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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 1098 of 2012**

1. State of Chhattisgarh through the Secretary, Department of Industries, Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh.
2. The Director, Directorate of Industries, 2nd Floor, Jeevan Beema Parisar, Pandri, District Raipur, Chhattisgarh.
3. The Collector Raigarh, District Raigarh, Chhattisgarh.
4. The General Manager District Trade & Industrial Centre, Raigarh, District Raigarh Chhattisgarh.
5. The Sub-Divisional Officer (Revenue)-cum-Land Acquisition Officer, Kharsiya, District -Raigarh, Chhattisgarh.
6. The Tahsildar, Kharsiya, District-Raigarh, Chhattisgarh.

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1. Radhey Shyam S/o Jaimangal Patel, Aged About 31 Years, Occupation- Agriculturist,
2. Chain Singh, S/o Pil Lal, aged about 60 years, Occupation- Agriculturist
3. Mahesh Chandra, S/o Bhagatram Dansena, aged about 60 years, Occupation-Agriculturist
4. Hariram Patel, S/o Mohan Singh Patel, aged about 52 years, Occupation- Agriculturist
5. Trilochan, S/o Arjun, aged about 55 years, Occupation- Agriculturist
6. Dhan Singh Rathia, S/o Maniram Rathia, aged about 65 years, Occupation -Agriculturist
7. Sadhram, S/o Baiedram, aged about 70 years
8. Ramlal, S/o Chainsingh, aged about 65 years
9. Pardeshi Patel, S/o Jagatram Patel aged about 38 years
10. Keshram Patel, S/o Narayan Patel, aged about 36 years

11. Premal Yadav, S/o Manu, aged about 70 years
12. Puniram Patel, S/o Kriparam, aged about 65 years
13. Dushyant Rathia, S/o Rameshwar Rathia, aged about 26 years
14. Shiv Prasad, S/o Piladau Rahtia, aged about 35 years
15. Birsingh Rathia, S/o Jethuram, aged about 48 years
16. Faguram Rathia, S/o Sidar Singh Rathia, Sankumwar aged about 57 years
17. Sital Singh, S/o Lelaram Rathia, aged about 47 years
18. Panchuram, S/o Ramphal Kumhar aged about 40 years
19. Sachidanand Patel, S/o Gangaram Patel, aged about 29 years
20. Sujanalal, S/o Jogilal, aged about 70 years
21. Padumram Dansena, S/o Bandhhuram Dansena, aged about 60 years
22. Smt. Bhilkumari Rathia, W/o Shri Niranjanlal Rathia, aged about 31 years
23. Dilakram, S/o Karia, aged about 50 years
24. Rajendra Prasad, S/o Ramniwas Agrawal, aged about 60 years
25. Khageshwar, S/o Bharat, aged about 65 years
26. Ujitram, S/o Arjun Kumhar, aged about 49 years
27. Rohidas Rathia, S/o Tiharu, aged about 68 years
28. Bisheshwar Prasad Rathia, S/o Sadhuram Rathia, aged about 50 years
29. Jagatram S/o Anandram, aged about 60 years

All are R/o of village & post Binjkot, Tahsil- Kharsia, District-Raigarh, Chhattisgarh, P.S. Bhupdeopur

30. Union of India, through Secretary, Ministry of Environment and Forest, CGO Complex New Delhi
31. The Managing Director, Chhattisgarh State Industrial Development Corporation (C.S.I.D.C.), Jeevan Beema Parisar, Pandari Raipur, District Raipur, Chhattisgarh
32. The Regional Officer, Regional Office, Environment Conservation Board,

T.V. Tower Road, Raigarh, District Raigarh, Chhattisgarh

33. M/s S.K.S. Power General (Chhattisgarh) Ltd., having its Office at 501 B, Elegant Business Part, Andheri Kurla Road, J.B. Nagar Andheri (E), Mumbai-400 059, Through its Managing Director-cum-Representative Shri Anil Gupta.

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Writ Appeal No. 1081 of 2012

M/s. MB (MoserBaer) Power Chhattisgarh Limited, [2 x 660 MW Super Critical Coal Based Thermal Power Plant at Villages: Birra, Siladehi and Gatwa, Tahsil : Champa, District : Janjgir- Champa, by MB Power Chhattisgarh Limited] Having its Office at : 43-B, Okhla Industrial Estate, Phase-3, New Delhi – 110 020, Police Station & Post office Okhla

---- Appellant

Versus

1. Gayatri Prasad, S/o Shri Jhururam, Aged about 36 years
2. Buchuram, S/o Shri Bundram Satnami, Aged about 70 years
3. Bharatlal, S/o Shri Larhu, Aged about 50 years
4. Maheshwar Ram Dadsena, S/o Shri Dayaram, Aged about 34 years
5. (a) Mohanmati widow of Dayaram, Aged about 65 years
 - (b) Motiram S/o Dayaram, Aged about 48 years
 - (c) Maheshwar S/o Dayaram, Aged about 41 years
 - (d) Mani Ram S/o Dayaram, Aged about 41 years
 - (e) Motin Bai, D/o Dayaram, Aged about 46 years
 - (f) Ramshila, D/o Dayaram, Aged about 43 years

All are resident of : Village – Siladehi, Tahsil : Champa, District Janjgir-Champa, Chhattisgarh

6. Sonalal Sahu, S/o Shri Purushotam, Aged about 40 years

All residents of : Village: Siladehi, Tahsil Champa, District Janjgir-Champa, Chhattisgarh, Pin Code 495 661, Police Station, Birra, Post Office: Siladehi via Birra

7. State of Chhattisgarh, Through the Secretary, Department of Industries, Government of Chhattisgarh, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh, Police Station: Civil Lines, Post Jai Shtambh Chowk, Raipur 492 001
8. Managing Director, Chhattisgarh State Industrial Development Corporation (CSIDC), Jeevan Bima Parisar, Pandri, Police Station & Post Raipur, Chhattisgarh, Pandri Raipur 492 001
9. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation Commercial Premises, Raipur, Chhattisgarh, Police Station & Post- Pandri Raipur 492 001
10. Convenor, State Investment Promotion Board, Government of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur, Chhattisgarh, Police Station Civil Lines, Post Jai Shtambh Chowk, Raipur 492 001
11. Collector, Janjgir, District: Jangir-Champa, Chhattisgarh, Police Station & Post Janjgir 495 668
12. Land Acquisition Officer-cum-Sub Divisional Officer, Champa, District : Janjgir-Champa, Chhattisgarh, Police Station & Post – Champa 495 671
13. General Manager, District Industries & Trade Centre, Janjgir-Champa, Old Nagar Palika Building, Champa, District : Janjgir-Champa, Chhattisgarh, Police Station & Post Champa 495 671

-----Respondents

Writ Appeal No. 1082 of 2012

M/s. MB (MoserBaer) Power Chhattisgarh Limited, [2 x 660 MW Super Critical Coal Based Thermal Power Plant at Villages: Birra, Siladehi and Gatwa, Tahsil: Champa, District : Janjgir- Champa, by MB Power Chhattisgarh Limited] Having its Office at : 43-B, Okhla Industrial Estate, Phase-3, New Delhi – 110 020, Police Station & Post office Okhla

-- Appellant

Versus

1. Hemlal Tenduwe, S/o Bhaskar, Aged about 64 years.
2. Jayant Kumar, S/o Shri Hemlal Satnami, Aged about 34 years.
3. Buchuram, S/o Shri Bundru Satnami, Aged about 70 years.
4. Amarlal, S/o Shri Puniram, Aged about 45 years.

5. Gayatriprasad, S/o Shri Jhururam Sahu, Aged about 36 years.
6. Smt. Purnima Bai, W/o Shri Gayatriprasad Sahu, aged about 30 years.
7. Firang, S/o Shri Pardeshi, Aged about 57 years.
8. Baladram, S/o Shri Bundram Sahu, aged about 76 years.
9. Uchitram, S/o Shri Netram Sahu, aged about 70 years.
10. Chintaram, S/o Shri Netram Sahu, Aged about 65 years.
11. Manglu, S/o Shri Sonau, Aged about 45 years.
12. Banshilal, S/o Shri Purushotam Sahu, Aged about 55 years
13. Gulabchand, S/o Shri Bhukhau Sahu, Aged about 40 years
14. Daduram, S/o Shri Pilu Teli, Aged about 55 years
15. (A) Fubai, widow of Shyamsundar, Aged about 48 years,
 (B) Mahendra, S/o Shyamsundar, Aged about 34 years,
 (C) Usha, D/o Shyamsundar, Aged about 48 years,
 (D) Seema, D/o Shyamsundar, Aged about 28 years,
 (E) Abha, D/o Shyamsundar, Aged about 24 years,

All resident of Village- Siladehi, Tahsil: Champa, District, Janjgir-Champa, Chhattisgarh

16. (a) Nanbai widow of Late Shri Puranlal Sahu, aged about 60 years
- (b) Ravi Sahu S/o Late Shri Puranlal Sahu, aged about 48 years
- (c) Mani Sahu S/o Late Shri Puranlal Sahu, aged about 46 years
- (d) Shashi Sahu S/o Late Shri Puranlal Sahu, aged about 44 years
- (e) Lakheswar S/o Late Shri Puranlal Sahu, aged about 42 years
- (f) Umashanker S/o Late Shri Puranlal Sahu, aged about 40 years
- (g) Purnima Sahu D/o Late Shri Puranlal Sahu, aged about 38 years
- (h) Guddi Sahu D/o Late Shri Puranlal Sahu, aged about 36 years
- (i) Anita Sahu D/o Late Shri Puranlal Sahu, aged about 34 years

All resident of Village- Siladehi, Tahsil: Champa, District, Janjgir-
Champa, Chhattisgarh

17. Ramdhan, S/o Shri Chatram Sahu, Aged about 35 years
18. Chatram, S/o Shri Chini Sahu, Aged about 60 years
19. Balram, S/o Shri Ramcharan Aged about 70 years
20. Tikaram, S/o Shri Balram Aged about 55 years
21. Sumantnarayan, S/o Shri Puniram Marar Aged about 40 years
22. Smt. Jhamla Devi, W/o Shri Munnalal Kalar Aged about 50 years
23. Gunakar Prasad, S/o Shri Rudracharan Aged about 60 years
24. (A) Mohanmati, widow of Dayaram, aged about 65 years
(B) Motiram, S/o Dayaram, aged about 48 years
(C) Maheshwar, S/o Dayaram, aged about 41 years
(D) Mani Ram, S/o Dayaram, aged about 41 years
(E) Motinbai, D/o Dayaram, aged about 46 years
(F) Ramshila, D/o Dayaram, aged about 43 years

All are resident of village- Siladevi, Tahsil: Champa, District Janjgir-
Champa (Chhattisgarh).

25. Maniram, S/o Shri Anandram Kumhar, Aged about 73 years.
26. Smt. Radha Devi, W/o Shri Maniram Kumhar, Aged about 60 years.
27. Ramkrishna, S/o Shri Anandram Kumhar, Aged about 57 years.
28. Jhaduram, S/o Shri Ramprasad Sahu Aged about 66 years.
29. Rambai W/o Shri Chintaram Aged about 55 years.
30. Purendra Kumar S/o Shri Chintaram Aged about 30 years.
31. Bhagirathi S/o Shri Man Singh Aged about 70 years.
32. Bhupalprasad S/o Shri Cheduram Sahu Aged about 45 years.
33. Sonalal S/o Shri Purushotam Sahu Aged about 40 years.

34. Pitambar S/o Puniram Sahu Aged about 50 years.
35. Ekadashiya S/o Shri Chamru Marar Aged about 55 years.
36. Babulal S/o Shri Cheduram Aged about 65 years.
37. Motiram S/o Shri Khuluram Aged about 55 years.
38. (A) Manaharan, S/o Mahadev, 65 years, Resident of village Siladevi, Tahsil Champa, District Janjgir-Champa (Chhattisgarh).
39. Muniram S/o Shri Shivmangal Aged about 58 years.
40. Khikhai W/o Shri Uderam Aged about 52 years.
41. Chabil S/o Shri Parasram Kewat Aged about 70 years.
42. Kushuram S/o Shri Rikhiram Aged about 50 years.
43. Ramkhilawan S/o Shri Kriparam Dhobi, Aged about 31 years.
44. Pardeshi S/o Shri Kewal Sahu Aged about 62 years.
45. Bharatlal S/o Shri Larhu Kewat Aged about 50 years.
46. Urmila Bai W/o Shri Bhagauram Sahu Aged about 55 years.
47. Khemram S/o Shri Karthikram Sahu Aged about 63 years.
48. Santram, S/o Shri Ganeshram Satnami Aged about 60 years.
49. Panchram, S/o Shri Ganeshram Satnami Aged about 51 years.
50. Bhojram, S/o Shri Ganeshram Satnami Aged about 45 years.
51. Tarachand, S/o Shri Ganeshram Satnami Aged about 47 years.
52. Rathram, S/o Shri Ganeshram Satnami Aged about 49 years.
53. Sitaram, S/o Shri Kapil Satnami Aged about 60 years.
54. Kriparam, S/o Shri Kunjram Satnami Aged about 70 years.
55. Dudhnath S/o Banshilal Sahu Aged about 45 years.
56. Banshilal S/o Takhatram Sahu Aged about 62 years.

All residents of village Siladehi, Police Station, Birra, P.O., Siladehi via Birra, Tahsil Champa, District Janjgir-Champa (Chhattisgarh) Pin

Code 495 661

57. State of Chhattisgarh, Through the Secretary, Department of Industries, Government of Chhattisgarh D.K.S. Bhawan, Mantralaya Raipur, Chhattisgarh, Police Station Civil Lines, Post Jai Shatambh Chowk 492 001
58. Managing Director, Chhattisgarh State Industrial Development Corporation (CSIDC) Jeevan Bhima Parisar, Pandri Raipur, Police Station & Post Pandri Raipur 492 001
59. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation Commercial Premises, Raipur, Chhattisgarh, Police Station & Post-Pandri Raipur 492 001
60. Convenor, State Investment Promotion Board, Government of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur, Chhattisgarh, Police Station Civil Lines, Post Jai Shtambh Chowk, Raipur 492 001
61. Collector, Janjgir, District: Jangir-Champa, Chhattisgarh, Police Station & Post Janjgir 495 668
62. Land Acquisition Officer-cum-Sub Divisional Officer, Champa, District : Janjgir- Champa, Chhattisgarh, Police Station & Post – Champa 495 671
63. General Manager, District Industries & Trade Centre, Janjgir-Champa, Old Nagar Palika Building, Champa, District : Janjgir-Champa, Chhattisgarh, Police Station & Post Champa 495 671

Writ Appeal No. 1087 of 2012

KSK Mahanadi Power Company Limited, (Previously known as M/s Wardha Power Company Limited- CG Project) A Company incorporated under the Companies Act, 1956, having its registered office at Plot No. 431/A, Road No. 22, Road No.22, Jubilee Hills, Hyderabad (Andhra Pradesh) and Works at Village Nariyara, Tahsil Akaltara, District, Janjgir-Champa, P.S. Akaltara, Chhattisgarh

---- Appellant

Versus

1. Smt. Ritu Kedia, W/o Shri Sanjay Kedia, aged about 34 years, resident of Ward No. 3, Baloda Road, Akaltara PO Akaltara, District Janjgir-Champa, (Chhattisgarh) P.S. Akaltara

2. State of Chhattisgarh, Through the Secretary, Department of Industries, Mantralaya D.K.S. Bhawan, Raipur, (Chhattisgarh), P.S. Golbazar
3. Director, Directorate of Industries, Second Floor, Life Insurance Corporation Commercial Premises, Raipur, (Chhattisgarh), P. S. Pandri
4. Managing Director, Chhattisgarh State Industrial Development Corporation, Jeevan Bima Parisar, Pandri, Raipur, (Chhattisgarh), P.S. Golbazar
5. Chief Secretary-cum-Convenor, State Industrial Promotion Board, Government of Chhattisgarh, Raipur, (Chhattisgarh), P.S. Civil Lines
6. Collector, Janjgir, District: Jangir-Champa, (Chhattisgarh), P.S. Akaltara
7. Land Acquisition Officer-Sub Divisional Officer, Janjgir District : Janjgir-Champa, (Chhattisgarh), P.S. Akaltara
8. General Manager, District Industry and Trade Centre, Janjgir District : Janjgir- Champa, (Chhattisgarh), P.S. Champa
9. Union of India Through the Secretary Ministry of Environment & Forest, Shastri Bhawan New Delhi, P.S. Shashtri Bhawan
10. Regional Officer, Regional Environment Conservation Board, Near Deendayal Park Vyapar Vihar, Bilaspur ,(Chhattisgarh), P.S. Tarbahar

---Respondents

Writ Appeal No. 1088 of 2012

KSK Mahanadi Power Company Limited, (Previously known as M/s Wardha Power Company Limited- CG Project) A Company incorporated under the Companies Act, 1956, having its registered office at Plot No. 431/A, Road No.22, Jubilee Hills, Hyderabad (Andhra Pradesh) and Works at Village Nariyara, P.S. Akaltara, Tahsil Akaltara, District, Janjgir-Champa, (Chhattisgarh)

---- Appellant

Versus

1. Smt. Anjana Kedia, W/o Shri Satish Kedia, aged about 38 years, resident of Ward No. 3, Baloda Road, Akaltara PO Akaltara, District Janjgir-Champa, (Chhattisgarh) P.S. Akaltara
2. State of Chhattisgarh, Through the Secretary, Department of Industries,

Mantralaya D.K.S. Bhawan, Raipur, (Chhattisgarh), P.S. Golbazar

3. Managing Director, Chhattisgarh State Industrial Development Corporation, Jeevan Bima Parisar, Pandri, Raipur, (Chhattisgarh), P.S. Pandri
4. Director, Directorate of Industries, Second Floor, Life Insurance Corporation Commercial Premises, Raipur, (Chhattisgarh), P. S. Pandri
5. Chief Secretary-cum-Convener, State Industrial Promotion Board, Government of Chhattisgarh, Raipur, (Chhattisgarh), P.S. Gplbazar
6. Collector, Janjgir, District: Jangir-Champa, (Chhattisgarh), P.S. Janjgir
7. Land Acquisition Officer-Sub Divisional Officer, Janjgir District : Janjgir-Champa, (Chhattisgarh), P.S. Janjgir
8. General Manager, District Industry and Trade Centre, Janjgir, District Janjgir-Champa, Chhattisgarh, P.S. Champa.
9. Union of India Through the Secretary Ministry of Environment & Forest, Shastri Bhawan New Delhi, P.S. Shashtri Bhawan
10. Regional Officer, Regional Environment Conservation Board, Near Deendayal Park Vyapar Vihar, Bilaspur ,(Chhattisgarh), P.S. Tarbahar

-----**Respondents**

Writ Appeal No. 1090 of 2012

SKS Power Generation (Chhattisgarh) Limited having its registered office at 501 B, Elegant Business Park, Andheri-Kurla road, J.B. Nagar, Andheri (E), Mumbai- 400 059, through its Director Shri Ajit Kumar Choubey, son of Shri P.N. Chougey, aged 50 years, resident of House No.2, Friends Colony, Raigarh(Chhattisgarh)

---- **Appellant**

Versus

1. Radhey Shyam son of Jaimangal Patel, aged About 31 Years, Occupation- Agriculturist,
2. Chain Singh, S/o Pil Lal, aged about 60 years, Occupation- Agriculturist
3. Mahesh Chandra, son of Bhagatram Dansena, aged about 60 years, Occupation- Agriculturist

4. Hariram Patel, son of Mohan Singh Patel, aged about 52 years, Occupation- Agriculturist
5. Trilochan, son of Arjun, aged about 55 years, Occupation- Agriculturist
6. Dhan Singh Rathia, son of Maniram Rathia, aged about 65 years, Occupation -Agriculturist
7. Sadhram, son of Baiedram, aged about 70 years
8. Ramlal, son of Chainsingh, aged about 65 years
9. Pardeshi Patel, son of Jagatram Patel aged about 38 years
10. Keshram Patel, son of Narayan Patel, aged about 36 years
11. Premal Yadav, son of Manu, aged about 70 years
12. Puniram Patel, son of Kriparam, aged about 65 years
13. Dushyant Rathia, son of Rameshwar Rathia, aged about 26 years
14. Shiv Prasad, son of Piladau Rahtia, aged about 35 years
15. Birsingh Rathia, son of Jethuram, aged about 48 years
16. Faguram Rathia, son of Sidar Singh Rathia, Sankunwar aged about 57 years(2)
17. Sital Singh, son of Lelaram Rathia, aged about 47 years
18. Panchuram, son of Ramphal Kumhar aged about 40 years
19. Sachidanand Patel, son of Gangaram Patel, aged about 29 years
20. Sujanalal, son of Jogilal, aged about 70 years
21. Padumram Dansena, son of Bandhhuram Dansena, aged about 60 years
22. Smt. Bhilkumari Rathia, W/o Shri Niranjanlal Rathia, aged about 31 years
23. Dilakram, son of Karia, aged about 50 years
24. Rajendra Prasad, son of Ramniwas Agrawal, aged about 60 years
25. Khageshwar, son of Bharat, aged about 65 years
26. Ujitram, son of Arjun Kumhar, aged about 49 years(2)

27. Rohidas Rathia, son of Tiharu, aged about 68 years
 28. Bisheshwar Prasad Rathia, son of Sadhuran Rathia, aged about 50 years(2)
 29. Jagatram son of Anandram, aged about 60 years
- All are residents of village & post office Binjkot, Tahsil- Kharsia, District- Raigarh, Chhattisgarh
30. State of Chhattisgarh, through Secretary Department of Industries, Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh
 31. Union of India, through Secretary, Ministry of Environment and Forest, CGO Complex New Delhi
 32. Managing Director, Chhattisgarh State Industrial Development Corporation (C.S.I.D.C.), Jeevan Beema Parisar, Pandari Raipur, District Raipur, Chhattisgarh
 33. Director, Directorate of Industries, 2nd Floor, Jeevan Beema Parisar, Pandri, Raipur, District Raipur (Chhattisgarh)
 34. Collector, Raigarh, District Raigarh (Chhattisgarh)
 35. General Manager, District Trade and Industrial Centre, Raigarh, District Raigarh (Chhattisgarh)
 36. Sub-Divisional Officer (Revenue)- cum- Land Acquisition Officer, Kharsia, District Raigarh (Chhattisgarh)
 37. Tahsildar, Kharsia, District Raigarh (Chhattisgarh)
 38. Regional Officer, Regional Office, Environment Conservation Board, T.V. Tower Road, Raigarh, District Raigarh, Chhattisgarh

----Respondents

Writ Appeal No. 1093 of 2012

M/S Visa Power Limited, having its registered office at 8, Gajanandpuram, Kotra Bypass Road, Raigarh, district Raigarh (Chhattisgarh) - 496 001 through its Assistant General Manager Shri Chiranjeev Agarwal, son of late R.S. Agarwal, aged about 36 years, Assistant General Manager, resident of Kotra Road, Raigarh (Chhattisgarh).

---- Appellant

Versus

1. Dharam Singh, S/o Sadharam, aged about 59 years.
2. Ram Kumar, S/o Sadharam, aged about 53 years.
3. Kaushal, S/o Dharam Singh, aged about 30 years.
4. Khir Mohan, S/o Dharam Singh, aged about 35 years. All are residents of village - Banhar, tahsil - Raigarh, P.S. Bhugdeopur, District Raigarh, Chhattisgarh.
5. State of Chhattisgarh, through the Secretary, Department of Industries, DKS Bhawan, Mantralay, Raipur, Chhattisgarh.
6. Managing Director, Chhattisgarh State Industrial Development Corporation (CSIDC), Jeevan Bima Parisar, Pandri, Raipur, Chhattisgarh.
7. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur, Chhattisgarh.
8. Convener, State Investment Promotion Board, Government of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur Chhattisgarh.
9. Collector, Raigarh, Distt. Raigarh Chhattisgarh.
10. Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, District Raigarh Chhattisgarh.
11. General Manager, District Industries & Trade Centre, Raigarh, District Raigarh Chhattisgarh.

---- Respondents

Writ Appeal No. 1094 of 2012

M/s Visa Power Limited, having its registered office at 8, Gajanandpuram, Kotra Bypass Road, Raigarh, district Raigarh (Chhattisgarh) - 496 001 through its Assistant General Manager Shri Chiranjeev Agarwal, son of late R.S. Agarwal, aged about 36 years, Assistant General Manager, resident of Kotra Road, Raigarh (Chhattisgarh).

---- Appellant

Versus

1. Smt. Munu Bai Widow of Late Dharam Singh, Aged about 85 years.
2. Smt. Sureswari Wife of Rajaha & daughter of Late Dharam Singh, Aged about 63 years,

3. Smt. Radheshwari Wife of Nehru Lal & Daughter of Late Dharam Singh, Aged about 59 years
4. Smt. Mithila Wife of Tilak Ram & Daughter of Late Dharam Singh, Aged about 53 years,
5. Lalit Sahu son of Late Dharam Singh, Aged about 56 years
6. Tilak Ram Son of Late Dharam Singh, Aged about 46 years

(No. 1 to 6 are known legal heirs of deceased petitioner No. 1 Late Dharam Singh in Writ Petition (C) No. 698/12 who died on 29.08.12)

All residents of village Devri, P.S. Raigarh, Tahsil and District Raigarh (C.G.)

7. Nimish Kumar Sao S/o Lalit Kumar Sao, Aged about 28 years, R/o village Kansichuan, P.O. Dongitarai, P.S. Bhupendrapur, Tahsil : Raigarh, District Raigarh Chhattisgarh.
 8. Tikaram S/o Dharam Singh, Aged about 45 years, R/o village Banhar, Tahsil & Distt. Raigarh, Chhattisgarh
 9. Bundram S/o Lachiram Aged about 55 years
 10. Ram Kumar S/o Bundram Aged about 55 years
- No. 9 & 10 are residents of village Devri, Tahsil and Distt. Raigarh Chhattisgarh.
11. State of Chhattisgarh, Through the Secretary, Department of Industries, Government of Chhattisgarh, DKS Bhawan, Mantralay, Raipur, Chhattisgarh.
 12. Managing Director, Chhattisgarh State Industrial Development Corporation, Jeevan Bima Parisar, Pandri, Raipur, Chhattisgarh, P.S. Devendranagar.
 13. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur, Chhattisgarh.
 14. Convener, State Investment Promotion Board, Government of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur Chhattisgarh.
 15. Collector, Raigarh, Distt. Raigarh Chhattisgarh.
 16. Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, Distt. Raigarh Chhattisgarh.
 17. General Manager, District Industries & Trade Centre, Raigarh, Distt. Raigarh Chhattisgarh.

---- Respondents

Writ Appeal No. 1099 of 2012

1. State of Chhattisgarh through the Secretary, Department of Industries, Mantralaya D.K.S. Bhawan, Raipur, Chhattisgarh. (Respondent No.1 in writ petition)
2. The Director, Directorate of Industries 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur, Chhattisgarh. (Respondent No.3 in writ petition)
3. The Chief Secretary-cum-Convenor, State Industrial Promotion Board, Government of Chhattisgarh, Raipur, Chhattisgarh. (Respondent No.4 in writ petition)
4. The Collector, Janjgir, District Janjgir-Champa, Chhattisgarh. (Respondent No.5 in writ petition)
5. The Land Acquisition Officer-cum-Sub Divisional Officer, Janjgir, District Janjgir-Champa, Chhattisgarh. (Respondent No.6 in writ petition)
6. The General Manager District Industries & Trade Centre, Janjgir, District Janjgir-Champa, Chhattisgarh. (Respondent No.7 in writ petition)

-- Appellants

Versus

1. Smt. Anjana Kedia W/o Shri Satish Kedia aged about 38 years, resident of ward No. 3, Baloda Road, Akaltara, PO Akaltara, Distt Janjgir Champa, Chhattisgarh. (Respondent No.1 writ petitioner in writ petition)
2. The Managing Director, Chhattisgarh State Industrial Development Corporation Jeevan Bima Parisar, Pandri, Raipur, Chhattisgarh. (Respondent No.2 in writ petition)
3. Union of India through the Secretary Ministry of Environment & Forest, Shastri Bhawan, New Delhi. (Respondent No.8 in writ petition)
4. The Regional Officer, Regional Office, Environment Conservation Board Near Deendayal Park, Vyapara Vihar, Bilaspur Chhattisgarh. (Respondent No.9 in writ petition)
5. M/s Wardha Power Plant Limited, Akaltara A joint venture of M/s KSK Energy Ventures Limited, 431/A Road No 22, Jubilee Hills, Hyderabad (A.P.) Pin - 500033. (Respondent No.10 in writ petition)

---Respondents

Writ Appeal No. 1100 of 2012

1. State of Chhattisgarh through the Secretary, Department of Industries, Mantralaya D.K.S. Bhawan, Raipur, Chhattisgarh. (Respondent No.1 in writ petition)
2. The Director, Directorate of Industries 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur, Chhattisgarh. (Respondent No.3 in writ petition)
3. The Chief Secretary-cum-Convenor, State Industrial Promotion Board, Government of Chhattisgarh, Raipur, Chhattisgarh. (Respondent No.4 in writ petition)
4. The Collector, Janjgir, District Janjgir-Champa, Chhattisgarh. (Respondent No.5 in writ petition)
5. The Land Acquisition Officer-cum-Sub Divisional Officer, Janjgir, District Janjgir-Champa, Chhattisgarh. (Respondent No.6 in writ petition)
6. The General Manager District Industries & Trade Centre, Janjgir, District Janjgir-Champa, Chhattisgarh. (Respondent No.7 in writ petition)

-- Appellants

Versus

1. Smt. Ritu Kedia W/o Shri Sanjay Kedia aged about 34 years, resident of ward No. 3, Baloda Road, Akaltara, PO Akaltara, Distt Janjgir Champa, Chhattisgarh. (Respondent No.1 writ petitioner in writ petition)
2. The Managing Director, Chhattisgarh State Industrial Development Corporation Jeevan Bima Parisar, Pandri, Raipur, Chhattisgarh. (Respondent No.2 in writ petition)
3. Union of India through the Secretary Ministry of Environment & Forest, Shastri Bhawan, New Delhi. (Respondent No.8 in writ petition)
4. The Regional Officer, Regional Office, Environment Conservation Board Near Deendayal Park, Vyapara Vihar, Bilaspur Chhattisgarh. (Respondent No.9 in writ petition)
5. M/s Wardha Power Plant Limited, Akaltara A joint venture of M/s KSK Energy Ventures Limited, 431/A Road No 22, Jubilee Hills, Hyderabad (A.P.) Pin - 500033, P.S. Akaltara. (Respondent No.10 in writ petition)

---Respondents

Writ Appeal No. 1101 of 2012

1. State of Chhattisgarh through the Secretary, Department of Industries, Mantralaya D.K.S. Bhawan, Raipur, Chhattisgarh. (Respondent No.1 in writ petition)
2. The Director, Directorate of Industries 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur, Chhattisgarh. (Respondent No.3 in writ petition)
3. The Convenor, State Investment Promotion Board, Government of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur, Chhattisgarh. (Respondent No.4 in writ petition)
4. The Collector, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.5 in writ petition)
5. The Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.6 in writ petition)
6. The General Manager District Industries & Trade Centre, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.7 in writ petition)

-- Appellants

Versus

1. Hemlal Tenduwe, S/o Shri Bhaskar, aged about 64 years.
2. Jayant Kumar, S/o Shri Hemlal, aged about 34 years.
3. Buchuram, S/o Shri Bundru, aged about 70 years.
4. Amarlal, S/o Shri Puniram, aged about 45 years.
5. Gayatriprasad, S/o Shri Jhururam Sahu, aged about 36 years.
5. Smt. Purnima Bai, W/o Shri Gayatriprasad Sahu, aged about 30 years.
6. Smt. Purnima Bai, W/o Shri Gayatriprasad Sahu, aged about 30 years.
7. Firang, S/o Bundram Sahu, aged about 76 years.
8. Baladram, S/o Bundram Sahu, aged about 70 years.
9. Uchitram, S/o Netram Sahu, aged about 76 years.
10. (a) Purendra s/o late Shri Chintaram Sahu aged about 40 years.

- (b) Premlal s/o late Shri Chintaram Sahu aged about 35 years.
- (c) Dilip Kumari d/o late Shri Chintaram Sahu aged about 38 years.
- (d) Kusum Kumari d/o late Shri Chintaram Sahu aged about 33 years.
- (e) Jharna Kumari d/o late Shri Chintaram Sahu aged about 30 years.

All are resident of village: Siladehi, tahsil: Champa, District Janjgir-Champa, Chhattisgarh.

- 11. Munglu, s/o Sonau, aged about 45 years.
- 12. Banshilal, s/o Shri Purushotam Sahu, aged about 55 years.
- 13. Gulabchand, s/o Shri Bhukhau Sahu, aged about 40 years.
- 14. Daduram, S/o Shri Pilu Teli, aged about 55 years,

Respondent no. 1 to 14 are residents of Village Siladevi, Tahsil Champa, District Janjgir- Champa, Chhattisgarh.

- 15. Shyamsundar, (died)
 - 15(i) Fulbai, w/o late Shyamsundar Sahu, aged about 48 years,
 - 15(ii) Mahendra, s/o late Shyamsundar Sahu, aged about 34 years,
 - 15(iii) Usha, d/o late Shyamsundar Sahu, aged about 32 years,
 - 15(iv) Seema, d/o late Shyamsundar Sahu, aged about 28 years,
 - 15(v) Abha, d/o late Shyamsundar Sahu, aged about 24 years,

Respondent No. 15(i) to 15(v) are residents of Village Sailadehi, tahsil Champa, district Janjgir-Champa (Chhattisgarh).

- 16. Puranlal, S/o Shri Panda Sahu, aged about 70 years.
- 17. Ramdhan, S/o Shri Chatram Sahu, aged about 35 years.
- 18. Chatram, S/o Shri Chini Sahu, aged about 60 years.
- 19. Balram, S/o Ramcharan, aged about 70 years.
- 20. Tikaram, S/o Balram, aged about 55 years.
- 21. Sumantnarayan, S/o Shri Puniram Marar, aged about 40 years.

22. Smt. Jhamla Devi, W/o Shri Munnalal Kalar, aged about 50 years.

23. Gunakar Prasad, S/o Shri Rudracharan, aged about 60 years,

Respondent no. 16 to 23 are residents of village Siladevi, Tahsil Champa, district Janjgir- Champa (Chhattisgarh).

24. Dayaram (died)

24(i) Mohanmati, w/o late Shri Dayaram, aged not known.

24(ii) Motiram, s/o late Shri Dayaram, aged not known.

24(iii) Maheshwar, s/o late Shri Dayaram, aged not known.

24(iv) Maniram, s/o late Shri Dayaram, aged not known.

24(v) Motinbai, d/o late Shri Dayaram, aged not known.

24(vi) Ramshila, d/o late Shri Dayaram, aged not known.

Respondent No. 24(i) to 24(vi) are residents of village Siladevi, P.S. Birran, tahsil Champa, district Janjgir-Champa (Chhattisgarh).

25. Maniram, S/o Shri Anandram Kumhar, aged about 73 years.

26. Smt. Radha Devi, W/o Shri Maniram Kumhar, aged about 60 years.

27. Ramkrishna, S/o Shri Anandram Kumhar, aged about 57 years.

28. Jhaduram, S/o Shri Ramprasad Sahu aged about 66 years.

29. Rambai W/o Shri Chintaram aged about 55 years.

30. Purendra Kumar S/o Shri Chintaram aged about 30 years.

31. Bhagirathi S/o Shri Man Singh aged about 70 years.

32. Bhupalprasad S/o Shri Cheduram Sahu aged about 45 years.

33. Sonalal S/o Shri Purushotam Sahu aged about 40 years.

34. Pitambar S/o Shri Puniram Sahu aged about 50 years.

35. Ekadashiya S/o Shri Chamru Marar aged about 55 years.

36. Babulal S/o Shri Cheduram aged about 65 years.

37. Motiram S/o Shri Khuluram aged about 55 years.

Respondent No. 25 to 37 are residents of village Siladevi, Tahsil Champa, district Janjgir-Champa (Chhattisgarh).

38. Smt. Sushila Bai (died)

38(i) Manharan, aged about 65 years, residents of village Siladevi, Tahsil Champa, district Janjgir-Champa (Chhattisgarh).

39. Muniram S/o Shri Shivmangal aged about 58 years.

40. Khikhai W/o Shri Uderam aged about 52 years.

41. Chabil S/o Shri Parasram Kewat aged about 70 years.

42. Kushuram S/o Shri Rikhiram aged about 50 years.

43. Ramkhilawan S/o Shri Kewal Sahu, aged about 31 years.

44. Pardeshi S/o Shri Kewal Sahu aged about 62 years.

45. Bharatlal S/o Shri Larhu Kewat aged about 50 years.

46. Urmila Bai W/o Shri Bhagauram Sahu aged about 55 years.

47. Khemram S/o Shri Karthikram Sahu aged about 63 years.

48. Santram, S/o Shri Atmaram Satnami aged about 60 years.

49. Panchram, S/o Shri Ganeshram Satnami aged about 51 years.

50. Bhojram, S/o Shri Ganeshram Satnami aged about 45 years.

51. Tarachand, S/o Shri Ganeshram Satnami aged about 47 years.

52. Rathram, S/o Shri Ganeshram Satnami aged about 49 years.

53. Sitaram, S/o Shri Kapil Satnami aged about 60 years.

54. Kriparam, S/o Shri Kunjram Satnami aged about 70 years.

55. Dudhanath S/o Shri Banshilal Sahu aged about 45 years.

56. Banshilal S/o Takhatram Sahu aged about 62 years.

Respondent No. 39 to 56 are residents of village Siladevi, P.S. Birra, Tahsil Champa, district Janjgir-Champa (Chhattisgarh). (Respondent No. 1 to 56 Writ Petitioner in Writ Petition)

57. The Managing Director, Chhattisgarh State Industrial Development

Corporation (CSIDC) Jeevan Bhima Parisar, Pandri Raipur, Chhattisgarh. (Respondent No. 2 in Writ Petition)

58. M/S Mb (Moser Baer) Power Chhattisgarh Limited, (2 x 660 MV Super Critical Coal Based Thermal Power Plant at Villages Birra, Siladehi, Gatwa, Tahsil Champa, District Janjgir-Champa, By MB Power Chhattigarh, by MB Power Chhattisgarh Limited)- Having its officer at : 43-B, Okhla Industrial Estate Phase-3, New Delhi-110020 (Respondent No.8 in Writ Petition)

---- Respondents

Writ Appeal No. 1102 of 2012

1. State of Chhattisgarh through the Secretary, Department of Industries, Mantralaya D.K.S. Bhawan, Raipur, Chhattisgarh. (Respondent No.1 in writ petition)
2. The Director, Directorate of Industries 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur, Chhattisgarh. (Respondent No.3 in writ petition)
3. The Convenor, State Investment Promotion Board, Government of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur, Chhattisgarh. (Respondent No.4 in writ petition)
4. The Collector, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.5 in writ petition)
5. The Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.6 in writ petition)
6. The General Manager District Industries & Trade Centre, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.7 in writ petition)

-- Appellants

Versus

1. Dharam Singh, S/o Sadhuram, aged about 59 years.
2. Ram Kumar, S/o Sadhuram, aged about 53 years.
3. Kaushal, S/o Dharam Singh, aged about 30 years.
4. Khir Mohan, S/o Dharam Singh, aged about 35 years.

All are residents of village - Banhar, tahsil - Raigarh, P.S. Bhugdeopur, District Raigarh, Chhattisgarh. (Respondents No.1 to 4 writ petitioners in the writ petition)

5. The Managing Director, Chhattisgarh State Industrial Development Corporation (CSIDC) Jeevan Bhima Parisar, Pandri Raipur, Chhattisgarh. (Respondent No. 2 in Writ Petition)
6. M/S Visa Power Limited, through its General Manager (Coal Based Thermal Power Plant) village: Dumarpali, Devri, district Raigarh, Chhattisgarh. (Respondent No.8 in Writ Petition)

---- Respondents

Writ Appeal No. 1103 of 2012

1. State of Chhattisgarh through the Secretary, Department of Industries, Mantralaya D.K.S. Bhawan, Raipur, Chhattisgarh. (Respondent No.1 in writ petition)
2. The Director, Directorate of Industries 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur, Chhattisgarh. (Respondent No.3 in writ petition)
3. The Convenor, State Investment Promotion Board, Government of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur, Chhattisgarh. (Respondent No.4 in writ petition)
4. The Collector, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.5 in writ petition)
5. The Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.6 in writ petition)
6. The General Manager District Industries & Trade Centre, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.7 in writ petition)

-- Appellants

Versus

1. Ganpat, S/o Kawaldhar, aged about 70 years.
2. Malikram, S/o Chamaru, aged about 65 years.
3. Adikunwar, w/o Kanhaiya, aged about 63 years. Respondent no. 1 to 3 are resident of Village Doomarpali, tahsil Raigarh, district Raigarh, Chhattisgarh.
4. Pancharam (died)
 - 4(a) Smt. Sumitra w/o late Panch Ram, aged about 65 years,
 - 4(b) Smt. Amrit Bai Sahu, d/o late Panch Ram, aged about 48 years,

4(c) Mr. Gobind Sahu, s/o late Panch Ram, aged about 46 years,

4(d) Mr. Bhuvnesh Prasad Sahu, s/o late Panch Ram, aged about 42 years,
Respondent no. 4(a) to 4(d) are resident of Village Doomarpali, tahsil Raigarh, district Raigarh, Chhattisgarh. (Respondent No. 1 to 4 writ petitioner in writ petition)

5. The Managing Director, Chhattisgarh State Industrial Development Corporation (CSIDC) Jeevan Bhima Parisar, Pandri Raipur, Chhattisgarh. (Respondent No. 2 in Writ Petition)
6. M/S Visa Power Limited, through its General Manager (Coal Based Thermal Power Plant) village: Dumarpali, Devri, district Raigarh, Chhattisgarh. (Respondent No.8 in Writ Petition)

---- Respondents

Writ Appeal No. 1104 of 2012

1. State of Chhattisgarh through the Secretary, Department of Industries, Mantralaya D.K.S. Bhawan, Raipur, Chhattisgarh. (Respondent No.1 in writ petition)
2. The Director, Directorate of Industries 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur, Chhattisgarh. (Respondent No.3 in writ petition)
3. The Convenor, State Investment Promotion Board, Government of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur, Chhattisgarh. (Respondent No.4 in writ petition)
4. The Collector, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.5 in writ petition)
5. The Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.6 in writ petition)
6. The General Manager, District Industries & Trade Centre, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.7 in writ petition)

-- Appellants

Versus

1. Dharam Singh, s/o Jagbandhu, aged about 80 years, r/o village Devri, P.S. Bhupdeopur, tahsil and district Raigarh (Chhattisgarh).

a) Munudai, w/o late Dharam Singh.

b) Lalit Kumar, s/o late Dharam Singh.

c) Teeka Ram, s/o late Dharam Singh.

d) Sureshwari, d/o late Dharam Singh.

e) Raseshwari, d/o late Dharam Singh.

f) Mithila, d/o late Dharam Singh.

All resident of village Devri, tahsil and district Raigarh (Chhattisgarh).

2. Nimish Kumar Sao S/o Lalit Kumar Sao, aged about 28 years, R/o village Kansichuan, P.O. Dongitarai, P.S. Bhupendrapur, Tahsil : Raigarh, District Raigarh Chhattisgarh.
3. Tikaram S/o Dharam Singh, aged about 45 years, R/o village Banhar, P.S. Bhupdeopur, Tahsil & Distt. Raigarh, Chhattisgarh.
4. Bundram, s/o Lachhiram, aged about 55 years,
5. Ram Kumar S/o Bundram aged about 32 years,

No. 4 & 5 are residents of village – Devri, tahsil – Raigarh, P.S. Bhupdeopur, district Raigarh (Chhattisgarh) (Respondents No. 1 to 5 writ petitioners in the writ petition)

6. The Managing Director, Chhattisgarh State Industrial Development Corporation (CSIDC) Jeevan Bhima Parisar, Pandri Raipur, Chhattisgarh. (Respondent No. 2 in Writ Petition)
7. M/S Visa Power Limited, through its General Manager (Coal Based Thermal Power Plant) village: Dumarpali, Devri, P.S. Bhupdeopur, district Raigarh, Chhattisgarh. (Respondent No.8 in Writ Petition)

---- Respondents

Writ Appeal No. 1105 of 2012

1. State of Chhattisgarh through the Secretary, Department of Industries, Mantralaya D.K.S. Bhawan, Raipur, Chhattisgarh. (Respondent No.1 in writ petition)
2. The Director, Directorate of Industries 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur, Chhattisgarh. (Respondent No.3 in writ petition)
3. The Convenor, State Investment Promotion Board, Government of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur, Chhattisgarh. (Respondent No.4 in writ petition)

4. The Collector, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.5 in writ petition)
5. The Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.6 in writ petition)
6. The General Manager District Industries & Trade Centre, Raigarh, District Raigarh, Chhattisgarh. (Respondent No.7 in writ petition)

-- Appellants

Versus

1. Gayatri Prasad, S/o Shri Jhururam, aged about 36 years.
2. Buchuram, S/o Shri Bundram, aged about 70 years.
3. Bharatlal, S/o Shri Larhu, aged about 50 years.
4. Maheshwar Ram Dadsena, S/o Shri Dayaram, aged about 34 years.
Respondent no. 1 to 4 are resident of village - Siladehi, P.S. Birra, tahsil Champa, District Janjgir-Champa (Chhattisgarh).
5. Dayaram Dadsena (died)
 - 5(a) Mohanmati, w/o late Shri Dayaram.
 - 5(b) Motiram, s/o late Shri Dayaram.
 - 5(c) Maheshwar, s/o late Shri Dayaram.
 - 5(d) Maniram, s/o late Shri Dayaram.
 - 5(e) Motinbai, d/o late Shri Dayaram.
 - 5(f) Ramshila, d/o late Shri Dayaram.

Respondent No. 5(a) to 5(f) are residents of village Siladevi, P.S. Birra, tahsil Champa, district Janjgir-Champa (Chhattisgarh).
6. Sonalal Sahu, S/o Shri Purushotam Sahu aged about 40 years, resident of village Siladevi, P.S. Birra, tahsil Champa, district Janjgir-Champa (Chhattisgarh). (Respondent No. 1 to 6 writ petitioner in writ petition)
7. The Managing Director, Chhattisgarh State Industrial Development Corporation (CSIDC) Jeevan Bhima Parisar, Pandri Raipur, Chhattisgarh. (Respondent No. 2 in Writ Petition)
8. M/S Mb (Moser Baer) Power Chhattisgarh Limited, (2 x 660 MV Super Critical Coal Based Thermal Power Plant at Villages Birra, Siladehi, Gatwa, Tahsil Champa, District Janjgir-Champa, By MB Power Chhattisgarh, by MB Power

Chhattisgarh Limited)- Having its officer at : 43-B, Okhla Industrial Estate Phase-3, New Delhi-110020 (Respondent No.8 in Writ Petition)

---- Respondents

Writ Appeal No. 1109 of 2012

Managing Director, Chhattisgarh State Industrial Development Corporation,
Jeevan Bima Parisar, Pandri, Raipur, Chhattisgarh

---- Appellant

Versus

1. Smt. Anjani Kedia W/o Shri Satish Kedia aged about 38 years, resident of ward No. 3, Baloda Road, Akaltara, PO Akaltara, Distt Janjgir Champa, Chhattisgarh.
2. State of Chhattisgarh through the Secretary Department of Industries, Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh.
3. Director, Directorate of Industries, Second Floor, Life Insurance Corporation Commercial Premises, Raipur Chhattisgarh.
4. Chief Secretary-cum-Convener, State Industrial Promotion Board Government of Chhattisgarh, Raipur Chhattisgarh.
5. Collector Janjgir District Janjgir-Champa Chhattisgarh.
6. Land Acquisition Officer-Sub Divisional Officer, Janjgir District Janjgir Champa Chhattisgarh.
7. General Manager District Industry and Trade Centre, Janjgir District Janjgir Champa Chhattisgarh.
8. Union Of India through the Secretary Ministry of Environment & Forest, Shastri Bhawan, New Delhi.
9. Regional Officer, Regional Environment Conservation Board Near Deendayal Park Vyapara Vihar Bilaspur Chhattisgarh.
10. M/s Wardha Power Plant Limited Akaltara A joint venture of M/s KSK Energy Ventures Limited, 431/A Road No 22, Jubilee Hills, Hyderabad (A.P.) Pin - 500033

---- Respondents

Writ Appeal No. 1110 of 2012

Managing Director, Chhattisgarh State Industrial Development Corporation,
Jeevan Bima Parisar, Pandri, Raipur, Chhattisgarh

---- Appellant

Versus

1. Smt. Ritu Kedia, w/o Shri Sanjay Kedia, aged about 34 years, resident of ward No. 3, Baloda Raod, Akaltara, PO Akaltara, Distt Janjgir Champa, Chhattisgarh.
2. State of Chhattisgarh through the Secretary Department of Industries, Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh.
3. Director, Directorate of Industries, Second Floor, Life Insurance Corporation Commercial Premises, Raipur Chhattisgarh.
4. Chief Secretary-cum-Convener, State Industrial Promotion Board Government of Chhattisgarh, Raipur Chhattisgarh.
5. Collector Janjgir District Janjgir-Champa Chhattisgarh.
6. Land Acquisition Officer-Sub Divisional Officer, Janjgir District Janjgir Champa Chhattisgarh.
7. General Manager District Industry and Trade Centre, Janjgir District Janjgir Champa Chhattisgarh.
8. Union of India through the Secretary Ministry of Environment & Forest, Shastri Bhawan, New Delhi.
9. Regional Officer, Regional Environment Conservation Board Near Deendayal Park Vyapara Vihar Bilaspur Chhattisgarh.
10. M/s Wardha Power Plant Limited Akaltara A joint venture of M/s KSK Energy Ventures Limited, 431/A Road No 22, Jubilee Hills, Hyderabad (A.P.) Pin - 500033

---- Respondents

Writ Appeal No. 1128 of 2012

Managing Director, Chhattisgarh State Industrial Development Corporation,
Jeevan Beema Parisar, Pandri, Raipur, Chhattisgarh, P.S. Devendranagar.

---- Appellant

Versus

1. Smt. Munu Bai Widow of Late Dharam Singh, Aged about 85 years.
2. Smt. Sureswari Wife of Rajaha & daughter of Late Dharam Singh, Aged about 63 years,
3. Smt. Radheshwari Wife of Nehru Lal & Daughter of Late Dharam Singh, Aged about 59 years
4. Smt. Mithila Wife of Tilak Ram & Daughter of Late Dharam Singh, Aged about 53 years,
5. Lalit Sahu son of Late Dharam Singh, Aged about 56 years
6. Tilak Ram Son of Late Dharam Singh, Aged about 46 years

(No. 1 to 6 are known legal heirs of deceased petitioner No. 1 Late Dharam Singh in W.P.(C) No. 698/12 who died on 29.08.12)

All residents of village Devri, P.S. Raigarh, Tahsil and District Raigarh (C.G.)

7. Bundram S/o Lachiram Aged about 55 years
8. Ram Kumar S/o Bundram Aged about 32 years

No. 7 and 8 are resident of village Devri, Tahsil and Distt. Raigarh Chhattisgarh, P.S. Raigarh.

9. Nimish Kumar Sao S/o Lalit Kumar Sao, Aged about 28 years, R/o village Kansichuan, P.O. Dongitarai, P.S. Bhupendrapur, Tahsil : Raigarh, District Raigarh Chhattisgarh
10. Tikaram S/o Dharam Singh, Aged about 45 years, R/o village Banhar, P.S. Raigarh, Tahsil & Distt. Raigarh, Chhattisgarh
11. State of Chhattisgarh, Through the Secretary, Department of Industries, Government of Chhattisgarh, DKS Bhawan, Raipur, Chhattisgarh
12. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur, Chhattisgarh
13. Convener, State Industrial Promotion Board, Govt. of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur Chhattisgarh
14. Collector, Raigarh, Distt. Raigarh Chhattisgarh
15. Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, Distt. Raigarh Chhattisgarh

16. General Manager, District Industries & Trade Centre, Raigarh, Distt. Raigarh Chhattisgarh
17. M/s. Visa Power Ltd. Through its General Manager (Coal Based Thermal Power Plant) village Dumarpali, Devri, District Raigarh, Chhattisgarh, P.S. Raigarh

---- Respondents

Writ Appeal No. 1129 of 2012

Managing Director, Chhattisgarh State Industrial Development Corporation,
Jeevan Beema Parisar, Pandri, Raipur, Chhattisgarh

---- Appellant

Versus

1. Ganpat S/o Kawaldhar Aged about 70 years.
2. Malikram S/o Chamaru, Aged about 65 years.
3. Adikunwar W/o Kanhaiya Aged about 63 years.

All residents of village Doomarpali, Tahsil Raigarh, District Raigarh, Chhattisgarh.

- 4 (a) Smt. Sumita W/o Late Panch Ram aged about 65 years.

(b) Smt. Amrit Bai Sahu D/o Late Panch Ram aged about 48 years.

(c) Mr. Gobind Sahu S/o Late Panch Ram aged about 46 years.

(d) Mr. Bhuvnesh Prasad Sahu S/o Late Panch Ram Aged about 42 years.

All resident of village Doomarpali, Tahsil Raigarh, District Chhattisgarh.

5. State of Chhattisgarh Through the Secretary, Department of Industries, Government of Chhattisgarh, DKS Bhawan, Raipur, Chhattisgarh.
6. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation Commercial Premises, Raipur Chhattisgarh.
7. Convener, State Industrial Promotion Board, Govt. of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur Chhattisgarh
8. Collector, Raigarh, Distt. Raigarh Chhattisgarh
9. Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, Distt. Raigarh

Chhattisgarh

10. General Manager, District Industries & Trade Centre, Raigarh, Distt. Raigarh Chhattisgarh
11. M/s. Visa Power Ltd. Through its General Manager (Coal Based Thermal Power Plant) village Dumarpali, Devri, District Raigarh, Chhattisgarh.

---- Respondents

Writ Appeal No. 1130 of 2012

Managing Director, Chhattisgarh State Industrial Development Corporation,
Jeevan Beema Parisar, Pandri, Raipur, Chhattisgarh

---- Appellant

Versus

1. Dharam Singh S/o Sadhuraam, Aged about 59 years.
2. Ram Kumar S/o Sadhuraam, Aged about 53 years.
3. Kaushal S/o Dharamsingh, Aged about 30 years.
4. Khir Mohan S/o Dharam Singh, Aged about 35 years.

All residents of village Banhar, Tahsil Raigarh, District Raigarh, Chhattisgarh.

5. State of Chhattisgarh Through the Secretary, Department of Industries, Government of Chhattisgarh, DKS Bhawan, Raipur, Chhattisgarh.
6. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation Commercial Premises, Raipur Chhattisgarh.
7. Convener, State Industrial Promotion Board, Govt. of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur Chhattisgarh
8. Collector, Raigarh, Distt. Raigarh Chhattisgarh
9. Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, Distt. Raigarh Chhattisgarh
10. General Manager, District Industries & Trade Centre, Raigarh, Distt. Raigarh Chhattisgarh
11. M/s. Visa Power Ltd. Through its General Manager (Coal Based Thermal Power Plant) village Dumarpali, Devri, District Raigarh, Chhattisgarh.

---- Respondents

Writ Appeal No. 1132 of 2012

Managing Director, Chhattisgarh State Industrial Development Corporation,
Jeevan Beema Parisar, Pandri, Raipur, Chhattisgarh

---- Appellant

Versus

1. Radhey Shyam S/o Jaimangal Patel, Aged about 31 years, Occupation-Agriculturist
2. Chain Singh S/o Pil Lal, Aged about 60 years, Occupation-Agriculturist
3. Mahesh Chandra S/o Bhagatram Dansena, Aged about 60 years, Occupation-Agriculturist
4. Hariram Patel S/o Mohan Singh Patel, Aged about 52 years, Occupation-Agriculturist
5. Trilochan S/o Arjun Aged about 55 years, Occupation-Agriculturist
6. Dhan Singh Rathia S/o Maniram Rathia, aged about 65 years, Occupation-Agriculturist
7. Sadhram S/o Baledram Aged about 70 years.
8. Ramlal S/o Chainsingh, Aged about 65 years.
9. Pardeshi Patel S/o Jagatram Patel, Aged about 38 years.
10. Keshram Patel S/o Narayan Patel, Aged about 36 years.
11. Premlal Yadav S/o Manu, Aged about 70 years.
12. Puniram Patel S/o Kriparam, Aged about 65 years.
13. Dushyant Rathia S/o Rameshwar Rathia, Aged about 26 years.
14. Shiv Prasad S/o Pila Dau Rathia, Aged about 35 years.
15. Birsingh Rathia S/o Jatehram Aged about 48 years.
16. Faguram Rathia S/o Sidar Singh Rathia, Sankunwar, Aged about 57 years
(2)
17. Sital Singh S/o Lelaram Rathia, Aged about 47 years.

18. Panchuram S/o Ramphal Kumhar Aged about 40 years.
19. Sachidanand Patel S/o Gangaram Patel, Aged about 29 years.
20. Sujanlal S/o Jogilal, Aged about 70 years.
21. Padumram Dansena S/o Bandhura Dansena, Aged about 70 years.
22. Smt. Bhikumari Rathia W/o Shri Niranjana Rathia, aged about 30 years.
23. Dilakram S/o Karia, Aged about 50 years.
24. Rajendra Prasad S/o Ramniwas Agrawal, aged about 60 years.
25. Khageshwar S/o Bharat, aged about 65 years.
26. Ujitra S/o Arjun Kumhar, aged about 49 years (2)
27. Rohidas Rathia S/o Tihari aged about 68 years.
28. Biseshwar Prasad Rathia S/o Sadhura Rathia, aged about 50 years (2)
29. Jagatram S/o Anandram Rathia, aged about 60 years.
30. State of Chhattisgarh, Through the Secretary, Department of Industries, Government of Chhattisgarh, DKS Bhawan, Raipur Chhattisgarh.
31. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation Commercial Premises, Raipur Chhattisgarh.
32. Convener, State Industrial Promotion Board, Government of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur Chhattisgarh.
33. Collector, Raigarh, District Raigarh Chhattisgarh.
34. General Manager, District Industries and Trade Centre, Raigarh, District Raigarh Chhattisgarh.
35. Sub Divisional Officer (Revenue) cum Land Acquisition Officer, Kharsia, District Raigarh Chhattisgarh.
36. Tahsildar Kharsiya, District Raigarh, Chhattisgarh.
37. Regional Officer, Regional Office, Environment Conservation Board, T.V. Tower Road, Raigarh, District Raigarh, Chhattisgarh.
38. M/s. SKS Power General (Chhattisgarh) Limited having its office at 501 B, Elegant Business Park, Andheri Kurla Road, J.B. Nagar Andheri (E) Mumbai 400059 through its Managing Director cum Representative Shri Anil Gupta.

39. Union of India, Through Secretary, Ministry of Environment & Forests, CGO Complex, New Delhi.

---- Respondents

Writ Appeal No. 1133 of 2012

Managing Director, Chhattisgarh State Industrial Development Corporation,
Jeevan Beema Parisar, Pandri, Raipur, Chhattisgarh

---- Appellant

Versus

1. Gayatri Prasad S/o Shri Jhururam Aged about 36 years.
2. Buchuram S/o Shri Bundram Satnami, Aged about 70 years.
3. Bharatlal S/o Shri Lahru Aged about 50 years.
4. Maheshwar Ram Dadsena S/o Shri Dayaram, Aged about 34 years.
- 5(a). Mohanmati W/o Late Shri Dayaram Dadsena Aged not known to Appellant.
- 5(b). Motiram S/o Late Shri Dayaram Dadsena, Aged not known to Appellant.
- 5(c). Maheshwar S/o Late Shri Dayaram Dadsena, Aged not known to Appellant.
- 5(d). Maniram S/o Late Shri Dayaram Dadsena, Aged not known to Appellant.
- 5(e). Motin Bai S/o Late Shri Dayaram Dadsena, Aged not known to Appellant.
- 5(f). Ramshila D/o Late Shri Dayaram Dadsena, Aged not known to Appellant.

6. Sonalal Sahu S/o Shri Purushotam Aged about 40 years.

All resident of village Siladehi, Police Station Birra, Tahsil Champa, District Janjgir-Champa, Chhattisgarh.

7. State of Chhattisgarh Through the Secretary, Department of Industries, Government of Chhattisgarh, DKS Bhawan, Raipur, Chhattisgarh.
8. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation Commercial Premises, Raipur Chhattisgarh.

9. Convener, State Industrial Promotion Board, Govt. of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur Chhattisgarh
10. Collector, Janjgir, District Janjgir-Champa, Chhattisgarh
11. Land Acquisition Officer-cum-Sub Divisional Officer, Champa, District Janjgir-Champa, Chhattisgarh
12. General Manager, District Industries & Trade Centre, Janjgir-Champa, Old Nagar Palika Bldg. Champa, District Janjgir-Champa, Chhattisgarh
13. M/s. MB (Moser-Baer) Power Chhattisgarh Limited [2X660 MW Super Critical Coal Based Thermal Power Plant at Village: Birra, Siladehi, Gatwa, Tahsil: Champa, District Janjgir-Champa, by MB Power Chhattisgarh Limited]- having its office at 43-B, Okhla Industrial Estate, Phase 3, New Delhi 110020.

---- Respondents

Writ Appeal No. 1134 of 2012

Managing Director, Chhattisgarh State Industrial Development Corporation,
Jeevan Beema Parisar, Pandri, Raipur, Chhattisgarh

---- Appellant

Versus

1. Hemlal Tenduwe, S/o Bhaskar, Aged about 64 years.
2. Jayant Kumar S/o Shri Hemlal Satnami, Aged about 34 years.
3. Buchuram S/o Shri Bundru Satnami, Aged about 70 years.
4. Amarlal S/o Shri Pu niram Aged about 45 years.
5. Gayatriprasad S/o Shri Jhururam Sahu, aged about 36 years.
6. Smt. Purnima Bai W/o Shri Gayatriprasad Sahu, Aged about 30 years.
7. Firang S/o Shri Pardeshi, Aged about 57 years.
8. Baladram S/o Shri Bundram Sahu Aged about 76 years.
9. Uchitram S/o Shri Netram Sahu, aged about 70 years.
- 10(a). Purendra S/o Late Shri Chintaram Sahu, aged about 40 years.

- 10(b). Premlal S/o Late Shri Chintaram Sahu, aged about 35 years.
- 10(c). Dilip Kumari D/o Late Shri Chintaram Sahu, aged about 38 years.
- 10(d). Kusum Kumari D/o Late Shri Chintaram Sahu, aged about 33 years.
- 10(e). Jharna Kumari D/o Late Shri Chintaram Sahu, aged about 30 years.

All R/o village Siladehi Tehsil Champa, District Janjgir-Champa, Chhattisgarh.

- 11. Manglu S/o Shri Sonau Aged about 45 years.
- 12. Banshilal S/o Shri Purushotam Sahu, aged about 55 years.
- 13. Gulabchand S/o Shri Bhukhau Sahu, Aged about 40 years.
- 14. Daduram S/o Shri Pilu Teli, Aged about 55 years.
- 15(a). Phool Bai W/o Late Shri Shyamsunder, age not known to the appellant.
- 15(b). Mahendra S/o Late Shri Shyamsunder, age not known to the appellant.
- 15(c). Usha D/o Late Shri Shyamsunder, age not known to the appellant.
- 15(d). Seema D/o Late Shri Shyamsunder, age not known to the appellant.
- 15(e). Abha D/o Late Shri Shyamsunder, age not known to the appellant.
- 16(a). Nanbai W/o Late Shri Puranlal Sahu, aged about 60 years.
- 16(b). Ravi Sahu S/o Late Shri Puranlal Sahu, aged about 48 years.
- 16(c). Mani Sahu S/o Late Shri Puranlal Sahu, aged about 46 years.
- 16(d). Shashi Sahu S/o Late Shri Puranlal Sahu, aged about 44 years.
- 16(e). Laksheshwar S/o Late Shri Puranlal Sahu, aged about 42 years.
- 16(f). Umashanker S/o Late Shri Puranlal Aged about 40 years.
- 16(g). Purnima Sahu D/o Late Shri Puranlal Aged about 38 years.
- 16(h). Guddi Sahu S/o Late Shri Puranlal Aged about 36 years.
- 16(i). Anita Sahu D/o Late Shri Puranlal, Aged about 34 years.
- 17. Ramdhan S/o Shri Chatram Sahu, aged about 35 years.
- 18. Chatram S/o Shri Chini Sahu, aged about 60 years.

19. Balram S/o Shri Ramcharan Aged about 70 years.
 20. Tikaram S/o Shri Balram Aged about 55 years.
 21. Sumantnarayan S/o Shri Puniram Marar, Aged about 40 years.
 22. Smt. Jhamla Devi W/o Shri Munnalal Kalar, aged about 50 years.
 23. Gunakar Prasad S/o Shri Rudracharan aged about 60 years.
 - 24(a). Mohanmati W/o Late Shri Dayaram age not known to the appellant.
 - 24(b). Motiram S/o Late Shri Dayaram, age not known to the appellant.
 - 24(c). Maheshwar S/o Late Shri Dayaram, age not known to the appellant.
 - 24(d). Maniram S/o Late Shri Dayaram age not known to the appellant.
 - 24(e). Motin Bai D/o Late Shri Dayaram, age not known to the appellant.
 - 24(f). Ramshila D/o Late Shri Dayaram, age not known to the appellant.
- All resident of village Siladehi, Police Station Birra, Tahsil Champa.
25. Maniram S/o Shri Anandram Kumhar, aged about 73 years.
 26. Smt. Radha Devi W/o Shri Maniram Kumhar, aged about 60 years.
 27. Ramkrishna S/o Shri Anandram Kumhar, aged about 57 years.
 28. Jhaduram S/o Shri Ramprasad Sahu, aged about 66 years.
 29. Rambai W/o Shri Chintaram, aged about 55 years
 30. Purendra Kumar S/o Shri Chintaram, aged about 30 years.
 31. Bhagirathi S/o Shri Man Singh, aged about 70 years.
 32. Bhupalprasad S/o Shri Cheduram Sahu, aged about 45 years.
 33. Sonalal S/o Shri Purushotam Sahu, aged about 40 years.
 34. Pitamber S/o Shri Puniram Sahu, aged about 50 years.
 35. Ekadashiya S/o Shri Chamru Marar, aged about 55 years.
 36. Babulal S/o Shri Cheduram Aged about 65 years.
 37. Motiram S/o Shri Khuluram, aged about 55 years.

38(a). Manharan S/o Late Shri Mahadev, age not known to the appellant.

All resident of village Siladehi, Police Station Birra, Tahsil Champa, District Janjgir-Champa Chhattisgarh.

39. Muniram S/o Shri Shivmangal, aged about 58 years.

40. Khikhbai W/o Shri Uderam aged about 52 years.

41. Chabil S/o Shri Parasram Kewat, aged about 70 years.

42. Kushuram S/o Shri Rikhiram, aged about 50 years.

43. Ramkhilawan, S/o Shri Kriparam Dhobi, aged about 31 years.

44. Pardeshi S/o Shri Kewal Sahu Aged about 62 years.

45. Bharatlal S/o Shri Larhu Kewat, aged about 50 years.

46. Urmila Bai W/o Shri Bhagauram Sahu aged about 55 years.

47. Khemram S/o Shri Karthikram Sahu, aged about 63 years.

48. Santram S/o Atmaram Satnami, aged about 60 years.

49. Panchram S/o Ganeshram Satnami, aged about 51 years.

50. Bhojram S/o Ganeshram Satnami, aged about 45 years.

51. Tarachand S/o Ganeshram Satnami, aged about 47 years.

52. Rathram S/o Ganeshram Satnami, aged about 49 years.

53. Sitaram S/o Kapil Satnami, Aged about 60 years.

54. Kriparam S/o Kunjram Satnami, aged about 70 years.

55. Dudhnath S/o Banshilal Sahu, aged about 45 years.

56. Banshilal S/o Takhatram Sahu, aged about 62 years.

All residents of village Siladehi, Tahsil : Champa, District Janjgir-Champa, Chhattisgarh.

57. State of Chhattisgarh, Through the Secretary, Department of Industries, Government of Chhattisgarh, DKS Bhawan, Raipur Chhattisgarh.

58. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation, Commercial Premises, Raipur Chhattisgarh.

59. Convenor, State Industrial Promotion Board, Govt. of Chhattisgarh, Renuka Dwar, Mantralaya, Raipur Chhattisgarh.
60. Collector, Janjgir, District Janjgir-Champa Chhattisgarh.
61. Land Acquisition Officer-cum-Sub Divisional Officer, Champa, District Janjgir-Champa Chhattisgarh.
62. General Manager, District Industries and Trade Centre, Raigarh, District Raigarh Chhattisgarh.
63. M/s. MB (Moser-Baer) Power Chhattisgarh Limited [2X660 MW Super Critical Coal Based Thermal Power Plant at Villages: Birra, Siladehi, Gatwa, Tahsil : Champa, District Janjgir-Champa by MB Power Chhattisgarh Limited] having its office at 43-B Okhla Industrial Estate Phase 3, New Delhi 110020.

--- Respondents

Writ Appeal No. 1095 of 2012

M/s. Visa Power Limited, having its registered office at 8, Gajanandpuram, Kotra Bypass Road, Raigarh, District Raigarh (C.G.) 496001 through its Assistant General Manager, Shri Chiranjeew Agrawal S/o Late R.S.Agrawal, aged about 36 years, Assistant General Manager, Resident of Kotra Road, Raigarh, Chhattisgarh.

---- Appellant

Versus

1. Ganpat Son of Kawaldhar, aged about 70 years.
2. Malikram Son of Chamaru, aged about 65 years.
3. Adikunwar wife of Kanhaiya, aged about 63 years.
- 4(a). Smt. Sumitra W/o Late Panch Ram aged about 65 years.
- 4(b). Smt. Amrit Bai Sahu D/o Late Panch Ram aged about 48 years.
- 4(c). Mr. Gobind Sahu S/o Late Panch Ram, aged about 46 years.
- 4(d). Mr. Bhuvnesh Prasad Sahu S/o Late Panch Ram, aged about 42 years.

All resident of village Doomarpali, Tahsil Raigarh, District Raigarh, Chhattisgarh.

5. State of Chhattisgarh, Through the Secretary, Department of Industries, Government of Chhattisgarh, DKS Bhawan, Mantralaya, Raipur Chhattisgarh.
6. Managing Director, Chhattisgarh Industrial Development Corporation (CSIDC), Jeevan Bima Parisar, Pandri, Raipur Chhattisgarh.
7. Director, Directorate of Industries, 2nd Floor, Life Insurance Corporation Commercial Premises, Raipur, Chhattisgarh.
8. Convenor, State Investment Promotion Board, Government of Chhattisgarh Renuka Dwar, Mantralaya, Raipur, Chhattisgarh.
9. Collector, Raigarh, District Raigarh Chhattisgarh.
10. Land Acquisition Officer-cum-Sub Divisional Officer, Raigarh, District Raigarh, Chhattisgarh.
11. General Manager, District Industries & Trade Centre, Raigarh Chhattisgarh.

--- Respondents

For State	: Shri J.K.Gilda, Advocate General with Shri A.S.Kachhwaha, Additional Advocate General.
For CSIDC	: Shri Ayaz Naved, Shri Anup Majumdar, Shri Kashif Shakeel, Shri Apoorv Kurup, Advocates,
For M/s. KSK Mahanadi Power Company Limited	: Shri Ashish Shrivastava, Advocate.
For M/s. SKS Power Generation (Chhattisgarh) Limited and M/s. Visa Power Limited.	: Shri R. Sanyal, Shri B.P.Sharma, Shri Vivek Chopda, Shri Ankit Singhal, Shri Sameer Oraon, Shri Anjinesh Shukla, Advocates.
For M/s. MB (Moserbare) Power Chhattisgarh Limited	: Shri Vivek Tankha, Senior Advocate, Dr. N.K.Shukla, Senior Advocate with Shri Purshato Sen, Shri Shailendra Shukla, Shri Varun K Chopda, Shri Karan Luthra, Advocates.
For Union of India	: Shri Narendra Kumar Vyas, Assistant Solicitor General.

For Respective Respondents : Shri Sanjay Agrawal, Shri Harsh Wardhan
and Ms. Hamida Siddique, Advocates.

For Chhattisgarh Pollution Control Board : Shri V.V.S.Moorthy, Senior Advocate with
Shri Pawan Shrivastava.

Hon'ble The Chief Justice
Hon'ble Shri Justice Pritinker Diwaker

CAV Judgment

Per Navin Sinha, Chief Justice

15/05/2015

1. This batch of appeals arises from a common order dated 4.9.2012 passed in Writ Petition (C) No. 279 of 2012 and analogous cases challenging the acquisition proceedings under the Land Acquisition Act, 1894 (hereinafter called 'the Act'). The questions of law and facts arising for consideration being common, they have been heard together and are being disposed by a common order.

2. The Learned Single Judge held that the compensation for the lands was being paid by the Company and not the Government. The acquisition was therefore not for a public purpose but for the benefit of the private Company. The acquisition proceedings under Part II of the Act were vitiated and ought to have been done under Part VII. Acquisition for a private Company was permissible under Section 44-B of the Act, only for the purposes specified in Section 40(1)(a) of the Act and not for any other purpose. The procedure for hearing, consideration of objections under Section 5A(2) of the Act had not been complied with. The Sub Divisional Officers-cum-Land Acquisition Officers who purportedly heard and considered some of the objections were not empowered to act as Land

Acquisition Collector under the notification dated 6.3.1987. Prime agricultural lands had to be avoided if new acquisition proceedings were to be done and pollution control laws complied with.

3. Learned Advocate General appearing on behalf of the Appellants, the State and the Chhattisgarh Industries Development Corporation (hereinafter referred to as 'the CSIDC'), submitted that the State Industrial Policy of 2004-2009, in clause 4.2.8 under the heading "Industrial Infrastructure" *inter-alia* provided for setting up of large and mega industrial units, outside industrial areas and parks. It further visualised acquisition of private lands to be made available to investors through the CSIDC. A Memorandum of Understanding (MOU) was signed between the State Government and the private power companies for the purpose. The State Government as part of its Industrial and Energy Policy was desirous to facilitate and assist private investment for development of power generation projects in consideration of its being entitled to 5% of net power generated at Energy (Variable) Charges. If the power company was allocated a Captive Coal Block in the State of Chhattisgarh, Energy was to be provided on an annualised basis to the Government or its purchasing entity at 7.5% of the net power generated by the project at the Energy (Variable) Charges as on 28.6.2007.

4. The Circular dated 18.8.2009, under the Industrial Policy, provided that proposals shall be initiated by the CSIDC with the Industries Department. If the proposal was for investment beyond Ten crores it had to be routed through and approved by the State Industrial Promotion Board (hereinafter called 'the SIPB') after calling for a report from the District Trade and Industries Center (hereinafter called 'the DTIC'). On possession being obtained by the DTIC it would be transferred to the CSIDC, which in turn would lease it to the private investor for 90 years under the Chhattisgarh

Industries (Shed, Plot and Land Allotment) Rules, 1974 (hereinafter called 'the Rules'). A rehabilitation scheme was to be an integral part of the acquisition process. The proposal for acquisition was to be sent to the Collector. CSIDC was required to deposit the cost for acquisition before the Collector. The funds required by the CSIDC for acquisition was to be met from its own resources and also through the advance lease premium to be deposited by the private investor. This would include not only the cost for acquisition but also the service charges and the land development cost. A minimum of 20% or excess of the cost for acquisition was to be obtained from the investor as lease premium only after which necessary action for acquisition was to be initiated.

5. The government was to remain the title holder and owner of the acquired lands. The power company would only be given leasehold rights for ninety years under the Rules. The procedure under Part VII of the Act was therefore not applicable. The acquisition of lands for an industrial purpose in furtherance of the Industrial Policy read with circular dated 18.8.2009 and Energy Policy dated 31.10.2011 made the acquisition for a public purpose.

6. Learned Advocate General, referring to Section 3 (f) (iii) of the Act submitted that "public purpose" would include lands acquired for planned development of land from public funds in pursuance of any scheme or policy and subsequent disposal thereof in whole or in part by lease. The Industrial Policy coupled with the Circular dated 18.8.2009 and the Energy Policy, all derived a statutory flavour from the Chhattisgarh Audyogik Nivesh Protsahan Adhiniyam, 2002 (hereinafter called 'the Industries Promotion Act') enacted to promote industrial development by vesting certain rights including in bodies corporate, to make investments in various economic

sectors for furthering industrial and economic growth and also to empower agencies designated by the State for facilitating such investments through transparent and mutually beneficial procedures. It provides for time bound procedures, including rejection of proposals as also contained in the State Policy referred to above.

7. A Power Plant is a large project and requires sufficient and suitable lands due to its own nature of complexities such as accessibility of coal linkage, water availability, soil conditions, adequate space for ash dykes, railway siding etc. It is not possible to acquire lands just anywhere for a mega power project. It is only suitable lands that can serve the purpose of the acquisition. It is not possible for CSIDC to acquire chunks of lands and then set up power plant parks, with more than one power plant in an area. The acquisition of lands for a power plant project therefore always has to be individualised and singular for the particular project. The establishment of a power plant being for the public good and benefit, it constitutes a public purpose.

8. Learned Advocate General next submitted that the Learned Single Judge has erred on facts and law in deciding a batch of writ applications culling out facts only from Writ Petition (C) No. 279 of 2012. The acquisition proceedings in that case related to M/s. SKS Ispat Ltd for a 600 Mega Watt Power Plant for which an MOU was signed on 24.1.2007 after Cabinet approval. Subsequently it was superseded by another MOU dated 7.1.2008 for a 1100 Mega Watt Power Plant, duly approved by the SIPB. The lands to be acquired were situated in three villages Binjkot, Darramurra and Badejampali, Tehsil Kharsia, District Raigarh. The acquisition in village Badejampalli was dropped at the Section 6 stage. The acquisition proceedings for the two remaining villages were conducted in two phases.

The first phase of the acquisition proceedings stood concluded without objections from any quarter. The lease agreement between CSIDC and M/s. SKS Ispat Ltd. for 199.669 hectares was executed on 21.10.2011. This fact could not be adequately placed before the Learned Single Judge and neither did the respondents do so. The second phase of the land acquisition proceedings, and which alone was the subject matter of challenge in the writ petitions, related only to village Binjkot for further area of 143.420 hectares. The entire discussions, consideration and conclusions of the Learned Single Judge for different acquisition proceedings in villages Birra and Siladehi, Tehsil Champa, village Lathia, Tehsil Akaltara District Janjgir-Champa and villages Devri and Dumarpalli, Tehsil Raigarh, District Raigarh are based on this first phase of the unchallenged acquisition proceedings in village Binjkot and Darramura, Tehsil Kharsiya District Raigarh. The foundational facts considered itself being flawed, the Learned Single Judge has arrived at wrong conclusions in the law.

9. The date of Section 4 notification under the Act, for the first phase of acquisition in villages Binjkot and Darramura was 22.9.2008. Section 6 notification was issued on 24.6.2009 and Award published on 7.1.2010. The second phase of the acquisition proceedings for village Binjkot only originated in a separate Section 4 notification published subsequently on 19.8.2011. The fresh Section 6 notification was published on 28.10.2011 (amended on 18.11.2011) and Award prepared on 26.3.2012. The areas notified for the acquisition in the first and second phase were also different.

10. The money receipt granted to M/s. SKS Ispat Ltd for the deposit by it on 22.8.2008 of advance lease premium for the first phase of the acquisition proceedings erroneously mentioned towards land acquisition instead of lease premium. The Learned Single Judge, without examining the fact that

the receipt related to the first phase of the land acquisition proceedings, imported it into the second phase of the acquisition proceedings to hold that the acquisition was not for any public purpose but for the private power Company, at its cost, and therefore bad. In the second phase of acquisition M/s. SKS Ispat was asked on 11.5.2011 to deposit advance lease premium of Rs. 28,54,43,749/-. The money receipt dated 19.5.2011 in proof of deposit mentioned "Ad hoc Land Premium". The amount was deposited by the DTIC with the Land Acquisition Collector on 9.8.2011 after which notification under Section 4 of the Act was issued on 19.8.2011. The facts in the other cases are also similar with regard to the procedure followed for acquisition.

11. The Learned Single Judge erred in holding that the notification dated 6.3.1987 was not a general empowerment for all Sub Divisional Officers (Revenue) who fulfilled the conditions under the same to act as Land Acquisition Officers under the Act, in absence of an individual authorization. The notification had been issued in exercise of powers under Section 3 (c) of the Act and therefore had statutory force. The officers empowered fulfilled the conditions of the notification. There was no pleading or assertion by the Respondents that the officers did not fulfill the conditions of the notification or that any one of them individually did not do so. There shall be a presumption under Section 114(e) of the Indian Evidence Act, that all official acts have been performed correctly, properly and in due course unless shown to the contrary. In the objections filed by the Respondents under Section 5A of the Act, no objection had been taken for lack of competency in the concerned Sub Divisional Officer (Revenue)-cum-Land Acquisition Officers to hear the objections. It was made for the first time in the writ petition. The notification dated 14.2.2005, *inter-alia*, with regard to the District of Raigarh manifests that the officers were duly empowered.

Reliance was placed on 2006(III)MPJR 218 (DB) (Narmada Bachao Andolan v. Narmada Hydroelectric Development Corporation), in which similar objection was raised for lack of jurisdiction under the notification dated 6.3.1987. It was held that the notification generally empowered the Sub Divisional Officers (Revenue) who fulfilled the conditions of the same to act as Collectors under the Act.

12. The Learned Single Judge erred in holding that the hearing under Section 5A of the Act was quasi judicial in nature requiring a reasoned order. Referring to AIR 1964 SC 648 (Jayantilal Amritlal Shodhan v. F.N.Rana) it was submitted that the enquiry under Section 5A of the Act was administrative in nature. The conclusion that either no hearing or inadequate opportunity of hearing had been granted was factually erroneous on facts in each case. Section 5A(2) of the Act did not contemplate passing of a reasoned order either by the Land Acquisition Officer or the Appropriate Government. The records of the acquisition only must reveal proper objective consideration of the objections and application of mind to them by the Land Acquisition Collector and to his recommendations by the Appropriate Government. This requirement under Section 5A of the Act stands factually fulfilled in each of the cases.

13. Referring to records of the acquisition proceedings in the second phase at village Binjkot for M/s. SKS Ispat Ltd., Learned Advocate General submitted that the order sheet dated 20.9.2011 of the Land Acquisition Collector demonstrates that notice was issued fixing hearing on 28.9.2011. The Sarpanch of Gram Panchayat Binjkot, Shri Parmanand Rathiya appeared on behalf of the villagers and was heard personally. The Sarpanch placed objections purportedly on behalf of the members of the Gram Panchayat. Simultaneously he stated that there was no objection with

regard to those who were voluntarily willing to give their lands in acquisition. The Land Acquisition Officer duly applied his mind to the common objections filed on behalf of the Gram Panchayat and for reasons discussed by him that it was not signed by the concerned, the quorum was not complete, doubted the genuineness of the resolution and rejected the same. Notwithstanding the same, 40 villagers appeared with their objections before the Collector during 'Jandarshan'. The objections were considered properly evident from order dated 5.10.2011 of the Land Acquisition Officer. The objections were rejected for reasons that the lands sought to be acquired were contiguous to the lands already acquired for M/s.SKS Ispat Ltd. in the first phase as best suited for the industry. The alternate lands suggested by the villagers were barren and hilly, inappropriate for establishment of industry and the area also lesser than the requirement. Moreover, it constituted forest land which could not be acquired. Adequate provisions had been made for rehabilitation under the Scheme of 2007. The concurrence by the Collector of the District designated as the Appropriate Government was not required to be in any specified form. He was not required to write a reasoned order in case of concurrence. An endorsement by highlighting the relevant part of the recommendation was sufficient to display application of mind. There are no allegations that the Collector of the District was not designated as Deputy Secretary incapable of acting as the Appropriate Government. There are no allegations of any malafides or arbitrariness. Hearing of objections under Section 5A of the Act was to be granted by the Land Acquisition Collector and not by the Collector of the District, as wrongly contended on behalf of the Respondents. The rest of the 30 objections were rejected as having been filed after expiry of the 30 days period for filing the same.

14. Shri Sanyal, Learned Counsel, appearing on behalf of M/s. SKS Ispat

Ltd. supplementing the arguments of the Learned Advocate General submitted that a total area of 199.669 hectares of lands were acquired in villages Binjkot and Darramurra in the first phase. Pursuant to completion of the acquisition in the first phase, the Company has already made huge investments. The Company had also deposited Rs. 28,54,43,749/- towards advance lease premium on 19.5.2011 for the second phase of acquisition. The additional lands measuring 143.420 hectares sought to be acquired in the second phase were necessitated for compliance with environmental aspects such as construction of ash dykes etc. Because of the interim order, the Award has not been published till date.

15. Likewise, with regard to the acquisition of lands in village Devri and Dumarपाली, Tehsil Raigarh, District Raigarh for M/s. Visa Power Ltd., Learned Advocate General submitted that the order of the Land Acquisition Officer dated 18.1.2012 on the objections is well considered and reasoned as an administrative order should be. It discusses the objections, the comments called for upon them from the DTIC to arrive at a conclusion for recommending to the Collector of the District as Deputy Secretary to the Government that the objections did not merit any consideration. The Collector as the Appropriate Government, after application of mind has concurred with the recommendations. Relying on (2003) 4 SCC 485 (Tej Kaur v. State of Punjab) it was submitted that if there was substantial compliance with Section 5A by consideration of the objections, mere absence of personal hearing will not invalidate the action.

16. Shri B.P.Sharma, Learned Counsel appearing for M/s.Visa Power Ltd. adopting the arguments of the Advocate General submitted that 2 of the 4 petitioners of village Devri and 5 of the 9 writ petitioners from village Dumarपाली had never filed objections under Section 5A of the Act. They

have challenged the acquisition before the Court directly. The writ petition with regard to them was not maintainable. The Award for lands in village Devri had already been made before the writ petition was filed. The Award for lands in village Dumarपाली could not be published because of the stay ordered by the Court. It was next submitted that the Company had already made an investment of Rs. 1930 crores. Referring to the Industries Promotion Act, it was contended that it provides for time bound completion of investment proposals including land acquisition. In village Devri, a total area of 83.38 hectares was to be acquired from 72 persons. Till 15.2.2012, 59 persons i.e. 81.94 % of the land owners had already received compensation. 72.88% of the compensation amount had already been distributed. The total area under dispute by the four petitioners was 9.52 acres and after excluding the 2 who had not filed objections it gets reduced to 5.37%. Compensation had been paid for nearly 81.79% of the area of the lands to be acquired. In village Dumarपाली, total area of 57.70 acres was proposed to be acquired from 55 persons. The total area under dispute by the 9 Petitioners is 15.36 acres which reduces to 9.27 acres after excluding the five who had not filed objections. The Learned Single Judge failed to consider all these factors before striking down the acquisition at the behest of incompetent persons and without considering the minuscule nature of the dispute sought to be raised unmindful of the larger public interest involved.

17. Learned Advocate General, with regard to the lands under acquisition for M/s. Moserbaer Power Chhattisgarh Ltd in villages Gatwa, Birra and Siladehi, Tehsil Champa, District Janjgir-Champa submitted that there was no objection or challenge to the acquisition of lands in village Gatwa. Hearing under Section 5A Act had been granted to the objectors in the other two villages. The Learned Single Judge committed an error of record in failing to notice the pleadings in Writ Petition (C) No. 374 of 2012 at paras

8.6 (c) and (d) acknowledging that personal hearing had been granted by the Land Acquisition Officer on 29.10.2010. Likewise, the Learned Single Judge erred in appreciating the counter affidavit of the Collector in Writ Petition (C) No. 561 of 2012 to hold there was an admission by the Collector that he had not granted concurrence to the rejection of the objections by the Land Acquisition Officer. The Collector in paragraph 3 of his affidavit had specifically stated that he had approved the rejection of the objections as made by the Land Acquisition Officer.

18. Learned Senior Counsel Shri Vivek Tankha appearing for M/s. Moserbaer Power Chhattisgarh Ltd, supplementing the arguments of the Learned Advocate General submitted that the acquisition of lands in a planned manner for a project in pursuance of a policy for industrialisation and energy generation in the State definitely constituted a public purpose under Part II of the Act. The Company was to be given leasehold rights only for 90 years with ownership and title of the lands remaining with the government. Power plants have a limited life of approximately 30-35 years after which all eventualities are open. In case of acquisition under Part VII of the Act, title and ownership of the lands pass to the Company which is not the case presently. Relying on (2010) 10 SCC 282 (Nand Kishore Gupta v. State of U.P.) it was submitted that if the acquisition was under a policy of the Government for a particular public purpose or a public project to be run by a company, it would still constitute an acquisition for a public purpose amenable to Part II of the Act.

19. Shri Tankha next submitted that the entire emphasis of the Learned Single Judge with regard to inviting and hearing of objections was in context of the incompetence of the Land Acquisition Officer to deal with the objections and not that no hearing had been granted by him. The notification

dated 6.3.1987 issued by the erstwhile State of Madhya Pradesh has been in vogue for over last 30 years and has been acted upon and understood in that manner by all Land Acquisition Officers.

20. Shri Tankha further submitted that a power project has certain unique features and cannot be established on lands anywhere. There are certain basic essential ingredients for an appropriate location, such as coal linkage facility, railway communication, availability of water, appropriate soil conditions, adequate area for ash dykes etc. These factors were scrutinized by the Company and the proposal then submitted to the Screening Committee of the State Government which could have rejected or modified it. The present was therefore not a simple case for acquisition of any lands. The established cost of the power plant project is Rs. 500 Crores out of which Rs. 120 Crores had already been paid as advance lease premium to the State Government. In village Gatwa, 132.27 acres of land was acquired from 142 owners. Till 15.2.2012, 123 persons constituting 87% had accepted the compensation and because of the interim orders passed in some of the writ petitions, rest have not lifted the compensation money till date even though no one had filed any objections much less have any one of them filed writ petitions. In village Birra, a total area of 212.03 acres of land is to be acquired from 212 persons. Till 15.2.2012, 196 persons had received their compensation amount constituting 92.45% of the persons whose lands are to be acquired. Only 6 persons have filed writ petitions covering 11.65 acres which constitutes 5.49% of the land to be acquired. Likewise, in village Siladehi, a total area of 537.69 acres of land is to be acquired from 477 persons out of whom 281 had received compensation till 15.2.2012 constituting 58.90% of the persons who had received compensation. 56 persons have filed writ petitions covering 85.76 acres which constitutes 15.94% of the land to be acquired. 14 of them had never

filed objections and if their number is reduced, only 42 persons remained who will constitute only 11-12% of the aggrieved persons covering an area of approximately 20.65 acres only which makes it less than 10%.

21. The fourteen writ Petitioners who did not file objections and whose claims constitute 20.65 acres of the area in question cannot maintain their writ applications in view of the law laid down in (2000) 7 SCC 296 (Delhi Administration v. Gurdip Singh Uban) and (2010) 4 SCC 17 (Om Prakash v. Union of India), both referred to in (2014) 6 SCC 564 (Union of India v. Shiv Raj). Shri Tankha also invoked the theory of *de minimis*.

22. Learned Advocate General with regard to the acquisition of lands in village Lathia, Tehsil Akaltara District Janjgir-Champa for M/s. KSK Mahanadi Ltd. submitted that even if no personal hearing had been granted, there had been substantial compliance with Section 5A of the Act by objectively considering the objections filed by the land holders and approval of the Collector of the District as the Appropriate Government to the recommendations made by the Land Acquisition Officer alike acquisition in village Devri and Dumarपाली, District Raigarh for M/s. Visa Power Limited.

23. Shri Ashish Shrivastava, Learned Counsel appearing for M/s. K.S.K. Mahanadi Power Ltd. submitted that a total area of 74.88 acres consisting of 163 khasra had been notified for acquisition. Only two persons raised objections in two writ petitions. The notification under Section 4 of the Act was issued on 3.9.2010. The objections were filed and considered. Section 6 notification was published on 13.10.2010 and after compliance with Section 9 of the Act Award was made on 23.12.2010 and notice under Section 12(2) of the Act issued to the land holders on 17.1.2011. Except for the two writ petitioners, others have accepted the compensation. Writ Petition (C) No. 781 of 2011 has been filed with regard to 0.40 acres only.

Possession had been taken on 18.2.2011 which could not be brought to the attention of the Learned Single Judge appropriately. In Writ Petition (C) No. 888 of 2011, 0.20 acres of land was involved with regard to which status quo had been ordered. The writ petition filed on 10.2.2011 did not question the Award but sought to challenge Sections 4 and 6 notifications without any challenge to Section 9 notification and the Award under Section 11 of the Act. The Learned Single Judge erred in quashing the Award also despite the fact that no such prayer had been made in the writ petition. Reliance was placed on (2008) 4 SCC 695 (Swaika Properties Private Limited v. State of Rajasthan) to submit that the writ petition challenging the acquisition proceedings after publication of the Award was belated and should not have been entertained.

24. The two petitioners had themselves applied for permission to establish a stone crushing plant on the lands in question which is ample proof that they are not agricultural lands. Considering that only two persons had objected and the total area was less than 1 hectare, even if personal hearing was not granted under Section 5A of the Act, larger public interest would prevail over individual interests and the Learned Single Judge should not have set aside acquisition of the lands.

25. Learned Advocate General next submitted that the Learned Single Judge erred on the issue of pollution by thermal power units as the establishment of the power project obviously will have to be subject to environmental and pollution laws. Any issue in this regard, at this stage is clearly premature and is not one of the grounds in paragraph 63 of the judgment for striking down the land acquisition proceedings. Assailing the striking down of the acquisition proceedings on the premise for acquiring prime agricultural lands, it was submitted that it was to be avoided to the

extent possible. There was no absolute prohibition under the Act to the acquisition of agricultural lands. The Land Acquisition Officer with regard to the objections in this regard by the villagers of Binjkot has adequately discussed the issues for acquisition of the contiguous lands in the first phase, lands suggested by the villagers being barren and forest, lesser in area than that required and supplemented it by contending that a power plant could not be set up anywhere but only at convenient location with availability of necessary infrastructure like coal linkage facility, railway communication, water, soil quality etc. The Learned Single Judge has not held that agricultural lands could not be acquired under the Act, but only that it may be avoided to the extent possible. Except with regard to village Binjkot, alternate lands have not been suggested in any other case. The present acquisition was prior to the Right to Fair Compensation Act promulgated on 01.01.2014.

26. Learned Advocate General lastly submitted that the present was not the first of its kind acquisition of lands for mega power projects in the State. Earlier also pursuant to the Industrial Policy 2004-2009 read with the Circular dated 18.8.2009, MOU was signed with other power companies, lands acquired, cost of acquisition borne from the land lease premium and the lands then leased out to the power company. The notification under Section 4 of the Act likewise stated that it was for an industrial purpose. A similar challenge was laid that procedure under Chapter VII ought to have been followed and resort to Part II was not sustainable as the acquisition was for a private company and not for any public purpose. It was declined interference in a batch of five writ applications by the Learned Single Judge. The Division Bench in the batch of five writ appeals led by Writ Appeal No. 482 of 2011 (Khilleshwar Prasad Jaiswal v. State of Chhattisgarh) also declined to interfere. Special Leave Petitions (Civil) Nos. 10950 - 10951 of

2012 were preferred against the orders in Khileshwar Prasad Jaiswal (supra) and Writ Appeal No. 513 of 2011 (Chotelal Jaiswal v. State of Chhattisgarh). Both the appeals were dismissed on 23.4.2012 with an observation that the Appellants may pursue their claims for benefits under the rehabilitation policy which was to be considered on its own merits in accordance with the scheme. Writ Appeal No. 211 of 2012 (Chotkaram Dadsena v. State of Chhattisgarh) was also dismissed subsequently by another Division Bench on 7.5.2012 after noticing the order of the Supreme Court.

27. The Learned Single Judge committed an error of record in seeking to distinguish Khileshwar Prasad Jaiswal (supra) by observing that the Division Bench did not have the occasion to peruse the original records. It is evident from the recitals in paragraph 9 of the Division Bench judgment that the records had been perused. If the validity of similar acquisitions had been considered and upheld in Khileshwar Prasad Jaiswal (supra), Chotelal Jaiswal (supra) and Chotkaram Dadsena (supra) by Division Bench orders, the Learned Single Judge ought not to have re-examined the process of acquisition merely because in his opinion some further grounds may have been urged before him. Once the validity of a similar acquisition proceedings in substance had been upheld by three different judgments, two of them affirmed by declining interference in Special Leave Petitions, argumentative novelty was not sufficient to re-open settled matters. Reliance in support of the submission was placed on (2011) 12 SCC 615 (Fida Hussain v. Moradabad Development Authority), (2014) 6 SCC 351 (Union of India v. Major S.P.Sharma) and (2015) 2 SCC 727 (Society Central Railway Employees Cooperative Credit Society Employees Union v. B.Yashodabai). The Learned Single Judge was bound by the earlier Division Bench decisions and could not chart out a new path for discussions. The

only option available for the Learned Single Judge in judicial discipline was to refer the matter to a Division Bench by formulating the question for consideration.

28. Reliance was placed on AIR 1971 SC 1033 (Jage Ram v. The State of Haryana) that starting of a new industry was in public interest. Industrialisation served a larger public purpose to eradicate unemployment and that it pertains to the exclusive domain of the Government. So long as even a part of the cost of acquisition was met by the Government contributed from the public funds, it constituted a public purpose. It was submitted that the Learned Single Judge did not properly appreciate the ratio in (2003) 10 SCC 626 (Pratibha Nema v. State of Madhya Pradesh) and Nand Kishore Gupta (supra). If any part of the cost of acquisition was met by the government irrespective of the amount it would suffice to hold that the cost of acquisition was from public funds to justify public purpose. Even if the cost of acquisition or part thereof was met from the lease premium deposited by the power company, it would suffice for public purpose because no sooner that the lease premium was deposited in government coffers it became the property of the government and payment from the same by the government amounted to payment from government funds.

29. Learned Counsel, Shri Harsh Wardhan appearing on behalf of the Respondents in Writ Appeal No. 1090 of 2012, 1098 of 2012 and 1132 of 2012, with regard to acquisition of lands in village Binjkot, submitted that the Circular dated 18.8.2009 relied upon by the Appellants was never placed before the Learned Single Judge. The Appellants cannot assail the order on a ground not urged before the Learned Single Judge. Without prejudice to the same, it was submitted that clause 2.1.5 of the Circular provided that the

lands falling under the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (hereinafter called 'the PESA Act') could be acquired only in accordance with the provisions of the PESA Act. Under Section 4(i) of the PESA Act it was mandatory to consult the Gram Sabha or Panchayat if the lands were in the Scheduled Areas, *inter alia*, with regard to resettlement and rehabilitation. In absence of such procedure having been followed the acquisition proceedings stand vitiated. The Appellants cannot rely on a part of the Circular and evade obligation under another part of the same. Under Clause 2.1.1 of the Circular the Company could only mention the District where the lands were required and not the village. The Circular further provided that the identification exercise for the land was to be done by the CSIDC and not by the Company. Clause 7 provided that If the Company desired a particular land, it had to go under Part VII of the Act. The records of the CSIDC indicate that the policy of acquisition was for creating land banks and not for individuals. The State Government had no role to play in conceiving and implementing the location and establishment of the industries. The acquisition of the lands is therefore entirely for and on behalf of the private company. Pratibha Nema (*supra*) and Nand Kishore Gupta (*supra*) were distinguishable on their own facts and have no application to the present case. The MOU and the implementation agreement signed between the State Government and the Power Companies did not provide for grant of lands on lease premium basis. It was however fairly acknowledged that in the present acquisition proceedings, there was to be no transfer of title or ownership to the power companies in question, but they would be given leasehold rights only. It was further acknowledged that mere identification of the lands by the power company did not make it obligatory for the Government to acquire that particular land itself and under Clause 3 of the MOU the Government had the discretion to

reject it also.

30. Reliance was placed on (2011) 5 SCC 553 (Radhey Shyam v. State of U.P.) to submit that the present acquisition was in colourable exercise of power. Acquisition for a power company is provided for in Part VII of the Act read with the Electricity Act, 2003. The Respondents were not expected to know whether an individual Sub Divisional Officer (Revenue) had been specifically empowered or not under the notification dated 6.3.1987 to hear objections. It is for the State to place the necessary materials before the Court as the Respondents are rustic villagers.

31. It was next submitted that objections were filed by 40 villagers including the Petitioners on 5.9.2011 within time. If the objections had already been considered by the Land Acquisition Officer on 5.10.2011, there was no occasion for him to write the order sheet dated 26.11.2011 that the objections had been filed before the District Magistrate and not before the Land Acquisition Officer and did not merit consideration having been received after the stipulated time period. This suggests that the order dated 5.10.2011 is an afterthought and a document created after the writ petition was filed alleging that there had been no consideration of the objections. Since the Section 4 notification was issued under the signature of the District Magistrate acting as the Appropriate Government, the Respondents bonafide believed that objections were to be filed before the Collector himself. It is acknowledged that the order of the Land Acquisition Officer rejecting the objections filed on behalf of the villages through the Gram Sabha has attained finality and has not been questioned in the writ petition. It was lastly submitted that the Land Acquisition Officer never passed a speaking order on the objections filed before him. It was therefore necessary for the Appropriate Government to pass a reasoned order for

concurrence with the Land Acquisition Officer. A mere endorsement of concurrence by the Appropriate Government without any reasons will not suffice to meet the requirement of law. Reliance was placed on (2013) 1 SCC 403 (Surinder Singh Brar v. Union of India) and (2005) 12 SCC 483 (I.I.S. Employees' House Building Coop Society Limited v. State of Karnataka).

32. The last submission was that the Learned Single Judge has adequately distinguished Khileshwar Prasad Jaiswal (*supra*). The Special Leave Petition against it was dismissed in limine and therefore this Court is not precluded from examining the merits of the matter again.

33. Learned Counsel Shri Sanjay Kumar appearing on behalf of the Respondents in Writ Appeal Nos. 1134 of 2012, 1082 of 2012 and 374 of 2012 with regard to the lands in village Siladehi, in Writ Appeal Nos. 1081 of 2012, 1133 of 2012 and 1105 of 2012 with regard to the lands in village Birra, in Writ Appeal Nos. 1110 of 2012, 1087 of 2012 and 1100 of 2012 with regard to the lands in village Lathia and in Writ Appeal Nos. 1088 of 2012, 1109 of 2012 and 1099 of 2012 also with regard to the lands in village Lathia, submitted that the Appellants could not have proceeded with the acquisition without first obtaining environmental clearance for establishment of a power plant. The award was published on 6.7.2011 and the public hearing for environmental clearance in some cases was held on 21.10.2011. Till date, no final orders have been passed by the Ministry of Environment and Forest. Obtaining of environmental clearance is the duty of the State Government. Reliance was placed on (2006) 6 SCC 371 (Karnataka Industrial Areas Development Board v. C.Kenchappa) and (2010) 3 SCC 402 (State of Uttarachal v. B. Chaufl). Reliance was also placed on Surinder Singh Brar (*supra*). A specific objection had been raised under Section 5A of

the Act that power plants will cause pollution of water, sound and air, the land slope would be reversed affecting water bodies. The DTIC replied that they shall ensure that the slope is preserved so that the water bodies continue to survive which is but an admission that the land was not fit for power plants which could only be set up at the cost of the environment. Reliance was further placed on a Circular dated 18.6.2013 of the Ministry of Environment and Forest, mentioning the guidelines formulated in 1987 citing the criteria for thermal power plants in clause 2.2.28 that prime agricultural lands should not be utilized for power projects. The Union of India was wrongly informed that the lands are not prime agricultural lands.

34. The MOU with M/s. Moserbaer was signed on 5.9.2008. Clause 25 of the Implementation Agreement made it valid for one year. After one year, in absence of the lands having been acquired the MOU lost its efficacy under its own terms. The government notification dated 6.3.1987 empowering the Sub Divisional Officers (Revenue) to act as the Land Acquisition Officers only defines the eligibility and there is no specific conferment of power by it.

35. By notification dated 15.2.1999, the Commissioner was designated as the Appropriate Government for acquisition of lands beyond the value of Rs. 50 Lacs. It was repealed on 3.9.2003. On 3.12.2009, the latter was repealed restoring the notification dated 15.2.1999. The Appellants in their counter affidavit in a different writ petition had taken the stand that the Commissioner was the Appropriate Government. The Appellants cannot take diametrically opposite and contradictory stands on the same issue in two different cases.

36. The order of the Land Acquisition Officer dated 26.11.2010 with regard to the lands in village Siladehi makes it apparent that there has been no consideration of the objections. It merely recites the objections taken, reply

of the DTIC to the same without any recommendation for consideration by the Appropriate Government and straightaway recommends publication of Section 6 notification. The order of the Collector dated 7.12.2010 as the Appropriate Government mechanically approves the recommendation of the Land Acquisition Officer. In the circumstances, the Collector as the Appropriate Government should have made further enquiry himself before ordering publication under Section 6 for which reliance was placed on (2012) 2 SCC 25 (Kamal Trading Private Limited v. State of West Bengal), (2013) 16 SCC 660 (Gojer Brothers Private Limited v. State of West Bengal) and also Surinder Singh Brar (supra).

37. The acquisition under Part II was not sustainable it being for a private company. Reference to Industrial policy and Circular dated 18.8.2009 is but a camouflage. The Learned Single Judge with regard to the land acquisition proceedings for village Birra has arrived at a finding for interpolation in the order sheet by the Land Acquisition Officer confirmed in the affidavit filed by the District Magistrate and has directed further enquiry. The last submission with regard to the lands in village Lathia was that the objections were filed on 8.10.2010 but were never decided vitiating the entire proceedings.

38. Learned Counsel Ms. Hamida Siddique appearing for the Respondents in Writ Appeals No. 1102 of 2012, 1093 of 2012, 1130 of 2012, 1103 of 2012, 1095 of 2012 and 1129 of 2012 with regard to acquisition of lands in village Dumarपाली and in Writ Appeals No. 1104 of 2012, 1094 of 2012 and 1128 of 2012 with regard to acquisition of lands in village Devri, submitted that the notifications under Sections 4 and 6 of the Act had been challenged in respect of a total area of 23.125 hectares. Because of the interim order passed by the Court, no award has been published with regard to the lands in village Dumarपाली. Though, award has been made for village Devri on

28.03.2012, the Petitioners have not collected compensation amount. It was likewise submitted that for 1200 MW power plant, there was no justification to acquire prime agricultural lands. 552 acres have already been purchased by the power company through direct negotiations with the land owners in village Kiratmal adjacent to village Dumarपाली. Learned Counsel was however unable to inform the area of agricultural lands sold by direct negotiation. The Learned Single Judge has not decided the case by taking the facts only from M/s SKS Ispat Limited. All land acquisition records were produced by the CSIDC. If the Appellants were of the opinion that the Learned Single Judge had taken the facts of one case without adequately considering the facts of other cases, nothing prevented them from filing a review application before the Learned Single Judge.

39. Khileshwar Prasad (*supra*) cannot be said to have attained finality as Special Leave Petition against it was dismissed in limine and not on merits. The observation that the aggrieved may pursue the rehabilitation matter was passed in the equitable jurisdiction. The validity of the fresh acquisition is therefore open for consideration afresh on merits by the Division Bench relying on (2004) 3 SCC 619 (*Narcotics Control Bureau v Ddipil Pralhad Namade*) and *C. Kenchappa* (*supra*). In *Khileshwar Prasad* (*supra*), the issue with regard to an MOU signed between the parties, who was to pay the compensation, the role of the CSIDC etc. did not fall for consideration. Section 40B of the Act read with Section 139 of the Electricity Act contains adequate provisions for acquisition of lands under Part VII of the Act for power projects. There was no justification for invoking the provisions of Part II of the Act for the present acquisition. *Khileshwar Prasad* (*supra*) does not consider (2011) 10 SCC 608 (*Royal Orchid Hotels Limited v. G. Jayarama Reddy*). While in *Khileshwar Prasad* (*supra*), (2008) 3 CGLJ 163 (*Gaukaran Singh v. State of Chhattisgarh*) was distinguished the Learned Single Judge

has relied upon the same to hold the present acquisitions as invalid. All these are sufficient grounds for the matter to be referred to a larger Bench in view of the fact that Khileshwar Prasad (*supra*) was passed by a Bench of co-ordinate jurisdiction.

40. Section 4 notification under the Act does not say that the lands were being acquired for CSIDC. The DTIC was a party to the land acquisition proceedings and not CSIDC. M/s. Visa Power Limited had said that they needed only 19 hectares of land. The remaining lands can therefore well be released. Possession from the Petitioners has not been taken of their lands in village Devri. No personal hearing had been given under Section 5A of the Act and neither is there any considered order on the objections filed. Reliance was further placed on an order in Civil Appeal No. 3177 - 3178 of 2015 (*Mohan Singh Gill v. State of Punjab*) with regard to the acquisition being bad in absence of proper disposal of objections. It was submitted that Tej Kaur (*supra*) has no application in the facts of the case.

41. In reply Learned Senior Counsel Shri Tankha submitted that reliance by the Respondents on the notification dated 15.2.1999 for contending that the objections under Section 5A of the Act was to be heard by the Collector and the Appropriate Government to consider the recommendations was the Commissioner, is misconceived. The notification does not revoke/cancel/modify the earlier notification dated 22.3.1985 issued under the rules of Executive Business by which the Collector and the Commissioner had both been designated as Appropriate Government dependent on who exercised the power as the Collector under the Act to hear the objections. If the delegated Collector heard the objections, Appropriate Government was the Collector of the District. If the Collector of the District was the designated Land Acquisition Officer, Appropriate Government would be the

Commissioner. Referring to the notification dated 15.2.1999 it was submitted that it only 'also' authorises the Commissioner as *ex officio* Secretary to exercise the powers under Section 5A of the Act subject to instructions issued from time to time by the State Government.

42. Shri Tankha further relied on AIR 2000 Madhya Pradesh 2 (Gajanand v. State of Madhya Pradesh) which gave rise to Pratibha Nema (*supra*) as one of the parties to the writ petition. The aforesaid ground in the preceding paragraph taken before the High Court was given up in challenge before the Supreme Court. Reliance was further placed on 2004 (1) MPLJ 539 (Adarsh Nagar Grih Nirman Sahkari Sansthan Maryadit, Bhopal v. State of Madhya Pradesh) in support of the submission.

43. Shri Tankha further submitted that the objections had been duly considered and reasoned order passed. If the objections were generic in nature and there was no dispute of public interest being involved, there need not have been a reasoned order as no specific objections such as that acquisition of lesser area would suffice or that alternate lands were available had been raised. Being an administrative act if the Land Acquisition Officer had considered the objections and also reply furnished by the DTIC to arrive at the conclusion that the objections were duly answered and he concurred with the same, it could not be said that there has been no application of mind. There existed no *lis* for an adjudicatory speaking order like a quasi judicial authority. It was only a bureaucratic language used "*uchit*" and it cannot be construed as lack of application of mind.

44. Learned Advocate General relied on Gurdip Singh Uban (*supra*) to submit that the objections all were generic in nature. No specific objections had been taken with regard to any individual that his lands were not required for public purpose or that other lands were available, or any other factual

circumstance specific to that individual why the lands should be excluded. There was thus no need for specific individual orders dealing with each objection separately.

45. In village Binjkot apart from 40 persons who filed objections in 'Jan Darshan' another 30 persons had filed objections on 21.10.2011 beyond the period of 30 days from the date of publication on 15.8.2011. The objections are legal in nature with regard to lack of power in the Sub Divisional Officer (Revenue)-cum- Land Acquisition Officer to hear the objections and that acquisition should have been under Part VII of the Act and not Part II. No question of law has been framed by the Respondents for reference to a Larger Bench in view of Khileshwar Prasad Jaiswal(supra). The Learned Single Judge has relied upon Royal Orchid Hotels Limited (supra) only on the question of delay which in any event was distinguishable on its own facts. M/s Visa Power Limited had sought return of certain amount given as lease premium on the ground that the lands constituted "*Nullah*" incapable of use and not that the lands were not required by it.

46. It was lastly submitted the argument regarding lack of hearing of objections with regard to village Lathia was contradictory to the pleadings in paragraph 8.6 of the writ petition acknowledging that the Land Acquisition Officer had decided the objections but not properly. A copy of the order of the Land Acquisition Officer was also appended as Annexure P/6 to the writ petition. The order sheet dated 11.10.2010 expressly records that the objections under Section 5A had been disposed. Moreover, award dated 23.12.2010 states at paragraph 3 that the hearing was done under Section 5A of the Act which had all been considered and disposed. It mostly related to inadequacy of compensation and demand for jobs.

47. We have considered the rival submissions on behalf of the parties.

48. It is considered appropriate, before commencing the discussion, to notice Khileshwar Prasad Jaiswal (*supra*) delivered by a Bench of co-ordinate jurisdiction. Five writ applications were heard together and dismissed by the Learned Single Judge on 11.10.2011. The Division Bench dismissed the batch of appeals by a reasoned order on 1.3.2012. Special Leave Petitions (Civil) No. 10950–10951 of 2012 preferred against the same have also been dismissed on 23.4.2012 observing as follows:

“We do not find any merit in these petitions. The special leave petitions are dismissed. However, in case the petitioners apply for the benefit under the existing policy for rehabilitation, the competent authority shall consider and process their applications in accordance with the scheme.”

49. Following the dismissal of the Special Leave Petitions, another Division Bench, on 7.5.2012 dismissed a different writ appeal of Chotkaram Dadsena (*supra*), referring to the order of the Supreme Court.

50. Sitting in co-ordinate jurisdiction, judicial discipline and propriety requires us to first examine if the issues arising for consideration in these appeals have been the subject matter of consideration by an earlier Division Bench and therefore binding on us. If the answer is positive, have the Respondents been able to formulate any question for reference to a Larger Bench by us.

51. In Khileshwar Prasad Jaiswal (*supra*), the subject lands were also situated in District Janjgir-Champa, village Singhitarai, Tahsil Dabhra. Presently lands are also being acquired in the same District but in villages Birra, Siladehi and Lathia. In the earlier acquisition, objections had likewise been filed by land owners under Section 5A of the Act before the Sub Divisional Officer-cum-Land Acquisition Officer so empowered under the notification dated 6.3.1987. Reply to the objections were filed by DTIC after

considering which the objections were rejected. Similar arguments were made on behalf of the land owners that the lands were being acquired by the Government at the instance of a private power company, M/s. Athena Chhattisgarh Power Pvt. Ltd. to facilitate establishment of 2x600 MW Thermal Power Project at a cost of Rs. 6200 Crores. The entire compensation was being paid by the Company. There existed no public purpose. Resort to the procedure under Part II of the Act was not permissible and the acquisition could be only under Part VII of the Act relating to acquisition for companies. The State similarly contended that the lands were being acquired for an industrial purpose which constituted a public purpose. The compensation was to be paid from advance land premium, service charges and land development cost to be deposited by the power company. Under the Industrial Policy, the acquired lands were handed over to the CSIDC which would remain the owner of the lands executing lease agreement in favour of the power company. Since the benefits from the power project would flow to the public, having been made under a policy and scheme the acquisition proceedings squarely fell within the definition of “public purpose” as defined under Section 3(f) of the Act. The acquisition had been done under the Industrial Policies of 2004-2009 and 2009-2014 as Thermal Power Plants were a core sector industry. There were no allegations of *malafide* in acquisition.

52. The Learned Single Judge in Khilleshwar Prasad Jaiswal (*supra*) framed the question whether the acquisition was *malafide* and in colourable exercise of power to unduly benefit the power company. Whether there existed a public purpose in the acquisition for setting up of a power plant by a private company and whether acquisition was valid under Part II of the Act or was required to be made under Part VII of the Act.

53. The Learned Single Judge quoted extensively from the Industrial Policies of 2004-2009 and 2009-2014. Referring to Clauses 4.2.3, 4.2.8 and 4.4.4 of the former it was noticed that the State Government had taken a policy decision for encouragement of private industrial area outside the industrial areas and parks and to make available private lands to investors through CSIDC classifying the investments as Small Scale Industries, Medium-Large Industries, Mega Projects and Very-Large Industries. Clause 4.5.3, *inter-alia*, provided for private sector participation in infrastructure building which included power supply. Referring to Clauses 3.6 and 4.2.3 of the latter policy, intention of the Government to empower industrial development by facilitating land acquisition for industrial purpose while safeguarding the interest of the land owners under the Rehabilitation Policy of 2007, was also noticed. Significantly, it was also noticed that the list of economically developing areas which needed encouragement for industrial investment included the District of Janjgir-Champa also.

54. M/s. Athena Chhattisgarh Power Pvt. Ltd. had likewise filed an application on 29.10.2008 before the SIPB to initiate process of land acquisition for 895.45 acres of private lands and 75.47 acres of government land. Advance lease premium of Rs. 79.91 crores was deposited by M/s. Athena Chhattisgarh Power Pvt. Ltd. with the CSIDC for the purpose and which included cost of the acquisition, service charges and land development cost. An MOU was signed between the State Government and the power company followed by an Implementation agreement which in clause 4.2.3 provided that the company shall at its own cost and expense identify the lands required for the project and the Government would assist in acquisition of the private lands as required even while permitting the company to purchase by direct negotiations. The lands acquired were to be leased out to the company in accordance with the applicable laws and

policy. All preliminary works for identification of the lands was to be done by the Power Company.

55. The Petitioners in *Khileshwar Prasad Jaiswal* (supra) relied on *Gaukaran Singh* (supra) to urge that the acquisition being for a private company was unsustainable under Part II of the Act. Learned Counsel Ms. Hamida Siddique for some of the Respondents in the present appeal has also sought to urge that in view of *Gaukaran Singh* (supra), having been relied upon by the Learned Single Judge in the order under appeal, it was a fit case for referring the matter to a Larger Bench for reconsideration of *Khileshwar Prasad Jaiswal* (supra). We have carefully considered the submission and do not find any merit in the same.

56. In *Khileshwar Prasad Jaiswal* (supra), the Learned Single Judge adequately noticed that *Gaukaran Singh* (supra), related to acquisition of lands for a private company desirous to establish a rail-link between its plant and the railway station at its own expense. It was held that no public purpose was involved and therefore the acquisition was bad for having been made under Part II of the Act and not under Part VII.

57. The Learned Single Judge then held that the acquisition was for a public purpose and not for the benefit of a company. Compensation for the lands were paid from the advance land premium, service charges and land development cost deposited by the power company which became the fund of the government. The title and ownership of the lands remained with the government and the power company was granted limited leasehold rights only under the applicable Industrial Policy and laws. In support of the conclusions the Learned Single Judge relied on AIR 1976 Madhya Pradesh 35 (*Prem Bai v. The State of Madhya Pradesh*) (DB) *Gajanand* (supra). The Learned Single Judge also noticed *Pratibha Nema* (supra) arising from

Gajanand (supra) to hold that the acquisition proceedings under Part II of the Act were valid. The Learned Single Judge also referred to AIR 1961 SC 343 (Pandit Jhandu Lal v. The State of Punjab) and Nand Kishore Gupta (supra) to conclude as follows:

“16. From all the above judgments, it is clear that once amount is paid to the Government body, which is CSIDC here, and is credited in its account, it becomes the fund of that body and if such fund is utilized for the purpose of payment of compensation, wholly or in part, that satisfies the requirement of Section 6(1) read with Explanation 2, because, the principle which in fact is laid down in *Pratibha Nema* (supra) is that the genesis of the fund is not the determinative factor, but its ownership in *praesenti* that matters.”

58. Distinguishing the proceedings under Part VII of the Act when the title in the lands would stand transferred to the private company with further restrictions under Section 44A, while presently there was a transfer of lease hold rights only, it was noticed that Section 44B begins with a non-obstante clause. Establishment of a power plant under the Industrial Policy as a core sector industry in an economically developing area for industrial encouragement were all considered to hold that the acquisition was for a public purpose. Reference was also made to AIR 1963 SC 151 (Smt. Somawanti v. The State of Punjab) that public purpose was bound to vary with the changing times and no comprehensive definition was possible.

59. The Division Bench in Khilleshwar Prasad Jaiswal (supra) approved the discussions made by the Learned Single Judge by its own reasoned conclusion. The power of the Sub Divisional Officer to act as the Land Acquisition Officer as also the power of the Collector acting as Deputy Secretary, as the “Appropriate Government” was also noticed. Having perused the records of the case as noticed at paragraph 9 of the judgment, discussing Gaukraran Singh (supra), Pratibha Nema (supra) and Nand Kishore Gupta (supra) it held as follows:

“13. It is apparent that the land has been acquired to implement the industrialization policy of the Government through its agency i.e. the CSIDC. The Government is under obligation to provide lands to any company for establishment of industry for the public purpose under its policy. The Company is intended to have a large mega project of thermal power and therefore the land is acquired and has been given on lease.

17. In the instant case, for setting up a mega project of thermal power at the cost of Rs. 6200.00 crores for industrial growth of the area under the industrial policy, the State Government/CSIDC acquired the lands in accordance with law, considering the public purpose. The lands would remain with the Government/CSIDC and the same have been leased out to the Company for specific purpose for a particular lease period after obtaining the premium. Certainly, the premium would form the fund of the Government/CSIDC and thus it cannot be said that the lands have been acquired at the behest of the Company and the compensation to the land owners is paid by the Company.”

60. Since the Learned Single Judge held that Pratibha Nema (supra) and Nand Kishore Gupta (supra) were distinguishable on their own facts, and the Respondents have relied upon both the judgments, we deem it appropriate to notice Pratibha Nema (supra) once again. The challenge was that the acquisition was not for a public purpose but a subterfuge to hand over the acquired land to the Company in the guise of acquisition for public purpose. The compensation was not to be paid out of public revenue but from the money provided by the Company for the specific purpose of compensation and that environmental considerations were not kept in mind while taking a decision to acquire lands for industrial purpose. The Supreme Court observed that public purpose was involved in the acquisition of land for setting up an industry in the private sector as it would ultimately benefit the people. The acquisition being under an Industrial Policy and Action Plan 1994, a balance was required to be struck between economic development and environmental considerations observing as follows :-

“22. Thus the distinction between public purpose acquisition and Part VII acquisition has got blurred under the impact of judicial

interpretation of relevant provisions. The main and perhaps the decisive distinction lies in the fact whether the cost of acquisition comes out of public funds wholly or partly. Here again, even a token or nominal contribution by the Government was held to be sufficient compliance with the second proviso to Section 6 as held in a catena of decisions. The net result is that by contributing even a trifling sum, the character and pattern of acquisition could be changed by the Government. In ultimate analysis, what is considered to be an acquisition for facilitating the setting up of an industry in the private sector could get imbued with the character of public purpose acquisition if only the Government comes forward to sanction the payment of a nominal sum towards compensation. In the present state of law, that seems to be the real position.

25. It seems to be fairly clear, as contended by the learned counsel for the appellants, that the amount paid by the Company was utilized towards payment of a part of interim compensation amount determined by the Land Acquisition Officer on 7-6-1996 and in the absence of this amount, the Nigam was not having sufficient cash balance to make such payment. We may even go to the extent of inferring that in all probability, the Nigam would have advised or persuaded the Company to make advance payment towards lease amount as per the terms of the MOU on a rough-and-ready basis, so that the said amount could be utilized by the Nigam for making payment on account of interim compensation. Therefore, it could have been within the contemplation of both the parties that the amount paid by the Company will go towards the discharge of the obligation of the Nigam to make payment towards interim compensation. Even then, it does not in any way support the appellants' stand that the compensation amount had not come out of public revenues. Once the amount paid towards advance lease premium, maybe on a rough-and-ready basis, is credited to the account of the Nigam, obviously, it becomes the fund of the Nigam. Such fund, when utilized for the purpose of payment of compensation, wholly or in part, satisfies the requirements of the second proviso to Section 6(1) read with Explanation 2. The genesis of the fund is not the determinative factor, but its ownership *in praesenti* that matters.

61. Similarly in Nand Kishore Gupta (supra) it was likewise contended that the entire cost of acquisition was to be borne by the company which was to pay the entire dues towards cost of acquisition and therefore the so called public purpose was a camouflage. The grant of a 90 years lease was virtually a give away of the lands. One of the contentions raised on behalf of the respondents also was that majority of landlords have accepted the compensation and have not challenged the acquisition in any manner. Out of 12,315 farmers affected in 133 villages 11,387 had already received

compensation and only 142 persons had raised issues. Upholding the acquisition under Part II of the Act, referring also to (2008) 9 SCC 552 (Sooraram Pratap Reddy v. District Collector, Ranga redy District) the distinction with an acquisition under Part VII of the Act was noticed as follows :-

“60. Even if we accept for the sake of argument that all this compensation is coming from the Company, we must firstly bear it in mind that the .Company gets no proprietary or ownership rights over the Project assets. Now, if it is presumed that the compensation is coming from the Company, then it will have to be held that the whole assets would go to the Company. At least that is envisaged in Part VII of the Act. Here, that is not the case. The assets are to revert back to the acquiring body or, as the case may be, the Government...”

62. The discussion leaves us satisfied that there is complete similarity in the present appeals of facts and the questions of law arising for consideration with regard to the legality of the acquisitions as considered in Khilleshwar Prasad Jaiswal (supra). The Respondents have also acknowledged that only leasehold rights were to be transferred to the power company. The selection of a land site by the company under Clause 3 of the MOU, did not warrant its acceptance by the State Government unless approved by the Scrutiny Committee which could reject it also. The scrutiny committee obviously would examine all aspects before approval.

63. The writ applications giving rise to the present appeals were heard in a batch of analogous cases. The Appellants have contended that the facts from the first phase of the acquisition proceedings with regard to M/s. SKS Ispat Ltd. alone were noticed, without considering or noticing the subsequent facts which were substantially different to arrive at a wrong conclusion. There is no denial on part of the Respondents to the fact that lands were acquired for M/s. SKS Ispat Ltd. in two phases. The first phase had concluded without any hindrance and lease executed in favour of the

company. Separate notifications had been issued with regard to the second phase for contiguous lands and that agricultural lands had also been sold through private negotiations by other landholders. Hearing of analogous cases together in a batch to facilitate expeditious disposal has become an accepted norm now. But the possible perils of the same have also been noticed in (2013) 8 SCC 99 (Women's Education Trust v. State of Haryana) with regard to land acquisition matters itself observing as follows :-

“33. In our opinion, the impugned order is liable to be set aside on the short ground that the High Court disposed of the batch of writ petitions by simply adverting to the facts of CWP No. 18 of 2004. While doing so, the High Court completely ignored that in each case, the interested person had filed separate objection under section 5-A(1) and the Land Acquisition Collector had made separate recommendations. The High Court did not direct its attention to the factual matrix of the individual cases and dismissed all the petitions by erroneously assuming that the issues of facts and law involved therein were identical. The disposal of a batch of cases is attractive both for the Bar and the Bench because in most of the cases, the lawyer(s) appearing for the petitioner(s) in the main matter advances argument and the remaining lawyers simply adopt those arguments. The Court finds it convenient to decide all the cases by one order because that saves the time and energy, which is otherwise required to be spent in dealing with individual matters. However, at times, this strategy results in more litigation because appeals and special leave petitions are filed, as has been done in these cases with the grievances that the matter was decided even taking cognizance of the grievance made by the individual petitioner. We may hasten to add that the methodology of deciding a batch of petitions by one order may work well if the facts of the cases constituting the batch are identical or almost identical.”

64. The Learned Single Judge noticed Khileshwar Prasad Jaiswal (supra) but distinguished it observing that it did not appear that the Court had looked into the record of the CSIDC to ascertain how the process of acquisition of land began. It was not clear if in that case the lands were identified by the Company itself, the request for acquisition was made by the Company which deposited the cost for compensation or advance lease premium. In our respectful opinion, the observations are not borne out from the records. Prudently, if for any reason, the Learned Single Judge was of a different

opinion, the matter ought to have been referred to a Division Bench. It was because of the misappreciation of foundational facts relating to the first phase of the acquisition not relevant for the second phase that the Learned Single Judge erred in holding that Pratibha Nema (supra) and Nand Kishore Gupta(supra) were distinguishable on their facts.

65. We are satisfied that the issues for consideration with regard to the mode, method and manner of the acquisition are completely common with the issues discussed and the conclusions arrived at in Khileshwar Prasad Jaiswal (supra). Sitting in co-ordinate jurisdiction, judicial discipline and propriety requires us to follow the same. In (1998) 5 SCC 637 (State of Tripura v. Tripura Bar Association) it was observed as follows :-

“4. We are of the view that the Division Bench of the High Court which has delivered the impugned judgment being a coordinate Bench could not have taken a view different from that taken by the earlier Division Bench of the High Court in the case of *Durgadas Purkayastha*. If the latter Bench wanted to take a view different than that taken by the earlier Bench, the proper course for them would have been to refer the matter to a larger Bench....”

Similar view was taken in Fida Hussain (supra) relied upon by the Appellants observing as follows :-

“23.....The decision of a co-equal Bench is binding on this Court. We may usefully note the decision of this Court in *Union of India v. Raghubir Singh*. The Court observed that the pronouncement of law by a Division Bench of this Court is binding on a subsequent Division Bench of the same or a smaller number of Judges and in order that such decision be binding, it is not necessary that it should be a decision rendered by the Full Court or a Constitution Bench of this Court. Judicial decorum and certainty of law require a Division Bench to follow the decision of another Division Bench and of a larger Bench and, even if, for the reasons to be stated, a different view was necessitated, the matter should be only referred to the Hon’ble the Chief Justice for referring the question to a larger Bench.”

66. Further in AIR 1990 SC 261 (Sundarjas Kanyalal Bhathija v. The Collector, Thane) it was observed as follows:

“20.In our system of judicial review which is a part of our Constitutional scheme, we hold it to be the duty of judges of superior courts and tribunals to make the law more predictable. The question of law directly arising in the case should not be dealt with apologetic approaches. The law must be made more effective as a guide to behaviour. It must be determined with reasons which carry convictions within the Courts, profession and public. Otherwise, the lawyers would be in a predicament and would not know how to advise their clients. Subordinate courts would find themselves in an embarrassing position to choose between the conflicting opinions. The general public would be in a dilemma to obey or not to obey such law and it ultimately falls into disrepute.....”

67. The Appellants in support of the submission that the Learned Single Judge ought not to have distinguished Khileshwar Prasad Jaiswal (supra) on basis of argumentative novelty have also relied on B. Yashodabai (supra) observing as follows :-

“15. If the view taken by the High Court is accepted, in our opinion there would be total chaos in this country because in that case there would be no finality to any order passed by this Court. When a higher Court has rendered a particular decision, the said decision must be followed by a subordinate or lower Court unless it is distinguished or overruled or set aside. The High Court had considered several provisions which, in its opinion, had not been considered or argued before this Court when CA 4343 of 1988 was decided. If the litigants or lawyers are permitted to argue that something what was correct, but was not argued earlier before the High Court and on that ground if the Courts below are permitted to take a different view in a matter, possibly the entire law in relation to the precedents and ratio decidendi will have to be rewritten and, in our opinion, that cannot be done.....”

68. In Major S.P.Sharma (supra) also relied upon by the Appellants similar observations were made as follows :-

“82. In a country governed by the rule of law, the finality of a judgment is absolutely imperative and great sanctity is attached to the finality of the judgment and it is not permissible for the parties to reopen the concluded judgments of the court as it would not only tantamount to merely an abuse of the process of the court but would have far-reaching adverse effect on the administration of justice. It would also nullify the doctrine of stare decisis, a well-established valuable principle of precedent which cannot be departed from unless there are compelling circumstances to do so. The judgments of the court and particularly of the Apex Court of a country cannot and should not be unsettled lightly.”

69. The Special Leave Petitions against the Division Bench judgment in

Khileshwar Prasad Jaiswal (supra) were not dismissed by a completely non-speaking order. The order of dismissal was composite, rejecting the challenge to the order of the Division Bench on merits and simultaneously approving the other part of the order for enforcing the rehabilitation policy.

70. In 1993 Supp (4) SCC 693 (Junior Telecom Officers Forum v. Union of India) with regard to dismissal in limine of an SLP and its effect it was observed as follows:-

“14. We are unable to agree with Mr. Desai that the judgment of the Allahabad High Court had not acquired any finality because the SLP against the same had been dismissed in limine.

15. The order of the Division Bench of this Court in SLP Nos. 3384-86 of 1986 (supra) unmistakably shows that the dismissal of the SLP though in limine was on 'merits' and the Court declined to interfere with the impugned judgment of the Allahabad High Court except to a limited extent as noticed therein”

The conclusions relevant for our purpose in (2000) 6 SCC 359 (Kunhayammed v. State of Kerala) after inter alia noticing Junior Telecom Officers Forum (supra) are as follows:-

“44. (v) If the order refusing leave to appeal is a speaking order, i.e., gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the Apex Court of the country...”

71. Be that as it may, the earlier decision of the Division Bench in Khileshwar Prasad Jaiswal (supra) is binding on us. Nothing has been placed or urged before us to arrive at a different conclusion or that the matter is required to be referred to a Larger Bench on any formulated questions of law.

72. Notwithstanding the aforesaid conclusions, it would still remain to be

examined in the facts of the present case if there has been compliance with Section 5A of the Act regarding consideration and disposal of objections including by the competent authority. In Khileshwar Prasad Jaiswal (supra) also the Sub Divisional Officer (Revenue) had exercised the powers of the Land Acquisition Officer with regard to the acquisition in the District Of Janjgir-Champa itself vested under the same Notification dated 6.3.1987. No objection had been raised with regard to the legality of the authorization under Section 3(c) of the Act to act as Collector under the Act and the Collector of the District acting as the Deputy Secretary to the Government discharging duties of the Appropriate Government. Empowerment of the Sub Divisional Officer (Revenue) as Land Acquisition Officer under the notification dated 22.3.1985 read with notification dated 6.3.1987 and 15.2.1999, at paragraph 98 of the discussion in Narmada Bachao Andolan (supra) coupled with the fact that these notifications have long stood the test of time for over thirty years and in absence of any specific pleadings in the writ applications with regard to lack of eligibility for non-fulfillment of the conditions prescribed in the notification dated 6.3.1987 by a particular Sub Divisional Officer (Revenue) to act as Land Acquisition Officer, we find no merit in the same. Moreover, the grievance of the Respondents primarily appears to be, not that no hearing was granted by the Sub Divisional Officer (Revenue)-cum-Land Acquisition Officer, but that it was not granted by the Collector of the District. In fact, hearing by the Sub Divisional Officer (Revenue)-cum-Land Acquisition Officer was acknowledged in Writ Petition (C) No.374 of 2012. The submission that disposal of the objections with regard to village Binjkot on 5.10.2011 was a back dated order does not merit any consideration. On 5.10.2011, the 40 objections filed before the Collector during Jandarshan were rejected. On 26.11.2011 the further 30 objections filed beyond time on 21.10.2011 were rejected.

73. The conclusion that there has been no proper consideration of the objections under Section 5A of the Act in absence of a reasoned order upon it in like manner as a judicial or quasi judicial authority relying upon a Division Bench decision in (1993) 4 SCC 255 (Shyam Nandan Prasad v. State of Bihar) does not notice the Constitution Bench decision in Jayantilal Amritlal Shodhan (supra) relied upon by the Advocate General, not noticed in the former, holding that the exercise of the power was administrative and not judicial or quasi judicial observing as follows :-

“20.....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.....

74. The finding with regard to non-consideration of objections with regard to the second phase of acquisition in village Binjkot is factually incorrect presumably because of the fact that the Learned Single Judge examined matters with regard to the first phase of the acquisition. The order of the Land Acquisition Officer dated 5.10.2011 displays full consideration and application of mind to the objections holding that contiguous lands had already been acquired in the first phase, the lands were suitable for the power project, alternate lands suggested by the land owners apart from being lesser in area was barren and hilly, falling in the forest area incapable of acquisition. If it was an administrative order and the Appropriate Government was in concurrence with the same, it was not required to write a separate and reasoned order in the form of an appellate authority arising

from judicial or quasi-judicial orders. The use of the words “Uchit”, highlighting the relevant portion concurred with, in our opinion, would suffice to demonstrate that there had been application of mind.

75. In other cases where objections had been filed, comments had also been called for from the DTIC. The Land Acquisition Officer then passed an order considering the objections and the comments of the DTIC which in our opinion is substantial compliance with the provisions of Section 5A of the Act. Moreover the challenge had been laid either after the Award or just before publication of Award challenging the Notifications under Sections 4 and 6 of the Act only with no prayer to quash the Award. In (1968) 1 SCR 597 (Abdul Hussain Tayabali v. State of Gujarat) it was observed that the recommendations of the Land Acquisition Officer along with the objections are sent to the Appropriate Government which again examines the matter before taking decision all of which was sufficient compliance for hearing observing as follows :-

“16. The last proposition of Mr Sanghi was that even though an inquiry under Section 5-A may be an administrative inquiry, the State Government was bound to give an opportunity to be heard to the appellants after receiving the report thereunder and before making up its mind for the purpose of issuing Section 6 notification. It is not in dispute that during Section 5-A inquiry the appellants were heard and their objections were taken on record. Under Section 5-A, the Collector has to hear the objections of the owner, take them on record and then submit his report to the Government. The section also requires him to send along with his report the entire record of his inquiry which would include the objections. The report has merely recommendatory value and is not binding on the Government. The record has to accompany the report as it is for the Government to form independently its satisfaction. Both are sent to enable the Government to form its satisfaction that the acquisition is necessary for a public purpose or for the Company. It is then that Section 6 notification which declares that particular land is needed for either of the two purposes is issued. The Government thus had before it not only the opinion of Master but also all that the appellants had to say by way of objections against the proposed acquisition. The appellants therefore had an opportunity of being heard.”

76. Tej Kaur (supra) relied upon by the Appellants opines similarly holding

sufficient compliance with Section 5A observing as follows :-

“6. It is true that Section 5A 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 a 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 5A 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 the Collector had, in fact, conducted the Section 5A inquiry, though there is no material on record to show that the appellants in Civil Appeal No. 6 of 1998 were heard in person. The facts and circumstances of Civil Appeal No. 66/1998 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 acre of land was actually acquired by the authorities. This would clearly show that the objection filed by the appellants was considered by the Collector. Moreover, section 6 Declaration was made on 18.3.1993 and the award was passed on 15.3.1994. The appellants filed the writ petition only on 12.4.1994. In spite of the Section 6 Declaration having been made on 18.3.1992, the appellants allowed the acquisition proceedings to go on until the award was passed. This fact clearly indicates that the appellants did not have a genuine grievance against Section 5A inquiry held by the Collector. Therefore, we are not inclined to interfere with the judgment on the ground now advanced by the appellants. ”

77. The objections were generic in nature with no dispute that the acquisition was for a public purpose. The objections did not allege that lesser area of lands for acquisition would suffice or that alternate lands were available. There were no allegations of malafides or discriminatory acquisitions. The right to file objection under Section 5A of the Act was a statutory right. It had therefore to be exercised within the time prescribed. Being a statutory right, it was capable of waiver by not filing objections. Objections filed beyond the statutory period were not required to be considered. Those who had not filed objections were not competent to maintain their writ applications. In *Gurdip Singh Uban* (supra), *Om Prakash* (supra) and *Shiv Raj* (supra) relied upon by the Appellants. The following

extract from Gurdip Singh Uban (*supra*) may appropriately be referred to only, observing as follows:-

“52. In *Abhey Ram* as well as in the judgment in the civil appeals, it has been clearly stated that those claimants who have not filed objections to the Section 4 notification cannot be permitted to contend before the Court that Section 5-A inquiry is vitiated so far as they are concerned. Nor can they be permitted to seek quashing of Section 6 declaration on that ground. We shall elaborate this aspect further.

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

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

78. In (2012) 12 SCC 133 (*V. Chandrasekaran v. Administrative Officer*) it was similarly observed at paragraph 24 that the challenge to the acquisition proceedings was not maintainable at the behest of persons who had not filed objections under section 5A of the Act.

79. Amongst the four writ petitioners in village Devri, two had not filed objections and in village Dumarpali five out of the nine writ petitioners had not filed objections. In the former 83.88 hectares were being acquired from a total of 72 persons. 59 of them had already received the compensation. The total area of lands involved on behalf of the two persons who had filed objections was 5.37% of the lands being acquired. In the latter, 57.70 acres were being acquired. After excluding the five who had not filed objections

the area in dispute reduces to 9.27 acres. Likewise in village Gatwa 132.27 acres was to be acquired from 142 persons. 123 persons constituting 87% had already received compensation. In village Birra a total of 212.03 acres was under acquisition from 212 persons. 196 persons constituting 92.45% had received compensation. The 6 persons who had filed objections covered 11.65 acres only i.e. about 5.49% of the lands being acquired. In village Siladehi an area of 537.69 acres was to be acquired from 447 persons, 281 of whom had received compensation constituting 58.90%. Out of 56 writ petitioners 14 of them had not filed objections. The remaining 42 persons were only concerned with approximately 20.65 acres i.e. approximately less than 10%. Similarly in village Lathia an area of 74.88 acres was under acquisition. Only two persons had filed writ petitions. The power of eminent domain gives precedence to public interest over private interest as observed in 1995 Supp (1) SCC 596 (Jilubhai Nanbhai Khachar v. State of Gujarat) as follows :-

“34. The right of eminent domain is the right of the sovereign State, through its regular agencies, to reassert, either temporarily or permanently, its dominion over any portion of the soil of the State including private property without its owner’s consent on account of public exigency and for the public good. Eminent domain is the highest and most exact idea of property remaining in the Government, or in the aggregate body of the people in their sovereign capacity. It gives the right to resume possession of the property in the manner directed by the Constitution and the laws of the State, whenever the public interest requires it. The term ‘expropriation’ is practically synonymous with the term “eminent domain”.

80. Considering the total area of lands under acquisition, the number of persons who had filed objections and whose writ petitions were maintainable coupled with the area under dispute the Appellants have also invoked the theory of “*de minimis*”. In *Black’s Law Dictionary* “*de minimis*” has been defined as follows:

“The law does not care for, or take notice of, very small or trifling matters. The law does not concern itself about trifles.”

In (1994) 1 SCC 747 (Umesh Chand Gandhi v. Ist Addl. Dist. & Sessions Judge) applying the said principle it was observed :-

“1.....The court applying the principle of *de minimis non curat lex* held thus “if the amount is found to be small, which has no consequence, the court would be justified in ignoring the said mistake by extending the *de minimis* rule to such a case. As to what is a case deserving the benefit of the aforesaid rule is a question of fact to be decided in each case for which no rigid and exhaustive law can be laid down.....”

81. In Nand Kishore Gupta (supra) we have already noticed that it was noticed at paragraph 46 of the judgment that many of the land owners had accepted the compensation and it would not be in public interest to interfere with the acquisition at the behest of a handful of persons.

82. In Mohan Singh Gill (supra) relied upon by the Respondents, it was noticed at paragraph 33 of the judgment that lands were sought to acquired from 949 persons. 901 persons had raised no objection. 48 persons had moved the High Court out of which 15 only came to the Supreme Court, leading the Court to hold for that reason that it was not inclined to go into the validity of the acquisition.

83. The Appellants have also urged the ground of sustainable development and that there is no prohibition to the acquisition of agricultural lands under the Act and neither has the Learned Single Judge prohibited the same except for observing that it was avoidable to the extent possible. It is not the case of the Respondents, except for village Binjkot, that they had suggested availability of alternate non agricultural lands and which has not been considered. Two of the Respondents had themselves applied for permission to establish crusher units on their lands which is but evidence of the fact that the lands were not prime agricultural lands. In (1968) 1 SCR 561 In Deputy Commissioner and Collector, Kamrup v. Durga Nath Sarma the Assam Acquisition of Land for Flood Control and Prevention of Erosion Act, 1955,

provided for the acquisition of any land for works or other development measures in connection with flood control or prevention of erosion. It was held at paragraph 8 of the judgment that the Act was a purely expropriatory measure providing for acquisition of lands both urban and agricultural.

84. The Act does not contain any prohibition against acquisition of agricultural lands. Once the acquisition is held to be for public purpose, agricultural lands can also be acquired. The desirability of avoiding agricultural lands has to be balanced with economic growth. Economic growth by agriculture is different from growth by industrialization. A balance has therefore to be struck. The Government of India Circular referred to by Learned Counsel Sri Sanjay Kumar on behalf of the Respondents with regard to eschewing agricultural lands to the extent possible came up for consideration in (1988) 4 SCC 534 (Bharat Singh v. State of Haryana) in context of a similar circular issued earlier in 1982. The conclusion is relevant for the present controversy :-

“16. Next it is urged on behalf of the petitioners that before starting the proceedings for acquisition, the government had not applied its mind to its policy decision, as contained in circular No. 2099-R-III-82/17113 dated 18-5-1982 wherein it has been stated that “in the matter of State’s need for land for its development activities, utmost restraint should be exercised in the acquisition of land”. It is submitted that as the land is agricultural, it should not have been acquired in view of the said policy decision of the government. We are unable to accept the contention. In a welfare State, it is the duty of the government to proceed with the work of development and take steps for the growth of industries which are necessary for the country’s progress and prosperity and for solving the question of unemployment. It is true that agricultural land is necessary and should not ordinarily be converted to non-agricultural use, but keeping in view the progress and prosperity of the country, the State has to strike a balance between the need for development of industrialisation and the need for agriculture. The allegation that before initiating the acquisition proceedings, the government has not applied its mind to the need for agricultural land is a very vague allegation without any material in support thereof. The contention is overruled.”

85. One of the contentions also raised on behalf of the Appellants was that

the challenge in the writ application was to the notification under Section 4 and 6 of the Act only. The notification subsequently made under Section 9 was not under challenge. There was no challenge to the proceedings under Section 11 of the Act. In some cases Award had also been made which was not under challenge and in some it was at the verge of being made when the Court passed interim orders. In some cases possession had also been delivered. The Award had been set aside without any challenge to the same. In (2013) 14 SCC 304 (*Mutha Associates v. State of Maharashtra*) it was observed :-

“20. The legal position, as to the approach which a writ court must adopt while examining the validity of acquisition proceedings, is settled by a long line of decisions rendered by this Court from time to time. It is not necessary to burden this judgment by referring to all those decisions, for the proposition of law is so well settled that it hardly bears repetition. We may simply refer to the Constitution Bench decision of this Court in *Aflatoon v. Lt. Governor of Delhi* where this Court was dealing with a case in which the landowners had not approached the Court after the declaration under Section 6 of the Land Acquisition Act was issued by the Collector. It was only after notices under Section 9 of the Act were issued that the owners had come forward to urge that there was no public purpose supporting the proposed acquisition. This Court held that a valid notification under Section 4 is a sine qua non for initiation of proceedings for acquisition of property. The owners were not, therefore, justified in sitting on the fence and allowing the Government to complete the acquisition proceedings on the basis that the notification under Section 4 and declaration under Section 6 were valid and then to attack the notification on grounds that were available to them at the time when the notification was published.

22. The view taken by the Constitution Bench in *Aflatoon* case has been reiterated by another Constitution Bench decision in *Indrapuri Griha Nirman Sahakari Samiti Ltd. v. State of Rajasthan*. To the same effect are the decisions of this Court in *Municipal Corpn. of Greater Bombay v. Industrial Development Investment Co. (P) Ltd.*, *Ramjas Foundation v. Union of India* and *Larsen & Toubro Ltd. v. State of Gujarat*. The common thread that runs through all these decisions is that in order to succeed in a challenge to the acquisition proceedings the interested person must remain vigilant and watchful. If instead of doing so, the interested person allows grass to grow under his feet, he cannot invoke the powers of judicial review exercisable under Article 226 of the Constitution. The failure of the interested persons to seek

redress at the appropriate stage and without undue delay would in such cases give rise to an inference that they have waived of their objections to the acquisitions.

86. The contentions of the Respondents that the acquisition was bad for non-compliance with the provisions of PESA Act merits no consideration. The applicability of the PESA Act to the acquisition proceedings has been rejected by the Learned Single Judge and no appeal has been filed against the same. Radhey Shyam (*supra*) relied upon by the Respondents related to emergency acquisition under Section 17 of the Act doing away with the opportunity to file objections under Section 5A. Nonetheless the conclusions *inter-alia* at paragraph 77 are relevant that acquisition for residential, commercial, industrial and institutional purposes can be treated as acquisition for public purpose. In Surinder Singh Brar (*supra*), the objections had not been considered at all and the Court was of the opinion that the objections had substance. In the present case the land Acquisition Officer had passed an objective order on 5.10.2011 with regard to the objections filed by villagers of Binjkot. Likewise with regard to the acquisitions in village Devri and Dumarपालि, a considered order was passed on 18.1.2012 by the Land Acquisition Officer after considering the objections of the land owners and the comments by the DTIC for which reliance was placed on Teja kaur (*supra*) urging substantial compliance even if no personal hearing had been granted. With regard to Village Siladehi, the Respondents had themselves acknowledged personal hearing by the Land Acquisition Officer on 29.10.2010. With regard to Village Lathia also there had been objective consideration of the objections. Moreover, we have already noticed hereinbefore that the objections were generic in nature with no substance or specifics.

87. I.I.S. Employees House Building Co-operative Society (*supra*) relied upon by the Respondents is not relevant to the present controversy as it

related to issuance of notice for filing objections to a dead person. In Kamal Trading (P) Ltd. adjournment sought for hearing under section 5A was not granted and the Court was not satisfied that there had been objective consideration. It was not a case where a similar earlier acquisition had been upheld on similar grounds as is the case presently. In Gojer Brothers (supra) the Court did not approve of the High Court considering the objections itself on merits. In Mohan Singh Gill (supra) the notification for acquisition stated the purpose as construction of Missing Link II. Part of the Lands was used for commercial purpose which was not approved to that extent holding that the landowners had been deprived of a proper opportunity to file objections. The entire acquisition was not struck down.

88. The factual matrix in the present cases is very different from Dilip Pralhad Namade (supra) in view of Khileshwar Prasad Jaiswal (supra) and Chotka Ram Dadsena (supra) after dismissal of the SLP. Undoubtedly, the power projects will have to comply with pollution laws failing which they may be required to be closed down till compliance. No positive material has been placed with regard to their inability to comply pollution laws so as to warrant interference at this stage. In Balwant Singh Chaufal (supra) referring to C.Kenchappa (supra) it was observed that there had to a balance between sustainable development and environment. Royal Orchid Hotels (supra) was relied upon by the Learned Single Judge only to repel the argument for delay in questioning the acquisition proceedings.

89. Having given our anxious thought and consideration to all aspects of the matter, the earlier orders in Khileshwar Prasad Jaiswal (supra), issues regarding the present acquisition, the Industrial Policy, the Energy Policy, the Circular dated 18.8.2009, the mode, method and manner of acquisition, empowerment of the Sub Divisional Officer (Revenue) to act as Land Acquisition Collector, consideration and disposal of the objections, absence

of any right to maintain writ applications by those who did not file objections, larger public interest to be served by the acquisition compared to minimal rights of those who may have objected in accordance with law, all leave us satisfied that the order of the Learned Single Judge is not sustainable, both in law and on facts. We therefore set aside the order under appeal dated 4.9.2012.

90. All the writ appeals are allowed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(Printinker Diwaker)
JUDGE