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IN THE HIGH COURT OF DELHI AT NEW DELHI

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(WRIT PETITION (CIVIL) 13376/2009)

Judgment Reserved on: December 20, 2010

Judgment Delivered on: January 14, 2011

DARSHAN LAL NAGPAL & ORS.

. . . PETITIONERS

Through :

Mr. Dhruv Mehta, Sr. Advocate
with Mr. Ashish Wad, Mr. Chirag
Dave, Advocates.

VERSUS

**GOVT. OF NATIONAL CAPITAL TERRITORY
OF DELHI & ORS.**

. . .RESPONDENTS

Through:

Mr. Sanjay Poddar, Standing
Counsel for LAC.
Mr. N.Waziri, Advocate for Govt.
of NCT of Delhi
Mr. Ajay Verma, Advocate for
DDA.

CORAM :-

**HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE SURESH KAIT**

1. Whether Reporters of Local newspapers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the Judgment should be reported in the Digest?

A.K. SIKRI, J.

1. The land of the petitioners herein comprising of Khasra Nos. 5/21,22/2,6/21, 23/1 (min), 23/2 (min), 5/24, 25,24 (min), 23, 5/9/1 alongwith other chunk of land has been acquired by the respondent no.1 for the public purpose i.e. for the development of 400 X 220 KV Grid Stations in village Mandoli. The total area which is acquired is 80 bigha and 15 biswa area belonging to various persons of the said village. Out of this, land of the petitioners covered by the aforesaid Khasra nos.is

approximately 150 bighas. For the purpose of acquisition of the aforesaid land, Notification dated 13th October, 2009 was issued under Section 4 (1) of the Land Acquisition Act (hereinafter referred to as the 'Act') stating that land described herein i.e. land in question was likely to be acquired for public purpose namely for establishment of 400 X 220 KV sub-station at village Mandoli. This Notification further stated that the Lt. Governor, Govt. of NCT of Delhi (Respondent no.2) was satisfied that provisions of sub Section (1) of Section 17 of the Act are applicable to this land. He was further pleased to pass an order under sub-Section (4) of Section 17 of the Act directing that all provisions of Section 5A of the Act shall not apply. Consequent Notifications dated 9th November, 2009 were issued under Section 6 as well Section 17 (1) of the Act.

2. The petitioners have filed the instant petition under Article 226 & 227 of the Constitution of India, challenging the aforesaid Notifications dated 13th October, 2009 and 9th November, 2009. The primary grievance of the petitioners is to the invocation of provisions of Section 17 (4) of the Act whereby inquiry under Section 5A of the Act has been dispensed with. The basic contention in this behalf is that there was no such urgency in the matter to pass the order under Section 17(4) of the Act by the respondent no.2 thereby denying the valuable right of the petitioners to file their objections to the proposed acquisition of their land.

3. We may state at the outset that it is not disputed by the petitioners that the land required for setting up of the electric sub-station is a public purpose. Therefore, it is not in dispute that the Government is in need of land for the aforesaid purpose and there is a need for setting up of the electric sub- station as well. However, as mentioned above, the anguish of the petitioners is that they are divested of their valuable right granted

by the Legislature under Section 5A of the Act and had the petitioners been given an opportunity to avail this right, they would have demonstrated that neither the extent and quantum of land acquired for the purpose is needed, as the aforesaid purpose could be served by acquiring my lesser land, nor the land in question is feasible for setting up of such electric sub-station.

4. Before we take note of this detailed arguments made by the petitioners in this behalf, it would be necessary to give certain factual background leading to the issues of the impugned Notifications.

5. The respondent no.3 namely Delhi Transco Ltd. (DTL) is primarily concerned with the generation and distribution of the electricity in Delhi. Concededly, the demand of electricity in Delhi is much more than the supply available. It is for this reason, that in order to augment the supply in East Delhi region, necessity was felt for establishing a sub-station at East of Loni Road. For this purpose, in and around 2005, DTL addressed communication dated 6th December, 2005 requesting Delhi Development Authority (DDA)/respondent no.4 for allotment of lands at two locations in and around East of Loni Road for setting up of the sub stations. The DDA, however, refused to oblige the DTL on the ground that the land which was desired by the DTL had already been earmarked for different purposes than the purpose for which it was being sought by the DTL. After a slumber of nearly two years, DTL sent another request dated 7th March, 2008 on same lines. This prompted a meeting between DTL and Vice-Chairman, DDA. DTL was informed that land proposed to be acquired under the special zone, E-18 is earmarked (for agricultural/Green Belt) as per MPD-2010. In these circumstances, DTL requested DDA vide letter dated 28th July, 2008 to change the land used and acquired the

same by invoking the provisions of Section 17 of the Act. In this communication it was also mentioned that though earlier it was proposed to construct a out-door 400 X 220 KV Grid Station, but keeping in view the passage and availability of land, the DLT had now proposed to establish a GIS Indoor type sub-station which could be accommodated in a space of about 200-125 mtrs. On this request, the Joint Director (Power), Govt. of NCT of Delhi vide letter dated 9th September, 2008 directed the Land and Building Department to initiate land acquisition proceedings. It further directed the respondent no.1 to invoke the provisions of Section 17 of the Act. Thereafter, the Chief managing Director of DTL wrote a letter dated 22nd September, 2008 requesting for a meeting with the officials of respondent no.1 for acquisition of the land as in the view of DTL the setting up of the electric sub-station was necessary to strengthen the transmission for Delhi for the ensuing Common Wealth Games. It was also impressed that the matter was getting critical in view of the remaining time for getting to execute the projects. Few days thereafter i.e. on 30th September, 2008 Land and Building Department forwarded copy of letter dated 9th September, 2008 received from Joint Secretary (Power) to the ADM, Land Acquisition Collector, (NE) for sending the following information/documents:-

1. Draft notification u/s 4,6, and 17 alongwith the copy of Aks Sizra, field book etc.
2. Report after conducting Joint Survey.
3. 80% estimated compensation amount with Calculation Sheet.

6. As the information was not sent, reminder dated 28th November 2008 followed. Another reminder dated 15th January, 2009 also followed and it is thereafter only that the LAC vide letter dated 31st January, 2009

sent the required draft Notification under Section 4 & 6 of the Land Acquisition Act. He also sent the computation of 80% compensation amount. Some discrepancies were found in the information sent by the LAC and this led to issuance of another letter dated 2nd March, 2009 by respondent no.1 requesting for Tatimma Field Book, Revenue records of the land sought to be acquired. It was also mentioned in this letter that Power Department had sent proposal of 200-125 sq. mtrs but the draft received was 80 bigha and 15 biswa. Since the copy of this letter was sent to DTL as well, the DTL responded vide letter dated 6th March, 2009 clarifying the need for 15C 20 Sq. mtr of land instead of 200x125 sq.mtr proposed earlier in the following words:-

“As have already been clarified vide our above mentioned letter dated 04-12-2008 that for establishment of this ESS a plot size measuring 250 X 200 Sq. Mtrs with approach road is required as per site requirements & to accommodate proposed three voltage level equipments i.e. 400KV, 220KV & 66 KV as per the scheme instead of 200 X 125 Sq. Mtrs size earlier communicate.

Therefore, it is requested to arrange to acquire the 80 Bigha 15 Biswa land as finalized in joint site visit dated 12-01-2009. This may kindly be treated on Top Priority being a time bound project.”

7. By this time, the petitioners got the air of contemplated move of the respondents for acquisition of land including theirs. they made representation to the Member of Legislative Assembly of their area wherein it was impressed that only 29.6 bigha of land was to be acquired for installation of station as per the Master Plan of Delhi-2021 and also pleaded that the surrounding barren land could be acquired for this purpose leaving the land of the petitioners untouched. The MLA, in turn, forwarded that representation to respondent no.1 vide his letter dated 28th April, 2009 which was further forwarded to the DLT. While this was

going on the one hand, on the other hand, the following steps were taking for acquisition of the land:-

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| 16 th April, 2009 | :Response from respondent no.1 to DDA requiring the DDA to send formal NOC which was required for acquisition of the land. |
| 18 th May, 2009 | :DDA proposed a joint inspection of site before issuing a formal NOC. |
| 8 th July, 2009 | :DDA requested DTL to fix time for joint inspection of the site. |
| 7 th September, 2009 | : DDA to provide the required NOC. |
| 9 th September 2009 | :Respondent no.1 submitted request to Lt. Governor (respondent no.2) requesting him to issue Notification under Section 4 read with 17 (4) and Section 6 alongwith 17(1) of the Act. |
| 26 th September, 2009: | respondent no.2 directed the publication of Notification under Section 4 of the Act. |
| 30 th October, 2009 | :Notification under Section 4 of the Act was issued. |
| 9 th November, 2011 | :Two notifications under Section 6 and 17 (1) of the Act were issued respectively. |

8. Based upon the aforesaid events, the first and foremost submission of Mr. Dhruv Mehta, learned Sr. Counsel, for the petitioners was that these events would amply demonstrate that there was laxity and delayed action on the part of respondent no.1 at every stage. He emphasized that a proposal which was mooted in the year 2005 for acquisition of land for the purpose of establishing the sub-station could be fructified only by the end of year 2009. He also emphasized that the respondents were wrong in their stand that the acquisition proceedings were initiated only in the year 2008. According to him, as early as on 4th December 2007 Chief Engineer, CEA wrote to GM (Planning), DTL that they would have to take up the issue urgently with the Government of NCT of Delhi for allocating suitable site and in spite of this urgency shown, way back in the year 2007 by the Central Electricity Authority (CEA), the process was retarded.

Mr. Mehta took pains to read various communications, taken note of above, and pointed out that at each stage follow up action was procrastinated and according to him this would militate against the plea of urgency. He argued that the correspondence on record, inter se between the respondents clearly reveals that there had been an undue lethargy in taking up acquisition proceedings after receiving a proposal from DTL. He submitted that where the authorities have dragged their feet, prior to the issuance of the notifications under Section 4 and/or 6, the issuance of notification and simultaneously invocation of the urgency provision under Section 17 (1) and dispensing with the enquiry under Section 17 (4) would be an arbitrary exercise of power, without application of mind. This pre-notification delay would itself void the acquisition.

9. His next submission was that there was absence of material for invocation of Section 17 (1) and dispensing with the enquiry under Section 5(A). In this behalf it was submitted that there has been non application of mind on the part of the acquiring authority inasmuch, as it is settled in law that there has to be an independent application of mind as well as material to support invocation of the urgency provision under Section 17 (1) and dispensing with the valuable right of hearing under Section 5(A) of the Act. He put a passionate plea that the right to file objections under Section 5A of the Act is a very valuable right and cannot be lightly interdicted at the whims of the authorities. Drawing sustenance from the decision in the case of ***Hindustan Petroleum Vs. Darius Shapur Chennai and Ors (2005) 7 SCC 627*** he argues that the right is protected under Article 300A of the Constitution. It was further submitted that the notings on the file which had been annexed with the

writ petition did not disclose application of mind as required by law laid down in the decisions of the Supreme Court. In fact, the notings which led to the final passing of order by the Lt. Governor of NCT (respondent No.2) suggested, that the acquisition was urgent as it was related to the Common Wealth Games. The said noting is as follows:-

“As the matter is urgent and related to Common Wealth Games, if approved, Hon’ble LG may be requested to kindly approve acquisition of land measuring 80 bhigas 15 biswa as per the draft notification placed opposite for acquisition of land for establishment of 400x220 KV Sub Station in Village Mandoli and issuance of notification under Section 4 read with Section 17 (4) and Section 6 alongwith Section 17 (1) of Land Acquisition Act, 1894.”

It was, thus, submitted that as the Common Wealth Games had been concluded, there was no urgency for acquisition.

10. Further, the material and documents filed by the Counsel for DTL, alongwith the additional affidavit filed on 28th September, 2010 and 11th November, 2010 did not reflect in the notings which were placed before the Lt. Governor. Hence, an adverse inference should be drawn that the said documents filed subsequently by DTL, did not form part of the file which was put before the Lt. Governor, for his consideration before passing an order under Section 17 (4). The petitioners relied upon the following decision in support of the above propositions:-

1. State of Punjab Vs. Gurdial Singh, (1980) 2 SCC 471,
2. Om Prakash and Anr. Vs. State of U.P. and Anr. (1998) 6 SCC 1.
3. Union of India Vs. Mukesh Hans, (2004) 8 SCC 14
4. Baburam and Anr. Vs. State of Haryana and Anr, (2009) 10 SCC 115.

11. Mr. Poddar and Mr. Waziri, learned counsel appearing for the respondents, forcefully countered and refuted the aforesaid submissions of the petitioners. It was argued that once the petitioners accepted that the land is required for public purpose and it is also accepted that there is a dire need for this electric sub-station, the petitioners in the facts of the present case was not permitted to challenge the Notifications on the ground that there was no urgency. The learned counsels tried to explain that the time which was taken was necessary, in order to meet the procedural formalities and for in depth examination of the proposal. Otherwise, the respondents would have been blamed for taking a decision in haste. It was also argued that there was no unnecessary delay as was sought to be projected by the petitioners and the various steps taken by the respondents, which consumed some time, were high-lighted by the counsels giving it a different hue. In any case, was the submission of learned counsels, the time consumed in the instant case would not vitiate the Notification invoking urgency clause for a project of this kind and various judgments were relied upon in support of this submission.

12. After considering the respective submissions, we do not find any merit in this contention. It is explained in the counter affidavits filed by the respondents, and that is not disputed that in order to provide power to the city of Delhi, 1500 MW gas based power plant at Bawana is being constructed by the Pragati Power Corporation Ltd. In fact, one of the units has already been commissioned. In order to evacuate and utilize the power so generated from this plant for the benefit of Delhi, a study was conducted by the Central Electricity Authority which recommended establishment of a sub-station in East Delhi. No doubt, this recommendation was made in the year, 2007. However, land was to be

identified for this purpose and some time was be consumed in undertaking the study in this behalf and to find the land which would be suitable for the establishment of sub-station. After identifying the land for this purpose, the Power Department of the Government of NCT of Delhi vide their letter dated 9th September, 2008 requested the respondent to acquire the land on urgent basis as the same was required for completion of the project in a time-bound manner. No doubt, from the date of receipt of this request till the date of issuance of Notifications, there is a time lag. That is, however, satisfactorily. Time was taken for the studying various aspects and considering the nuances of the project in detail, which rather shows application of mind by all the authorities concerned.

13. It would be necessary to high light in this behalf, that on receipt of this request vide letter dated 30th September, 2008 the answering respondent asked the LAC to conduct a joint survey, prepare a draft notification and also to make calculation of the 80% of the estimated compensation. Since there was urgency in the matter, another letter was received from the Secretary (Power) asking to expedite the acquisition proceedings. Vide letter dated 22nd September, 2008 the LAC was again asked to forward the draft notification alongwith the other documents. The LAC, after conducting a joint survey on 12th January, 2009 and preparing all the other documents, including the draft notification, sent the same on 31st January, 2009. The draft notification was examined by the answering respondent. As there were some discrepancies, vide letter dated 2nd March, 2009, a clarification was sought from the LAC and also from the Power Department. The Power Department sent the clarification on 6th March, 2009, whereas the LAC forwarded the same on 17th March, 2009. Since no objection was required from the DDA, the Power

Department was requested to obtain the same. The DDA in its 8th Technical Committee Meeting held on 1st August, 2009 gave its no objection, subject to certain conditions. The Power Department also gave its justification for the acquisition of the land in question. After verifying the same, the respondent vide note dated 9th September, 2009 put up the file before the Lt. Governor for appropriate approval for issuance of the notification in question, while dispensing with the enquiry under Section 5A of the Act, in exercise of powers under Section 17 (4) of the Act. The Lt. Governor, after considering the record of the case and the requirement of the DTL, recorded its satisfaction and also passed a specific order, whereby dispensing with the inquiry under Section 5A of the Act. Pursuant to the approval granted by the Lt. Governor, notifications under Section 4 read with Section 17 (1) of the Act were issued on 13th October, 2009 and the same was published in all the three modes of publication i.e. newspapers (Hindustan and Navbharat Times) on 24th October, 2009, the Gazette Notification and also in the locality on 27th October, 2009. Pursuant thereto, the beneficiary also deposited a sum of Rs. 9,27,11,840.00 towards the 80% of the estimated compensation, which is required to be paid at the time of taking over of possession. Thereafter, a declaration under Section 6 of the Act was issued on 9th November, 2009 and was also published in all the three modes as required under the law.

14. The respondents produced the original files wherein the proposal was processed and ultimately the Lt. Governor as the Competent Authority recorded his satisfaction that land was urgently required. We have perused the said records. The project in question is required to be completed in a time bound manner and is needed for the larger public

interest. It is submitted that in order to meet the power requirement of the city of Delhi, a Transmission Grid is urgently needed for which the land is sought to be acquired. After the power is generated, the same is required to be evacuated and for this purpose, a sub-station is imperative. For this reason, after taking into consideration the overall situation of the nature, the competent authority recorded its satisfaction in the order. Thus, there is a proper application of mind by the Competent Authority while according the approval and recording his satisfaction.

15. Law on the subject is well established by series of judgments. It is not a case of the petitioners that with the passage of time, the purpose for which the land was sought to require has ceased to exist. The only argument made was that urgency was because of ensuing Common Wealth Games and since those have already concluded, the urgency as seized to exist. This is myopic view of the requirement for such a project. No doubt, endeavour was to establish the sub-station before the Common Wealth Games, 2010 but that was not the only reason for urgency. The primary reason for urgency was, and continuous to be, that the sub-station in East Delhi is needed to evacuate and utilize the power generated from 1500 MW Gas based Plant at Bawana which is being constructed. The urgency was, and continuous to exist, i.e. the need for adequate power supply to the residents of this city. This is an urgent need keeping in view the wide gap between the demand and supply. No doubt, the plans were to commission it before Common Wealth Games. That has not happened also because of the reason that stay was granted in these proceedings. Be as it may, it cannot be argued that merely because Common Wealth Games are over, the respondent authorities can now set up the sub-station leisurely. These are the aspects which are to

be gone into by the Competent Authority while exercising Powers under Section 17 (4) of the Act. Once it is seen that all relevant factors were taken into consideration and the Competent Authority was not influenced by any irrelevant consideration or the power exercised was not the result of malafide, the subjective satisfaction of the Competent Authority, based on those objective considerations namely the purpose of invocation of urgency clause to acquire continued to exist the Court would be loathe to interfere with such discretion exercised by the Competent Authority dispensing with the enquiry under Section 5A of the Act.

16. In the case of ***First Land Acquisition Collector and Others Vs. Nirodhi Prakash Ganguli and another***, 2002 (4) SCC 160 (Para 5).

This aspect was high-lighted in the following manner:-

“The question of urgency of an acquisition under Section 17(1) and (4) of the Act is a matter of subjective satisfaction of the Government and ordinarily it is not open to the Court to make a scrutiny of the propriety of that satisfaction on an objective appraisal of facts. In this view of the matter when the Government takes a decision, taking all relevant considerations into account and is satisfied that there exists emergency for invoking powers under Section 17(1) and (4) of the Act, and issues Notification accordingly, the same should not be interfered with by the Court unless the Court comes to the conclusion that the appropriate authority had not applied its mind to the relevant factors or that the decision has been taken by the appropriate authority mala fide. Whether in a given situation there existed urgency or not is left to the discretion and decision of the concerned authorities. If an order invoking power

under Section 17(4) is assailed, the Courts may enquire whether the appropriate authority had all the relevant materials before it or whether the order has been passed by non-application of mind. Any post Notification delay subsequent to the decision of the State Government dispensing with an enquiry under Section 5(A) by invoking powers under Section 17(1) of the Act would not invalidate the decision itself specially when no mala fides on the part of the government or its officers are alleged. Opinion of the State Government can be challenged in a Court of law if it could be shown that the State Government never applied its mind to the matter or that action of the State Government is mala fide. Though the satisfaction under Section 17(4) is a subjective one and is not open to challenge before a Court of law, except for the grounds already indicated, but the said satisfaction must be of the Appropriate Government and that the satisfaction must be, as to the existence of an urgency. The conclusion of the Government that there was urgency even though cannot be conclusive but is entitled to great weight, as has been held by this Court in *Jage Ram and others vs . The State of Haryana and Others* [1971] 3 SCR 871. Even a mere allegation that power was exercised mala fide would not be enough and in support of such allegation specific materials should be placed before the Court. The burden of establishing mala fides is very heavy on the person who alleges it. Bearing in mind the aforesaid principles, if the circumstances of the case in hand are examined it would appear that the premises in question was required for the students of National Medical College, Calcutta and the Notification issued in December 1982 had been quashed by the Court and the subsequent

Notification issued on 25.2.1994 also had been quashed by the Court. It is only thereafter the Notification was issued under Section 4(1) and 17(4) of the Act on 29.11.1994 which came up for consideration before the High Court. Apart from the fact that there had already been considerable delay in acquiring the premises in question on account of the intervention by Courts, the premises was badly needed for the occupation of the students of National Medical College, Calcutta. Thus, existence of urgency was writ large on the facts of the case and therefore, said exercise of power in the case in hand, cannot be interfered with by a Court of law on a conclusion that there did not exist any emergency. The conclusion of the Division Bench of Calcutta High Court, therefore, is unsustainable.”

17. It is also trite that while recording subjective satisfaction on the basis of material available on record, the competent authority is not required to pass a reasoned order as the decision is an administrative decision. We may refer to the following passage from the Supreme Court judgment in ***Union of India & Others Vs. Praveen Gupta and others***, 1997 (9) SCC 78:-

“It is now settled legal position that decision on urgency is an administrative decision and is a matter of subjective satisfaction of the appropriate Government on the basis of the material available on record. Therefore, there was no need to pass any reasoned order to reach the conclusion that there is urgency so as to dispense with the enquiry under is Section 5A in exercise of power under Section 17(4). It is then contended by Shri Sanghi that as per the revised Master Plan, only 37 hectares of land was needed for establishment of

timber depots, though extensive land was sought to be acquired. When that objection was taken, we passed the order directing the competent officer to file an affidavit. By our proceedings dated August 24, 1995, it was observed as under:-

“In view of the specific averments made in the written submissions of the respondents regarding the location of the timber depots in terms of the master plan, it requires clarification by the Delhi Administration whether the lands in Siraspur and Libaspur are still required for the purpose mentioned in the notification, namely, planned development of Delhi and shifting of the timber depots from the Teliwara area into the new places.”

18. Answer to the argument of delay is squarely provided by a recent judgment of the Apex Court in **Nand Kishore Gupta and Others Vs. State of U.P. and Others** 2010 (9) Scale 175. In that case, the Court while examining the invocation of the urgency clause for acquisition of the land for construction of Yamuna Express Project, has upheld the justification for invocation of the urgency clause for such a project notwithstanding the fact that the project was conceived in the year 2001, but the land was ultimately acquired vide notification issued in 2009. The Supreme Court took note of the fact that by such projects, a large number of persons are benefited and the individuals have to sacrifice their land for the public good and the road so built would add to the betterment of the citizens.

19. Following the aforesaid judgment, this Court repelled similar contention as raised by the petitioners herein, in the case of **Bijwasan Gram Vikas Samiti Vs. Lt. Governor and others** (WP (C) 1307/2010, decided on 5th October, 2010). In that case, land was sought to be required for construction of Road Over Bridge and while dismissing the

writ petition questioning the validity of notification, the Court observed as under (para 10,11 & 15):-

“(10). Having heard Learned Counsel for the parties and having perused the papers, we are of the opinion that the observation of the Supreme Court in Nandeshwar Prasad and Anr.(supra) about restriction of acquisition of built up structure is not applicable to the present case as the said judgment had been rendered in the context of Sub-section (1-A) of Section 17 with regard to acquisition proceedings in the State of Uttar Pradesh - which is not applicable to the acquisition proceedings in Delhi. In our opinion, the law is that under certain circumstances urgency clause under Section 17 of the Act can be invoked. In fact, in our view it depends upon peculiar facts and circumstances of each case and primarily on the nature of public project. In fact, the Supreme Court in its recent judgment in the case of Nand Kishore Gupta and Ors. v. State of U.P. and Ors. in Civil Appeal No. 7468/2010 decided on 8th September, 2010 while examining the acquisition of land under urgency clause for construction of 'Yamuna Express' project has upheld the invocation of the urgency clause and held that the alignment of the road cannot be changed on account of built up structures. The Supreme Court has held that the individuals have to sacrifice their land for the public good and the road so built would add to the betterment of the citizens. The relevant portion of the Supreme Court judgment in Nand Kishore Gupta and Ors. (supra) is reproduced hereinbelow:

“22. The High Court has refuted all these contentions by giving good reasons. We will not go into these individual cases once the High Court has decided not to entertain these plea and, in our opinion, correctly.

After all, this was an acquisition for building up a highway and the abovementioned Writ Petitions pertained to the land required for interchange. It is obvious that the alignment of the highway cannot be changed, as its design has been prepared after consideration of so many factors by the experts in building the road. Its direction or alignment, therefore, cannot be changed, with the result, the area which is required for interchange, also cannot be changed. This is a typical example of the individual having to sacrifice his land for the public good. There can be no dispute that this road would add to the betterment of the citizens of the East Yamuna area in particular and Uttar Pradesh in general. This is apart from the fact that the majority of the persons whose lands have been acquired, have either not objected to it or have accepted the compensation without any demur. It will, therefore, not be possible for us to go into these individual grievances, which have been rightly rejected by the High Court. In fact, in Balbir Singh's case, it was pointed out that out of the 12,315 affected farmers in 133 villages over the total area of 1,638 hectares of the Expressway, 11387 have already received compensation and only 142 farmers have raised the issues. The High Court has rightly held that the private interest is always affected to some extent in such large schemes requiring the acquisition of land. The High Court has rightly held that a holistic view had to be taken to look for an all round development without forgetting about our heritage, culture and traditions. We also, therefore, would not entertain the objections, feebly raised before us, individually."

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38. This takes us to the next point pertaining to the application of Sections 17(1) and 17(4) of the Act. The Learned Counsel for the appellants have vociferously urged that there was no necessity whatsoever to apply the urgency clause to these acquisitions and further to avoid the enquiry under Section 5A of the Act. According to the learned

Counsel, this dispensation of Section 5A enquiry was not only unjust, but added to the sufferings of the appellants who had lost their fertile land. It was pointed out that this Project was slumbering since 2001 and it was in order to infuse fictitious urgency that a reference to the Commonwealth Games was made. According to the appellants, Right to be heard was akin to the Fundamental Rights and its breach has rendered the whole acquisition exercise illegal. Numbers of authorities were relied upon by the appellants. The respondents, on the other hand, argued that there was material available before the Government justifying the invocation of the urgency clause. The respondents argued that, in fact, the High Court has returned the finding that there was material before the State Government for dispensing with the enquiry under Section 5A of the Act and that finding was based on the examination by the High Court of the records of the State Government. It was pointed out that going through the ordinary procedure for acquisition of land would have taken years for disposal of the objections while land was urgently required for public purpose, in this case, the construction of interchange under the Yamuna Expressway Project, which was absolutely essential for the purposes of running the highway. It was also pointed out by the respondents that because of the unnecessary litigation in the enquiries, the Project was hopelessly delayed and the cost had gone up from Rs. 1,700 crores to whopping Rs. 9,700 crores. It was also further pointed out that any waste of time would have invited the encroachments on the land, which would have added to the further trouble. The enormousness of the Project which required acquisition of 1,604 hectares of land involving 12,283 farmers, would have taken years if the enquiry under Section 5A was permitted and thereby, the cost

would have still further soared up. Numbers of authorities were relied upon by the parties.

39. Before considering the issue, we must take stock of the finding returned by the High Court. In the judgment in Nand Kishore Gupta and Ors. v. State of U.P. and Ors. Civil Misc. Writ Petition No. 31314 of 2009, the High Court took stock of the allegations regarding malafides and dispensing with the enquiry under Section 5A of the Act by referring to Paragraph Nos. 20, 21, 28, 29, 30, 31 and 32 of the Reply filed on behalf of the State Government through an affidavit of one Shri Vinod Kumar Singh, ADM, Land Acquisition, Agra, wherein it was pointed out that the Project was on the mammoth scale and there was a great deal of possibility of encroachments if the Project was allowed to linger. The High Court took note of the contention that YEIDA deposited 70% of the estimated compensation on 29.5.2009 itself, since 10% of the estimated compensation was already deposited by the acquiring body (YEIDA). The High Court then referred to the various clauses of the Concession Agreement like Clause Nos. 2.1, 2.2, 3.1, 3.2, 3.6 and 4.1 (a), (b), (c) & (d) to know about the exact nature of the job which was required to be done for building the Expressway. It was after this that the High Court had recorded a finding that the integrated Project was to cover a large area of land and the requirement was of 25 million square meters of land to be acquired. The High Court, therefore, noted the plea raised to the effect that the State Government took correct decision to invoke the urgency clause, as on an enquiry into disposal of individual objections as contemplated under Section 5A of the Act, the Project itself would have lost all value and efficacy. The High Court also noted the plea raised by YEIDA and the State Government

about the likelihood of encroachment. The High Court then referred to the two decisions of this Court in *Sheikhar Hotels Gulmohar Enclave and Anr. v. State of Uttar Pradesh and Ors.* 2008 (14) SCC 716 and *First Land Acquisition Collector and Ors. v. Nirodhi Prakash Gangoli and Anr.* 2002 (4) SCC 160. The High Court also referred to the counter affidavit of one Shri V.C. Srivastava, Addl. General Manager, Jaypee Infratech Ltd. (owned by Jaiprakash Industries Ltd.). The High Court then took stock of the plea raised on behalf of the respondents on the basis of more than 25 judgments of this Court. The High Court then referred to the decision of this Court in *State of Punjab and Anr. v. Gurdial Singh and Ors.* 1980 (2) SCC 471 and *Om Prakash and Anr. v. State of U.P. and Ors.* 1998 (6) SCC 1, as also *Babu Ram and Anr. v. State of Haryana and Anr.* 2009 (10) SCC 115. The High Court also referred to the decision in *Manju Lata Agrawal v. State of U.P. and Ors.* 2007 (9) ADJ 447; *Sudhir Chandra Agrawal v. State of U.P.* 2008 (3) ADJ 289 and *Munshi Singh v. State of U.P.* 2009 (8) ADJ 360, which all were the decisions of the Allahabad High Court itself. The Court then referred to the delay on account of the litigations from 2001 till 2008 and referred to the contention raised on behalf of the appellants relying on the judgment in *Essco Fabs Pvt. Ltd. and Anr. v. State of Haryana and Anr. etc. etc.* 2009 (2) SCC 377; *Mahender Pal and Ors. v. State of Haryana and Ors.* 2009 (14) SCC 281 and *Babu Ram and Anr. v. State of Haryana and Anr.* (cited supra). It then recorded a finding in the following words:

“In order to verify whether there was any material with the State Government to form an opinion and to exercise its powers under Section 17(1) and Section 17(4) of the Act, dispensing with enquiry under Section 5A of the Act, and that the State Government had applied its mind on such material, we summoned the records of

the three concerned notifications. Shri Satish Chaturvedi, Addl. Advocate General assisted by Shri M.C. Tripathi, Addl. Chief Standing Counsel has produced the records alongwith the material collected by the Collectors/District Magistrate and placed before the State Government for forming an opinion. He has taken us through the various documents and forms on which the Collectors have recommended on Forms X alongwith justification of their recommendations as well as its summary given in the office note placed before the State Government. The three files produced before us relate to village Kuberpur, district Agra, village Malupur Pargana Atmadpur, district Agra and village Tappal district Aligarh for construction of interchange.

The notification under Section 4(1)/17 of the Act for proposing acquisition of land of village Kuberpur was made on 20.2.2009 and was published in two newspapers 'Amar Ujala' and 'Dainik Jagran' on 27.7.2009. The munadi was made on 7.3.2009. The notification under Section 6(1)/17 was issued on 15.6.2009 and was published in the two newspapers on 18.6.2009. The notice under Section 9 was sent on 20.6.2009 and possession was taken on 8.7.2009. In the recommendation sent by the District Magistrate, considered by the State Government on 11.2.2009 before publication of notification under Section 4, the District Magistrate had after giving details of land proposed to be acquired, had forwarded the Form-X alongwith justification referred to in para 3 of the noting of the State Government. The Collector, Agra recommended that in order to acquire the land for Y.E.I.D.A. established under the U.P. Industrial Area Development Act, 1976 the preparation of plan, identification of land for units for industrial development, infrastructural facilities, the lease or sale of the land, the construction of building and for industrial units. Y.E.I.D.A. has been given the regulating powers. The village Kuberpur is in the notified area of Y.E.I.D.A. and which urgently requires the proposed land for construction of interchange' for Y.E.I.D.A. In case of any delay there is a strong possibility of encroachment on the land, which will affect the Project of Y.E.I.D.A. in public interest. In para 4 it was stated that hearing of oral and written objections will take several years causing indefinite delay in construction of interchange. The proposal was forwarded with

recommendation signed by the Under Secretary, Industrial Development, Government of U.P., Special Secretary, Industrial Development; Shri Arun Kumar Sinha, Secretary, Rehabilitation and Industrial Development Department; Government of U.P.; Shri V.N. Garg, Principal Secretary, Rehabilitation and Development, Government of U.P. on 12.2.2009 and by Shri Shailesh Krishna, the Principal Secretary to Chief Minister on 18.2.2009.

As regard the acquisition of land for Y.E.I.D.A. for interchange in village Malupur for construction of Yamuna Expressway, Pargana Atmadpur, district Agra for acquisition of 4.5322 hec. of land the proposal with recommendation of District Magistrate, Agra on Form-X and the justification similar to and in the same language as in the case of village Kuberpur, district Agra was placed before the State Government alongwith the notings. The proposal bears recommendations and signature of Under Secretary, Industrial Development Department, Government of U.P. on 23.10.2008; Special Secretary, Industrial Development, Government of U.P. on 24.10.2008; Principal Secretary, Industrial Development and Commissioner on 30.11.2008; Special Secretary, Industrial Development on 10.12.2008 and the Secretary to Chief Minister on 15.12.2008.

For village Tappal in Tehsil Khair, district Aligarh proposal for acquisition of 48.572 hec. of land for Y.E.I.D.A. for construction of Yamuna Expressway with the recommendation of the District Magistrate and justification for invoking urgency clause was placed before the State Government and was recommended and signed by the Under Secretary and Special Secretary, Industrial Development Department on 16.1.2009 ; Secretary, Rehabilitation and Industrial Development, Department of Government of U.P. on 16.1.2009 ; Principal Secretary, Industrial Development on 16.1.2009 and by the Secretary to the Chief Minister on the same day on 16.1.2009. The proposals were accepted by the State Government for acquisition and for invoking urgency clause for construction of Yamuna Expressway by Y.E.I.D.A.”

Ultimately, the High Court wrote a finding in the following words:

“The record produced before us by the State Government enclosing the material of invoking urgency clause and the satisfaction of the State Government on the said material, has satisfied us that the State Government had sufficient material and had applied its mind to record its opinion that there was urgency to acquire the land to dispense with the enquiry under Section 5A of the Act.’ We have deliberately quoted the above part of the High Court judgment only to show the meticulous care taken by the High Court in examining as to whether there was material before the State Government to dispense with the enquiry under Section 5A of the Act. We are completely convinced that there was necessity in this Project considering the various reasons like enormousness of the Project, likelihood of the encroachments, number of appellants who would have required to be heard and the time taken for that purpose, and the fact that the Project had lingered already from 2001 till 2008. We do not see any reason why we should take a different view than what is taken by the High Court. The law on this subject was thoroughly discussed in *Tika Ram and Ors. etc. etc. v. State of U.P. and Ors. etc. etc.* 2009 (10) SCC 689, to which one of us (V.S. Sirpurkar) was a party. In that decision also, we had reiterated that the satisfaction required on the part of Executive in dispensing with the enquiry under Section 5A is a matter subject to satisfaction and can be assailed only on the ground that there was no sufficient material to dispense with the enquiry or that the order suffered from malice. It was also found on facts in *Tika Ram and Ors. etc. etc. v. State of U.P. and Ors. etc. etc.* (cited *supra*) that there was no charge of malafide levelled against the exercise of power and there was material available in support of the satisfaction on the part of the Executive justifying the invocation of the provisions of Section 17. The position is no different in the present case. The High Court in the present matter went a step ahead and examined the bulky original record itself to find that there was full material available.”

40. We are not impressed by the argument that the encroachment issue was not a relevant factor. This argument was based on the reported decision in *Om Prakash and Anr. v. State of U.P. and Ors.* (cited *supra*). It must be said that the actual scenario in

that case was different. In that case, the Court was considering the acquisition of area of about 500 acres comprising of 437 plots, whereas, in the present case, the area to be acquired for the Expressway alone was more than 1,600 hectares. This is apart from the 25 million square meters of land which was liable to be acquired for the purposes of development of 5 land parcels. There was interlinking between the acquisition of land for the highway and the acquisition of land for establishing the 5 townships. In *Om Prakash and Anr. v. State of U.P. and Ors.* (cited supra), there was unexplained delay after issuance of Section 4 notification, which is not the case here. Therefore, we do not think that what has been said in *Om Prakash and Anr. v. State of U.P. and Ors.* (cited supra) would be apposite here. Every case has to be decided on its own facts. This is apart from the fact that it is not specifically laid down in *Om Prakash and Anr. v. State of U.P. and Ors.* (cited supra) that the encroachment was never a relevant factor for dispensing with the enquiry under Section 5A. Again we hasten to add that this was not the only factor considered by the State Government and even the High Court has not held the same to be the only factor for dispensing with the enquiry.

41. In view of the law laid down in the last judgment on this issue i.e. *Tika Ram and Ors. etc. etc. v. State of U.P. and Ors. etc. etc.* (cited supra), we are of the clear opinion that the challenge by the appellants on the ground that there was no urgency and, therefore, the enquiry under Section 5A of the Act should not have been dispensed with, cannot be accepted. We hold accordingly.”

“(11). Similarly, the Supreme Court in the case of *Sheikhar Hotels Gulmohar Enclave v. State of U.P.*

(2008) 14 SCC 716 has held that acquisition of land for decongestion of traffic is a public purpose. The relevant observations of the Supreme Court in the aforesaid case are as under:

8. There is no gainsaying in the fact that this right to file objection under Section 5A is a valuable right and the Governments are not given a free hand to dispense with Section 5A. Section 5A is only a safeguard against the arbitrary exercise of the power by the State. But one should also not lose sight of the fact that invocation of such a provision is also sometimes imperative as in order to meet the urgency of the situation it needs to be invoked in public interest. It depends upon cases to case. Sometimes it may not be necessary at all and the State functionaries may sometime out of over jealousy may invoke this provision which would seriously jeopardize the interest of the people. Therefore, it depends upon case to case where in a given situation Section 5A has been correctly invoked and the authorities were satisfied in an objective manner. In the present case, there is no two opinion that because of the globalization of economy Indian economy is progressing with fast speed, therefore in order to keep pace with the speed, invocation of Section 5A has become imperative.

9. Traffic congestion is a common experience of one and all and it is very difficult to negotiate with the traffic congestion in Delhi and National Capital region. Therefore, in the present situation, it cannot be said that the invocation of Section 5A was for ulterior purpose or was arbitrary exercise of the power. Since the Master Plan has already been prepared and it has been approved by the Planning Board and they have sanctioned a sum of Rs. 20.65

crores for the development of this Transport Nagar and widening of the National High No. 91 into four lanes. Therefore, the proposal was approved by the Board and it got the sanction from the National Capital Region Planning Board and ultimately the Government invoked the power under Section 17(4) read with Section 5A of the Act dispensing with the objections. In the light of these facts it cannot be said that invoking of power was in any way improper exercise. There is need for decongestion of the traffic and it is really the dire need of the hour and earliest it is implemented, better for the people at large. In this connection learned senior Counsel for the appellants invited our attention to the decision of this Court in Union of India and Ors. (supra) have held that Section 5A is not an empty formality but it is a substantive right which can be taken away only for good and valid reason and within the limitations prescribed under Section 17(4) of the Act. But in the present case the notification was struck down on the facts that no material was placed on record and secondly, it was also held that discontinuance of festival for want of land and any hindrance in using the land was not there. It was also pointed out that earlier an attempt was made to acquire the land for the very same purpose for holding such festival and it was allowed to lapse by efflux of time and consequently the Court found that there was no reference in the file to the need of invoking Section 17(4) and therefore, in a given situation. Their Lordships held that invocation of Section 17(4) of the Act was vitiated by non-application of mind by the authorities. Therefore, this case was decided on the question of fact.

10. As against this, learned senior Counsel for the respondents submitted that traffic congestion has

been recognized by this Court in *Union of India and Ors. v. Praveen Gupta and Ors.* (supra) as urgent need. In this case, land was acquired in order to shift the timber business from the walled city of Old Delhi as it had become the source of traffic congestion. Therefore, it was required to be urgently shifted from the existing place to relieve the congestion by acquiring the concerned land for the public purpose, namely, for establishment of timber depot. In that context, their Lordships held as follows: (Praveen Gupta case, SCC p. 81, para 8)

8. ...Since the acquisition is for shifting of timber business from the walled city to the outskirts of the city, shifting itself is for urgent purpose, viz., to relieve the traffic congestion in the walled city. Under those circumstances, the exercise of power under Section 17(4) cannot be said to be unwarranted in this case.”

“(15). From the aforesaid order, it is apparent that the urgency ground does not survive for consideration. In any event, keeping in view the purpose for which the land is being acquired, we are of the opinion that the urgency clause has been rightly invoked in the present case. We also do not find any statutory provision which mandates prior sanction of Unified Traffic and Transportation and Engineering Centre”.

20. The judgment cited by the learned counsel for the petitioners highlight the purpose and importance of opportunity which the Legislature has given to the persons whose land is sought to be acquired by filing objection under Section 5A of the Act. There is no dispute about the same. At the same time, the Legislature has also, under certain circumstances, permitted the Competent Authority to do away with this

procedural requirement. In the present case, the importance of urgency of the project, by its very nature stands established and, therefore, the judgments which are relied upon by the petitioners would not come to their rescue. In all these cases, the land was primarily required for setting up of residential colonies and not for the infrastructure project meant for larger public interest.

21. We may also, at this stage, take note of various judgments of the Supreme Court upholding the exercise of power under Section 17 (4) of the Act holding that when the land is required for such projects, urgency is writ-large therein. In the following cases, such an exercise of power was held to be flawless when the land was required for construction of roads, over bridge, infrastructural projects, like Airport, provision for metro, sewage treatment plant etc.:-

(i) ***Rajiv Joshi Vs. Union of India***, 159 (2009) DLT 214.

In this case, the land was sought to be acquired for Airport. This judgment has been upheld by the Apex Court in Special Leave to Appeal (C) No. 10766/2009 vide order dated 11th May, 2009.

(ii) ***Rajinder Kishan Gupta & Anor Vs. Lt. Governor, Govt. of NCT of Delhi***, 2010 (114) DLT 708.

In this case the land was sought to be acquired for construction of a metro station.

(iii) ***Sumit Inport Services Ltd. & Anr. Vs. Delhi Metro Rail Corporation & Others***, 2008 (103) DRJ 263.

In this case the land was sought to be acquired for construction of a metro line.

(iv) M/s A.B. Tools Ltd. & Another Vs. Union of India, (WP (c) 4611/1996, decided on 03.2.2010).

In this case, the land was sought to be acquired for installation of an LPG Bottling Plant and was coming within the boundary of the other acquired land, the urgency clause was sustained.

(v) Deepak Resorts Vs. Union of India 2008, (149) DLT 582.

In this case, the land was sought to be acquired for construction of sewage treatment plant.

(vi) Ajay Kumar Sanghi Vs. Delhi Police, 2009 (163) DLT 74.

In this case, the land was sought to be acquired for construction of a police station. Special Leave to Appeal (Civil) No. 23606-07/2009 was preferred, which was dismissed by the Supreme Court vide order dated 16.12.2009.

(vii) Union of India & Others Vs. Pramod Gupta, 1997 (9) SCC 78.

In this case the land was sought to be acquired for relocation of the timber merchants from the walled city.

(viii) Sheikhar Hotels Gulmohar Enclave Vs. State of U.P., 2008 (14) SCC 716.

In this case the land was sought to be acquired for widening of the National Highway. The judgment relied upon by the petitioners herein had also been considered.

(ix) Jai Narain Vs. Union of India, 1999 (1) SCC 9.

In this case, the land was sought to be acquired for construction of a sewage treatment plant.

22. Another challenge to the impugned Notifications rested on the plea that acquisition of 80 bighas of land was far in excess to the provision of 30 bigha required for setting up of station of 220 KV as per Master Plan-2021. To substantiate this plea, Mr. Mehta referred to Master Plan-2021 as per which the land required for setting up of sub-station of 220 KV is 29600 Sq. mtr. which would be approximately six acres or 30 bighas. Submission of Mr. Mehta was that Master Plan-2021 was framed under the Delhi Development Act and was thus statutory in nature and, therefore, the respondents were bound to follow the same. According to him when the requirement as per master Plan was only 30 bighas it was not permissible for the responsible to acquire 80 bighas 15 biswa of land for the aforesaid purpose. He also pointed out that the fact that the said area wherein the sub-station is to be established is thickly populated, is not disputed and is borne out by the letter sent by the DDA to Transco on 7th September, 2009. The same letter also asks for justification from Transco for acquisition of an area of 6.8 hq against 2.96 hq. required for 200/400 KV ESS as per the MPD-2010 norms. This according to him, the authorities themselves including DDA were questioning the justification of 80 bighas of land for this purpose.

23. This argument is also without any substance. No doubt, in the beginning there has been some debate among the various respondents as to how much land would be required for this purpose. Various communications addressed by one authority to other, on which reliance was placed by the learned counsel for the petitioners, reflect this. However, ultimately the justification for acquiring 80 bigha 15 biswa

explained by the Power Department in its letter dated 31st October, 2010. It is this letter which was considered by the appropriate Government and the Competent Authority was satisfied that the need of land of the length and width

24. Learned counsel for the DTL had explained, with reference to records, that the Government is setting up three units of 400 KV and 220 KV and 65 KV stations on the required land. On the other hand, the entire argument of learned senior counsel for the petitioner was that based on the transmission as if only one sub-station of 220 KV is to be set up which is factually incorrect. On the contrary, not only three sub-stations of different capacities are required, the respondents have also taken care to minimize the requirement and for this reason, instead of outdoor sub-station an indoor station is proposed to be constructed. It is for this reason that we conclude that this argument is also meritless.

25. Mr. Mehta also made an endeavour to put a question mark on the feasibility of the project as according to him, the area sought to be acquired for this purpose was not suitable for setting up of electric sub-station. It was submitted that the notified land is bounded on two sides by lands falling in Uttar Pradesh and therefore there is no access to the notified land. Even otherwise, the survey report dated 10th December, 2008 clearly shows that the land in question has only one passage touching Mandoli village. The second passage touching Bhopra village, is the land is in the State of U.P. It is further stated therein, that according to the DTL, their requirement of two passages. Suggestion, thus, given was that instead of acquiring the land in village Mandoli, some other land should be acquired as this land was not suitable for establishing of substation.

26. This argument of the learned Senior Counsel for the petitioners that the project is not feasible already stands answered against the petitioners in the aforesaid discussion. First of all, it is reiterated that it is the function of the expert bodies like CEA or DTL or the LAC to find as to which area of land would be suitable for the project envisaged. Secondly, the respondents have given satisfactory explanation rebutting the argument of the petitioners that there is no passage to the land in question. Mr.Waziri, learned counsel appearing for the DTL and respondent no.1 had taken us through the site plans which are filed by the respondents. On the basis of which he demonstrated that the argument of the petitioners that there is no proper approach to the excess to the land in question is fallacious. In the Affidavit dated 28th September, 2010 this aspect is amplified in the following manner:-

“That access to the site requires a road having a minimum of 7 metre width. This is essential because the trucks which will transport the GIS Sub Stations need to have a turning diameter of about 25m. This access is not available to this site from any other side except from the public road aforementioned. The access to the site from the western side i.e. from the side of the village is not easily feasible since the public path/road around the periphery of the said village is only 5 m. at certain places. In any case moving such heavy vehicles will not be advisable through the village. Attached herewith as Annexure-3 ‘colly’ is a compilation of photographs and diagrams and technical charts justifying the access to the site from the public road on the Western side of the site. A map accessed from the Google website also illustrates the submissions made hereinabove that the most appropriate, suitable and logical access to the site

would be from the public road which is about 10
metres....”

27. Thus, we find all the arguments of the petitioners bereft of any merit. In fact there is an additional reason not to exercise discretionary jurisdiction under Article 226 of the Constitution. As pointed out above, total area acquired vide notification is 80 bigha 15 biswa, out of this area, land belonging to the petitioner consists of approximately 150 bighas. The respondent have already taken possession of 59 Bigha 14 biswa i.e. all other land accept the land in question. The lands of the petitioners fall in between. When the acquisition proceedings of surrounding land has been completed when the possession taken over and after paying 80% of the estimated compensation to those land owners, at this juncture, no purpose would be served in releasing the land of the petitioners as that would defeat the entire acquisition.

28. For all these reasons, we dismiss this writ petition with costs quantified as Rs. 25,000/-.

(A.K. SIKRI)
JUDGE

(SURESH KAIT)
JUDGE

JANUARY 14,2010
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