compliance with the mandate of Section 5A as well as the reasoning adopted by the

high court. This Court invoked the presumption embodied in Section 114 of the Indian Evidence Act, 1872 insofar as the issue of service of notices was concerned and held that once the authorities had demonstrated that notices were duly issued, the burden shifted to the landowners to establish that the mode of communication adopted was ineffective.

**36.** We consider it proper to quote a few paragraphs from the said decision dealing with the aspect of service of notice of hearing hereinbelow:

**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 of 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 (sic, lay) 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*, 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 in original)

**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 (sic, depend) 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?

(emphasis ours)

- 37.** Then, this Court proceeded to examine the question whether the Collector had fairly and effectively dealt with the objections under Section 5A. The relevant high court had taken exception to the manner in which the objections were disposed of, observing that they had been grouped together instead of being considered individually. Reversing this finding, this Court held that the grouping of objections was both logical and permissible, having regard to the fact that the objections pertained to the same parcel of land and raised substantially similar grounds. Interference on this count would have been justified only if it were demonstrated that the consolidation of objections was arbitrary or had compromised the fairness of the adjudicatory process. This Court also observed that the absence of a formal order dealing with a few objections would not, in the peculiar facts of the case, render the acquisition proceedings vulnerable.
- 38.** The principles emerging from the aforesaid precedents may now be crystallised, with expression of our opinion wherever divergent. Irrefragably, the provision in Section 5A of the LA Act engrafts a very valuable right for every landowner, who is faced with the immediate prospect of acquisition of his land. The provision is a mandatory safeguard, not only on its own terms, but because of the object and purpose that it seeks to achieve. Since a landowner is sought to be deprived of his property, the legislature in its wisdom thought it fit to afford to such landowner the only opportunity in the entire process

to object to the necessity of the acquisition as well as the suitability of the land proposed to be acquired. By raising a valid defence, the landowner can show cause why his land should not be acquired and the proposal dropped. While filing of an objection in writing is enabled by Section 5A(1), the landowner is assured of a hearing pertaining to his said objection under Section 5A(2). He need not ask for it; it is the duty of the Collector to give notice of hearing. Though in ***Sam Hiring Co.*** (supra) this Court has held that it is for the landowner to ask for a hearing, we respectfully disagree with such a view not only based on the terms of Section 5A but also in light of the dictum of the 3-Judge Bench in ***Farid Ahmed Abdul Samad*** (supra). The settled legal position is that once objections under Section 5A(1) are filed, it is for the Collector to fix a date of hearing and intimate the landowner. Absent conclusive proof of service of notice of hearing, the Court in ***New Okhla Industrial Development Authority*** (supra) presumed service<sup>36</sup>. That is, however, a debatable proposition and has to cautiously applied having regard to the facts of each case. The Collector, though does not act in a judicial or quasi-judicial capacity but as an administrative authority, is bound to consider the objections upon granting an opportunity of hearing before embarking on a further inquiry, if need be; and bearing in mind all the relevant factors, he is required to furnish his recommendation, for or against the proposal, to the Government for

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<sup>36</sup> official acts are regularly performed

its consideration. In furnishing the recommendation, the Collector is neither required to give a decision nor write a detailed order. All that is required of him is a consideration of each objection followed by brief reasons in support of its acceptability/non-acceptability and a recommendation as to the desirability of dropping the proceedings/proceeding for issuance of a declaration under Section 6. Though not bound by the recommendation of the Collector, the Government has to consider the records, apply its mind and, thereafter, form an opinion as to the imperative for issuing a declaration under Section 6. Since affectation of a landowner's property right is involved and the LA Act being an expropriatory legislation, the Courts are cautioned to strictly construe the provisions thereof.

- 39.** A landowner's right to object is, however, neither unqualified nor unlimited. The right is subject to the overarching principle that the State's power of eminent domain for public purpose should prevail. It is circumscribed by the purpose of the provision itself, which is to enable the Collector to consider the objections and opine whether the acquisition should proceed. The objection(s) of the landowner must, therefore, be germane to the purpose of acquisition. He cannot dictate which land the State should acquire. Land acquisition can be resisted only on grounds such as no real public purpose is involved, or that the land is not suitable for the purpose for which it is intended to be acquired, or that the proceedings smack of legal and/or factual

malice (attracting colourable exercise of power, excessive acquisition, etc.) or that the acquisition is likely to cause disproportionate hardship. Beyond this, the right does not seem to extend.

- 40.** To sum up, the right to lodge an objection followed by the right to hearing and a right to fair and proper consideration of the objection(s) raised under Section 5A flow directly from the twin principles of natural justice and due process. Denial of either limb could vitiate the acquisition.
- 41.** Drawing guidance from the above, let us now answer the question noted at the beginning of this segment.
- 42.** In the present case, the LAO, being under a statutory obligation to afford the objector an opportunity of being heard, either in person or through an authorised representative or a pleader, posted the objections on several dates to take the proceedings ahead. Appellants were present on all but one of the days. So runs the case set up by the appellants: after their absence on 9<sup>th</sup> April, 2012, the LAO proceeded to make his report dated 18<sup>th</sup> May, 2012 without fixing a further date for hearing in the interregnum.
- 43.** From the factual narrative, it is clear that the appellants apart from attending proceedings before the LAO on various dates had received the reply of the JMRCL on 18<sup>th</sup> August, 2011 and 9<sup>th</sup> March, 2012 but defaulted in filing their rejoinder and in causing appearance on 9<sup>th</sup> April, 2012. We accept Mr. Rohatgi's submission that 9<sup>th</sup> April, 2012

was the date fixed for filing rejoinder and it was not the designated hearing date. The submission that no notice fixing a further date of hearing was ever served upon the appellants is also not seriously disputed by Mr. Mehta. However, nothing much turns on it.

- 44.** What assumes significance in the present context is that not only did the appellants not file their rejoinder or appear on 9<sup>th</sup> April 2012, they did not make any effort to find out the outcome of the proceedings following their non-appearance till the order and the report of the LAO came to be made/forwarded on 18<sup>th</sup> May, 2012.
- 45.** In our view, the trajectory of the proceedings does not evince any intention of the LAO to deprive the appellants of an opportunity of hearing. Had it been so, and considering the importance of the metro rail project and the urgency to complete it, we wonder whether the proceedings at the stage of Section 5A would have lingered on for nearly a year. In any event, the material available on record does not, in any manner, indicate a flagrant violation of the statutory mandate in Section 5A to afford hearing to the appellants.
- 46.** Next, turning to the question of colourable compliance or substantial non-compliance of the Section 5A mandate on the LAO to extend opportunity of hearing, we need to test the worth of Mr. Rohatgi's submission that the LAO should have put the appellants on notice for a hearing of their objections post 9<sup>th</sup> April, 2012; more so, because the proceedings at the stage of consideration of the objections were pending before it right from 28<sup>th</sup> June, 2011.

- 47.** Issuance of initial notice and subsequent appearances of the appellant before the LAO, on more than a couple of dates, are not disputed. Even otherwise, it is not the appellants' case that they attended before the LAO on every date pursuant to receipt of any notice. The orders recorded in the proceedings by the LAO indicate the next date, of which the appellants must be presumed to have knowledge upon appearing before it. And, this is how the appellants went on appearing before the LAO without insisting for separate notices of hearing being served prior to each fixed date.
- 48.** In such view, what does not escape our attention is the lack of diligence and interest on the part of the appellants after 9<sup>th</sup> March, 2012, when they received the second set of reply of the JMRCL. It is well-known that rights carry responsibilities. When the rejoinder was not ready by 9<sup>th</sup> April, 2012, and had the appellants not intended to file a rejoinder but still wished to attend a personal hearing, they ought to have communicated the same to the LAO immediately or soon after receiving the reply on 9<sup>th</sup> March, 2012. Neither did the appellants seek an adjournment nor requested to be heard on the objections alone, without the rejoinder.
- 49.** A party might choose not to prosecute its own objection; but the LAO cannot be expected to compel such party to prosecute its objection. Absence of the appellants on 9<sup>th</sup> April, 2012 coupled with their subsequent silence, appears to have goaded the LAO to proceed on

the footing that the appellants had nothing further to submit beyond the written objections. We see no infirmity in the approach.

- 50.** On the face of such lack of diligence and interest of the appellants, there is no basis to hold that there was colourable compliance or substantial non-compliance of Section 5A, so much so that the very essence and purpose of the right of hearing was defeated. In the absence of any request from the appellants, we find no breach of duty by the LAO and, consequently, no violation of the right of hearing.
- 51.** A subsidiary submission on behalf of the appellants was that the law did not require the LAO to invite any reply/rejoinder and it should have proceeded to hear the appellants and conduct the requisite inquiry before making its recommendation. We fail to see merit in this argument. Though the LAO was not presiding over a court but acting as an administrative authority, calling for the reply of the JMRCL and rejoinder from the appellants was merely to ensure a wholesome consideration of the objections raised. In our view, this is a facet of fair procedure and cannot be seen as a vice for being faulted.
- 52.** Why did the appellants abstain from appearing before the LAO on 9<sup>th</sup> April, 2012 has not been explained. In a judicial setting, a court would have ordinarily granted one more opportunity as *ex parte* adjudication is generally disfavoured. However, the LAO is not a court. It is an administrative authority, whose role is limited to

considering objections and making a recommendation. The absence of trappings of a court is material. Even assuming that granting one more date would have caused no prejudice, the failure to do so is at best an indiscretion. A mere error of discretion or indiscretion is not malice in law. Such non-exercise of discretion cannot, without anything more, be elevated to a breach of Section 5A resulting in violation of the statutory right of hearing and vitiating the acquisition. The non-grant of another opportunity, by itself, in the facts of this case cannot be urged as a ground to invalidate the acquisition.

53. Bearing in mind the decisions in ***Rambhai Lakhbai Bhakt*** (supra) and ***Aircraft Employees' Housing Coop. Society Ltd.*** (supra), the submission of Mr. Rohatgi that a further date should have been fixed does not impress us.
54. We, thus, hold that the mandate of Section 5A was not ignored by the LAO and that there was substantial compliance; also, no fault can be attributed to the LAO in forwarding the recommendation without the appellants being personally heard. Appellants, by their own conduct, abandoned their right of hearing; they cannot now be heard to complain of denial of hearing when they themselves failed to avail the same.
55. Having held so, we need to now focus on two connected questions:  
(a) whether the appellants' objections were duly considered by the LAO and the State Government?  
and

(b) whether the objections raised by the appellants have substance? Notwithstanding our finding and conclusion in respect of the question immediately dealt, the appellants could still succeed in their appeals if any one of the two questions formulated above is answered in their favour.

- 56.** We begin our consideration with a preliminary observation as to the need for formulation of question (b). Having noticed in the previous segment as to what the precedents hold requiring protection of the right of a landowner, what are the grounds on which an acquisition could validly be resisted, and what is the nature of consideration that should follow culminating in the recommendation, yet, we have not been referred to any direct authority where this Court proceeded to invalidate acquisition proceedings solely on the ground of breach of the right of hearing contemplated by Section 5A, notwithstanding that a preliminary scrutiny of the landowners' objections by the Court revealed the same being without substance. The reason is not far to seek. Law is settled that rules of natural justice and the right to be heard are required to be followed for doing substantial justice and not for completing a mere ritual of hearing without possibility of any change in the decision of the case on merits. We may also add that in order to assess the consequence of any lapse, this Court would be remiss in not extending its inquiry to the substance of the objections presented by the landowners. Incidentally, in ***New Okhla Industrial Development Authority*** (supra), this Court proceeded to examine

the merits of the objections raised by the landowners considering that some of them had claimed non-service of notice; and having found the same to lack merit allowed the appeal of the acquiring body.

- 57.** The two questions [ (a) and (b) ] are now proposed to be considered together bearing in mind what Mr. Rohatgi has argued.
- 58.** On 18<sup>th</sup> May, 2012, the LAO considered the objections of the appellants and the reply of JMRCL, rejected the objections primarily on the ground of public purpose, and forwarded his report to the State Government in terms of sub-section (2) of Section 5A of the LA Act.
- 59.** The State Government, upon considering the report and after undertaking the requisite inter-departmental consultation, as is borne out from the relevant note-sheets forming part of the record, concurred with the recommendation of the LAO and proceeded to issue the declaration under Section 6 of the LA Act.
- 60.** Did the LAO and the State Government arrive at their respective conclusions after due consideration of the appellants' objections and upon recording reasons in support thereof? During the course of hearing, Mr. Rohatgi strenuously contended that neither the report submitted by the LAO nor the decision ultimately taken by the State Government discloses adequate application of mind to the objections raised and, therefore, both stand vitiated.

- 61.** We have perused the report of the LAO. Though it is in Hindi, the English version thereof has been made available by the appellants. Parties are *ad idem* that the translation of the Hindi version is correct.
- 62.** Our attention has first been drawn by Mr. Rohatgi to the concluding part of the order/report of the LAO where it was recorded that the "*objections are not being considered*". According to Mr. Rohatgi, the failure to consider the objections is palpable and brazen and no amount of argument is necessary to establish that this itself constitutes a ground for the Court to set the acquisition proceedings at naught.
- 63.** Looking to the order/report of the LAO, at first blush, the argument is attractive. However, the semantics behind the phrase "*objections are not being considered*" in the LAO's order cannot be pressed into service by equating it to a situation that the objections themselves were not taken on record and/or bore no application of mind by the LAO, so as to vitiate the principles of natural justice itself and the duty to consider and record reasons. Having read the entire report, what is discerned is that the LAO noticed, in *seriatim*, the objections raised by the appellants and recorded the response furnished by the JMRCL thereto. The LAO thereafter concluded that the JMRCL requires the subject land for the metro rail project and having regard to the public purpose the project seeks to cater, the objections are not being considered. What "*objections are not being considered*" could be taken to mean is that the objections were considered on their own

footing but they did not merit acceptance, and not that they have not been looked into or considered. Had it been so, a detailed report setting out the rival versions together with recording of an opinion that the subject land is indeed required for a public purpose would not have been prepared for consideration by the State Government for issuance of a declaration under Section 6 of the LA Act. The argument, thus, stands rejected.

- 64.** The next argument advanced by Mr. Rohatgi was that there are no reasons in the order/report of the LAO evincing minimal consideration of each and every objection. While it is true that the reasoning of the LAO is brief and each objection has not been dealt with individually, we do not consider the argument worthy of acceptance. Reference to the contents of the report has been made hereinbefore. While the report of the LAO could have been more elaborate, it must be remembered that a report under Section 5A need not be a speaking order in the judicial sense. The requirement is to form an opinion and recommend. Brevity of reasons is not synonymous with absence of reasons. Read as a whole, it cannot be said that the LAO failed to advert to the objections or that it failed or omitted to record the requisite opinion. The brevity of the report does not vitiate it. The purpose of Section 5A, which is to aid the State Government in taking a final decision, stands fulfilled in this case.
- 65.** Notwithstanding what we have held above and independently of the procedural challenge, we also consider it appropriate to assess

whether the objections raised by the appellants before the LAO and reiterated before us are of such substance that the acquisition itself ought to be annulled. We, however, make it clear that this exercise is being undertaken to allay any apprehension of injustice, even on the appellants' own case that their objections had substance which should have been accepted.

- 66.** Assuming, *arguendo*, that each objection was to be examined individually and on its own merit and not in a rolled up manner, we are unable to persuade ourselves to hold that any of them furnishes a legally sustainable ground for dropping the acquisition *qua* the subject land, the reasons for which are adumbrated hereafter as regards each objection raised by the appellants.
- 67.** The first objection pertains to the publication of the notification under Section 4. Appellants contended that a *prior* newspaper publication did not precede the issuance of the notification. We find no merit in this objection.
- 68.** The report of the LAO itself records that publication was made in the Dainik Bhaskar and Rajasthan Patrika on 28<sup>th</sup> May, 2011, preceded by a gazette notification on 27<sup>th</sup> May, 2011. Thereafter, under section 4(1) of the LA Act, for the purpose of intimation of the general public, a public notice was issued on 7<sup>th</sup> July, 2011.

69. We may profitably refer to the decision in ***Narinderjit Singh v. State of U.P.***<sup>37</sup>, wherein the law in this regard has been expounded as follows:

2. The law as settled by this court is that such a notice under second part of Section 4(1) is mandatory and unless that notice is given in accordance with the provisions contained therein the entire acquisition proceedings are vitiated. We may refer in this connection to *Khub Chand v. State of Rajasthan* [AIR 1967 SC 1074 : (1967) 1 SCR 120]. In that case this court pointed out that the object is to give intimation to a person whose land is sought to be acquired of the intention of the officer to enter the land. Under Section 4(2) such a notice is a necessary condition for the exercise of the power of entry. Non-compliance with that condition makes the entry unlawful. In *State of Mysore v. Abdul Razak Sahib* [CA 2361 of 1968, dated August 11, 1972 : (1973) 3 SCC 196] no notices as required by Section 4(1) of the Act were published in the locality till after the lapse of about 10 weeks. The question for consideration was whether the notification issued under Section 4 was a valid one. This court held that in the case of a notification under Section 4 the law has prescribed that in addition to publication of a notice in the Official Gazette the Collector must also give publicity of the substance of the notification in the concerned locality. Unless both these conditions are satisfied Section 4 of the Act cannot be said to have been complied with. The purpose behind such a notice was that interested persons should know that the land is being acquired so as to prefer any objections under Section 5-A which confers a valuable right.  
(emphasis ours)

70. More importantly, the appellants never pleaded that publication in the newspapers was altogether omitted. Their grievance is confined to the assertion that such publication ought to have preceded the issuance of the notification. We are unable to find any statutory prescription in the LA Act mandating prior newspaper publication as a condition precedent to the issuance of a notification under Section 4. Law only mandates both the requirements to be satisfied, but does not predicate the validity of the notification under Section 4 upon the

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<sup>37</sup> (1973) 1 SCC 157

prior publication in the locality. In the absence of any such legal requirement, the objection as to lack of *prior* publication in the newspapers falters.

- 71.** Besides, admittedly, the appellants had due notice of the acquisition proceedings and filed detailed objections under Section 5A within the prescribed time limit. No prejudice, therefore, can be said to have been engendered on this count.
- 72.** The second objection relates to the existence of a genuine public purpose. We find the objection devoid of any substance. The jurisprudential compass is furnished by the decision in ***Daulat Singh Surana v. Collector (LA)***<sup>38</sup>, wherefrom the relevant paragraphs are extracted hereinbelow:

**65.** Broadly speaking the expression “public purpose” would however include a purpose in which the general interest of the community as opposed to the particular interest of the individuals is directly and virtually concerned.

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**68.** The right of eminent domain is the right of the State to reassert either temporarily or permanently its dominion over any piece of land on account of public exigency and for public good.

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**73.** Public purpose cannot and should not be precisely defined and its scope and ambit be limited as far as acquisition of land for the public purpose is concerned. Public purpose is not static. It also changes with the passage of time, needs and requirements of the community. Broadly speaking, public purpose means the general interest of the community as opposed to the interest of an individual.

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**76.** Public purpose for which the premises was required in the instant case was not questioned seriously. As a matter of fact, the State of West Bengal has been using the premises in question for more than six decades for the safety and security of the people by having an office of the Deputy Commissioner of Police (Security Control). Therefore, by no stretch of imagination, it can be said that the premises was not required by the State Government for the interest

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<sup>38</sup> (2007) 1 SCC 641

and welfare of the people or there was no public purpose involved in acquiring the premises in question.

**73.** The present acquisition is for construction of a depot constituting Phase II of the Jaipur Metro Rail Project. A depot is not an ancillary commercial venture, but an indispensable operational component without which the metro system itself cannot function. Appellants sought to contend that the project has undergone changes over the years and that the DPR has not attained finality. Such circumstances may, at its best, evince an evolving infrastructural planning, but they do not detract from the essential public purpose undergirding the acquisition.

**74.** Appellants next contended that no proper survey preceded the issuance of the notification under Section 4, LA Act. This contention falters when tested against the plain statutory text of Section 4 of the LA Act. Section 4 reads:

**4.** Publication of preliminary notification and power of officers thereupon. –

(1) Whenever it appears to the appropriate Government the land in any locality is needed or is likely to be needed for any public purpose or for a company, a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such notification 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 notification).

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workman, to enter upon and survey and take levels of any land in such locality;

to dig or bore in the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon; to mark such levels, boundaries and line by placing marks and cutting trenches; and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crops, fence or jungle:

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(emphasis ours)

- 75.** The objection grounded on the alleged absence of a prior survey before issuance of the notification under Section 4 is equally untenable. The phraseology of Section 4 itself furnishes the answer. Sub-section (2) opens with the expression "**Thereupon**", thereby making it lawful for the authorised officers to enter upon the land, survey it, take levels, dig or bore into the sub-soil and undertake such other acts as may be necessary to ascertain whether the land is adapted for the intended public purpose. The use of the expression "**Thereupon**" unequivocally signifies that the statutory power to survey kicks in, upon the publication of the notification under Section 4(1). The legislative sequence is thus clear: publication of the notification first; exercise of the powers of entry and survey thereafter. The statute does not posit the conduct of a comprehensive survey as a condition precedent to the issuance of the notification under Section 4. To read such a requirement into the provision would amount to supplying words which the legislature has consciously omitted. We are, therefore, unable to accept the contention that the acquisition process is flawed merely because no survey preceded the notification.

**76.** Appellants have then urged that several alternative parcels of land, including lands belonging to RIICO, IOCL, JDA and other governmental agencies, were available and that the respondents ought to have utilised such lands instead of acquiring the appellants' property. We are apprehensive that such a contention traverses a domain where judicial restraint is particularly warranted. Judicial intervention in this regard essentially has to yield to a host of technical and operational considerations, subsuming alignment connectivity, maintenance logistics, future expansion, *inter alia*. This position was pithily encapsulated in ***State of Punjab v. Gurdial Singh***<sup>39</sup> as follows:

**8.** First, what are the facts? A grain market was the public purpose for which government wanted land to be acquired. Perfectly valid. Which land was to be taken? This power to select is left to the responsible discretion of government under the Act, subject to Articles 14, 19 and 31 (then). The court is handcuffed in this jurisdiction and cannot raise its hand against what it thinks is a foolish choice. Wisdom in administrative action is the property of the executive and judicial circumspection keeps the court lock-jawed save where power has been polluted by oblique ends or is otherwise void on well established grounds. The constitutional balance cannot be upset.

(emphasis ours)

**77.** This position was reiterated in ***Sooraram Pratap Reddy v. Collector***<sup>40</sup> as follows:

**119.** In our judgment, in deciding whether acquisition is for "public purpose" or not, *prima facie*, the Government is the best judge. Normally, in such matters, a writ court will not interfere by substituting its judgment for the judgment of the Government.

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<sup>39</sup> (1980) 2 SCC 471

<sup>40</sup> (2008) 9 SCC 552

- 78.** Quite recently, a similar view was expressed by a co-ordinate Bench while dismissing a special leave petition<sup>41</sup> *vide* order dated 8<sup>th</sup> June, 2022. It was held there that public interest being of paramount consideration, the National Highway Authority is the best judge to decide which land is to be acquired and which is not to be acquired for the purpose of construction of highways.
- 79.** Thus, the determination of the particular parcel of land required for acquisition falls squarely within the domain of the expert planning authorities exercising powers of eminent domain.
- 80.** Keeping the position of law aside for a moment, the learned Solicitor for the respondents has submitted that the lands belonging to IOCL and RIICO, which according to the appellants could have been acquired instead, are being utilised for other purposes, as noticed in the summary of his submission above. Appellants have contended that such a stand has been advanced for the first time before this Court and, therefore, lacks credibility. We are unable to agree. A perusal of the record reveals that even before the High Court, in the reply filed to the writ petition, the respondents had specifically averred that the lands of IOCL and RIICO were earmarked and being utilised for purposes other than the project in question. The contention, therefore, cannot be said to be an afterthought.

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<sup>41</sup> SLP (C) Nos. 9314-15/2022 [G. Narsing Rao (Died) Thr. LRS. V. The National Highways Authority of India & anr.]

- 81.** Although the respondents have justified why the suggested alternative lands were not suited nor available for the intended purpose, merely because another parcel of land may appear feasible to the landowner, the same cannot be pressed into service by the landowner, to persuade the Court to substitute its own opinion for that of the authorities entrusted with the planning and execution of the project.
- 82.** Appellants have next contended that the extent of land sought to be acquired is far in excess of what is actually required for the project. According to them, while the DPR of April, 2011 envisaged a requirement of 19.79 hectares of land, the DPR of June 2011 enhanced such requirement to 27 hectares without any discernible basis. We are unable to persuade ourselves to accept this contention. Appellants themselves acknowledge that the revised DPR assessed the land requirement at 27 hectares. The determination of the extent of land necessary for execution of a public project is essentially a matter falling within the province of the concerned authorities possessing the requisite technical expertise. It is not for the Court to substitute its view for that of such authorities in the absence of manifest arbitrariness, *mala fides*, or demonstrable error. Besides, the respondents, upon receipt of the report of the LAO under Section 5A, again reconsidered the requirement of the land requirement and came to the same conclusion. The record does not disclose any material placed by the appellants to substantiate the assertion that

the enhanced requirement was unwarranted or excessive. The LAO has also rightly noticed the absence of any supporting material in this regard. The objection, therefore, remains a bare assertion unsupported by evidence and does not merit acceptance.

- 83.** We now come to the final objection, which is premised upon the alleged disturbance to the extant tree cover and the ecological character of land being altered. Such contention is equally misconceived. This issue stands authoritatively settled by a decision in ***Naveen Solanki v. Rail Land Development Authority***<sup>42</sup>, wherein it was held that the determination of whether a parcel constitutes “forest” or “deemed forest” must essentially be informed by the original character of the land and the relevant statutory planning framework governing it. The relevant passages from the said decision are extracted hereunder:

**45.** The law does not contemplate or conceive, nor can it afford such instability in the planning processes. While the principle laid down in T.N. Godavarman (supra) continues to operate with full force and ensures that forest land is not diverted without compliance with the statutory safeguards, the determination of whether a particular parcel of land answers the description of “forest” or “deemed forest” must necessarily take into account the original nature of the land and the planning framework within which the land is situated and sought to be utilised.

46. The position would naturally be different when the Master Plan itself records the existence of forest land or specifically identifies land containing a substantial number of trees. Where the Master Plan, at the time of its formation, records that a particular parcel of land contains tree cover or indicates the existence of a significant number of trees, such land may well fall within the understanding of deemed forest. However, where the Master Plan does not record the existence of trees or describe the land as containing forest cover, the subsequent emergence or proliferation of vegetation over a period of

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<sup>42</sup> 2026 SCC OnLine SC 45

time cannot, by itself, bring the land within the ambit of deemed forest so as to unsettle the planning framework already put in place.

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**48.** This interpretation preserves the principle laid down in T.N. Godavarman (supra) while at the same time ensuring that the concept of deemed forest is not applied in a manner that destabilises statutory planning instruments conceived for the holistic development of urban area because of changes which came about or are brought about in an unplanned, unregulated, unconceived manner, whether natural or otherwise.

- 84.** The afore-stated exposition squarely countervails the objection urged by the appellants. Photographs, still and drone, submitted by the JMRCCL, evinces existence of trees or vegetation upon a portion of the subject land but mere existence thereof cannot *ipso facto* elevate it to the status of a “forest” or “deemed forest”. Unless the statutory planning instruments, including the applicable Master Plan, recognise the land as forest land or specifically record the existence of such ecological features at the time of their inception, the subsequent proliferation of vegetation cannot be permitted to subvert or invalidate the expert planning framework. To hold otherwise would enable unanticipated and fortuitous changes in vegetation to frustrate duly sanctioned public projects and import uncertainty into the planning process.
- 85.** In the present case, there is no material to establish that the subject land has ever been identified as a forest land in any of the revenue records or in any Master Plan or in any statutory record. Any removal of trees, if required, would necessarily remain subject to the applicable statutory permissions and compensatory measures under the relevant environmental and forest laws. The apprehension *qua*

the loss of tree cover is bereft of any substance, since the competent authority has already directed that any such cover affected by the execution of the project shall be duly compensated by undertaking compensatory plantation at designated alternative sites in accordance with the applicable statutory and environmental norms.

**86.** Therefore, upon an independent consideration of the objections on their own merits, we find no compelling ground that would justify de-acquisition of the land or warrant interference with the decision taken by the LAO and the State Government.

**87.** Questions (a) and (b) are, thus, answered against the appellants.

#### **CONCLUSION**

**88.** For the foregoing reasons, we hold that the Single Judge erred in interdicting the acquisition proceedings on the sole ground of non-compliance with Section 5A, LA Act. The successful attempt of the appellants to invalidate the acquisition proceedings and thereby derail a metro rail project by raising an unmeritorious claim did not, however, escape the attention of the Division Bench which rightly interfered and set aside the judgment of the Single Judge. We see no reason to cause interference therewith.

**89.** In the result, the appeals stand dismissed. Interim order stands vacated forthwith.

- 90.** Appellants shall, however, be at liberty to pursue their remedy in accordance with law if they wish to have the award set aside and enhanced compensation awarded.

.....J.  
(DIPANKAR DATTA)

.....J.  
(SATISH CHANDRA SHARMA)

**New Delhi;  
July 13, 2026.**