

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(I) CWP-16-2015
Reserved on: 10.10.2023
Date of Decision: 16.12.2023

JARNAIL SINGH AND ORS -PETITIONERS

V/S

STATE OF HARYANA & ORS -RESPONDENTS

(II) CWP-21285-2014

KAMAL KUTTAPPAN -PETITIONER

V/S

STATE OF HARYANA & ORS -RESPONDENTS

(III) CWP-23330-2014

**THE SHIVALIK ENVIRON COOP HOUSE BUILDING SOCIETY
(REGD.)**

-PETITIONER

V/S

STATE OF HARYANA AND ORS -RESPONDENTS

(IV) CWP-26978-2015

JASKARAN SINGH -PETITIONER

V/S

STATE OF HARYANA & ORS -RESPONDENTS

(V) CWP-443-2015

MOHAN SINGH -PETITIONER

V/S

STATE OF HARYANA & ORS -RESPONDENTS

(VI) CWP-567-2015

GURMEET SINGH -PETITIONER

V/S

STATE OF HARYANA & ORS

-RESPONDENTS

(VII) CWP-576-2015

BHARAT PAL SINGH

-PETITIONER

V/S

STATE OF HARYANA & ORS

-RESPONDENTS

(VIII)CWP-9155-2015

MINNA JHAKHAR

-PETITIONER

V/S

STATE OF HARYANA AND ORS.

-RESPONDENTS

(IX) CWP-9176-2015

OP BHARDWAJ

-PETITIONER

V/S

STATE OF HARYANA AND ORS.

-RESPONDENTS

(X) CWP-22512-2022

**BANK EMPLOYEES AND FRIENDS COOPERATIVE HOUSE
BUILDING SOCIETY (REGD.)**

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. R.S. Rai, Senior Advocate with
Mr. Gautam Dutt, Advocate and
Ms. Radhika Mehta, Advocate
for the petitioner(s)
(in CWP Nos.16, 443, 567 and 576 of 2015).

Mr. Chetan Mittal, Senior Advocate with
Mr. Tushar Sharma, Advocate,
Mr. Udit Garg, Advocate and

Ms. Shifali Goyal, Advocate
for the petitioner(s)
(in CWP Nos.23330-2014, 9155-2015, 9176-2015 and
22512-2022).

Mr. Vikas Jain, Advocate and
Mr. Vishesh Jain, Advocate
for the petitioner(s) (in CWP-26978-2015).

Mr. Rahul Sharma, Advocate
for the petitioner(s) (in CWP-21285-2014).

Mr. Ankur Mittal, Addl. AG, Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Deepak Sabharwal, Advocate,
Mr. Ankur Mittal, Advocate,
Ms. Kushaldeep Kaur Manchanda, Advocate and
Mr. Shivam Garg, Advocate
for the respondent(s)- H.S.V.P.

KULDEEP TIWARI, J.

1. Since all these writ petitions arise from common acquisition proceedings, besides when common questions of law are involved therein, therefore, they are amenable for being decided through a common verdict.

2. However, since a couple of writ petitions, i.e. CWP-16-2015, CWP-443-2015, CWP-567-2015, CWP-576-2015, besides raising common grounds vis-a-vis the ones, as raised in the other writ petitions, also invoke the lapsing provisions, as embodied in Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013'), therefore, the claim (supra), will also become adjudicated at the fag-end of this verdict.

3. The petitioner(s), who have in fact, collaborated with a renowned builder/developer/colonizer, i.e. D.L.F., have thrown the instant challenge to the relevant acquisition proceedings.

4. To be precise, the challenge, as made in all these writ petitions, is to the notification and the declaration, as respectively issued under Section 4 and under Section 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894'). The notification and the declaration were respectively issued on 16.3.1999 and on 15.03.2000. In addition, a challenge is also made to the order dated 21.10.2014, as passed by the High Powered Committee, whereby, the claim(s) of the petitioner(s) for release(s) of acquired land(s), in terms of the relevant policy(ies), as adopted by the State of Haryana, was rejected.

5. The relevant acquisition proceedings remained entangled in various rounds of litigation, which commenced in the year 2001. Therefore, to gain clarity of the relevant facts, for making adjudication thereon, it is deemed imperative to extract the relevant facts. For the sake of brevity, the facts are being extracted from CWP-23330-2014.

FACTUAL MATRIX

6. In the year 2001, one Dr. D.B.Singh filed CWP No. 876 of 2001, wherein, he raised certain grievances with regard to the activities carried out by the State of Haryana in the periphery of the Sukhna Lake and accordingly made a prayer that the State of Haryana and its authorities be restrained from doing any act of damaging the forest area abutting and/or around the Sukhna Lake. During the pendency of the above writ petition, through an order passed by this Court on 18.05.2001, further proceedings were ordered to be stayed. Thereafter, on 07.02.2003, that petition was ultimately disposed of, through the issuance of a mandamus upon the respondent(s) concerned to decide the representation(s), as preferred by the petitioner(s) therein. However,

aggrieved by the conduct of the authorities concerned, Dr. D.B.Singh again filed a Writ Petition bearing No.7649 of 2003, wherein, a challenge was made to the relevant acquisition proceedings, as launched by the respondent-State, on the ground, that the same infringes the relevant provisions, as enshrined in The Forest (Conservation) Act, 1980, besides also violates the master plan of Chandigarh and the orders of the Hon'ble Supreme Court. In the writ petition (supra), the State of Haryana took a specific plea that, in order to preserve and to protect the Sukhna Lake, the Government has framed a policy to acquire the potential area in the periphery of Shree Mata Mansa Devi Urban Complex (hereinafter referred to as the 'M.D.C.') **for planned low density Urban Development (emphasis supplied)** and that specific care has been exercised during the relevant acquisition proceedings, for thereby preserving the catchment area of the Sukhna Lake and its watercourses. The relevant pleadings of the State of Haryana, which were reproduced in the order passed by this Court on 11.9.2003, are extracted hereinafter:-

"i) The Government of Haryana and its authorities are also concerned to preserve and protect the "Sukhna Lake" in regard to which about 10,000 hectares of the lands have been earmarked as reserved forest in the catchment area of "Sukhna Lake and that no parallel "Sukhna Lake" is going to be created and developed and no other "Sukhna Lake" erected and/or developed by the Haryana Government.

ii) After the Government found imperative to acquire potential area under the periphery of Shree Mata Mansa Devi Urban Complex for planned low density urban development, as per proposals of development plan of this area, steps were taken for acquiring lands Invoking the provisions of the Land Acquisition Act. In doing so, the catchment of "Sukhna Lake and water

courses thereof have been duly preserved. The proposed development urbanization is going to be carried out by the Haryana Urban Development Authority, which is a State Agency in the larger public interest which will not cause ecological imbalance of this area in any manner.

(iii) There is a proposal to develop larger area as green and recreational as per the provisions of development plan dated August 3 and 8 of 2000 of this area. The development plan, referred to by the petitioner(s) has been revised three times about which petitioner(s) has maintained a meticulous silence in his pleadings as well as in course of his submissions.

(iv) The real object of the petitioner(s) no. 1 in moving this court is to develop about 100 acres of land, which he has illegally acquired in the name of an alleged Society The Shivalik Enviorn Cooperative House Building Society Ltd. Saketri.”

7. Furthermore, a specific affidavit sworn by Shri N.C.Wadhwa IAS, Director, Town and Country Planning, Haryana, was also considered by the Coordinate Bench of this Court while deciding the above writ petition, wherein, the hereinafter extracted undertaking was given by the respondent-State of Haryana, to this Court:-

“Coming to the remaining aspects, we find that in his affidavit Shri N.C. Wadhwa, IAS, Director, Town and Country Planning and Urban Estate Department, Haryana-cum-Chief Administrator, Haryana Urban Development Authority has stated as follows:-

- 1. That Haryana Government is also concerned to preserve Sukhna Lake and thereby is fully conscious that no action taken by the Government cause any harm to Sukhna Lake rather Government is anxious to enhance cause of Sukhna Lake. It is also added that no parallel Sukhna Lake is hereby developed by the Haryana Government.*
- 2. That it is imperative to acquire the most potential area of the periphery i.e. Shree Mata Mansa Devi Urban Complex for planned low density urban development as*

per proposals of development plan of this area. By this acquisition of land for proposed planned urbanization, Sukhna Lake is not going to be affected because the catchment area of Sukhna Lake has been duly preserved and all water courses of Sukhna lake are preserved.

3. *That this planned urbanization will be carried out by Haryana Urban Development Authority, a state agency in the larger public interest and this urban development does not affect ecology of this area in any manner.*
4. *That large area has been proposed to develop as green and recreational as per provisions of development plan of this area."*

8. Upon consideration of the hereinabove extracted pleadings and the undertaking, the above writ petition was finally dismissed by this Court, through an order passed on 11.9.2003. However, the order (supra) caused pain to the petitioner(s) and propelled him to raise a challenge thereto, before the Hon'ble Supreme Court, through his instituting SLP(C) No.9556 of 2005, which was also dismissed by the Hon'ble Supreme Court on 18.11.2005. Therefore, the issue concerning preservation of the Sukhna Lake, maintenance of reserved and protected forest(s), under the Works of Defence Act by the Ministry of Defence, around Chandimandir Military Station etc., and, the relevant layout plan of M.D.C., was raised and settled vis-a-vis the disputed land(s) upto the Hon'ble Supreme Court.

9. A perusal of the hereinabove extracted undertaking, makes significant revelations that, the State of Haryana undertook to, in the larger public interest, plan the urbanization of the area around the Sukhna Lake, under the aegis of the Haryana Shahari Vikas Pradhikaran (hereinafter referred to as the 'H.S.V.P.') (formerly Haryana Urban Development Authority), which is a State Agency, but without affecting

the ecology of said area. Furthermore, in order to maintain the ecological balance around the Sukhna Lake, a vast tract was proposed to be developed as green and recreational area, as per the provisions of relevant development plan. Another significant feature, as revealed in the undertaking of the respondent-State, is that, it intended to acquire the land for **planning low density urban development**, considering the most potential area in the periphery of Sukhna Lake and State Capital.

10. To accomplish the above object, a vast tract was acquired through the issuance of various acquisition notifications, for the M.D.C., and, one such notification, is the subject matter of the instant petition(s). The said notification was issued under Section 4 of the Act of 1894, on 16.3.1999. The notification caused grievance to the present petitioner(s), as the land(s) enclosed therein, measuring 133.99 acres, falling in the revenue estate of village Saketri, Tehsil and District Panchkula, are owned by him/them. It is also relevant to record here that, in the notification, land measuring 952.18 acres falling in the revenue estate of two villages of District Panchkula, i.e. Saketri 748.56 acres and Bhainsa Tibba 20362 acres, was also notified for acquisition, for a public purpose, namely, for development and utilization thereof, thus for residential, commercial and institutional Sectors, 1, 2, 3, 5B, 5C and 6, for Panchkula extension (MDC). The notification, besides being published in the Official Gazette, was also published in two daily newspapers, therefore, compliance was meted to the requisite statutory requirements. Subsequent to the issuance of the notification, objections under Section 5-A of the Act of 1894 were invited, whereupon, the petitioner(s) preferred objections, and, upon consideration, the Land Acquisition Collector concerned, on 3.2.2000,

ordered the release of the total land measuring 1.94 acres, whereon, constructions were in existence for religious purpose(s). Thereafter, finally a declaration under Section 6 of the Act of 1894, in respect of land measuring 747.69 acres, was issued on 15.3.2000, and, the requisite statutory compliance was also made, thereby the said declaration did acquire legal validity.

11. The reply, as furnished to the instant petition, by the State of Haryana, also reveals that pursuant to issuance of notification and declaration (supra), an award, in respect of land measuring 622.76 acres, was announced on 9.10.2003 and thereupon, on the same day, the physical possession of the acquired land, except land measuring approx. 96 acres, qua which stay was operative, was handed over to the Estate Officer, HSVP, Panchkula. The reply further makes revelations that the relevant acquisition proceedings were stayed by this Court, vide order dated 18.5.2001, passed in CM-13086-2001 in CWP-876-2001, and, the said stay was ordered to continue till 7.2.2003, with a direction to the petitioner(s) to make representation before the appropriate authority, besides, a mandamus was also passed upon the authority concerned to decide the same within three months from the date of receipt of a copy of the order (supra). Accordingly, the representation of the petitioner(s) was decided by the authority concerned on 2.7.2003, thereby rejecting the claim raised therein.

12. The further revelations, as made in the reply, are that, out of the assessed sums of compensation amount of ₹61,57,90,176.78/-, in respect of village Saketri, ₹51,67,18,897/- has already been paid/disbursed to the landlooser(s) concerned. This implies that, 83.91% of

compensation amount has already been paid, and, only 16.09% is not accepted by the landlooser(s) concerned. Likewise, out of the assessed sums of compensation amount of ₹14,84,66,189/-, in respect of village Bhainsa Tibba, ₹12,61,00,068/- was disbursed to the landlooser(s) concerned. This also implies that, 84.93% of compensation has already been paid, and, now only 15.07% is not accepted by the landlooser(s) concerned.

13. Feeling aggrieved by the impugned acquisition notification, various persons including the present petitioner(s) filed CWP-6357-2000 before this Court. During the pendency of the writ petition, an interim order to maintain status-quo was passed by this Court, on 22.5.2000, which led the authority concerned to refrain from passing an award vis-a-vis the disputed land(s). Thereafter, a majority of petitions were clubbed and a bunch of 29 writ petitions were disposed of, vide a common order dated 12.8.2011, passed in **CWP-12848-2000**, titled as **“Jasbir Singh Siali Vs. The State of Haryana and others”**, whereby a direction was made upon the State/High Powered Committee concerned, to decide the claim of the petitioner(s) therein. The relevant portion of the order is extracted hereunder:-

“The counsel for the petitioner(s) has no objection to the offer made. Under the circumstances, we dispose of this writ petition and other connected writ petitions with a direction to the State to constitute a High Powered Committee within 15 days from today, to which no objection has been raised by Mr. Sehgal. It is further agreed between the parties that after constitution of the High Powered Committee, the petitioner(s) will appear before that Committee on 12th October 2011 in the office of Financial Commissioner and Principal Secretary to Government of

Haryana, Urban Estates Department, Sector-17 Chandigarh at 10.30 a.m. In the meantime, if any of the petitioner(s)s wish to file a representation before the abovesaid Officer, he may do so. The landowners are supposed to give detail of land owned by them and objections filed by them against acquisition. It is further agreed between the parties that till such time the decision is taken by the High Powered Committee and thereafter for a period of 15 days, from the date of communication of the order passed, to the landowners, through a registered post, the status quo regarding possession shall be maintained. It is also agreed that in case if any adverse order is passed against any of the landowners, liberty shall remain to file a fresh petition taking all the pleas including one which have been taken in these writ petitions.”

14. In terms of the order dated 12.8.2011 passed by this Court, the petitioner(s) preferred a detailed representation through its/their collaborator DLF before the High Powered Committee. The High Powered Committee after passing a detailed order dated 21.10.2014, rejected the claim of the petitioner(s), for releasing their land(s), thus on various grounds. The said order of rejection has caused grievance to the petitioner(s), leading them to institute the instant writ petition(s) before this Court, whereby, not only a challenge is made to the impugned notification and declaration, besides a challenge is also laid to the rejection order passed by the High Powered Committee.

SUBMISSIONS OF THE LEARNED COUNSEL(S) FOR THE PETITIONER(S)

15. By placing reliance upon the approval letter dated 26.2.1992 (Annexure P-2), as issued by the Chief Administrator, Haryana Housing Board to the petitioner(s), whereby, approval for taking up construction of houses on behalf of the petitioner(s)-Society was given, the learned counsel for the petitioner(s) has tried to lay a foundation that a legitimate

expectation has arisen in their favour, which restrains the respondent-State to exercise its power of *eminent domain*, hence through the issuance of the impugned notification. To strengthen his above made argument, the learned counsel for the petitioner(s), has submitted that, to tackle the problem of housing, a decision was taken by the Government in September, 1990, to promote the house building society(ies), who offered its/their land(s) for the purpose of development under the Haryana Housing Board Act, 1971 (hereinafter referred to as the 'Act of 1971') and in pursuance of the said decision, a number of co-operative societies were formed and registered with the Registrar of Co-operative Societies, Haryana for constructing the houses on a co-operative basis, for its members. Consequently, the petitioner(s)-Society, which was also registered, to achieve the object of housing for its members, also purchased various parcels of land from their funds. Thereupon, they made a proposal, in pursuance of the said scheme, to the Haryana Housing Board, which was accepted, through agreement dated 22.4.1992.

16. The learned counsel for the petitioner(s) has further submitted that owing to eruption of a dispute *inter se* the Haryana Housing Board and the respondent-H.S.V.P., which are two independent bodies of the Government, the final layout plan was not approved by the Department of Town and Country Planning concerned, and, during the pendency of the approval, the State Government issued, the impugned notification for acquisition of the petition land(s). He has also placed reliance upon Sections 20 and 21 of the Act of 1971, to submit that the very object and the purpose of creating the Housing Board, is to provide houses to members of various entities like registered co-operative

societies. He has further submitted that the very purpose of acquisition of land, is the same, for which the co-operative society had already made an agreement with the Haryana Housing Board. The purpose of acquisition, which is mentioned in notification, as issued under Section 4 of the Act of 1894, reads as under:-

“Whereas it appears to the Governor of Haryana that the land described in the specification below is required for the public purpose namely for the development and utilization of land as residential, commercial, Institutional, residential and so on in Sectors 1, 2, 3, 5B, 5C and for Panchkula extension (Mansa Devi Complex) under the Haryana Urban Development Authority Act, 1977 by the Haryana Urban Development Authority in the area of village Saketri, Hadbast No.376, Bhainsa Tibba, Hadbast No.377, Tehsil and District Panchkula.”

17. On the basis of the above submitted factual aspects, the learned counsel for the petitioner(s) has requested to invoke the doctrine of estoppel against the State, for thereby its becoming restrained to exercise its power of *eminent domain*. Furthermore, to strengthen his argument, he has submitted that the respondent-State or its instrumentality cannot decline the request of the petitioner(s)-Society, for exempting the disputed land(s) from acquisition, given the Society obtaining an approval from another instrumentality of the State (Housing Board), especially when the said approval has already been acted upon. Therefore, it is on the above anchor that, the doctrine of promissory estoppel, besides, the plea of legitimate expectation has been rested.

18. Further, it has been argued that the petitioner(s) is the bonafide purchaser of the land, in pursuance of the advertisement/policy of the State Government, and therefore, the State Government, in

pursuance of the agreement (supra) created a valid and legal legitimate expectation in favour of the petitioner(s), which estopped the respondent-State from exercising its power of *eminent domain*. It has been further submitted that a valuable right has been created in favour of the petitioner(s)-Society, inasmuch as, once one of the entities of the State entered into an agreement on 22.4.1992, in pursuance of an approval granted by the Government, vide letter dated 26.2.1992. Therefore, it is contended that the said approval cannot be tinkered with in the garb of the launching of the impugned acquisition proceedings. He has further placed reliance upon the judgments rendered in the cases of *Navjyoti Co-Op Group Housing Society Vs. Union of India & Ors. (1992) 4 SCC 477*, *Food Corporation of India Vs. M/s Kamdhenu Cattle Feed Industries, (1193) 1 SCC 71*, *Ghaziabad Sheromani Sahkari Avas Samiti Ltd. Vs. State of U.P., (199) 1 SCC 583*, *Lalaram & Ors. Vs. Jaipur Development Authority & Anr., (2016) 11 SCC* and *National Fertilizers Employees Coop Housing Society Ltd. Vs. State of Haryana & Ors., 1998 SCC Online P&H 891*.

19. Learned counsel for the petitioner(s) has further argued that since the objections filed under Section 5-A of the Act of 1894 were not considered by the Government, therefore, such non-consideration renders the declaration issued under Section 6 of the Act of 1894 to be totally illegal. Moreover, since in the earlier round of litigation, vide judgment dated 12.8.2011, a specific direction was made by this Court to the High Powered Committee to consider the objections, as moved by the landowner(s) concerned under Section 5-A of the Act of 1894, however, despite the direction, the same were not considered. He has placed

reliance upon the judgment rendered by the Hon'ble Supreme Court in *“Surinder Singh Brar Vs. Union of India” (2013) 1 SCC 403*.

20. Learned counsel for the petitioner(s) has highlighted some factual contradiction(s) in the impugned order dated 21.10.2014, to submit that the objections, which have been dealt with, whereby the request for release(s) of land(s) was declined, are factually and legally incorrect. He has argued that discrimination has been exercised qua the petitioner(s), as similarly situated landowner(s), who applied for licence(s) by entering into an agreement with the Haryana Housing Board, have already been granted the apposite benefits, under different policies.

21. Learned counsel for the petitioner(s) has further submitted that since no award has yet been passed, as prescribed in Section 11-A of the Act of 1894, therefore, the impugned acquisition proceedings stand lapsed. He has further submitted that nothing did well prevent the respondent(s) concerned to pass an award, since as per judgment dated 12.8.2011 (Annexure P-7), all interim orders were converted into stay against dispossession. Moreover, since the State Government could well pass an award qua one parcel of the acquired land, as comprised in the same notification, therefore, there was no legal impediment with the State Government to pass an award, within the statutory limits of time qua other parcels of land, especially when the order of stay was converted into stay against dispossession by this Court itself.

22. Lastly, the learned counsel for the petitioner(s), by placing reliance upon an order made by this Court on 15.07.2008, upon *CWP-12510-2000*, titled as *“Abhishek Gupta V/s The State of Haryana and another”*, submits that since the same notification has already been

quashed qua the petitioner(s) therein, on the ground of perpetration of discrimination, therefore, the petitioner(s) herein also deserve to be treated at par.

SUBMISSIONS OF THE LEARNED COUNSEL(S) FOR THE RESPONDENT(S)

23. The learned State counsel, apart from submitting written submissions, which are taken on record, has vociferously argued that the foundation, as tried to be laid by the petitioner(s), for raising the plea of legitimate expectation, lacks vigour. The fulcrum of legitimate expectation is rested upon an agreement dated 22.04.1992, however, its perusal reveals that, the validity of said agreement, does not create any vested right in favour of the petitioner(s)-society, as the said agreement was a conditional agreement, inasmuch as, the implementation of scheme was made subject to clearance being accorded by the Department of Town and Country Planning concerned, failing which, no legal right accrue to the parties. Therefore, when there is no wrangle amongst the parties that, the requisite clearance was not granted by the Department of Town and Country Planning concerned, therefore, the contention qua legitimate expectation arising in favour of the petitioner(s), on the basis of the conditional agreement, does not carry any strength, rather is a feeble argument.

24. Proceeding further, the learned State counsel has argued that the agreement was never executed with the State Government, whereby an estoppel can ably become encumbered upon the State Government, against its refraining from exercising its power of *eminent domain*, that too, through recouring the relevant provisions of a central legislation, i.e.

the Act of 1894. The learned State counsel has laid much emphasis on the supervening events and submitted that the petitioner(s) has now entered into collaboration with a developer, i.e. D.L.F., and has applied for licence for developing a colony over the land in question. He argues that the argument of legitimate expectation pales into insignificance.

25. The learned State counsel has further argued, that the petitioner(s) has entered into collaboration with D.L.F. post the issuance of the declaration under Section 6 of the Act of 1894, which is wholly impermissible under law. To buttress this argument, he has placed reliance upon a Division Bench judgment of this Court rendered in *CWP-2734-2007*, titled as “*Laxmi Educational Society, Manesar and others Vs. State of Haryana and others*”, Decided on: 29.07.2022. He has also placed reliance upon a judgment rendered by the Hon’ble Supreme Court in case “*State of Haryana Vs. Vinod Oil and General Mills*”, 2014(15) SCC 410.

26. The further argument, as raised by the learned State counsel, is that, the case of the petitioner(s) is not covered under relevant policy, rather a decision was taken by the State Government not to release any piece of acquired land, based upon an application for grant of licence, nor was the case of petitioner(s) construable to be an appropriate deserving case for the thereunder claimed release being made vis-a-vis the petitioner(s). Moreover, the relevant and applicable policy for release of land is not the policy of 26.10.2007, rather is the policy of 24.01.2011. Under this policy, only such cases may be considered, wherein, the landowner(s) concerned has filed an application under Section 3 of The Haryana Development and Regulation of Urban Areas Act, 1975

(hereinafter referred to as the 'Act of 1975'), prior to the issuance of the declaration under Section 6 of the Act of 1894.

27. The learned State counsel has further submitted that, insofar as the present acquisition proceedings are concerned, no land has been released from the impugned acquisition, on account of grant of licence, therefore, the petitioner(s) cannot plead qua his being subjected to discrimination. The reference, as made by the petitioner(s), to the other acquisition proceedings, wherein, land was released, is totally irrelevant.

28. Continuing his arguments, the learned State counsel has assailed the argument made by the learned counsel for the petitioner(s), which pertains to lapsing of acquisition proceedings owing to non-passing of award within the prescribed statutory period of two years. In this regard, he has placed reliance upon Section 11-A of the Act of 1894, to submit that since status quo possession was in existence, therefore, the period of status quo is required to be excluded for the purpose of making the requisite computation. To lend vigour to his submission, he has placed reliance, upon, the judgment rendered in case titled as "*Yusufbhai Noormohmed Nendoliya Vs. State of Gujarat*", (1991) 4 SCC 531, and, "*State of Maharashtra Vs. M/s Moti Ratan Estate*, 2019 AIR (SC) 4149.

29. Furthermore, the learned State counsel has argued that the land in question was recommended for acquisition, given the same being vacant, but only after making well consideration of the objections, as made under Section 5-A of the Act of 1894, by the petitioner(s). Moreover, the High Powered Committee, as constituted by the Government, to consider the representation(s) of the petitioner(s), had

also well considered all the pleas raised by the petitioner(s). However, the principal plea of the petitioner(s), which pertains to release of petition land(s) on the basis of policy dated 26.10.2007 was rejected by the High Powered Committee, after considering the factual aspects and the conditions, as enclosed in the relevant policy. In its order dated 21.10.2014, the High Powered Committee has recorded specific observations that the petition land(s), besides affecting 60 meters wide road and plots planned in Sector 2, M.D.C., C.A., H.U.D.A., falls in public/semi-public/open space zone, and, in the area reserved for I.T. Park.

30. Concluding his arguments, the learned State counsel has drawn the attention of this Court towards the undertaking, as made by the State Government in the earlier round(s) of litigation, undertaking whereof, is recorded in the order dated 11.09.2003 of this Court, whereby, it was informed to the Court, that the Government has framed a policy to acquire potential area under the **periphery of M.D.C. for planned low density urban development** and in case, permission is granted to the petitioner(s)-Society to develop residential colony or high rise buildings or flats, **the basic object of acquisition would be defeated**, as most of the development has been executed at the site.

ANALYSIS

31. Since the crux of the arguments, as addressed by the learned counsel for the petitioner(s), encompasses the plea relating to the applicability of the equitable norm of legitimate expectation, therefore, the following cardinal issue arises for adjudication:-

“Whether an unperformed conditional agreement does

bestow in the petitioner(s), any legitimate expectation, thereby curtailing the sovereign power of *eminent domain*?”

32. Before we commence to evince our opinion and response on the hereinabove framed issue, it is deemed imperative to first understand the concept of the equitable doctrine of legitimate expectation.

33. The doctrine of legitimate expectation is one of the recognized grounds of judicial review, being one of the limbs of the principles of natural justice. Legitimate expectation imposes obligation upon the State to maintain equality in its treatment with its citizens and to act fairly, reasonably and non-arbitrarily. The finer nuance of the clear, unambiguous and unqualified assurance, understood by those, to whom it is given by the State or its instrumentality, is that, a particular action or procedure will be followed, rather than being departed, whereby, a legitimate expectation becomes endowed in favour of the citizens.

34. The definition, as assigned to the term “legitimate expectation”, in Law Lexicon Dictionary, is extracted hereinafter:-

“A person may have a legitimate expectation of being treated in a certain way of an administrative authority even though he has no legal right in private law to receive such treatment. The expectation may arise either from a representation or promise made by the authority, including an implied representation, or from consistent past practice.” [Halsbury’s Laws of England, Fourth Edn., Vol-I(1)151]

35. Furthermore, one could relate the principle of legitimate expectation to Article 14 of the Constitution of India, which requires the States to maintain equality in its deeds, besides ensure reasonableness and

non-arbitrariness in the decision making process, or, in the makings of executive decisions. The doctrine of legitimate expectation also prevents the administrative decision maker, from resiling from his promise or changing a policy, without good reasons, and also restrains the State from withdrawing any benefit, without complying with the principles of natural justice.

36. Here, in the present case, the fulcrum or the foundation laid by the petitioner(s) to invoke the equitable doctrine of legitimate expectation is hinged upon an agreement dated 22.04.1992. The learned counsel for the petitioner(s) has argued that a candid, unambiguous and unqualified assurance has been meted to him, inasmuch as, upon an approval being granted to the housing scheme, thereby the equitable doctrine of legitimate expectation is contended to arise in favour of the petitioner(s). Therefore, for determining whether the said agreement can be termed to be an unambiguous and unqualified assurance being made to the petitioner(s), or, the petitioner(s) have woven an artificial assurance, thereby estopping the respondent-State from reneging from the same, it is deemed imperative to reproduce the relevant extract of the said agreement:-

“4. That the implementation of the scheme shall be subject to the clearance by the D.T.C.P., Haryana failing which no legal rights shall accrue to the parties.”

37. However, a perusal of the hereinabove extracted agreement reveals that it was a conditional agreement, containing therein a conditional clause, inasmuch as, **the implementation of scheme shall be subject to clearance being accorded by the Department of Town and**

Country Planning concerned, failing which, no legal right shall accrue to the parties.

38. Therefore, when the agreement was evidently a conditional agreement, besides when there is no wrangle amongst the parties, that the requisite clearance was not granted by the Department of Town and Country Planning concerned. Therefore, this Court is led to conclude that the agreement never meted any unambiguous and unqualified assurance to the petitioner(s), contrarily rather when the conditions, as spelt therein, remained not complied with. Therefore, any renegings therefrom by the respondent-State, through its drawing the acquisition notification(s), cannot spur any conclusion that, thereby any legitimate expectation accrued, vis-à-vis, the petitioner(s), nor any further argument can be erected that thereby any renegings therefrom rather were unlawful.

39. Moreover, predominantly the agreement was executed way back on 22.04.1992, i.e. about 8 years prior to the issuance of the declaration under Section 6 of the Act of 1894, however, the petitioner(s)-Society did not, evidently for almost 8 years, get any clearance from the Department of Town and Country Planning concerned. In fact, approval was never granted by the department concerned for almost 8 years, thereby the above elongated period in the seeking of, and, consequent non-meteing of approval to the imperative conditions (supra), thereby the subsequently issued acquisition notification(s) are to be construed to be lawful. The reason being that the above elongated period of time, whereon, no affirmative action was made by the petitioner(s) to seek the requisite approval, thereby estops the petitioner(s) from raising plea of estoppel against State and does not restrict the State to exercise its power

of *eminent domain*, through its recouring the mandate of a central legislation i.e. the Act of 1894.

40. Predominantly, in the wake of the above, the agreement collapses, besides when post the issuance of a declaration under Section 6 of the Act of 1894, the petitioner(s) has entered into a collaboration agreement with D.L.F., in the year 2006. Resultantly, when at that stage, there was complete legal restraint to transfer any kind of right qua land under acquisition, therefore, obviously the entering of a collaboration agreement with the D.L.F. in the year 2006, post the issuance of a declaration under Section 6 of the Act of 1894, is also an acquiescence of the petitioner(s), that thereby the conditional agreement has lost its relevance, or, becomes underwhelmed in the said drawn collaboration agreement. Moreover, when during the elongated period, no affirmative action was taken at the instance of the petitioner(s), therefore, it naturally constitutes waiver and abandonment of any plea(s), as rested thereon. Consequently, any plea of legitimate expectation, as stemming therefrom, vis-à-vis the petitioner(s), is completely eclipsed in the drawing of a collaboration agreement by the petitioner(s) with the D.L.F., in the year 2006, i.e. post the issuance of a declaration under Section 6 of the Act of 1894.

41. In nut shell, reiteratedly, the above plea founders. Contrarily, the power of *eminent domain*, as exercised for bringing the subject matter land(s) to acquisition is to be construed to be lawfully exercised, specifically when compensation has to be determined under the relevant award vis-a-vis the landlooser(s) concerned.

42. Nonetheless, even if assumingly, for the sake of arguments, a

legitimate expectation, does arise in favour of the petitioner(s), it may give rise to another issue, i.e.:-

“Whether such legitimate expectation can curtail the right of sovereign to exercise its power of *eminent domain*, which has the strength of a Central legislation, i.e. the Act of 1894?”

43. The power of *eminent domain* endows an inherent power in the sovereign to take private property, for the same being used for public purpose, after paying adequate compensation, to the landlooser(s) concerned. The definition assigned to the term “*eminent domain*” in Black’s Law Dictionary is extracted hereinafter:-

“The inherent power of a governmental entity to take privately owned property, esp. land, and convert it to public use, subject to reasonable compensation for the taking.”

44. Also, Law Lexicon Dictionary assigns the following definition to the term “*eminent domain*”:-

“The inherent power of a governmental entity to take privately owned property, especially land, and convert it to public use, subject to reasonable compensation for the taking.

The right of the State or the sovereign to its or his own property is absolute while that of the subject or citizen to his property is only paramount. The citizen holds his property subject always to the right of the sovereign to take it for a public purpose. This right is called “eminent domain”. See Lewis on Eminent Domain; Mills on Eminent Domain; Randolph on Eminent Domain).

It is the right of the state or of those to whom the power has been lawfully delegated to condemn private property for public use and to appropriate the ownership and possession of such property for such use, upon paying the owner a due compensation to be ascertained according to law.”

45. In view of the hereinabove extracted definitions, as assigned to term “*eminent domain*”, let us examine whether the respondent-State has exercised its power of eminent domain with reasonableness and without any arbitrariness, for its achieving the requisite public purpose.

46. As noted hereinabove, in the factual matrix section of this verdict, the respondent-State, while taking into consideration the maintenance of ecological and environmental balance around Sukhna Lake, had given a specific undertaking before this Court, in the initial round of litigation, i.e. CWP-7649-2003, that it is imperative to acquire the potential area in the periphery of M.D.C., for making planned **low density Urban Development**, and, in pursuance thereof also, the proposed development plan was also put forward. Moreover, the respondent-State had also undertaken that a larger area will be developed as green and recreational area, as per the provisions of development plan.

47. Taking into account the undertaking, as given by the respondent-State, this Court had dismissed the CWP-7649-2003 through an order on 11.09.2003, which was unsuccessfully assailed by the aggrieved petitioner(s) therein, upto the Hon’ble Supreme Court. Therefore, insofar as the issue(s) relating to preservation of Sukhna Lake, maintenance of reserved and protected forest restriction, under the Works of Defence Act by the Ministry of Defence, around Chandimandir Military Station etc., was given well consideration by Courts of law and the act of respondent-State was upheld upto the Hon’ble Supreme Court.

48. In order to make compliance of the undertaking (supra), the respondent-State prepared a development plan for M.D.C. and thereupon

acquired land(s), through various acquisition notification(s), for planned development of Sector 1, 2, 3, 5B, 5C and 6, M.D.C., Panchkula. In Sector 1, Gymkhana Club Building, a Power House, Rajiv Gandhi Park (partly) and Paradise Park have been constructed and a waterworks site is under constructions. The record further transpires that, **keeping in view the need to protect water shed area of Sukhna Lake, land use of Sector 1 has been changed from “area reserved for I.T. use” to “open space zone”**. Moreover, besides parks being developed in the area, which is in possession of H.S.V.P., the rest of the area of Sector 1, possession whereof is not available with H.S.V.P., is also planned to be developed as “open space zone” upon assumption of its possession.

49. The impact of the above discussion is that the petitioner(s) cannot be permitted to raise the plea of promissory estoppel, or, legitimate expectation.

50. Now, insofar as the land(s) of the petitioner(s) is concerned, the record elucidates, that most of his land(s) falls in the layout plan of Sector 2, wherein, total 1435 plots have been carved out and out of these plots, 131 plots have already been allotted. The remaining plots could not be allotted owing to pendency of present litigation. Therefore, the layout plan makes it apparent that in order to develop M.D.C. in a planned and integrated manner, the petition land(s) has been acquired, through the impugned acquisition proceedings and making any release of petition land(s) would adversely hamper the planned and integrated development of M.D.C. Moreover, it has also come on record that, out of the awarded and tendered compensation amount of ₹61,57,90,176.78/-, in respect of village Saketri, an amount of ₹51,67,18,897/- has already been

paid/disbursed to the landowners concerned, which implies that, 83.91% of compensation amount has already been paid, whereas, only 16.09% is not accepted by the landowners concerned. Moreover, the High Powered Committee had also, while passing the order dated 21.10.2014, as impugned herein, examined the layout plan and the impact, in case petition land(s) is released. The relevant observations of the High Powered Committee are extracted hereunder:-

“14. The Committee also perused the layout plan and details submitted by District Town Planner, Panchkula showing the impact of the land requested for release on the layout plan. After going through the facts and circumstances, in all the cases, the Committee made following observations:-

- (i) It was noted that the HUDA has already allotted plots in*
- (ii) residential sector-2 Mansa Devi Complex. In some cases, HUDA is not able to offer the possession because of lack of linkages. The area under the writ petitions affects the sector roads, internal roads planned in and around Sector-2 MDC and some of the essential infrastructure facilities. Therefore, it is necessary to take possession of the land to enable provision of essential infrastructure facilities to the allottees. The Committee further noted that in some cases, the lands applied for grant of license of residential plotted colony are*
- (iii) located either in recreational zone/open space zone, designated commercial zone, area reserved for IT. Such lands since are not within the residential sector, therefore, are not in conformity with the zoning regulations for grant of licence for a plotted residential colony. Similarly in case of IT Park application also, major part of applied area falls in non conforming use. It was noted that conformity with Development Plan proposals is an important parameter to be considered by Director while deciding the licence application as required under rule 8 of the Rules 1976 read with section 3(2) of the Haryana Development and Regulation of Urban Areas Act, 1975. The open spaces designated*

in the Development Plan are necessarily required to be acquired and developed by HUDA because these are part of external infrastructure in lieu of the EDC collected from the plot holders of HUDA as well as from the private colonizers. Moreover, these designated open space zones cannot be allowed for development for residential colonies as it will deprive the residents of Panchkula/MDC of their rights to have the parks and open spaces for their well being and leisure/recreation. HUDA has already made efforts in this regard by developing 'Walkers Paradise' out of the available litigation free area and the complete zone needs to be developed. It was also observed that HUDA is duty bound to develop these areas for parks and open spaces as per commitments given in the Hon'ble Supreme Court in SLP No. 9566 of 2005 and in the Hon'ble High Court in CWP No. 18253 of 2009. Therefore, it was observed that such lands cannot be considered for grant of licence. After perusal of the record of DGTCP regarding application for grant of license for IT Park of 15.256 acres, it was noted that the entire area applied for IT Park under file No. LC-2526 is also subject matter of application for plotted colony in LC-1063, therefore, the Schedule of either of application needs to be corrected."

51. The hereinabove recorded facets of planned development of M.D.C. makes it evident that the respondent-State has exercised its power of *eminent domain* with all reasonableness and without any arbitrariness, **purely with an intent to achieve the requisite public purpose (emphasis supplied).**

52. Reiteratedly, the most predominant public purpose, as sought to be accomplished through bringing the petition land(s) to acquisition, was/is to plan a **low density urban development**, keeping in view the fact that the acquired land falls around the Capital periphery, near Sukhna Lake. Therefore, the alleged legitimate expectation of a private individual

cannot curtail the right of sovereign to exercise its power of eminent domain to achieve the requisite public purpose. A private individualistic interest has to surrender and give way to a public cause, which enjoys predominance thereovers.

53. The Hon'ble Supreme Court in its judgment rendered in ***“Bannari Amman Sugars Ltd. V/s Commercial Tax Officer and others”***, **2005(1) SCC 625**, has held that though it is now firmly established that the Government can change its policy at any time, in public interest, which must override private interest, however, withdrawal of representation or promise, which induced a person to change his position to his disadvantage, must not be arbitrary and unreasonable and must satisfy the requirement of Articles 14 and 19 of the Constitution. It has also been held that in order to determine the reasonableness of the change of a policy, the Court will see:-

- (i) whether there is any unfairness involved;*
- (ii) the nature of the right alleged to have been infringed;*
- (iii) the underlying purpose of the restriction imposed;*
- (iv) the extent and urgency of the evil sought to be remedied thereby,*
- (v) the disproportion of the imposition,*
- (vi) the prevailing condition at the relevant time enter into judicial verdict.*

In this judgment, the Hon'ble Supreme Court has also held that the reasonableness of the legitimate expectation has to be determined with respect to the circumstances. The relevant paragraphs of the judgment are reproduced hereinafter:-

“16. If the State acts within the bounds of reasonableness, it would be legitimate to take into consideration the national

priorities and adopt trade policies. As noted above, the ultimate test is whether on the touchstone of reasonableness the policy decision comes out unscathed.

17. Reasonableness of restriction is to be determined in an objective manner and from the standpoint of interests of the general public and not from the standpoint of the interests of persons upon whom the restrictions have been imposed or upon abstract consideration. A restriction cannot be said to be unreasonable merely because in a given case, it operates harshly. In determining whether there is any unfairness involved the nature of the right alleged to have been infringed, the underlying purpose of the restriction imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing condition at the relevant time enter into judicial verdict, the reasonableness of the legitimate expectation has to be determined with respect to the circumstances relating to the trade or business in question. Canalisation of a particular business in favour of even a specified individual is reasonable where the interests of the country are concerned or where the business affects the economy of the country.

XX XX XX

19. In order to invoke the doctrine of promissory estoppel clear, sound and positive foundation must be laid in the petition itself by the party invoking the doctrine and bald expressions without any supporting material to the effect that the doctrine is attracted because the party invoking the doctrine has altered its position relying on the assurance of the Government would not be sufficient to press into aid the doctrine. The Courts are bound to consider all aspects including the results sought to be achieved and the public good at large, because while considering the applicability of the doctrine, the Courts have to do equity and the fundamental principles of equity must for ever be present in the mind of the Court.

20. In Shrijee Sales Corporation and Anr. v. Union of India, 1897 (3) SCC 398) it was observed that once public interest is accepted as the superior equity which can override individual equity the

*principle would be applicable even in cases where a period has been indicated for operation of the promise. If there is a supervening public equity, the Government would be allowed to change its stand and has the power to withdraw from representation made by it which induced persons to take certain steps which may have gone adverse to the interest of such persons on account of such withdrawal. Moreover, the Government is competent to rescind from the promise even if there is no manifest public interest involved, provided no one is put in any adverse situation which cannot be rectified. Similar view was expressed in **Pawan Alloys and Casting Pvt. Ltd. Meerut etc. v. U.P. State Electricity Board and Others (AIR 1997 Supreme Court 3810) and in Sales Tax Officer and Anr. v. Shree Durga Oil Mills and Anr., 1998 (1) SCC 573**), it was further held that the Government could change its industrial policy if the situation so warranted and merely because the resolution was announced for a particular period, it did not mean that the government could not amend and change the policy under any circumstances. If the party claiming application of the doctrine acted on the basis of a notification it should have known that such notification was liable to be amended or rescinded at any point of time, if the government felt that it was necessary to do so in public interest.”*

54. From the hereinabove extracted paragraphs, it becomes amply clear that even the Hon’ble Supreme Court has held that if there is a supervening public equity, the Government would be allowed to change its stand and has the power to withdraw from any representation as made by it.

55. A Larger Bench of the Hon’ble Supreme Court in its judgment drawn upon **Writ Petition Nos.151, 152, 153, 176 to 182, 186 to 189 and 198 of 1971 and Civil Appeal Nos.1398, 1416 and 1417 of 1972, Decided on: 18.09.1973, titled as “State of Kerala and another V/s The Gwalior Rayon Silk Mfg. (Wvg.) Co. Ltd. etc.”**, has held that any

agreement between a private individual and the government does not create estoppel upon the latter to exercise its executive power. The relevant paragraph of the judgment (*supra*) reads as under:-

“23. Mr. Menon who appeared for the respondent in Civil Appeal No. 1398/72 put forward a plea of equitable estoppel peculiar to his client company. It appears that the Company established itself in Kerala for the production of rayon cloth pulp on an understanding that the Government would bind itself to supply the raw material. Later Government was unable to supply the material and by an agreement undertook not to legislate for the acquisition of private forests for a period of 60 years if the Company purchased forest lands for the purpose of its supply of raw-materials. Accordingly, the Company purchased 30,000 acres of private forests from the Nilambhuri Govila Kannan estate for Rs. 75/- lakhs and, therefore, it was argued that, so far as the company is concerned, the agreement not to legislate should operate as equitable estoppel against the States. We do not see how an agreement of the Government can preclude legislation on the subject. The High Court has rightly pointed out that the surrender by the Government of its legislative powers to be used for public good cannot avail the company or operate against the Government as equitable estoppel.”

56. In the present case, there is no conflict that the petitioner(s) has not been granted any NOC/CLU/Licence by the respondent-State or its instrumentality, which may debar the respondent-State to exercise its power of *eminent domain*. Even otherwise also, a Division Bench of this Court, in its judgment rendered in case of ***Laxmi Educational Society (Supra)***, has categorically held that grant of NOC/CLU/Licence/any other permission would not grant any immunity to the land, for all times to come, from its acquisition being made by the State, especially when it is required for a public purpose, as the private interest will have to make

way for the public interest.

57. Likewise, the Hon'ble Supreme Court has also, in case of ***State of Haryana V/s Vinod Oil and General Mills (Supra)***, held that even the grant of CLU/Licence will not operate as an estoppel for the State to acquire the land for the public purpose. The relevant paragraph of the judgment (supra) is extracted hereinafter:-

“8. Permission for change of land use and developing the area as an industry, in our view, has no relevance while considering the validity of acquisition. If we are to hold that once permission is granted for change of land use for developing the area as an industry and thereafter State cannot acquire it, then a situation may arise that for all time to come, the particular area cannot be acquired which may not be in the larger public interest. We are also unable to agree with the view taken by the High Court that the action of the respondents/State in approving setting up of a factory and then acquiring the same is unreasonable. It is not as if the lands where factories are set up are immune from any acquisition. The only effect of permission for such change in land use and approval for construction and developing the area as an industry can be recognized as valid only to the extent as to confer right upon the land owners to recover the appropriate compensation.

9. The land was acquired for development and utilization of the same for residential and commercial purposes in Sector 9 & 11, Hissar. So far as the purpose of acquisition of land is concerned, the High Court observed that “the acquisition is not for essential public services such as development of infrastructure, railways, metro or the purpose related thereto, irrigation, water supply, drainage, road, communication etc.....”. High Court was not correct in observing that only development of infrastructure, railways or irrigation, water supply, drainage, road etc. are primary public purposes. Public purpose includes a purpose involving general interest of community as opposed to the interest of an individual directly or indirectly involved. Individual interest

must give way to public interest as far as public purpose in respect of acquisition of land is concerned.”

58. In view of the hereinabove extracted legal propositions, as also the facts and circumstances discussed hereinabove, it can be easily concluded that the power of *eminent domain* exercised by the respondent-State, to achieve larger public interest, enjoys precedence over legitimate expectation, as allegedly created in favour of a private individual.

59. In case titled “*State of Bihar and Ors. V/s Project Uchcha Vidya, Sikshak Sangh and Ors.*”, (2006) 2 Supreme Court Cases 545, the Hon’ble Supreme Court has categorically held that the rule of estoppel has no application where contention relates to recourse being made to unchallenged constitutional provisions or unchallenged statute. The relevant paragraph of case (supra) is reproduced hereinafter:-

“77. We do not find any merit in the contention raised by the learned counsel appearing on behalf of the respondents that the principle of equitable estoppel would apply against the State of Bihar. It is now well known, the rule of estoppel has no application where contention as regards a constitutional provision or a statute is raised. The right of the State to raise a question as regards its actions being invalid under the constitutional scheme of India is now well recognized. If by reason of a constitutional provision, its action cannot be supported or the State intends to withdraw or modify a policy decision, no exception thereto can be taken. It is, however, one thing to say that such an action is required to be judged having regard to the fundamental rights of a citizen but it is another thing to say that by applying the rule of estoppel, the State would not be permitted to raise the said question at all. So far as the impugned circular dated 18.02.1989 is concerned, the State has, in our

opinion, a right to support the validity thereof in terms of the constitutional framework.”

60. Insofar as the reliance placed by the learned counsel for the petitioner(s) upon ***Navjyoti Co-op. Group Housing Society (Supra)***, to substantiate his argument(s), is concerned, the same appears to be a misplaced reliance, as this judgment in fact supports the view adopted by this Court. The Hon’ble Supreme Court, in ***Navjyoti’s case (Supra)***, has held that the petitioner(s)-Housing Society was entitled to ‘legitimate expectation’ of following consistent past practice in the matter of allotment. It has been further held that the doctrine of ‘legitimate expectation’ imposes a duty on public authority to act fairly by taking into consideration all relevant factors relating to such ‘legitimate expectation’, and, finding no compelling reasons to change its procedures, finally took the decision to invoke the ‘legitimate expectation’ against the State. The relevant paragraph of the judgment (supra) reads as under:-

“16. It may be indicated here that the doctrine of 'legitimate expectation' imposes in essence a duty on public authority to act fairly by taking into consideration all relevant factors relating to such 'legitimate expectation'. Within the conspectus of fair dealing in case of 'legitimate expectation', the reasonable opportunities to make representation by the parties likely to be affected by any change of consistent past policy, come in. We, have not been shown any compelling reasons taken into consideration by the Central Government to make a departure from the existing policy of allotment with reference to seniority in Registration by introducing a new guideline. On the contrary, Mr. Jaitley the learned Counsel has submitted that the DDA and/or Central Government do not intend to challenge the decision of the High Court and the impugned memorandum of January 20, 1990 has since been withdrawn. We therefore feel that in the facts of the case it was only desirable that before introducing or

implementing any change in the guideline for allotment, an opportunity to make representations against the proposed change in the guideline should have been given to the registered Group Housing Societies, if necessary, by way of a public notice.”

61. However, the ratio of law laid down in judgment (supra) is not going in favour of the petitioner(s), as reiteratedly, neither the ‘legitimate expectation’ arises in favour of the petitioner(s), nor the act of the respondent-State, as comprised in its exercising the power of *eminent domain* is arbitrary or non-reasonable, rather it is aimed at accomplishing the requisite public purpose.

62. The further reliance placed by the learned counsel for the petitioner(s), upon the case of ***Food Corporation of India (Supra)***, is also a misconceived reliance, as therein also, the Hon’ble Supreme Court has held that legitimate expectation is a relevant factor requiring due consideration in a fair decision-making process. Whether the expectation of the claimant is reasonable or legitimate in the relevant context, is a question of fact in each case and this question has to be determined not according to the claimant’s perception but in larger public interest. The relevant paragraph of the judgment (supra) is extracted hereinafter:-

“8. The mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirement of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness, a necessary concomitant of the rule of law. Every legitimate expectation is a relevant factor requiring due consideration in a fair decision making process. Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according

to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. A bona fide decision of the public authority reached in this manner would satisfy the requirement of non-arbitrariness and withstand judicial scrutiny. The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent."

63. Consequently, the gist of the hereinabove made discussion, results in this Court penning down **a negative response to the second issue also, as framed hereinabove.**

64. Now, insofar as the other argument(s), as raised by the learned counsel for the petitioner(s) is concerned, which pertains to petitioner(s) being entitled for release of land, as an application was made by them for grant of licence, which however became wrongly rejected, despite theirs being well entitled for grant of licence.

65. The above made argument is vehemently opposed by the learned State counsel on the ground that the relevant and applicable policy for release of land is not the policy of 26.10.2007, but is the policy of 24.01.2011, whereunder, only such cases may be considered, wherein, landowner(s) concerned has filed an application under Section 3 of the Act of 1975 prior to the issuance of a declaration under Section 6 of the Act of 1894, subject to the condition that the land shall be owned by the applicant before notification under Section 4.

66. The learned State counsel further submits that since the declaration under Section 6 was issued on 15.03.2000, whereas, the application for grant of licence was made subsequent thereto, thus on 04.08.2006, therefore, the petitioner is not covered within the parameters

of the relevant policy.

67. Be that as it may, this Court is not inclined to adjudicate whether the petitioner(s) is covered under policy 'A' or policy 'B'. Since as already held hereinabove, even in case the petitioner(s) succeeds in their attempt to get a licence to develop colony upon petition land(s), yet grant of such licence cannot curtail the right of sovereign to exercise the power of *eminent domain*, as the superior thereto. The predominant public purpose, as sought to be accomplished, through bringing the petition land(s) to acquisition, was/is to plan a **low density urban development**, qua which an undertaking has also been given before this Court by the respondent-State, moreover, when the said undertaking has also been accepted by this Court and upheld by the Hon'ble Supreme Court in earlier round of litigation.

68. Moreover, since it is also informed to this Court by the learned counsel for the respondent(s) that **no land, as brought to acquisition through the impugned acquisition proceedings, has been released, on account of grant of licence**. Therefore, the petitioner(s) cannot even plead any perpetration of discrimination vis-a-vis them. The petition land(s) is an inevitable and insegregable component of the layout plan and this aspect has been considered even by the High Powered Committee, as is evident from the order dated 21.10.2014. Therefore too, consequently, this Court does not deem it fit and appropriate to, merely for the benefit of the petitioner(s), make any untenable tinkering with the layout plan, which is meant to subserve a public purpose.

69. The learned counsel for the petitioner(s) has placed reliance upon an order made by this Court on 15.07.2008, upon *CWP-12510-2000*,

titled as “*Abhishek Gupta V/s The State of Haryana and another*”, to contend that the same notification has already been quashed qua the petitioner(s) therein, on the ground of discrimination, therefore, the petitioner(s) herein also deserves to be treated at par, through quashing the impugned acquisition proceedings.

70. However, the reliance (supra) does not lend any vigour to the contention of the learned counsel for the petitioner(s), as the order dated 15.07.2008, passed in CWP (supra), has been challenged before the Hon’ble Supreme Court and is yet subjudice. Even otherwise, the said order was passed on the ground of discrimination, as the therein land which was released in favour of Maharaja Harinder Singh ‘Khalaf’ Maharaja Varjinder Singh, was subsequently acquired, as 4.77 acres of land under Garden, was again notified for acquisition, through the issuance of respective notification and declaration respectively under Sections 4 and 6 of the Act of 1894 and ultimately, an award was passed on 23.03.2009.

71. It would be significant to note here that a similar plea was also raised in CWP-11945-2008, however, it was dismissed vide order dated 09.10.2023.

72. Moreover, in case titled “Haryana Urban Development Authority V/s Abhishek Gupta etc.”, wherein, the order made by this Court on 15.07.2008 has been challenged, the Hon’ble Supreme Court, on 26.07.2003, had sought specific instructions from the learned State counsel, as to whether the State Government is inclined to drop the acquisition proceedings in respect of the land in dispute, provided that the landowner(s) concerned is agreeable to give land for roads and other

public amenities free of cost.

73. Thereafter, on 13.09.2023, the Hon'ble Supreme Court had requisitioned an affidavit from the State Government, thus with echoings therein in respect of the following:-

“(i) Why the State Government is agreeable to release the land of the respondents from acquisition?

(ii) Whether such release of land will affect the acquisition of adjoining lands or not?

(iii) Whether the subject-land falls within or near the Sukhna Lake catchment area?

(iv) Whether the land in dispute falls in non-construction zone?

(v) If not, what type of construction is permissible in and around the area of subject-land?”

74. **Since most of the instructions, as sought by the Hon'ble Supreme Court, on 13.09.2023, are already available on record of this Court, in the shape of an undertaking by the respondent-State, thereby this Court has been already led to form the hereinabove inferences.**

75. Consequently, the plea of discrimination, as raised by the learned counsel for the petitioner(s) does not warrant any attention, as evidently there occurs no discrimination, vis-a-vis, the petitioner(s).

76. Proceeding further, the next argument of the learned counsel for the petitioner(s) pertains to non consideration of objections, as made by them under Section 5-A of the Act of 1894. It is argued that since the only right available to the petitioner(s) to protest against acquisition(s) is through its/theirs filing objections under Section 5-A, however, its non-consideration and the straightaway making of a declaration under Section 6 has led to defeating the right of the petitioner(s), and, thereby the

principles of natural justice have been breached.

77. However, to the considered mind of this Court, the above made argument, does not hold any force, as is not under dispute that, the objections filed by the petitioner(s) were duly considered by the Land Acquisition Collector concerned on 02.02.2000 and on 04.02.2000, and thereupon only, the petition land(s) was recommended for acquisition, given theirs being then vacant. It was only after acceptance of such recommendations by the Government that, a declaration under Section 6 of the Act of 1894 thus was issued.

78. Moreover, in the earlier round of litigation, i.e. ***CWP-12848-2000***, titled as ***“Jasbir Singh Siali Vs. The State of Haryana and others”***, this Court, besides directing the petitioner(s) therein to file their representation(s) and objection(s), had also directed the State/High Powered Committee concerned to decide the claim of the petitioner(s) therein. Compliance to the above order was made by the High Powered Committee, as constituted by State Government, which considered each and every plea/issue raised by the petitioners and thereupon, passed a detailed order dated 21.10.2014, thereby rejecting the claim of the petitioner(s) for releasing the land.

79. However, since this Court has also considered all the arguments, as raised by the petitioners before the High Powered Committee, besides when the said argument(s) relating to the validity of the said rejection order has not been assigned adequate weightage, therefore, the impugned rejection order, as made by the High Powered Committee, is affirmed and upheld.

LAPSING OF ACQUISITION PROCEEDINGS

80. The learned counsel for the petitioner(s) has claimed that the impugned acquisition proceedings be declared to become lapsed, as no award has been passed within the statutory period, as prescribed under Section 11 of the Act of 1894. It has been further argued that since there was status quo operating only qua possession, therefore, there was no restraint upon the acquiring authority concerned to pass an award pursuant to issuance of declaration under Section 6 of the Act of 1894, and that too, within the period prescribed for the making of an award.

81. Before adjudicating the above made argument, it would be relevant to, at this juncture, make a survey of the provisions, as enclosed in Section 11-A of the Act of 1894, which is extracted hereinafter:-

[11A. Period shall be which an award within made.- The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceeding for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), the award shall be made within a period of two years from such commencement.

Explanation- In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.]

82. A bare glance at the explanation, as attached to the hereinabove extracted Section, makes it graphically clear that for the purpose of computing two years, such period shall be excluded, during which any action or proceeding to be taken in pursuance of declaration, is stayed by order of Court.

83. As elaborated hereinabove, the declaration under Section 6 was issued on 15.03.2000. In CWP-6357-2000, which was a part of a set of several writ petitions, this Court had passed an interim order on 22.5.2000 to maintain status-quo. The writ petition (supra) was finally disposed of, vide a common order dated 12.8.2011, as passed in lead petition of said bunch, i.e. CWP-12848-2000, titled as “Jasbir Singh Siali Vs. The State of Haryana and others”, whereby, a direction was issued upon the State/High Powered Committee concerned, to decide the claim of the petitioner(s) therein, besides a direction was also made to maintain status quo regarding possession of land, till communication of said decision to the High Powered Committee and 15 days thereafter.

84. Accordingly, the High Powered Committee, as constituted, considered the representation(s) of all concerned and passed a detailed order on 21.10.2014, thereby declining the relief(s), as asked by the concerned. Since the declining order caused pain to the landowner(s) concerned, they approached this Court through filing the writ petition at hand, i.e. CWP-23330-2014, whereupon, on 14.11.2014, again a direction was made to the parties concerned to maintain status quo.

85. Therefore, the status quo order against dispossession, and, the directions made to the High Powered Committee to consider the representation(s) of the landlooser(s) concerned, and, the said phase within which the representation(s) were subjudice before the authority concerned, well restrain the acquiring authority concerned to, within the limitation period prescribed in Section 11 of the Act of 1894, make an award under Section 11 of the Act of 1894. Consequently, the above phase, whereby, the respondent(s) was precluded to draw an award, did

naturally fall within the domain of the explanation, as attached to Section 11-A of the Act of 1894, for computing the statutory period of two years for passing an award. Since immediately post the making of rejection order by the High Powered Committee, the instant petition(s) was filed and thereon, on 14.11.2014, yet again the parties were directed to maintain status quo with respect to the petition land(s). Therefore, when the validity of the rejection order was under consideration, thereby too, even during the said phase, the respondent(s) concerned could be well construed to be ably deterred to make an award within the period of limitation, as prescribed under Section 11 of the Act of 1894.

86. In *“Faizabad-Ayodhya Development Authority, Faizabad V/s Dr. Rajesh Kumar Pandey & Ors.”*, Civil Appeal No.2915 of 2022, it has been declared that when no award under Section 11 is passed after issuance of a declaration under Section 6 of the Act of 1894, owing to pendency of any proceeding and/or interim stay granted, landowners shall not be entitled to compensation under Section 24(1) of the Act of 2013. Consequently, the pendency of the instant writ petition(s) before this Court, against the rejection order made by the High Powered Committee, did during that era, well preclude the authority concerned to make an award. Therefore, an interim stay, even if it was a stay against dispossession, makes the said fact to be construed to be a well made deterrence upon the acquiring authority against its passing an award under Section 11 of the Act of 1894. In sequel, the said period is to be excluded, in terms of the explanation attached to Section 11-A of the Act of 1894, and, in terms of the judgment (supra), from making the relevant computation and also there is no entitlement endowed to the petitioner(s)

to claim compensation under Section 24(1) of the Act of 2013.

87. Moreover, the Hon'ble Supreme Court in its judgment rendered in *Yusufbhai Noormohmed Nendoliya's case (Supra)* has also held that the explanation to Section 11-A is couched in the widest possible terms and there is no warrant for limiting the action or proceedings referred to in the Explanation to actions or proceedings preceding the making of the award under Section 11. Therefore, the period of status quo, as granted by this Court, created an embargo upon the acquiring authority concerned from taking possession of the land and therefore, such period has to be excluded while computing the statutory period of two years for the making of an award, since the making of a declaration under Section 6 of the Act of 1894.

88. The law laid down in judgment (supra) was reiterated and re-affirmed by a Three Judge Bench of the Hon'ble Supreme Court, while drawing a judgment in case titled as "*State of Maharashtra Vs. Moti Ratan Estate*" (Supra), wherein, it has been held that:-

"7.5 On considering catena of decisions of this Court, referred to hereinabove, the following propositions of law can be culled out:

(i) when the scheme of the acquisition is one, interim stay granted in respect of one pocket of land would operate even with respect to other pockets of land and in such a situation the authorities are justified in not proceeding with the acquisition proceedings and therefore the acquisition proceedings would not lapse;

(ii) interim order of stay granted in respect of one of the land owners would have a complete restraint for the authorities to proceed further;

(iii) when the stay has been granted in one matter and where the scheme was one, the authorities were justified to stay their hands;

(iv) the extended meaning of the words "stay of the action or

proceedings under Section 11A of the Act” would mean that any interim effective order passed by the court which may come in the way of the authorities to proceed further;

(v) Explanation to Section 11A of the Act is in the widest possible terms and there is no warrant for limiting the action or proceedings, referred to in the explanation, to actions or proceedings preceding the making of the award under Section 11 of the Act and therefore the period of injunction obtained by the land holders staying the acquisition and authorities from taking possession of the land has to be excluded in computing the period of two years.”

89. Furthermore, the Hon’ble Supreme Court in case titled as **“Faizabad-Ayodhya Development Authority, Faizabad V/s Dr. Rajesh Kumar Pandey & Ors.”**, has again considered this issue and while relying upon various propositions of law, held that in case, where on the date of commencement of the Act of 2013, no award under Section 11 is passed after the makings of the apposite declaration, thus owing to pendency of any proceeding and/or interim stay granted by the court, thereby such landlord shall not be entitled to compensation under Section 24(1) of the Act of 2013, rather shall be entitled to compensation only under the Act of 1894. Therefore, in view of the exposition, as made therein and as relates to pendency of any proceeding, comprising a well deterrence upon the acquiring authority to make an award under Section 11 of the Act of 1894. Consequently, thereby too, all throughout, when status quo and status quo qua dispossession were in force, there was a well made restraint upon the authority concerned to pass an award under Section 11 of the Act of 1894. Resultantly, the said period has to be excluded for computing the relevant period of limitation.

90. In the above referred judgment, the Hon'ble Supreme Court has also relied upon a decision rendered by it in the case of ***“State of Gujarat Vs. Essar Oil Ltd.,” 2012 (3) SCC 522***, wherein, it has been observed that the principle of restitution is a remedy against unjust enrichment or unjust benefit. The relevant extract of the judgment rendered in ***Faizabad-Ayodhya Development Authority's case (supra)*** is reproduced hereinafter:-

“15. In the case of Indore Development Authority (supra), even this Court applied the principle of restitution. It is observed that the principle of restitution is founded on the ideal of doing complete justice at the end of litigation, and parties have to be placed in the same position but for the litigation and interim order, if any, passed in the matter. Applying the principle of restitution, it is further observed that no party could take advantage of a litigation. It is further observed and held that the principle of restitution is a statutory recognition of the rule of justice, equity and fair play. The court has inherent jurisdiction to order restitution so as to do complete justice. This is also on the principle that an unsuccessful litigant who had the benefit of an interim order in his favour cannot encash or take advantage of the same on the enforcement of the Act, 2013 by initially stalling the acquisition process and later seeking a higher compensation under the provisions of Act, 2013. We say so for the reason that if at the instance of a landowner, who has challenged the acquisition, an interim order has been passed by a Court is successful then the proceeding of acquisition or the acquisition notification would be quashed. Then there would be no occasion to determine any compensation. But on the other hand, if a landowner, who has the benefit of an interim order in his favour whilst a challenge is made to the acquisition, is unsuccessful, he cannot then contend that he must be paid compensation under the provision of the Act, 2013 on its enforcement, whereas a landowner, who did not have the benefit of any interim order is

paid compensation determined under the provisions of the Act, 1894, which is lesser than what would be computed under the Act, 2013.

15.1 Following the decision of this Court in the case of State of Gujarat Vs. Essar Oil Ltd., (2012) 3 SCC 522, it is observed that the principle of restitution is a remedy against unjust enrichment or unjust benefit. Following the decision of this Court in the case of A. Shanmugam Vs. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam, (2012) 6 SCC 430, it is observed that the restitutionary jurisdiction is inherent in every court, to neutralise the advantage of litigation. A person on the right side of the law should not be deprived, on account of the effects of litigation; the wrongful gain of frivolous litigation has to be eliminated if the faith of people in the judiciary has to be sustained.

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17. In view of the above and for the reasons stated above, it is observed as under:-

(i) It is concluded and held that in a case where on the date of commencement of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, no award has been declared under Section 11 of the Act, 1894, due to the pendency of any proceedings and/or the interim stay granted by the Court, such landowners shall not be entitled to the compensation under Section 24(1) of the Act, 2013 and they shall be entitled to the compensation only under the Act, 1894.

18. In view of the above discussion and for the reasons stated above and in view of our conclusion above, all these appeals are allowed. The impugned judgment(s) and order(s) passed by the High Court are quashed and set aside. The concerned appropriate Authority(s) to declare the award under Section 11 of the Act, 1894 with respect to the lands in question and determine the compensation under the provisions of the Act, 1894 by taking into consideration Section 114 of the Act, 2013 read with Section 6 of the General Clauses Act, 1897, wherever applicable and the

original landowners shall be paid the compensation accordingly, under the provisions of the Act, 1894.”

91. Moreover, in the judgment (supra), following observations were summarized:-

- “(i) The time of five years is provided to the authorities to take action, not to sleep over the matter;*
- (ii) Only in cases of lethargy or inaction and default on the part of the authorities and for no other reason lapse of acquisition can occur;*
- (iii) Lapse of acquisition takes place only in case of default by the authorities acquiring the land, not caused by any other reason or order of the court;*
- (iv) The additional compensation @ 12% provided under Section 69 of the Act, 2013 has been excluded from the period acquisition proceedings have been held up on account of the interim injunction order of any court;*
- (v) If it was not possible for the acquiring authorities, for any reason not attributable to them or the Government, to take requisite steps, the period has to be excluded;*
- (vi) In case the authorities are prevented by the court's order, obviously, as per the interpretation of the provisions such period has to be excluded;*
- (vii) The intent of the Act, 2013 is not to benefit landowners only. The provisions of Section 24 by itself do not intend to confer benefits on litigating parties as such, while as per Section 114 of the Act, 2013 and Section 6 of the General Clauses Act the case has to be litigated as per the provisions of the Act, 1894.*
- (viii) It is not the intendment of the Act, 2013 that those who have assailed the acquisition process should get benefits of higher compensation as contemplated under Section 24;*
- (ix) It is not intended by the provisions that in case, the persons, who have litigated and have obtained interim orders from the Civil Courts by filing suits or from the High Court under Article 226 of the Constitution should have the benefits of the provisions of the Act, 2013 except to the extent specifically provided under the Act, 2013;*

(x) In cases where some landowners have chosen to take recourse to litigation and have obtained interim orders restraining taking of possession or orders of status quo, as a matter of practical reality it is not possible for the authorities or the Government to take possession or to make payment of compensation to the landowners. In several instances, such interim orders also have impeded the making of an award;

(xi) However, so far as awards are concerned, the period provided for making of awards under the Act, 2013 (sic 1894 Act) could be excluded by virtue of Explanation to Section 11-A, which provided that in computing the period of two years, the period during which any action or proceeding to be taken in pursuance of the declaration is stayed by an order of a court shall be excluded;

(xii) The litigation initiated by the landowners has to be decided on its own merits and the benefits of Section 24(2) should not be available to the litigants in a straitjacket manner. In case there is no interim order, they can get the benefits they are entitled to, not otherwise. Delays and dilatory tactics and sometimes wholly frivolous pleas cannot result in benefitting the landowners under sub-section (1) of Section 24 of the Act, 2013;

(xiii) Any type of order passed by this Court would inhibit action on the part of the authorities to proceed further, when a challenge to acquisition is pending;

(xiv) Interim order of stay granted in one of the matters of the landowners would cause a complete restraint on the authorities to proceed further to issue declaration;

(xv) When the authorities are disabled from performing duties due to impossibility, it would be a sufficient excuse for them to save them from rigour of provisions of Section 24. A litigant may have a good or a bad cause, be right or wrong. But he cannot be permitted to take advantage of a situation created by him by way of an interim order passed in his favour by the Court at his instance. Although provision of Section 24 does not discriminate between landowners, who are litigants or non-litigants and treat them differently with respect to the same acquisition, it is

necessary to view all of them from the stand point of the intention of the Parliament. Otherwise, anomalous results may occur and provisions may become discriminatory in itself;

(xvi) The law does not expect the performance of the impossible;

(xvii) An act of the court shall prejudice no man;

(xviii) A party prevented from doing an act by certain circumstances beyond his control can do so at the first subsequent opportunity;

(xix) When there is a disability to perform a part of the law, such a charge has to be excused. When performance of the formalities prescribed by a statute is rendered impossible by circumstances over which the persons concerned have no control, it has to be taken as a valid excuse;

(xx) The Court can under its inherent jurisdiction ex debito justitiae has a duty to mitigate the damage suffered by the defendants by the act of the Court;

(xxi) No person can suffer from the act of Court and an unfair advantage of the interim order must be neutralised;

(xxii) No party can be permitted to take shelter under the cover of Court's order to put the other party in a disadvantageous position;

(xxiii) If one has enjoyed under the Court's cover, that period cannot be included towards inaction of the authorities to take requisite steps under Section 24 as the State authorities would have acted and passed an award determining compensation but for the Court's order."

92. Therefore, in view of the *ratio decidendi*, as laid down by the Hon'ble Supreme Court and as elaborated hereinabove, when status quo regarding possession was granted by this Court in favour of the landowner(s) concerned and they have been reaping its fruits, now such landowner(s) concerned cannot mutate their stand and use the said interim order qua status quo of possession as a circuitous mechanism for claiming lapsing of the impugned acquisition proceedings, on account of non

passing of an award within the period of limitation prescribed under Section 11 of the Act of 1894.

93. In CWP-16-2015, it is specifically averred that the land belonging to the petitioner(s) Jarnail Singh was partitioned and was reflected in the revenue record for the year 2011-2012, and, that there was no status quo in respect of his share. Therefore, it is argued that in the absence of any award being passed, in terms of Section 11 of the Act of 1894, in respect of his share of land, the impugned acquisition proceedings shall be deemed to have lapsed.

94. Reiteratedly, since the declaration under Section 6 of the Act of 1894 was issued on 15.03.2000 and thereupon, the co-sharers of the petitioner-Jarnail Singh had approached this Court, which led to this Court to make an interim order regarding status quo, as detailed hereinabove, therefore, the order of status quo is to be deemed to become issued in respect of entire land and not in respect of any specific pocket of land. The partition, if any occurred between the petitioner-Jarnail Singh and his co-sharers, does not have any impact upon the status quo granted by this Court, nor it can be said that the acquiring authority concerned, did not thereby have any restraint to pass an award in respect of share of petitioner-Jarnail Singh, especially when during the era (supra), orders of status quo were in operation, in respect of remaining pocket of land, which is still under litigation.

95. Consequently, the argument(s) as made by the learned counsel(s) for the petitioner, thereby seeking release of petition land(s) on the anvil of lapsing provisions, does not carry any vigour, rather is rejected for the reasons detailed hereinabove.

96. Insofar as the plea of lapsing of impugned acquisition proceedings, by dint of Section 24(2) of the Act of 2013 is concerned, the same is halfheartedly raised in some of the writ petitions. Moreover, the said issue is no more *res integra*, as the Hon'ble Supreme Court has already decided this issue in its judgment rendered in "**Indore Development Authority v. Manoharlal**", 2020 AIR (Supreme Court) 1496, and, in "**Faizabad-Ayodhya Development Authority, Faizabad V/s Dr. Rajesh Kumar Pandey & Ors.**", Civil Appeal No.2915 of 2022. Therefore, this issue warrants no further adjudication.

97. As a sequel to the hereinabove made discussion, this Court does not find any merit in all these writ petitions and the same are accordingly dismissed.

SURESHWAR THAKUR, J.

98. I have gone through the detailed analysis, as made by Justice Kuldeep Tiwari, of the arguments addressed before this Court, by the learned counsel(s) for the petitioner(s) as well as by the learned counsel(s) for the respondent(s).

99. The above detailed analysis, though does not require any further addition thereto, being made by the undersigned. Nonetheless, the power of *eminent domain*, as became exercised by the acquiring authority concerned, was exercised with deepest circumspection and care. The exercising of the power of *eminent domain* by the acquiring authority concerned, even otherwise, is an untrammelled power. It envelopes the power to make acquisitions of all land(s), which are but declared to be suitable, to further or to achieve the requisite public purpose.

100. The undersigned has evaluated the detailed reply(ies) furnished on affidavit(s) by the replying respondent(s). A keenest perusal thereof discloses that, with the most sombre mindfulness, given the necessity of acquisitions being made of the subject matter land(s), that such acquisition proceedings were launched. The acquiring authority concerned was successful in repulsing the assault made to the launching of the relevant acquisition proceedings, thus uptil, the Hon'ble Supreme Court. Therefore, thereby the launching of the instant motion rather for making an assault vis-a-vis the launching of the acquisition proceedings, is but a last ditch attempt, to save the acquired land(s) from acquisition.

101. Moreover, the purpose of acquisition is for making planned developments, thus in a sensitive zone adjoining the Sukhna Lake. The said planned development, thus embodies the solemn principle, that thereby(s) no ecological disaster becomes perpetrated upon the Sukhna Lake, which adjoins the acquired land(s). The preemption to spurrings of ecological disaster rather from planned development, is thus, assured through the acquisitions being made rather for low density urban development, vis-à-vis, the subject matter land(s). Therefore, the instrumentality and the wing of the respondent-State, which otherwise, is also the beneficiary of the acquisitions, as made of the subject matter land(s), to the prudent mind of this Court, thus would ensure that the said purpose would become achieved. Contrarily, on this Court permitting, the collaborator to engage itself in developmental activities being made on the subject matter land(s), thereby the above purpose of planned low density urban development being made on the subject matter land(s), rather would become jeopardized. The reason being that the instrumentality or the wing

of the respondent-State would completely adhere to the principles relating to low density urban development being made vis-a-vis the subject matter land(s). The same shall be ensured through the height of the buildings being restricted, besides through curtailment of the storeys of the buildings, as become raised by the instrumentality or the wing of the respondent-State. However, as stated (supra), the collaborator concerned would possibly breach the solemn objective behind low density urban development taking place over the subject matter land(s), inasmuch as, for ensuring its reaping exorbitant profits, through alienating the properties to buyers, rather the developer concerned making high rise structures on the subject matter land(s). Moreover, thereby too, an endangerment would ensue to the ecological balance to be maintained to the Sukhna Lake, which almost adjoins the acquired land(s).

102. Predominantly also, the developer concerned, with whom the petitioner(s)/landlord(s) have entered into a collaboration agreement, is but, naturally fighting a proxy litigation for the petitioner(s), who after breaching the conditional agreement (supra), have naturally, through the proxy litigator(s) rather attempted to fructify the ill endeavour of the collaborator concerned, to reclaim the acquired lands, but, naturally for enabling the developer concerned to reap exorbitant profits from alienating developed properties, to the alienees concerned. Considering the sale price offered by the instrumentality and agency of the respondent-State, thus for the sale of the properties erected on the acquired lands, vis-a-vis, the exorbitant prices offered for such properties, by the developer concerned, thereby too, the fleecings made by the developer concerned, would thus become obviated. The said obviation would also ensure that,

therebys rather than oligarchs purchasing the properties offered for sale by the developer concerned, also other less economically empowered sections of society would take to purchase the properties at prices affordable to them, and, as become offered by the instrumentality and agency of the respondent-State. Resultantly, thereby the problem of housing, as faced by all sections of society would become curbed and eased, besides therebys, the holistic object of resolving the housing problems of all sections of society but would also become mitigated. Contrarily, the developer concerned would only benefit oligarchs, thereby jeopardizing and completely defeating the holistic objective of easing housing problems of all sections of society.

103. The equitable principle of promissory estoppel and/or of legitimate expectation, which is tried to be erected upon the conditional agreement, thus does not warrant its application to the facts at hands. The reason for making the above conclusion, stems from the factum that, the said conditional agreement, never became complied with, rather at the instance of the petitioner(s). The said conditional agreement, though was drawn in the year 1992, but even upto the launching of the impugned acquisition proceedings in the year 1999, through the issuance of a notification under Section 4 of the Act of 1894, the said agreement rather remained never acted upon. Therefore, when there was no affirmative action(s) taken on the conditional agreement (supra), and that too, for an elongated phase, resultantly, thereby ensues but a candid bespeaking, thus against the petitioner(s) qua its willfully abandoning and waving its rights, if any, as became purportedly endowed upon it, through the conditional agreement (supra). As a consequence, there is no permissibility in the

petitioner(s) to raise the plea of promissory estoppel or of legitimate expectation.

104. As stated (supra), the instant litigation(s) is a proxy litigation, thus sponsored by the collaborator concerned. The consequence of the above inference, is that, the petitioner(s)/landlooser(s) concerned, through making a collaboration agreement with the D.L.F., do thereby become completely precluded to draw any sustenance from the conditional agreement (supra). Moreover, thereby they also become completely precluded to make any challenge to the acquisition proceedings, especially given the writ pleas, becoming sponsored by the collaborator concerned, thus only for the collaborator concerned making unjust enrichments, which otherwise would become precluded, in case the instrumentality or agency of the State proceeds, to develop the acquired lands, thus for the benefit of all sections of society.

105. Therefore, this Court deprecates the instant proxy litigation(s), but sponsored by the collaborator concerned. It appears that the collaborator concerned is attempting to spread its tentacles over lands, in respect whereof, as of now, there is complete divestment of right, title and interest in the landlooser(s) concerned, but naturally, at the behest of certain hidden bigwigs spread over all organs of the government, who may have made well bargainings for theirs purchasing the properties from D.L.F. Naturally thereby, the collaborator concerned is but a land grabber, thus only for promoting its selfish individualistic interest, than the interest of the society at large, and/or, public interest which otherwise would become subserved by this Court through its sustaining the impugned notification(s) and the consequent thereto made award.

106. Even otherwise, when the conditional agreement (supra) is entwined with a holistic purpose of acquisition, thus thereby also the same cannot stand erect, nor can it acquire any lawful tenacity, nor it can thereby restrict the power of *eminent domain*, as endowed in the acquiring authority concerned, through recourse being made to a central legislation nomenclatured as the Act of 1894, especially when therein there is no mandate that, even on such conditional agreement becoming drawn, thereby the power of *eminent domain*, becomes restricted or becomes curtailed. Predominantly also, when there is no challenge to the vires of the central legislation (supra), whereunder becomes endowed an unrestricted power of *eminent domain* in the acquiring authority, and that too, for promoting public interest. Since public interest, for reason(s) (supra), would become subserved by this Court, through its, sustaining the challenged acquisition proceedings, thereby too, the power of *eminent domain* is to be construed to be well exercised.

107. Moreover, with the judgment rendered by a Division Bench of this Court in the case of ***Laxmi Educational Society (Supra)***, besides the judgment rendered by the Hon'ble Supreme Court in case of ***State of Haryana V/s Vinod Oil and General Mills (Supra)***, thus making expostulations, that the grant of CLU/licence will not operate, as an estoppel for the State to acquire land for any public purpose. If so, on co-equal analogy, the conditional agreement (supra), thus reinforcingly does not endow, any legitimate expectation, in the landlooser(s) concerned, especially when for reason(s) (supra), at this stage, the landlooser(s) concerned become precluded to raise the above grounds.

108. In other words, for want of any specific statutory provision,

in the central legislation (supra), which otherwise enjoys the completest dominion in respect of exercisings of power of *eminent domain*, especially relating to such power becoming restricted, upon, drawing of any agreement, thereby the said power of *eminent domain*, has the widest expanse and/or underwhelms, the impact of any agreement drawn inter se the petitioner(s) and any agency of the government. Predominantly also, when the said agreement was only a conditional agreement and which otherwise is succeeded by an ill drawn collaboration agreement, thus with a real estate developer, thus for ill serving only the ill profiteering interests of the collaborator concerned.

109. Importantly and reiteratedly, the drawing of the collaboration agreement (supra) by the landlooser(s) concerned thus with the collaborator nomenclature as D.L.F., but post the launching of acquisition proceedings, rather conspicuously post the making of a declaration under Section 6 of the Act of 1894, is a vivid exemplification of thereby, despite then complete vestment of right, title and interest becoming endowed in the acquiring authority, yet in the garb of the said collaboration agreement, proxy claim(s) for release(s) or exemption(s) from acquisition being made of the acquired land(s).

110. The further effect thereof, is that, reiteratedly thereby the plea of promissory estoppel and/or legitimate expectation becomes completely underwhelmed, thus barring the petitioner(s) to claim any lawful right for release(s) of the acquired land(s) being made in its/their favour.

111. The expostulation of law, as made in the judgment rendered by the Hon'ble Supreme Court in the case of "***Faizabad-Ayodhya Development Authority, Faizabad V/s Dr. Rajesh Kumar Pandey & Ors.***" (supra), is but

candid that, in case, there is any subjudice proceedings in court(s) of law, wherein, any order against dispossession is made, thereby such pendency(ies) will deter the acquiring authority, to thus make an award within the period of limitation, as stipulated in Section 11 of the Act of 1894. Moreover, thereby the said phase relating to the pendency of proceedings, and/or, the phase wherein, there is any stay against dispossession, thus also attracting thereto(s), the mandate of the explanation attached to Section 11-A of the Act of 1894, rather for thereby computing the period of limitation, for the making of an award, in consequence to the respective issuances of a notification and a declaration, respectively under Sections 4 and 6 of the Act of 1894. Since the relevant pendency(ies), as discussed in the judgment made by Justice Kuldeep Tiwari, did cause a well deterrence upon the acquiring authority concerned, besides when the said deterrence eased on 07.02.2003, resulting in the relevant award(s) being passed on 09.10.2003. Consequently, since from 07.02.2003 upto 09.10.2003, the period of limitation of two years to be computed from 07.02.2003 rather did not terminate. In sequel, the making of the impugned award on 09.10.2003, is deemed to be made in terms of the explanation to Section 11-A of the Act of 1894, besides the petitioners are not well entitled to claim that the award was rather to be drawn in terms of the Act of 2013.

FINAL ORDER

112. In aftermath, this Court does not find any merit in all these writ petitions and the same are accordingly dismissed with costs of Rs.50,000/- to be borne in each of the writ petition by the proxy litigator, i.e. D.L.F. Ltd. The costs (supra), as encumbered upon the proxy litigator, namely, D.L.F. Ltd., is to curb the ill exercise, as embarked by it, thus for its achieving the

ill purpose of land grabbing. The costs (supra) shall be deposited in favour of the High Court Legal Services Committee. The order dated 21.10.2014 passed by the High Powered Committee, and, the impugned notification and declaration are affirmed and maintained. Furthermore, the acquiring authority is directed to forthwith pass an award in terms of Section 11 of the Act of 1894.

113. Pending application(s), if any, stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

16.12.2023
devinder

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No