
Mahavir Singh Vs State of U.P. and Others

None

Court: Allahabad High Court

Date of Decision: Dec. 11, 2009

Acts Referred:

Land Acquisition Act, 1894 " Section 4(1)

Citation: (2010) 2 AWC 1703

Hon'ble Judges: Virendra Singh, J; Sunil Ambwani, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Sunil Ambwani and Virendra Singh, JJ.

We have heard Shri N.P. Singh and Shri K.P. Singh, learned Counsel for the petitioners. Learned

standing counsel appears for the State respondents. Shri Ramendra Pratap Singh appears for Greater N.O.I.D.A. Industrial Development

Authority.

2. The petitioners are bhumidhars of land in revenue estate of village Makaura, Pargana Dadri, district Gautam Buddh Nagar. By these writ

petitions, they have challenged the notifications dated 12.3.2008 published in official Gazettee of Uttar Pradesh u/s 4 (1) of the Land Acquisition

Act, 1894 (in short, "the Act") with the opinion of the State Government that the provisions of Sub-section (1) of Section 17 of the Act are

applicable, and that the land is urgently required for the "Planned Industrial Development" in district Gautam Buddh Nagar through Greater

N.O.I.D.A., and in order to eliminate the delay likely to be caused for an enquiry u/s 5A of the Act, provisions of Sub-section (4) of Section 17 of

the Act are invoked and that the provisions of Section 5A of the Act shall not apply. The notification dated 12.3.2008, was published in daily

newspapers "Amar Ujala" and "Rashtriya Sahara" on 18.3.2008. The notification u/s 6 read with Sub-section (1) of Section 17 of the Act was

issued on 19.11.2008, and was published in daily newspapers "Dainik Jagaran" and "Rashtriya Sahara" on 27.11.2008.

3. The petitioners have challenged notifications on the ground that the compulsory acquisition of the land is not for any public purpose. The plans of

the alleged "Planned Industrial Development" have not been notified and does not conform to the "Master Plan 2021" in which the land is reserved

for residential purposes. There was no urgency much less extreme urgency to dispense with provisions of Section 5A of the Act invoking Sub-

section (4) of Section 17 of the Act to the acquisition. The entire acquisition proceedings are tainted with mala fides. The notifications have been

issued in abuse of the powers vested in the respondents. The mandatory provisions of law have not been followed. Section 5A of the Act instructs

the decision making authority with regard to need of particular land for a public purpose and also for safeguarding the authority against any ill

formed action. Ordinarily the procedural requirements u/s 5A must be followed as has been recognised by the Apex Court in the case of

Nandeshwar Prasad and Another Vs. The State of Uttar Pradesh and Others, upto the judgments in Union of India (UOI) and Others Vs.

Mukesh Hans etc.,

4. It is stated in the writ petition and has been argued vehemently that there are extensive constructions on the abadi site owned by the petitioners.

They have their houses and are using the land both for residence and for keeping their cattle and agricultural produce. The acquisition of land is

confiscatory and leave the petitioners home less to accommodate others violating Articles 14, 19 and 300A of the Constitution of India. The

petitioners have relied upon judgments in Om Prakash and Another Vs. State of U.P. and Others, : Union of India (UOI) and Others Vs. Mukesh

Hans etc., Union of India (UOI) and Others Vs. Krishan Lal Arneja and Others, Essco Fabs Private Ltd. v. State of Haryana and Anr. (2008)

XII AD 481 : 2009 (1) AWC 594 (SC); Mahendra Pal and Ors. v. State of Haryana 2009 (4) AWC 3464 and the latest decisions in Babu Ram

and Anr. v. State of Haryana and Anr. (2009) XI (SC) AD 37 , delivered by the Supreme Court on 7.10.2009. It is submitted that in Om

Prakash (supra) the land was acquired for "Planned Development of City or Town". It was held that ground of possibility of encroachment with

the area is not a good ground to dispense with the enquiry and that where there are extensive constructions and residential houses, the powers u/s

48 of the Act may "be invoked for withdrawing from acquisition of any land of which possession has not been taken. In Krishan Lal Arneja and

Mukesh Hans (supra) the Supreme Court held relying upon Munshi Singh and Others Vs. Union of India (UOI), in holding that right of

representation and hearing u/s 5A is a very valuable right of a person whose property is sought to be acquired. He should have appropriate and

reasonable opportunity of persuading the authorities concerned that the acquisition of the property belonging to that person should not be made. If

the appropriate Government decides to take away this minimal right than its decision to do so must be based on material on record to support the

same and bearing in mind the object of Section 5A.

5. In *Babu Ram (supra)* following *Krishan Lal Arneja (supra)* and *Mukesh Hans (supra)* the Supreme Court held that the right u/s 5A is not merely

statutory but also has the flavour of fundamental rights under Articles 14 and 19 of the Constitution of India. In reference to the observations made

in *State of Punjab and Another Vs. Gurdial Singh and Others*, and *Om Prakash (supra)* and keeping in mind that even if the right to property was

no longer a fundamental right, the observations relating to Article 14 will continue to apply in full force with regard to Section 5A of the Act. In

these decisions the right to property was elevated to the status of a fundamental right and that is sufficient to indicate that care had to be taken by

the authorities before resorting to Section 17(4) of the Act, and that they had to satisfy themselves that there was an urgency of such nature as

indicated in Section 17(2) of the Act which could brook no delay whatsoever.

6. Learned standing counsel submits that the land acquisition proceedings had commenced strictly as per the provisions of the Act to acquire land

measuring 205.0282 hectares in village Makaura for "Planned Industrial Development" of district Gautam Buddh Nagar. There is no abadi on the

land of any of the petitioners. There are only boring and a few trees and in some cases the boundary walls covering kuchcha constructions and that

the petitioners are not residing on the land in dispute. The State Government has excluded all the clusters of abadi from acquisition. He relies upon

First Land Acquisition Collector and Others Vs. Nirodhi Prakash Gangoli and Another, in which it was laid down, ""The question of urgency of an

acquisition u/s 17(1) and (4) of the Act is a matter of subjective satisfaction of the Government and ordinarily it is not open to the Court to make a

scrutiny of the propriety of that satisfaction on an objective appraisal of facts. He has also relied upon the judgments in *Jage Ram and Others Vs.*

State of Haryana and Others, *Deepak Pahwa and Others Vs. Lt. Governor of Delhi and Others*, *Jai Narain and Others Vs. Union of India* and

Others, Union of India and others Vs. Praveen Gupta and others, *Bhagat Singh Vs. State of U.P. and Others*, and *Amar Singh v. State of U.P.*

2003 ALR 486 : 2003 (6) AWC 5499; *Sheikhar Hotels Gulmohar Enclave and Anr. v. State of U.P.* 2008 (6) ADJ 307 : 2008 (4) AWC 3410

(SC) and the judgment of this Court in *Smt. Manju Lata Aggarwal v. State of U.P.* 2007 (9) ADJ 447 in *Sudhir Chandra Agarwala v. State of*

U.P. and Ors. 2008 (3) ADJ 289 : 2008 (6) AWC 6073 (DB) and in *Munshi Singh v. State of U.P.* (2009) ADJ 447.

7. *Shri M.C. Tripathi* has relied upon the records and the material submitted by the District Magistrate for acquisition of the land for "Planned

Industrial Development" collected by the Collector and forwarded to the State Government and the consideration of such materials by the State

Government by application of mind on record. The Collector found that the land is urgently required for "Planned Industrial Development" of

district Gautam Buddh Nagar and that there is possibility of continued encroachments on the land.

8. After the notifications were published, notice u/s 9(1) of the Act was issued on 7.2.2009 and the possession of the land was taken on

16.2.2009.

9. Shri Ramendra Pratap Singh appearing for Greater N.O.I.D.A. Industrial Development Authority states that the fact, that the land is shown as

residential in the master plan, is not a ground on which the acquisition for "Planned Industrial Development" can be questioned. The amendment of

master plan or the change of user of the land is within the powers of the State Government.

10. In the counter-affidavit of Shri G.P. Srivastava, Land Consultant in Greater N.O.I.D.A. Industrial Development Authority, Gautam Buddh

Nagar it is stated that after the publication of notifications of the notice u/s 9 the possession was taken and handed over by the State Government

to Greater N.O.I.D.A. Industrial Development Authority free from all encumbrances and that after the possession has been taken the provisions of

Section 48 have no application. A survey was made by the Greater N.O.I.D.A. Industrial Development Authority alongwith the district

administration and where there was original abadi the land was not proposed to be acquired. He has given details of the trees and kuchcha

constructions standing on each of the plot of the petitioners. In all the cases the gata numbers show that there were crops sown in 1398 fasli. He

submits that there is no restriction in the Act to acquire abadi land for the "Planned Industrial Development". The abadi land can also be acquired

by the State Government and that there is no policy of the State Government to exempt the entire land on which constructions are made. He has

relied upon Anand Buttons Ltd. Vs. State of Haryana and Others,

11. Where a large area is acquired for planned industrial development, the public purpose cannot be said to be vague on the ground that a detailed

plan as to how each and every bit of the land would be used has not been prepared and notified. In State of Tamil Nadu and others etc. Vs. L.

Krishnan and others etc., the land was acquired for Tamil Nadu Housing Board, the public purpose stated in the notification was the

implementation of the housing schemes to meet the demand made by various sectors of the population under "Kalaiggar Karunanidhi Nagar

Further Extension Scheme" and for increasing housing accommodation for the development. It was held after noticing the judgment in Aflatoon and

Others Vs. Lt. Governor of Delhi and Others, , in which the land was acquired for planned development of Delhi, that the acquisition of land does

not depend upon the preparation and approval of a scheme and that it is not necessary that a final and effective scheme is framed by the Housing

Board before the proposal for acquisition is given. In Aflatoon (supra) the Constitution Bench dealt with the question whether the acquisition of a

large extent of land is for public purpose viz. "Planned Development of Delhi". The Supreme Court held that it is only necessary to state in the

notification that the land is needed for a public purpose for filing objections u/s 5A. In Pt. Lila Ram Vs. The Union of India and Others, another

Constitution Bench held that the public purpose mentioned in the notification concerned therein viz. "for the execution of the Intermediate General

Plan for the Greater Delhi" is specific in the circumstances and does not suffer from any vagueness. The Court pointed out that where the

notification does not pertain to a small plot but a huge area covering thousands of acres, it is difficult to insist upon greater precision for specifying

the public purpose because it is quite possible that various plots covered by the notification may have to be utilised for different purposes set out in

the Intermediate General Plan.

12. It was also pointed out in State of Tamil Nadu v. K. Krishnan (supra), that if public purpose is not sufficiently specified, the Court should

enquire whether the petitioner made a grievance of it, at the appropriate time. If the appellant had really been prejudiced by the non-specification

of the public purpose, they should have taken steps to get the notification quashed within a reasonable time. They should not wait until declaration

u/s 6 is published and the notices u/s 9 are issued. In this case the notification u/s 4 was published on 12.3.2008. The writ petitions were filed on

8.6.2009, after the notice u/s 9 (1) was issued on 7.2.2009, and possession of the land was taken on 16.2.2009.

13. The Greater N.O.I.D.A. Industrial Development Authority has been constituted under the U.P. Industrial Development Act, 1976, for the

purposes of planned industrial development in the notified area. In this case the land in village Makaura, Pargana Dadri, district Gautam Buddh

Nagar was required for the purpose of planned industrial development which is without any doubt a public purpose. There are no pleadings or any

material brought on record to show that the land in village Makaura has been selected for any other purpose or that the respondents have used the

powers of acquisition of land for any collateral purpose. There are no pleadings of mala fide exercise of powers for acquisition of land. So far as

invoking the urgency provisions under the Land Acquisition Act, 1894 are concerned, the legal position for invoking the powers u/s 17 has come

up for consideration of the Supreme Court in many cases. The principles" of law laid down by the Supreme Court may be summarised with

reference to the decided cases as follows.

14. In para 16 of Krishan Lal Arneja"s case (supra), the Supreme Court held:

Section 17 confers extraordinary powers on the authorities under which it can dispense with the normal procedure laid down u/s 5A of the Act in

exceptional case of urgency. Such powers cannot be lightly resorted to except in case of real urgency enabling the Government to take immediate

possession of the land proposed to be acquired for public purpose. A public purpose, however, laudable it may be by itself is not sufficient to take

aid of Section 17 to use this extraordinary power as use of such power deprives a land owner of his right in relation to immovable property to file

objections for the proposed acquisition and it also dispenses with the inquiry u/s 5A of the Act. The Authority must have subjective satisfaction of

the need for invoking urgency clause u/s 17 keeping in mind the nature of the public purpose, real urgency that the situation demands and the time

factor, i.e. whether taking possession of the property can wait for a minimum period within which the objections could be received from the land

owners and the inquiry u/s 50A of the Act could be completed. In other words, if power u/s 17 is not exercised, the very purpose for which the

land is being acquired urgently would be frustrated or defeated. Normally urgency to acquire a land for public purpose does not arise suddenly or

overnight but sometimes such urgency may arise unexpectedly, exceptionally or extraordinarily depending on situations such as due to earthquake,

flood or some specific time bound project where the delay is likely to render the purpose nugatory or infructuous. A citizen's property can be

acquired in accordance with law but in the absence of real and genuine urgency, it may not be appropriate to deprive an aggrieved party of a fair

and just opportunity of putting forth its objections for due consideration of the acquiring authority, while applying the urgency clause, the State

should indeed act with due care and responsibility. Invoking urgency clause cannot be a substitute or support for the laxity, lethargy or lack of care

on the part of the State Administration.

15. In *Nirodhi Prakash Gangoli* (supra), the Supreme Court held in para 5 as under:

The question of urgency of an acquisition u/s 17(1) and (4) of the Act is a matter of subjective satisfaction of the Government and ordinarily it is

not open to the Court to make a scrutiny of the propriety of that satisfaction on an objective appraisal of facts. In this view of the matter when the

Government takes a decision, taking all relevant considerations into account and is satisfied that there exists emergency for invoking powers u/s

17(1) and (4) of the Act, and issues notification accordingly, the same should not be interfered with by the Court unless the Court comes to the

conclusion that the appropriate authority had not applied its mind to the relevant factors or that the decision has been taken by the appropriate

authority mala fide. Whether in a given situation there existed urgency or not is left to the discretion and decision of the concerned authorities. If an

order invoking power u/s 17(4) is assailed, the Courts may enquire whether the appropriate authority had all the relevant materials before it or

whether the order has been passed by non-application of mind. Any post notification delay subsequent to the decision of the State Government

dispensing with an enquiry u/s 5A by invoking powers u/s 17 (1) of the Act would not invalidate the decision itself specially when no mala fides on

the part of the Government or its officers are alleged. Opinion of the State Government can be challenged in a court of law if it could be shown that

the State Government never applied its mind to the matter or that action of the State Government is mala fide. Though the satisfaction u/s 17 (4) is

a subjective one and is not open to challenge before a court of law, except for the grounds already indicated, but the said satisfaction must be of

the Appropriate Government and that the satisfaction must be, as to the existence of an urgency. The conclusion of the Government that there was

urgency even though cannot be conclusive but is entitled to great weight, as has been held by this Court in Jage Ram and Others Vs. State of

Haryana and Others, Even a mere allegation that power was exercised mala fide would not be enough and in support of such allegation specific

materials should be placed before the Court. The burden of establishing mala fides is very heavy on the person who alleges it. Bearing in mind the

aforesaid principles if the circumstances of the case in hand are examined it would appear that the premises in question was required for the

students of National Medical College, Calcutta and the notification issued in December, 1982 had been quashed by the Court and the subsequent

notification issued on 25.2.1994 also had been quashed by the Court. It is only thereafter the notification was issued under Sections 4(1) and

17(4) of the Act on 29.11.1994 which came up for consideration before the High Court. Apart from the fact that there had already been

considerable delay in acquiring the premises in question on account of the intervention by Courts, the premises was badly needed for the

occupation of the students of National Medical College, Calcutta. Thus, existence of urgency was writ large on the facts of the case and therefore,

said exercise of power in the case in hand, cannot be interfered with by a Court of law on a conclusion that there did not exist any emergency. The

conclusion of the Division Bench of Calcutta High Court, therefore, is unsustainable.

16. In Mahender Pal v. State of Haryana (supra), following the judgments in Mukesh Hans (supra) and Krishan Lal Arneja (supra), the Supreme

Court held in paras 13 and 14 as follows:

13. The purported public purpose for which the land is to be acquired is for laying down a road. We are not unmindful of the fact that the road

connection is one of the purposes mentioned in Sub-section (2) of Section 17 of the Act in respect whereof Sub-section (4) thereof would apply.

But the same would not mean that for the purpose of road connection irrespective of the nature of cases and/or irrespective of the nature of the

road to be constructed ; Sub-section (4) of Section 17 of the Act could be invoked.

14. As an extraordinary power has been conferred upon the Appropriate Government in terms whereof the normal procedure laid down u/s 5A of

the Act could be dispensed with, the High Court, in our opinion, should have entered into the merit of the matter. [See Mahadevappa Lachappa

Kinagi and Ors. v. State of Karnataka and Ors. (2008) 12 SCC 418 : 2008 (3) SCCD 1152 : 2008 (3) AWC 2966 (SC)].

17. In M/s. Sheikhar Hotels Gulmohar Enclave (supra), the Supreme Court held:

Therefore, it depends upon case to case where in a given situation Section 5A has been correctly invoked and the authorities were satisfied in an

objective manner. In the present case, there is no two opinion that because of the globalization of economy Indian economy is progressing with fast

speed, therefore, in order to keep pace with the speed, invocation of Section 5A has become imperative. Traffic congestion is a common

experience of one and all and it is very difficult to negotiate with the traffic congestion in Delhi and National Capital region. Therefore, in the

present situation, it cannot be said that the invocation of Section 5A was for ulterior purpose or was arbitrary exercise of the power. Since the

Master Plan has already been prepared and it has been approved by the Planning Board and they have sanctioned a sum of Rs. 20.65 crores for

the development of this Transport Nagar and widening of the National High Way No. 91 into four lanes. Therefore, the proposal was approved by

the Board and it got the sanction from the National Capital Region Planning Board and ultimately the Government invoked the power u/s 17(4)

read with Section 5A of the Act dispensing with the objections. In the light of these facts it cannot be said that invoking of power was in any way

improper exercise. There is need for decongestion of the traffic and it is really the dire need of the hour and earliest it is implemented, better for the

people at large.

18. In Babu Ram (supra), the Supreme Court held:

In the present case, we are not concerned with technicalities but the likelihood of a health-hazard to the inhabitants of the area if the S.T.P. was set

up in the acquired site. The stand taken by the respondent that the appellants could have filed objections to the proposed acquisition is difficult to

appreciate since the right to file such objections had, in fact, been taken away by invoking the provisions of Section 17(4) of the L.A. Act. Such a

stand taken on behalf of the respondent authorities only serve to strengthen the case of the appellants that an opportunity should have been given to

them to file objections to the proposed acquisition. As indicated hereinabove in the various cases cited by Mr. Pradip Ghosh and, in particular, the

decision in Krishan Lal Arneja's case (supra), in which reference has been made to the observations made by this Court in Om Prakash's case

(supra), it has been emphasized that a right u/s 5A is not merely statutory but also has the flavour of fundamental rights under Articles 14 and 19 of

the Constitution. Such observations had been made in reference to an observation made in the earlier decision in Gurdial Singh's case (supra) and

keeping in mind the fact that right to property was no longer a fundamental right, an observation was made that even if the right to property was no

longer a fundamental right, the observations relating to Article 14 would continue to apply in full force with regard to Section 5A of the L.A. Act.

The observations made both in Gurdial Singh's case (supra) and in Om Prakash's case (supra) assign a great deal of importance to the right of a

citizen to file objections u/s 5A of the L.A. Act when his lands are being taken over under the provisions of the said Act. That in the said decisions,

such right was elevated to the status of a fundamental right, is in itself sufficient to indicate that great care had to be taken by the authorities before

resorting to Section 17(4) of the L.A. Act and that they had to satisfy themselves that there was an urgency of such nature as indicated in Section

17(2) of the Act, which could brook no delay whatsoever.

Since Section 5A of the L.A. Act had been dispensed with, the stage u/s 9 was arrived at within six months from the date of the notice issued

under Sections 4 and 17(2)(c) of the L.A. Act. While such notice was issued on 23.11.2005, the Award u/s 11 was made on 23.5.2006. During

this period, the appellants filed a suit, and, thereafter, withdrew the same and filed a writ petition in an attempt to protect their constitutional right to

the property. It cannot, therefore, be said that there was either any negligence or lapse or delay on the part of the appellants.

The only other aspect of the matter which requires consideration is whether the lands in question have already been utilized for the Sewage

Treatment Plant. From the averments made and photographs which were brought to our notice, it appears that the site is still lying unutilized. In

such circumstances, we consider it only proper that the appellants should get an opportunity to file their objections to the proposed acquisition u/s

5A of the L.A. Act and the respondents would be at liberty to take consequential steps after disposal of the same.

We, accordingly, dispose of the appeal by directing that notwithstanding the invocation of Section 17(2)(c) of the L.A. Act in its application to the

States of Punjab and Haryana, the appellants will be at liberty to file objections u/s 5A of the L.A. Act within a month from the date before the

concerned authority, who will, thereafter, dispose of the same upon giving the objectors, if any, an opportunity of hearing and placing their

respective cases.

The learned advocate for the appellants is directed to communicate this order to the L.A. Collector-cum-District Revenue Officer, Jind, Haryana,

within a week from date.

There will be no order as to costs.

19. This Court has consistently followed the judgments of the Supreme Court in the matter of invoking Section 17 (4) and dispensing with enquiry

u/s 5A of the Act. In Smt. Manju Lata Agrawal v. State of U.P. and Ors. 2007 (9) ADJ 447 (DB) ; Sudhir Chandra Agrawal v. State of U.P.

2008 (3) ADJ 289 : 2008 (6) AWC 6073 (DB) and Munshi Singh v. State of U.P. 2009 (8) ADJ 360 (DB). In Manju Lata Agrawal (supra), this

Court summed up the legal position as follows:

Thus, from the aforesaid settled legal propositions, it is apparent that the Government must be satisfied that demand of land by invoking urgency

powers is bona fide and persons interested cannot be deprived of their legal right to file objection just to avoid lethargy on the part of the officers

of the State Government or for achieving some other ulterior purpose.

It is a settled legal proposition that the scope of judicial review is limited to the decision making procedure and not against the decision of the

authority. The Court could review to correct errors of law of fundamental procedural requirements, which may lead to manifest injustice and can

interfere with the impugned order in exceptional circumstances. In judicial review, the Court cannot trench on the jurisdiction to appreciate the

evidence and arrive at its own conclusion as it is not an appeal from a decision. Review of the decision is not permissible where the findings are

recorded by an authority on the basis of legal evidence and the said findings are not based either on ipsi dixit or conjectures or surmises. The Court

cannot interfere on the ground that the matter requires appraisal of evidence. ""Between appraisal of evidence and total lack of evidence, there is an

appreciable difference which could never be lost sight of.

20. In Sudhir Chandra Agrawal (supra) once again the legal position was summed up as follows:

The sufficiency or insufficiency of the material, and the names of industries, which may have applied with concrete proposals for establishment of

industrial units, is not material for the purposes of judicial review of the subjective satisfaction of the State Government. When there exists material

before the State Government, in the shape of recommendations and that material is relevant for applying the mind for recording subjective

satisfaction of invoking the urgency clause for acquisition of the land, the law does not permit the Court to consider the material as if it was

weighing the evidence for the purposes of recording subjective satisfaction of invoking the urgency clause for acquisition of the land. If the material

is relevant, on which competent authority, as reasonable person may invoke the urgency clause for acquisition of the land, the Court would not put

such material on the scales, to weigh or measure such urgency. The Court is not competent to carry out judicial review of the sufficiency or

insufficiency on the material placed before it. What the Court required to see is whether such material is relevant, and that the competent authority

in the State Government could have formed an opinion without their being any motive or ill-will for invoking the urgency clause. In the present case,

the State has given in the counter-affidavit, the material on which it had placed reliance and has produced the material before us, which we find to

be relevant for the purpose of invoking urgency clause. Even if we may, after perusing the record arrive on different conclusion, we would restrain

ourselves from interfering, as in such case we would be substituting our opinion in place of opinion of the competent authority in the State

Government. If we do so, we would be sitting in appeal over the subjective satisfaction recorded by the State Government. The legal position

obtained from the judicial precedents restrain us from doing so.

21. In these cases we are satisfied that there was sufficient material before the State Government on which it recorded its subjective satisfaction

that there was urgency to acquire the land for "Planned Industrial Development" in district Gautam Buddh Nagar of Greater N.O.I.D.A. The

competent authorities in the State Government considered the entire materials collected by the District Magistrate with justification for invoking

Section 17(4) given alongwith the Form "X" for acquisition of the land.

22. All the relevant and concerned authorities agreed with the office note, giving details of the material on the file with the recommendation of the

District Magistrate to invoke Section 17(4) and to dispense with the enquiry u/s 5A of the Act. The record clearly demonstrates that after

considering the object of acquisition and making enquiries and spot inspections including the survey of the revenue records, District Magistrate had

recommended that looking into the purpose of the acquisition and the large area involved, as well as the fact that in future there is strong possibility

of encroachments over the subject land, Section 17(4) was required to be invoked for dispensing with the enquiry.

23. The State Government and Greater N.O.I.D.A. authorities had carried out detailed survey. They were conscious and have excluded the land

covered with clusters of thick residential areas, and have only acquired the agricultural land with some abadi constructions far and in between. The

land use shown in the Master Plan 2021 does not affect the power of the State Government to acquire the land for "Planned Industrial

Development" in district Gautam Buddh Nagar through Greater N.O.I.D.A. We further find that since the possession of the land has been taken

by the State Government and handed over to Greater N.O.I.D.A. the land has vested in the State free from all encumbrances, the provisions of

Section 48(1) of the Act are not applicable.

24. All the writ petitions are dismissed.