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Public Interest Litigation (PIL) No 11539 of 2015
Ajit Singh
Vs
Union of India through Secretary, Ministry of Defence & 7 Ors
WITH
WRIT - C No 41653 of 2015
G S Raghav
Vs
Union of India through Secretary, Ministry of Defence & 2 Ors
WITH
WRIT - C No 41620 of 2015
Anurag Pratap & 8 Ors
Vs
Union of India through Secretary, Ministry of Defence & 3 Ors
WITH
Writ-C No 15469 of 2015
Lt Col Surjit Singh & 35 Ors
Vs
State of U P through Principal Secretary, U P Shasan & 4 Ors
WITH
Writ-C No 24899 of 2015
M/s AJS Farm Owner's Welfare Association & 5 Ors
Vs
Union of India through Secretary, Ministry of Defence & 3 Ors
WITH
Writ-C No 61535 of 2015
Gaurav Gogia & Anr
Vs
Union of India through Secretary, Ministry of Defence & 3 Ors
WITH
Writ-C No 12317 of 2016
Sheikh Mohd Tariq & 6 Ors
Vs
Union of India through Ministry of Defence & 4 Ors
WITH
Writ-C No 13291 of 2016
Sheikh Mohd Tariq & 2 Ors
Vs
Union of India through Ministry of Defence & 4 Ors
WITH
Writ-C No 13666 of 2016
M/s C P World Lines Pvt Ltd
Vs
Union of India through Secretary, Ministry of Defence & 2 Ors
WITH
Writ-C No 20191 of 2016
Harsh Dhanuka & Anr

Vs
Union of India through Secretary, Ministry of Defence & 3 Ors
WITH
Writ-C No 53560 of 2016
Subhash Chauhan
Vs
Union of India through Secretary, Ministry of Defence & 2 Ors
WITH
Writ-C No 53566 of 2016
Omveer
Vs
Union of India through Secretary, Ministry of Defence & 2 Ors
WITH
Writ-C No 3305 of 2017
Smt Meena Verma
Vs
Union of India through Secretary, Ministry of Defence & 3 Ors
WITH
Writ-C No 7067 of 2017
Gaurav Tyagi & 4 Ors
Vs
Union of India through Secretary, Ministry of Defence & 2 Ors

Appearance:

For petitioners : Mr Anoop Trivedi, Advocate
Mr Anurag Pratap (In person)
Mr G S Raghav (In person)
Mr Sanjay Kumar, Advocate
Mr. Manu Khare, Advocate, holding for
Mr Prateek Kumar, Advocate
Mr Nishant Mehrotra, Advocate

For respondents : Mr Ashok Mehta, ASGI, with Mr Krishna Agrawal, Mr S K Rai and Mr Saurabh Srivastava, Advocates

Hon'ble Dilip B Bhosale, Chief Justice
Hon'ble Yashwant Varma, J

(Per Dilip B Bhosale, CJ)

This public interest litigation (PIL) and connected writ petitions, involve common questions of facts and law and, hence, were heard together and are being disposed of by this common judgment. The petitioner in PIL claims to be

the publisher of a local fortnightly newspaper Sajag Sathi and spokesperson of a Non-Government Organization (Noida Lok Manch). He also claims to be a Press Reporter of the Hindi Daily 'Vishwa Guru'. In the petition (PIL), he seeks the following reliefs:

> "(a) a writ, order or direction in the nature of mandamus commanding/directing the respondents to verify and demarcate (by Barb/Wire fencing) the Defence land, acquired for Air Firing and Bombing Range vide notification dated 6.11.1950 and further take appropriate action against the encroachers and get the land freed/vacated from the clutches of Bhumafias/land grabbers.
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> (b) a writ, order or direction in the nature of mandamus commanding/directing the respondents to constitute a High Level Committee to hold and enquiry against the Officers/employees of the District Administration and Defence and get the criminal proceedings launched against the culprits involved in the irregularities.
>
> (c) a writ, order or direction in the nature of certiorari calling for the entire records of respondents nos. 3 & 4 regarding the acquisition of 482 acres land of Village Nagli Nagla and Nagli Sagpur which was made for Air Firing and Bombing Range, Tilpat Range regarding the acquisition, possession, award and its land use.
>
> (d) a writ, order or direction in the nature of Mandamus commanding/directing the Central Bureau of Investigation or any other reliable independent agency to conduct an enquiry in the matter of irregularities, committed by the concerned revenue officials/employees and defence officers in encroachment/grabbing of 482 acres land of Ministry of Defence (Air Firing and Bombing Range, Tilpat Range) acquired vide notification dated 6.11.1950."

2. The petitioners in connected writ petitions, who claim to be bona fide purchasers of small pieces of farm land/plots out of the land involved in these petitions, challenge its acquisition that took place in 1950. The prayers made in all petitions are more or less similar. What is common is the prayer challenging acquisition after about 65 years. It would be advantageous to reproduce the

prayers made in the leading writ petition bearing Writ-C No 41653 of 2015, which read thus:

> "i) Pass an appropriate order allowing the present writ petition,
>
> ii) Pass appropriate order(s) to declare the Notifications dated 06.11.1950 and 07.11.1950 under Sections 4 & 6 of Land Acquisition Act, 1894 for acquisition of 482 acres of private land for public purpose situated in two villages Nagli Nagla (105 acres) and Nagli Sagpur (377 acres) in Pargana–Dadri, Tehsil-Sikandrabad, District– Bulandshahr as deemed lapsed on 01.01.2014,
>
> iii) Issue a Writ of Mandamus or appropriate direction(s) to Respondent Nos. 1 & 2 not to execute their threats to interfere in future in any manner whatsoever in possession, use and enjoyment of agriculture / farm land of the Petitioner comprising Khet No. 55M of Khata No. 13 purchased vide registered Sale Deed dated 11.12.2009 having admeasuring area of 0.3373 hectare (4 bighas) known as 'RAGHAV FARM' located in Village – Nagla Bahrampur, District & Tehsil – Gautam Budh Nagar, U.P. without following due process of law."

3. This writ petition (Writ-C No 41653 of 2015) and a writ petition bearing Writ-C No 41620 of 2015 were argued by the petitioners-in-person, who, incidentally are also advocates by profession. Writ-C No 41620 has been filed by nine petitioners. Petitioner No 1 therein argued this petition for himself as well as on behalf of the remaining petitioners. Rest of the petitions were argued by learned counsels on record for the petitioners. All petitioners have agriculture/farm land/plots in the land in question, which they seem to have purchased during the last about 10 years.

4. The facts as they emerged in the course of hearing, are borne out from the pleadings and are relevant for our purpose, need to be stated in order to consider the challenge raised in this group of petitions. In 1950, by issuing notifications

under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the Act'), land at Tilpat, measuring 4294.38 acres was acquired for the Union Ministry of Defence to develop a Firing and Bombing Range for the Air Force. The land is situated in two States, namely, Haryana and Uttar Pradesh. In these petitions, we are concerned with land measuring 482 acres (for short, 'the land in question') situated in Village “Nagli Nagla” and “Nagli Sagpur”, Pargana Dadri, District Bulandshahr, now in district Gautam Budh Nagar, Uttar Pradesh. Out of 482 acres comprising the land in question, 105 acres is situated in Village Nagli Nagla and 377 acres in Village Nagli Sagpur. The notification under Section 4 read with Section 17 (1) of the Act was published on 6 November 1950, whereas the notification under Section 6 was issued on 7 November 1950. Possession was taken over by the Defence Estates Officer, Agra on 23 November 1950, applying the urgency clause in Section 17 of the Act and, as stated by the Defence Estates Officer, the name of the Military Estates Officer (Air Bombing Range) was also mutated in the revenue record.

4.1 It is the case of the Union of India, as stated by the Defence Estates Officer in his counter affidavit dated 6 May 2015, that the land in question was handed over to the Military Estates Officer, Agra Circle, by the Collector, Bulandshahr on 23 November 1950. The handing and taking over of possession and records in respect thereof was completed in 1950 itself. On 23 November 1950, possession was handed over to the representative of Air Headquarters (Air HQ) by the Military Estates Officer, Agra Circle, Agra. Two possession certificates, both dated 23 November 1950, are placed on the record. The first 'handing and taking over certificate' shows that on 23 November 1950, the Collector, Bulandshahr handed over possession of 482 acres of land, situated

in Village Nagli Nagla and Nagli Sagpur to one K N Sinha, Military Estates Officer, Agra Circle, acquired under the Government of India, Ministry of Defence, SRO Nos. 268 and 269 dated 6 and 7 November 1950 respectively. This certificate further shows that the land in question was lying vacant and had no crops thereon. Similar is another certificate dated 23 November 1950 issued by the Military Estates Officer, handing over the land in question to the representative of Air HQ, acquired for establishing a permanent Air Firing and Bombing Range for No 3 Wing at Tilpat under the Government of India, Ministry of Defence. Since then, as claimed in the affidavits filed on their behalf, the land in question has remained under the direct control and management of the Air Force authorities and, therefore, it was and is within the domain of the Air Force authorities to use the land for the purposes specified in the acquisition notifications and the responsibility to protect the land from encroachments also lies with the concerned Air Force authorities. Having regard to the purpose for which it was acquired, it was to remain vacant bearing in mind that it was to be utilized for a bombing range.

4.2 It has also come on record that before handing over possession of the land in question to the Military Estates Officer, Agra Circle, the entire amount towards compensation was deposited with the Collector, Bulandshahr.

4.3 In 2011, certain complaints were received regarding encroachments of defence land at Tilpat in the State of Uttar Pradesh. At this stage, the concerned Air Force authorities proceeded to undertake an inspection of the land in question. A team of officers comprising Addl DG (Lands), DE, DEO, Delhi Circle, DEO, Agra Circle and an officer of the Air Force Station, Hindon carried

out the inspection of Tilpat Range in District Gautam Budh Nagar (Uttar Pradesh) on 29 December 2011 and submitted their report to DG, DE. The Committee/Team, in the report, made the following recommendations:

> "**In view of the vast encroachment found in the area falling in Distt. Gautam Budh Nagar (UP), it is imperative that immediate remedial measures should be adopted to stop and prevent further encroachment** in this area and also to secure the area falling in Distt. Faridabad (Haryana), which is also substantially prone to encroachment due to unauthorized cultivation activities noticed during the visit. The following measures are recommended:
>
> (i) DEO, Delhi & Agra and the Air Force authorities must immediately liaise with the offices of DC Bulandshahar, Gautam Budh Nagar and Faridabad **to obtain all the available revenue records** including the mutation details of the acquired land, across the Yamuna river measuring 482 acres. In case any erroneous mutation is found in the records, remedial action should be initiated without further delay by District Authorities.
>
> (ii) Letters be issued to DC Bulandshahar, Gautam Budh Nagar and Faridabad to **not to permit sale transactions of the Defence land** falling under the jurisdiction of their districts and copies be endorsed to the Revenue Secretaries of both the States.
>
> (iii) The balance **vacant portion immediately should be secured** through active presence of Air Force personnel.
>
> (vi) As an immediate deterrent measure, **boards should be displayed about ownership of land** at prominent points/road junctions.
>
> (v) **Land under unauthorized cultivation must be got vacated by initiating immediate action through active presence of Air Force** personnel on such sites/cultivated land. Further attempts to encroach/unauthorisedly cultivate/plotting must be sternly dealt with.
> (vi) **A joint demarcation should be undertaken** by District Revenue Authorities, Air Force Authorities and concerned DEO Circles and after completion of joint demarcation of Defence land, Air Force authorities should get the area fenced/boundary-walled. However, pending sanction for

> fencing/boundary-wall, appropriate trench may be dug along the boundary of Defence land during demarcation immediately."
>
> (emphasis supplied)

4.4 On 11 January 2012, a communication was addressed by the Defence Estates Officer, Delhi Circle to the District Magistrate, Gautam Budh Nagar, stating that it had been noticed that encroachments and illegal transactions were being carried out in respect of the defence land. The letter highlights unauthorised cultivation; construction of illegal farm houses; illegal plotting of land through erection of barbed wire fencing, boundary pillars and brick walls; construction of kachcha – pakka road and unauthorized cattle farms.

4.5 It has also come on record that in pursuance of the letter of the Defence Estates Officer, the Additional District Magistrate, Gautam Budh Nagar directed the Assistant Record Officer, Gautam Budh Nagar (for short, 'the ARO') by a communication dated 31 January 2012 to conduct a physical verification and make an enquiry. On 14 August 2012, the ARO submitted the enquiry report, mentioning "a large scale manipulation and fabrication of entries in the preparation of the record of villages Nagli Nagla and Nagli Sagpur". It was also noticed that "maps of these villages had been fabricated by the revenue officials". In his report, the ARO proposed that proceedings be initiated and action be taken for dealing with the forged entries in the revenue record. A further enquiry report dated 23 May 2013 of the ARO submitted to the District Collector, Gautam Budh Nagar is also placed on record. It further appears that the DEO, Agra Circle, Agra also requested the District Magistrate, Bulandshahr, now Gautam Budh Nagar, for providing revenue records in respect of the land in question. The record then reveals that the Defence Estates Officer met the

District Magistrate, Gautam Budh Nagar on 22 November 2013 and discussed the matter and later, on 28 November 2013, requested the District Magistrate for providing the revenue record in respect of the land in question. Thereafter, the Defence Estates Officer continued to make correspondence with the District Magistrate for seeking the relevant revenue record. Several meetings between the Defence Estates Officer and the District Magistrate, Gautam Budh Nagar and the Sub Divisional Magistrate, Sadar, District Gautam Budh Nagar were held in 2014.

4.6 On 20 November 2014, the Defence Estates Officer held a meeting with the ARO, Gautam Budh Nagar in connection with survey/demarcation of the land in question. Another meeting was held on 4 December 2014. Accordingly, 18 December, 2014 was fixed for demarcating the defence land situated in Nagli Nagla. The minutes of the meeting held on 4 December 2014, as recorded by the ARO, Gautam Budh Nagar, provide details of encroachments over the lands in village Nagli Nagla. The minutes also show that revenue authorities did not have details of the khasra numbers in respect of 377 acres of the land in village Nagli Sagpur, and that the said land was not recorded in the name of the Ministry of Defence or the Air Bombing Range. It is not in dispute that the records maintained by the DM and SDM and the revenue personnel working under them, were not maintained properly in respect of the land in question. It also appears that on 22 December 2014, though it was decided to carry out a joint survey/demarcation of lands of villages Nagli Sagpur and Nagli Nagla, it could not be carried out due to adverse weather conditions. Even on the next date, ie 24 December 2014, which was fixed for carrying out the survey, they could not carry out the demarcation. Thereafter, as stated in the affidavit of the

Defence Estates Officer, he failed to elicit an appropriate response from the revenue officials for carrying out the survey/demarcation. The Defence Estates Officer and the concerned Air Force officials were consistently pursuing the matter with the ARO.

4.7 Ultimately, on 13 April 2015, the ARO, Gautam Budh Nagar submitted a request for sending a survey team with equipment on 15 April 2015 for demarcating the defence land. Accordingly, a survey team carried out the survey and could identify certain reference points. On 17, 18 and 19 April 2015, the survey team was again sent to the location for taking further steps and a preliminary demarcation was, accordingly, carried out. A copy of the map is also placed on the record by the Defence Estates Officer along with his affidavit dated 6 May 2015. Thereafter, the defence personnel, including the Defence Estates Officer, collected the revenue record "that was available" and it was noticed that the State revenue officials "could not produce the complete records" in respect of the land in question which was required for survey and, therefore, no detailed survey could be carried out, which, according to the Defence Estates Officers, could have enabled them to identify the extent of the land under encroachment.

5. In this backdrop and on the basis of the materials placed on record by the parties and before the intervenors came into the picture, this Court vide order dated 25 February 2015 passed in the PIL, made the following observations:

> "*Prima facie*, the petition highlights an important issue of public interest. **The land which has been acquired for the benefit of the defence authorities seems, from the reports which have been prepared by the Revenue Officer of the State, to have been illegally dealt with, encroached upon and transacted in**.

> If this be the factual position, as prima facie is evident from the reports which have been submitted by the Revenue Officer, the State must explain what steps have been taken in pursuance of the reports which have been placed on the record.
>
> We, accordingly, **direct that an affidavit be filed in these proceedings by the Chief Revenue Officer, Gautam Budh Nagar and by the District Magistrate, Gautam Budh Nagar explaining the steps which are being taken in pursuance of the inquiry reports**. We also direct the Union of India through the Ministry of Defence to file its counter affidavit explaining what steps are being taken and have been taken for safeguarding the interest of the Union of India in the land which had been acquired way back in 1950 for defence purposes. The affidavits shall be filed no later than by 24 March 2015.
>
> In the meantime, we also direct the Surveyor General to make a due and proper inquiry in the matter and to file a counter affidavit to these proceedings by the said date."
>
> (emphasis supplied)

6. In pursuance of the order dated 25 February 2015, a counter affidavit was filed by the ARO of District Gautam Budh Nagar. After perusing the counter affidavit filed by the ARO, this Court, in its order dated 31 March 2015, made the following observations:

> "To say the least, **it is shocking that no original map in regard to village Nagla Nagli is available with the District Headquarters or with the Board of Revenue. Though, the Assistant Record Officer has noted large scale manipulations and fabrication of records and entries, it is clear that no concrete action has been taken**. In this background, the prayer which has been made by the petitioner for an investigation by the Central Bureau of Investigation or by an independent agency would merit serious consideration. Before we do so, we are of the view that **it would be appropriate to allow to the State Government one further opportunity to set its house in order and to apprise the Court as to what steps have been taken for (i) immediate correction of the land records; (ii) preparation of the village maps; and (iii) taking appropriate disciplinary as well as penal action under the criminal law against the errant officials**. The Principal Secretary (Revenue) of the State and the Chairman of the

> Board of Revenue shall, before the next date of listing of these proceedings, take stock of the issue and apprise the Court of the decision which shall be taken in that regard.
>
> Insofar as the defence authorities are concerned, the Defence Estates Officer has stated that details of defence land admeasuring 482 acres in district Gautam Budh Nagar are available with the State revenue authorities and that he has approached them to provide full details of the land.
>
> Prima facie, **it appears that even the defence authorities have shown complete apathy to the protection of the land which has been acquired specifically for defence purposes as far back as in 1950**.
>
> We permit the intervenor to serve a copy of the intervention application on the learned counsel appearing for the petitioner, so that an appropriate decision thereon can be taken on the next date of listing."
>
> (emphasis supplied)

7. This Court, thereafter, while dealing with the matter on 19 May 2015, after considering the situation of the land in village Nagli Nagla and in village Nagli Sagpur, observed thus:

> "The material which has been placed on the record, indicates that valuable land which was acquired for the purposes of the IAF as far back as in 1950 against the payment of compensation has been allowed to be frittered away. **How land acquired for an Air Bombing range for the IAF can vanish into thin area defies explanation and stretches the limits of credulousness. The revenue authorities of the State have conveniently taken the stand that maps and records pertaining to the lands are not available**. Until this Court was compelled to intervene in the present proceedings on the basis of the PIL, the matter had merely rested in an exchange of correspondence between the Defence Estates Officer and the authorities of the State. **As a result of this sorry state of affairs, land which has been acquired for the benefit of the IAF, it appears, has been permitted to be dealt with by unscrupulous third parties to the detriment of the defence forces**.
>
> **Faced with this situation, we are of the view that it would be necessary to constitute a team which shall monitor the entire exercise of demarcating the lands, and taking all necessary precautions to safeguard the interest of the IAF by ensuring due correction of the revenue records**

> **including, where necessary, by taking steps to challenge the orders of the revenue authorities which have caused detriment to the interests of the Air Force**. Accordingly, we constitute a team of the following officers:
>
> (i) A nominee of the Commanding Officer of the Indian Air Force Station at Hindon, not below the rank of Group Captain;
> (ii) The Defence Estates Officer, Delhi Circle;
> (iii) The Director, Survey of India at Lucknow; and
> (iv) The Collector and District Magistrate, Gautam Budh Nagar.
>
> **We direct that the Chairman of the Board of Revenue of the State of Uttar Pradesh shall personally monitor the matter and shall ensure that all necessary cooperation is extended to the Committee in locating records and maps and making available all necessary information and material that would be required by the Committee to pursue and protect the interest of the Indian Air Force**."
>
> (emphasis supplied)

8. In pursuance of the order dated 19 May 2015, an affidavit was filed by the Defence Estates Officer, giving details of a meeting held on 25 July 2015 by the Committee appointed vide order dated 19 May 2015. It further appears that by a letter dated 22 May 2015, the Defence Estates Officer had requested the District Magistrate, Gautam Budh Nagar, to provide or, as the case may be, facilitate the following:

> "(a) Provide copies of the order dated 31.03.1964 of SDM Khurja, Bulandshahar directing that an area of 141.10 Bigha Pukhta be recorded in the name of IAF to Khatauni 1370-71 Fasli and order dated 23.09.1971 of SDM by which 26.10 Bigha and 15 Bigha out of acquired land were reduced from the land holding of IAF. Copies of any other relevant document in this regard may also be provided. Further, the procedure and the concerned authorities who are to be approached for rectification of the record accordingly, may also be intimated.
>
> (b) Organize and facilitate the survey/demarcation of 482 acres of Defence land."

9. It would be relevant to make reference to a report dated 25 July 2015 of the Committee constituted by this Court vide order dated 19.05.2015. This report, in paragraph 33, summarised its achievements and in paragraph 34 mentioned the future course of action. It would be relevant to reproduce paragraphs 33, 34 and 35 of the report, which read thus:

> "33. In summary, so far, the following has been achieved-
>
> (a) **Records of some portion, measuring 161.4375 acres** (258-6-0 bigha, 65.33 hectares) of **village Nagli Sagpur has been recovered** from Faridabad.
>
> (b) **A photocopy of village map of Nagli-Nagla has been located**. This map is scripted entirely in Urdu, and needs translation for clear assimilation.
>
> (c) **Record of 141-10-0 bigha land in the name of Air Bombing Range has been located**; also, the order of SDM Khurja mutating 15-0-0 bigha od same village (thereby reducing the land area further to 126-10-0) has been located. Both these documents were relevant to the filing of application at the Court of Commissioner, Meerut for annulment of the SDM's order.
>
> (d) **Application for annulment of SDM's order dated 23.09.1971 has been filed at Meerut on 24 Jul 15**. The counsel has provided legal advice that it is correct to file the appeal in the court of SDM Sadar, Gautam Buddh Nagar, and not at the court of Commissioner, Meerut. This will now be done in the forthcoming week.
>
> (e) The revenue maps of nine villages of Haryana that comprise the Tilpat Air Range have been digitised on CAD, using the help of Ground Control Points sourced from Survey of India for correcting the GPS Coordinates during survey. The composite map by mating these villages is ready. **An analysis of a pre-acquisition aerial photograph has provided the corner points of the range-area, as it would have been acquired. Comparison of the digitised revenue map and the analysis of the pre-acquisition photograph is being done**.
>
> 34. The following future course of action are planned:
>
> (a) Follow-up of the para 229 (b) action of UP ZA&LR Act (1950) to annul the order of SDM Khurja dated 23.09.1971.
>
> (b) **Once the analysis of pre-acquisition aerial photograph and the digital village maps are**

> **compared by Survey of India, and corner points plotted, these would be translated to ground, to identify corners in the portion of villages Nagli-Nagla and Nagli-Sagpur**.
>
> (c) On the basis of map of acquired land (complete 105 acres) of village Nagli-Nagla dated 1967, demarcation of the complete portion to identify the location of the 26-10 bigha that was washed-off in 1964, and the 15-10-0 bigha that has been mutated to Munni Lal and another in 1971.
>
> (d) **Use all available means to demarcate the map of village Nagli Sagpur as received from Faridabad, and identify it's lay with respect to the other village lands (Tilpat Air Range)**.
>
> 35. It is suggested that the joint panel of officers works under the mentorship of the Chairman, Board of Revenue, State of Uttar Pradesh."
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> (emphasis supplied)

10. The Committee has also placed on record the Action Taken Report by them by way of an affidavit filed by the Defence Estates Officer, Delhi Circle, dated 4 November 2015. This report was submitted after a survey of villages Nagli Sagpur and Nagli Behrampur, based on the available revenue maps of the year 2007, was conducted by the Survey of India on 7-9 October 2015. The complete length of the State boundary between Haryana and Uttar Pradesh, where defence land of the Tilpat Air Range exists, was demarcated on the basis of the Survey of India Open Series Map (OSM) (scale 1:50,000, Map-Sheet Number OSM H43X7, printed in 2012), which is the most recent map of the erstwhile sheet No 53H/7 used in previous analysis, and referred to in the last report. The relevant observations in the said report dated 13 October 2015, [described as a survey report] read thus:

> "<u>Survey Report</u>
>
> 5. Survey commenced from the boundary pillar number 1376, being conveniently placed. This stone is irrelevant to the case at hand, but was of immense value to prove the correctness of

the survey.

6. **Survey was done using a Realtime GPS in tracking mode**.

7. **The reference of the location of each and every boundary-pillar was done on the basis of the geo-referenced Open Series Map (OSM) H43x7 sheet**. The positions of the other two known stones were also found to be correct; boundary-stone No.1382 was exactly where it was expected to be while 1388 was found to be 2.5 mtr inside the estate of Asalatpur of Haryana.

8. **Similarly, only to prove the correctness of the survey, the boundary pillars numbered 1368, 1369 and 1370 were found to be exactly where they were supposed to be**.

9. The Patwaris of respective villages (including of Faridabad/Haryana or the village of Salarpur) were present during the survey.

10. Such conclusive evidence was enough to arrive at the exact locations of all intermediary boundary stones. These have presently been marked with wooden pegs, and would be replaced with permanent stones in due course, as an act of recovery of previously executed action.

11. Boundary pillar number 1393 (where the villages of Dadasiya (Haryana), Chak-Mangraula and Nagla-Behrampur meet), lies inside the water-line of river Yamuna by a few metres. It has been now marked on the sandy-beach, estimated at 5-m from the correct position.

12. From the boundary pillar number 1393, the village boundary between Nagla-Behrampur and Chak-Mangraula runs in the general direction northwards. The village boundary runs exactly along the existing fencing of plots/farm-lands of these two villages. Only one reference stone was found, which was also previously used for the commencement of demarcation in Apr 2015 as well as in Aug 2015.

13. As per the survey conducted by Survey of India from 07-09 Oct 15, the areas bounded by the village of Nagli-Sagpur and Nagla-Behrampur, on the basis of the digitisation of village maps superimposed on the Open Series Map (OSM) sheet No.H43X7 after necessary “warping”, are 38.72 hectares (95.68 acres) and 74.19 hectares (183.33 acres) respectively. As per records held ….(sic) the revenue department of Gautam Buddh Nagar, these should be 65.33 hectares (161.4375 acres) for Nagli-Sagpur and 107 hectares (264.4 acres), for Nagla-Behrampur, totalling an area of 425.82 acres on record, while only 279.01 acres actually lies encompassed within these two villages, of which, some portion also overlaps into the estate of Nagli-Nagla.

14. **Having confirmed the state-boundary and the boundary between Chak Mangraula and the other villages on its west, the defence land of Tilpat Air Bombing Range**

> **comprising of 482 acres is understood to encompass the entire portion of Nagli-Sagpur and Nagla-Behrampur as they exist today, and a portion of Nagli-Nagla. The recent demarcation by the Survey of India has also proven that a certain portion of the estate of 482 acres has already been acceded to Haryana during the settlement of boundaries by Dixit Award 1983-84**. The discrepancy in area is yet to be reconciled on ground.
> 15. **The application for restoration of 26-10 bigha land of Nagli-Nagla which was reduced by order of the SDM in 1964, and resumption of 15-0-0 bigha land which was wrongly mutated in 1971 by order of SDM Khurja are still pending disposal at the Court of SDM, Gautam Buddh Nagar**. Notices were issued by the SDM, and responses have been received on 09.10.2015.
> Conclusion:
>
> 16. Progress of the team of officers over the land five months has been steady and sure. **The presence of the team from Survey of India provided adequate confidence in the other respondents, regarding the correctness and authenticity of survey of state and village boundaries undertaken. The digitisation of village maps by Computer-Aided Design (CAD) along with Geographic Information System (GIS) tools and superimposing them on topographical sheets has been of immense value in the reconstructive process/analysis**."
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> (emphasis supplied)

10.1 It is not in dispute that when demarcation was done, all the parties were given notice and they were present and nobody raised any dispute in respect of the actual demarcation undertaken by the Committee with the help of the Survey of India team.

11. Having noticed the contents of the letter dated 22 May 2015, this Court, vide order dated 28 July 2015, issued the following directions:

> "We direct the Collector and the District Magistrate, Gautam Budh Nagar to immediately comply with the requisitions made by the Defence Estates Officer and to respond to the request no later than within a period of fifteen days from today.
>
> **From the minutes of the meeting which was held on 25 July 2015, the common theme which emerges, is the**

> **absence of records and maps**. We are of the view that in order to facilitate the work which is being carried out by the Committee, it would be necessary for the Commanding Officer of the Air Force Station to coordinate with the Chairman of the Board of Revenue. We direct that both the authorities shall be in close coordination, so that necessary directions can be issued to the concerned officials to facilitate the work of the Committee and to ensure that all necessary steps are taken for protecting the interest of the Union Government in the acquired land."
>
> (emphasis supplied)

11.1 Again, on 28 January 2016, this Court issued the following directions:

> "...At this stage, several private parties have intervened in the proceedings before the Court and the Court has been informed that while there may be no objection in regard to the work of demarcation which has been carried out, the real claims are in regard to whether the lands in respect of which the private parties claim some interest, fall within the demarcated land for the Indian Air Force.
>
> During the course of the hearing, we have had the benefit of hearing a presentation by Group Captain Ludra on the request of the learned Additional Solicitor General of India. In our view, the ends of justice would be met if the same Committee is directed to furnish copies of the two affidavits containing the reports, to the learned counsel for the private party-intervenors. The Court has been informed by the Additional Solicitor General that this has been done. Hence, we permit the intervenors to file their objections before the Committee within a period of one month from today. The Committee shall enquire into the objections and after considering the objections through a personal hearing, submit its findings before this Court to enable us to pass consequential orders in these proceedings."

12. Thereafter, the Committee invited objections from all concerned by publishing notices in dailies of the National Capital Region, both in English and in Hindi on 10 February 2016 and 18 February 2016. Several persons submitted their objections/applications including all the petitioners in the connected writ petitions. The applicants were informed of the scheduled date of hearing by speed post, SMSs and email. A public notice was also published in the Indian

Express of 10 March 2016. The date of personal hearing of the applicants was scheduled for 11 March 2016. The date for submitting objections was also extended for those applicants who sought further time to submit their objections. The parties were accordingly heard on 15 March 2016. A spot visit to identify the location of titled properties in respect of all applicants who had provided details of land records, was undertaken jointly alongwith a team of revenue officials of Gautam Budh Nagar on 19 March 2016. It appears that 21 applications were received from several parties, including the petitioners. The Committee, accordingly, submitted its report dated 28 January 2016 before this Court. The report gives details of the applications received and the findings of the Committee on every application. The Committee then proceeds to record its comments in the concluding paragraph nos. 3 and 4 as under:

> "3. Regarding Award and Documentation. **Consequent to the Gazette notification under Section 6 of the Land Acquisition Act (SRO No 269 dated 07 Nov 1950), the award for 168-0-0 bigha (105 acres) village Nagli-Nagla was executed on 06 Nov 1951 by the Collector of Bulandshahr. A copy of the award document has already been submitted by DEO on affidavit to the Hon'ble High Court**. Compensation was deposited to the Govt Treasury by the MEO, Agra to effect the award in 1951. An ammonia print of the lands of this village that were acquired for the Air Bombing Range was submitted in the final report of the committee.
>
> 4. Regarding Demarcation of lands of Air Bombing Range.
>
> **(a) The premise for demarcation was based on locating maps of neighbouring villages, and Survey of India map-sheets of scale 1:50,000/1:63,360 sheet No 53H/7 of the years 1911, 1931, 1946, 1980, 2005 and 2012. These sheets are authentic, and irrefutable**. These sheets provide the current situation of the inter-state boundary between Haryana and Uttar Pradesh as regularized by the Dixit Award (correctly known as Haryana and Uttar Pradesh (Alternation of Boundaries) Act, 1979).
>
> **(b) Revenue map of Sagpur (Shakhpur) dating to 1872, revenue map of Nagli-Nagla dating to 1912**

> **and the most recent map of Nagli-Nagla dating to 1958 were available to the committee**.
> **(c)** Mangraula was a Punjab village, and the state boundary between Punjab and United Province (as UP was known before 1947) is available from the Survey of India sheets of 1931 and 1946 (scale 1:63,360; sheet No 53H/7).
> **(d)** Interfacing of revenue maps with the Survey of India Sheets was undertaken on CAD, using factual information from the maps themselves – the location of neighbouring villages and tri-junction stones.
> **(e)** Survey of India maps predating 2007 were printed on a datum known as the "Everest Datum", while the latest print (2012, sheet No H43X7, pertaining to the same locations) is based on the WGS-84 datum. A procedure exists for correcting the Everest Datum to the WGS-84 datum. **When using the historic maps with Everest Datum along with the new map incorporating the WGS-84 datum, all maps have been corrected to the WGS-84 datum**."
>
> (emphasis supplied)

13. In these proceedings, we are concerned with the lands situated in villages Nagli Nagla and Nagli Sagpur. As stated earlier, 105 acres of land is in village Nagli Nagla. The observations made by this Court, at one stage, in respect of the land in village Nagli Nagla, were as follows:

> "A total area of 168 bigha pukhta land was acquired for the purpose of an Air Force Bombing Range. The affidavit of the Chairman, Board of Revenue records that, at present, only 126-15-00 bigha pukhta land is recorded in the name of the Air Force. On 31 March 1964, an order is stated to have been passed by the Sub Divisional Magistrate, Khurja, Bulandshahr directing that an aread of 141-10-00 bigha pukhta be recorded in the name of Air Force pertaining to Khatauni 1370-71 fasli. In pursuance of the order, an area of 141-10-00 bigha pukhta has been recorded in place of the original 168 bigha pukhta in the name of Air Force Bombing Range. A total area of 26-10-00 bigha pukhta was reduced during the course of consolidation operations. **How such a vast area of land was reduced during the course of consolidation operations requires some explanation**. Thereafter, out of Gata No 287, a further area of 15 bigha pukhta was recorded in the name of one Munni Lal on the basis of an order dated 23 September

1971 passed by the Sub Divisional Magistrate, Khurja, Bulandshahr, in a proceeding under Section 229-B of the U P Zamindari Abolition and Land Reforms Act, 1950. **Hence, at present, only an area of 126-15-00 is stated to be recorded in the revenue records in the name of Air Force Bombing Range**.

The counter affidavit which has been filed by the Director of the Survey of India at Lucknow indicates that a joint team of the Defence Estates Officer (Delhi Circle), the District Magistrate, Gautam Budh Nagar and a representative of the IAF together with an officer of the Survey (Air) and Delhi GDC conducted a survey to locate the state boundary pillars. The position of the demarcation has been explained in paragraph 6 of the counter affidavit in the following terms:

> "**That the joint team has located state boundary pillars numbers 1380-1386. These pillars are also shown in the Topo Sheet No 53H/6 and 53H/7**. Director, Survey (Air) & Delhi GDC has provided the description/details of these pillars to Station Commander vide their letter no T-918/39-Air (Local Project) dated 23.4.2015 and informed that the co-ordinates of these pillars can be obtained from Director, Geodetic & Research Branch, Survey of India, Dehradun."

The Station Commander has approached the Director, G&RB, Dehradun for the supply of coordinates on 23 April 2014. **This would indicate that a preliminary joint survey under the supervision of the Defence Estates Officer and the district authorities has been conducted**.

Immediate steps have to be taken in respect of the lands which have been acquired for the purposes of the IAF in village Nagli Nagla. These include:

(i) **The work of demarcation and of locating and fixing boundary pillars** has to be completed at the earliest possible date and within a period of two months since the Court has been informed that coordinates have been sought from the office of the Director, G&RB, Dehradun;

(ii) IAF authorities and the Defence Estates Officer (Delhi Circle) must take immediate steps to investigate into the circumstances in which the Sub Divisional Magistrate, Khurja Bulandshahr passed orders on 31 March 1964 directing that an area of 141-10-00 bigha pukhta be recorded in the name of the Air Force pertaining to Khatauni 1370-71 fasli

> and on 23 September 1971 by which 26-10-00 bigha and 15 bigha out of the acquired land were reduced from the total holding of the Air Force. **Necessary action would have to be initiated to pursue the remedies available in law, for safeguarding the interest of the Air Force and for the correction of revenue records**. The affidavit which has been filed by the Chairman, Board of Revenue states that the Air Force authorities have already been directed to take legal recourse before the Commissioner, Meerut Division; and
>
> (iii) **In the event that there are encroachments on the land which has been acquired, necessary action would have to be taken in accordance with law for safeguarding the interest of the Air Force by dealing with encroachments on an expeditious time frame**."
>
> (emphasis supplied)

13.1 Similarly, in respect of the land in village Nagli Sagpur, the following observations were made:

> "**A total area of 377 acres was acquired for the Air Force Bombing Range in village Sagpur**. However, it has been stated that there was no mention of the khasra numbers of village Sagpur and only an area of 377 acres was mentioned. The affidavit of the Chairman, Board of Revenue indicates that, at that time, village Sagpur was part of Tehsil Ballabhgarh in district Faridabad of the State of Haryana. **The survey was conducted by the State of Haryana and the revenue records of the village prior to 1984 are not available with the State of Uttar Pradesh. After the Dixit Award, village Sagpur was comprised into Ghaziabad district (now Gautam Budh Nagar). An area of 161 acres of village Sagpur was made available to the State of Uttar Pradesh, which is not recorded in the name of the Air Force Bombing Range but, according to the affidavit of the Chairman of the Board of Revenue, is in the name of certain tenure holders. This explanation in the form of an affidavit which has been filed by the Chairman, Board of Revenue would, in our view, require further scrutiny since the notification dated 6 November 1950 published in the Gazette of India expressly refers to 377 acres of land of village Nagli Sagpur being part of Bulandshahr district**. Moreover, the possession receipt of 23 November 1950 also indicates that possession of the entire land in both the villages of Nagli Nagla and Nagla Sagpur in District Bulandshahr acquired

> by the Government of India was handed over to the Military Estates Officer. **The affidavit which has been filed by the Defence Estates Officer of Delhi Circle indicates that a tracing cloth copy of a map dated 6 November 1951 which was issued on 2 November 1970, duly signed by the revenue Lekhpal in the Collectorate at Bulandshahr, has been retrieved. The map shows the land acquired in villages Nagli Nagla and Sagpur**. A copy of the map has been annexed at Annexure CA-10 to the affidavit. However, as the State revenue officials have not been able to come up with records of the complete defence land admeasuring 482 acres required for the survey, it has been stated that the survey in Gautam Budh Nagar could not be completed since the encroachment on the defence land could not be identified."
>
> (emphasis supplied)

14. One Anil Kumar Gupta, Chairman, Board of Revenue, Uttar Pradesh, Lucknow, has filed an affidavit dated 5 May 2015. This deponent was directed by this Court vide order dated 31 March 2015 to take stock of the situation and apprise the Court of the decision taken in this regard. In response thereto, this affidavit has been filed by him, stating that as per the gazette notification of 1950, 150 acres of land of revenue village Nagli Nagla (168 Pukhta Bigha) and 377 acres of land in village Nagli Sagpur were acquired for the Air Bombing Range, Tilpat and the possession of the aforesaid land was transferred/delivered by the Tehsildar, Sikandarabad, District Bulandshahr on behalf of the Collector, Bulandshahr to Shri K N Sinha, the Military Estates Officer, Agra Circle on 23 November 1950. Copies of the gazette notification and the possession memos are placed on record. From this affidavit, it appears to us that the record was not properly maintained and, that appears to be the reason for the difference in the area mentioned in the notification and the area mentioned in the record of rights. There is also difference in the area before and after the Dixit Award, 1984. This is, undoubtedly, in view of the total apathy shown by the Air Force and Military

Estates Officer to protect and preserve the land which was acquired. But that does not wipe out the claim of the Defence Estates Officer/Air Force.

15. One Pushpraj Singh has also filed an affidavit (in PIL No 11539 of 2015) on behalf of respondent nos 5 and 6, i.e. District Magistrate and Chief Revenue Officer, respectively. We would like to reproduce some portions from the affidavit filed on behalf of respondent nos. 5 and 6 which, in our opinion, may be relevant to appreciate the contentions urged on behalf of the Air Force/Defence Estates Officer, that the State revenue officers were not cooperative and the local revenue offices, in collusion with the land grabbers, manipulated the entries etc. The relevant observations read thus:

> "It is further relevant to point here that by gazettee notification of the Ministry of Defence, the land of Village Nagli Sagpur for 377 acres was notified which belong to the Defence Ministry. It is stated that after exchange of certain lands in view of Haryana and Uttar Pradesh Alteration of Boundaries Act, 1979 and on the basis of 'Dixit Award', the record of Nagli Sagpur were transferred in the year 1984 from Haryana to Tehsil Dadri, District Ghaziabad and thereafter after creation of new District Gautam Budh Nagar were transferred in the year 1997. In the year 1950, the Collector, Bulandshahr have already delivered the possession of the land acquired for the Defence Department to the Defence Department and the Defence Department is solely responsible to protect its own land. **It is not clear that at the time when the land was transferred to the Defence Department in the year 1950, the aforesaid land was situate in which State; Haryana or in Uttar Pradesh. According to the records of the Revenue Department (Abhilekh Jamabandi) made available to the State of Uttar Pradesh, no land is recorded in the name of Bombing Range. According to Abhilekh Jamabandi Record made available to the State of Uttar Pradesh only 65.349 hectares of land (161.41 acres) is recorded in the khatauni and the entire land has been recorded in the name of the tenure holders**. Thus, in such situation as far as village Nagli Sagpur is concerned, the factual position as was in the year 1950 could be explained by the State of Haryana. It is reiterated that no authentic map in respect of Village Nagla Nagli is available in the records. The Board of

> Revenue has been requested to provide the Map of village Nagla Nagli. The Board of Revenue by letter dated 22.05.2012 has informed that no 'Bandobasti Bhoochitra' is available in the records of Board of Revenue in respect of Village Nagla Nagli. By the letter dated 21.11.2014, the Assistant Record Officer, Guatam Budh Nagar has asked the Defence Estates Officers, Delhi Circle, Delhi and Air Force Station, Hinden, Ghaziabad to provide the records in this regard."
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> (emphasis supplied)

Though, he has so stated, no dispute has been raised by these respondents in respect of the acquisition undertaken in 1950 nor do they dispute the fact that it was complete in 1950 itself. The highlighted statements made on affidavit are not consistent either with the record or the factual matrix which stands reflected from the record placed before us in these proceedings. For instance, why should he state on affidavit that there is no record to show when the land was transferred to the Defence Estates Officer/Air Force. We have already made reference to the "handing and taking over certificates" dated 23.11.1950 in paragraph 4.1 of the judgment.

16 At this stage, it becomes relevant to notice that during the pendency of the writ petitions, several persons came forward and made applications for intervention and their applications were allowed and they were also heard at considerable length. The intervenors also filed independent writ petitions, which were connected with the PIL and heard together.

17. In this backdrop, we would like to have a glance at the claim of the petitioners made in their writ petitions. In the leading writ petition (Writ - C No 41653 of 2015), the petitioner is an Advocate by profession and claims that he purchased farm house land admeasuring 4 bighas, comprising Khet No 55M of Khata No 13 at village Nagla Behrampur by way of a registered sale deed dated

11 December 2009. This village came into existence recently and the lands of this village earlier in 1950 were in village - Nagli Nagla. He has stated that one Karan Dutta, vide registered sale deed dated 25 February 2008, for adequate consideration, legally and bonafidely purchased 0.6325 hectares of agricultural land situated in village Nagla Behrampur from one Jaiprakash. Karan Dutta, out of 0.6325 hectare agricultural land, sold land measuring 0.3373 hectares (4 bighas) farm land to the petitioner vide registered sale deed dated 11 December 2009, for adequate sale consideration and that is how he became a bona fide purchaser and legal owner/bhumidhar with transferable rights and has been in settled possession enjoying the said farm land continuously since then. The petitioner has stated nothing more than this, to claim legal ownership of the land in his possession. Even across the Bar, we specifically asked the petitioner-in-person, as to who was the owner of this land in 1950-51 and how Jaiprakash acquired the land/title, who sold this land to Karan Dutta in 2008. Apart from reiterating what was stated in the writ petition, he could not answer the query nor could he place any material in support of his claim or in reply to our query.

17.1 Similarly, petitioner No 1 in Writ – C No 41620 of 2015 is also an Advocate by profession and he appeared in this petition for himself and on behalf of the other petitioners. The challenge raised in this petition and in Writ-C No 41653 of 2015 is similar. It is stated in the writ petition, that the petitioners had purchased their respective farm lands in village Nagli Sagpur after carrying out due diligence, verifications, inquiries etc vide registered sale deeds executed between 2011 and 2013. Here also, the petitioners have not given any further details, such as, who were the original owners in 1950 of the land purchased by them, how their vendors or their vendors' vendors acquired

title in respect thereof. Even across the Bar, learned counsel for the petitioners could not and did not place any material on record to show as to how their vendors or their vendors' vendors had acquired tittle in the property so as to claim legal ownership on the basis of sale deeds through which they purchased the lands. It is stated in the petition that they are owners of different sizes of plots/farm lands and that their applications for entering their names in the revenue records are pending with the revenue authorities. The petitioners have also stated that just before filing of the writ petition, the employees of the first and second respondents, i.e. Union of India and Air Force authorities, started threatening the petitioners with demolition and dispossession and, hence, they have approached this Court.

17.2 **Writ-C No 7067 of 2017** has been filed by five petitioners. Petitioner No.1 – Gaurav Tyagi, son of Jai Prakash and petitioner No.4 – Munesh Devi, wife of Surendra Kumar, admittedly, hold lands outside the demarcated land in village Nagli Nagla, which is also described at some places as village Nagli Behrampur. The report of the Committee constituted by this Court in the PIL (PIL No 11539 of 2015), vide order dated 28.01.2016, has clearly recorded that the land claimed by these two petitioners lies outside the demarcated area. In other words, the land in their possession is not a part and parcel of the land acquired in 1950. The learned ASG, across the Bar, also reiterated the findings recorded by the Committee and submitted that they are not claiming any right, whatsoever, in respect of the land in their possession.

17.2.1 Insofar as petitioner nos. 2, 3 and 5 are concerned, the petitioners claim that they are purchasers of the land from the original owners of the lands in their

possession which is situate in village Nagli Nagla. Though, it is not stated in so many words in the writ petition, learned counsel appearing on their behalf, submitted that the original owner of the land was one Brahmanand, son of Ram Saroop, resident of Nagli Nagla. There is absolutely no reference in the writ petition to the sale deeds executed by Brahmanand in favour of these petitioners/their ancestors. He, however, with the permission of the Court, placed original sale deeds along with some revenue records in support of their claim. On a careful perusal of the revenue record, on which these petitioners placed heavy reliance, we find that the name of Brahmanand does not appear as owner at the relevant time. Even from the sale deeds placed on the record, it is not possible to hold that Brahmanand was the owner in possession when the sale deeds were executed some time in 1962, i.e. much after the acquisition proceedings stood concluded. Copies of the revenue receipts placed on the record, by no stretch of imagination, could be connected with the land in question. In other words, there is absolutely no indication in the receipts which may connect them with the land in dispute. In any case, those receipts are all of subsequent years, i.e. after the notifications under Sections 4 and 6 of the Act. We will deal with the question whether subsequent purchasers can challenge the acquisition proceedings a little later. In other words the issue would be, whether a person, who purchases land after the publication of a Section 4 notification with respect to it, is entitled to challenge the acquisition proceedings. Insofar as the petitioners in this petition are concerned, we observe that they have not succeeded in even prima facie establishing that Brahmanand was the land owner in 1950, who transferred his right, title and interest in their favour and that the compensation was not paid to the landowner in 1950 or possession of the land

from him was not taken in 1950-51.

17.3 In **Writ – C No. 13666 of 2016**, the petitioners have challenged notices dated 18.08.2015, 19.11.2015 and 12.01.2016 issued under the **Public Premises (Eviction of Unauthorised Occupants) Act, 1971** (for short, 'the Act, 1971') and the order dated 07.03.2016 issued under sub-section (1) of Section 5 of the said Act. The learned ASG, at the outset and in all fairness, submitted that the notices and the orders issued not only to the petitioners but even against other similarly placed persons were all general in nature and, therefore, they have decided to withdraw the said notices and the orders passed under sub-section (1) of Section 5 of the Act, 1971 and to issue fresh notices to all persons, such as the petitioners, and initiate fresh proceedings under the provisions of the Act, 1971, for eviction. In short, he submitted that the authorities will not act on the order dated 07.03.2016 passed against the petitioners under Section 5 (1) of the Act, 1971 and seeks liberty to initiate fresh proceedings against the petitioners for eviction under the provisions of the said Act. This submission has not been opposed by the learned counsel for the petitioners. In the circumstances, this writ petition would have to be disposed of as rendered infructuous.

17.4 In Writ-C No 20191 of 2016, the petitioners claim that they are the owners in possession of agricultural land situated in village Nagli Sagpur and Nagli Behrampur, from the date the said land was purchased by the petitioners vide registered sale deeds dated 25.07.2007. These petitioners have also placed some revenue record along with the writ petition showing the names of the persons, who, according to the petitioners, were the original owners of the lands in their possession. In the writ petition, they have not stated as to who was their

vendor and who was the vendor of their vendor. Even across the Bar, learned counsel for the petitioners could not give any particulars of their vendor or their vendors' vendor. From a perusal of the revenue record, it appears that the column carrying a description of the owner has the entry “Shamlat Deh (शामलात देह)” which means all inclusive and the land is also shown as no man's land having been described as “Sailab" (flood area). These documents, in any case, are of no avail to the petitioners and cannot enable them to claim right, title and interest in or over the lands in their possession on the basis of the sale deeds executed some time in 2007. Similar are the claims/prayers in the remaining petitions.

18. We have heard learned counsel for the parties at considerable length and with their assistance have gone through the entire material placed before us. All the petitioners in the connected writ petitions claim that they are bona fide purchasers of farm lands/plots out of the land in question and have made development, such as, construction of farm houses. They contend that they purchased these properties by way of registered sale deeds after verifying the record and got their names entered/mutated in the record of rights. A synopsis of the pleadings and the contentions/arguments advanced on their behalf, in short, is as follows:

(i) The process of acquisition of private land for a public purpose under Section 4 read with Section 17 (1) of the Act although initiated in 1950, was not taken to its logical conclusion apart from the fact that a mandatory notice under Section 9 (1) of the Act was not given nor any compensation to the owners of the land was paid or physical possession of the land ever taken from its owners.

In this backdrop and in view of the provisions of Section 24 (2) of the Act, 2013, the land acquisition proceedings initiated in 1950 under the provisions of the Act, have lapsed.

(ii) The respondents do not have any legal right, title and authority in law to dispossess the petitioners from their legally owned land by use of force or without complying with the due process of law.

(iii) The "handing and taking over certificates" dated 23.11.1950, relied upon by the respondents are not only fabricated documents but they are not adequate to claim that the acquisition was complete.

(iv) The petitioners acquired right, title and interest in the farm lands/plots by virtue of registered sale deeds. The respondents who claim these lands/plots, cannot do so unless they challenge the sale deeds and get them set aside.

(v) Reliance was also placed on the affidavit of the Collector, Gautam Budh Nagar, wherein, according to the petitioners, he has admitted that there is no land recorded in the name of the Air Force Bombing Range in the revenue record in village Nagli Sagpur.

(vi) The land belonging to the petitioners are not a part of the said acquisition in 1950 nor were those lands/plots ever acquired in accordance with law. The petitioners purchased the lands/plots through registered sale deeds with due diligence, and after carrying out verifications, inquiries and that they are thus bona fide purchasers and cannot be dispossessed by the respondent authorities.

(vii) No khasra numbers, insofar as lands purportedly acquired from village Nagli Sagpur, were mentioned in the notification and, on this ground alone, the acquisition deserves to be set aside. It was submitted that even if the case of acquisition is held to be true and correct, the fact remains that the acquired land

was never put to any active use or was ever tended to by the Air Force.

(viii) The notifications under Sections 4 and 6 show that village Nagli Sagpur was situated in the District of Bulandshahr in 1950, whereas the ARO of District Gautam Budh Nagar, in his affidavit, has stated that village Nagli Sagpur was transferred to the State of Uttar Pradesh in 1984 in view of the Dixit Award. So, how was the Collector, Bulandshahr competent to transfer the said land, when it was a part of Haryana and not Uttar Pradesh.

(ix) The "handing and taking over certificate", on which heavy reliance is placed by the Air Force, does not mention the exact area and khasra number of the land in Nagli Sagpur.

(x) An endeavour was also made to demonstrate, on the basis of relevant provisions of the Act, that no procedure as contemplated thereunder was complied with scrupulously and on this ground also, the acquisition deserves to be set aside.

(xi) The petitioners are registered legal owners/bhumidhars in possession and use with transferable rights over the property in their possession.

19. Counsel for the petitioners, in support of their case/contentions, placed reliance upon the following judgments: Pune Municipal Corporation Vs Harakchand Misirimal Solanki, (2014) 3 SCC 183; Laxmi Devi Vs State of Bihar, (2015) 10 SCC 241; Ram Sewak Vs State of U P, AIR 1963 All 24; Ram Jiyawan Vs State of U P, AIR 1994 All 38; Bahori Lal Vs Land Acquisition Officer, AIR 1970 All 414; Govt of NCT of Delhi Vs Manav Dharam Trust & Anr, Civil Appeal No 6112 of 2017 [arising out of SLP (C) No 13551 of 2015], decided on May 4, 2017; Om Prakash Sharma Vs M P Audyogik Kendra Vikas Nigam, (2005) 10 SCC 306; Sharma Agro Industries Vs State of Haryana & Ors,

(2015) 3 SCC 341; Velaxan Kumar Vs Union of India & Ors, 2014 LawSuit (SC) 1059; Govt of NCT of Delhi & Ors Vs Jagjit Singh & Ors, 2015 (3) SCALE 208; Jagdev Singh Vs State of U P Thru Dy Secy & Ors, 2014 (8) ADJ 700; Ram Kishan & Ors Vs State of Haryana & Ors, 2014 (13) SCALE 353; Chandrawati @ Chandri Vs State of U P & Ors, 2015 LawSuit (All) 3661; Sree Balaji Nagar Residential Association Vs State of Tamil Nadu & Ors, (2015) 3 SCC 353.

20. The learned ASG at the outset submitted that the land situated in Nagli Sagpur was not owned by any private persons and it was comprised in the river bed and, therefore, the question of it having any khasra number, or payment of compensation did not arise. He submitted that the land grabbers/encroachers, in collusion with revenue officials, manipulated and fabricated entries in the record of rights. The petitioners, even on the basis of the fabricated record of rights, have failed to demonstrate as to who in 1950 were the owners of the farm lands/plots purchased by them?, whether their vendors had title?, who were the vendor of their vendors? etc. In other words, learned ASG submitted that petitioners do not have locus to challenge the acquisition, they being trespassers/encroachers. He submitted that the petitioners being subsequent purchasers cannot have a right higher than that of the original owner/vendor himself nor can they set up any title in the property on the basis of sale deeds unless they demonstrate that their vendor or their vendor's vendor had right, title and interest in the property at the time of its acquisition. He submitted that not only the petitioners but the petitioners' vendors and even vendors of their vendors were all encroachers/trespassers and they did not have any right, title and interest in the property. He submitted that petitioners purchased the land not

only after publication of the notification under Section 4 of the Act but they purchased it after acquisition of land was concluded in 1950 itself, and thereby they cannot claim any title over the property. He submitted that the petitioners and/or their vendors took benefit/advantage of complete apathy shown by the Air Force and defence authorities towards protection of the land in question and indulged in manipulation of the revenue record by joining hands or in collusion with local revenue officials. Therefore, he submitted that the petitioners being trespassers/encroachers cannot claim any “legal injury” as such so as to maintain a writ petition under Article 226 of the Constitution of India. The petitioners' challenge, he contended, should also fail on the ground of delay and laches. He submitted that the petitioners would get an opportunity to show their bona fides before the civil court where the suits are pending or by instituting civil suits or by taking such a defence in the proceedings under the provisions of the Act, 1971. He relied upon judgments of this High Court and the Supreme Court in support of his contentions to which we would make reference at an appropriate stage.

21. At this stage and before we proceed further, it is necessary to mention that most of the petitioners, though not all, have already filed civil suits before appropriate courts for declaration in respect of the lands in their possession. Similarly, learned ASG, in the course of arguments, submitted that the petitioners are in possession of the lands/plots of land purchased by them vide registered sale deeds and, therefore, they have already initiated eviction proceedings against some of them under the provisions of the Act, 1971 and, in case of others, they are in the process of initiating proceedings under this Act for eviction. It is, thus, clear that the petitioners will have ample opportunity to

prove their case and in any case shall not be dispossessed without the due process of law. The question whether it is open to the petitioners to challenge the acquisition in question, however, needs to be considered in these proceedings, on the premise that the farm lands/plots in their possession were acquired, in view of the prayers made in the writ petitions. Similarly, the question whether at the instance of the petitioners, this Court should examine the contention that the conditions envisaged under Section 9 (1) and Section 7 of the Act were not complied and, therefore, the acquisition initiated in 1950 had never been completed in accordance with law and that private lands sought to be acquired continued to be private land, will also have to be considered in the facts of this case.

22. From the material that has come on record, the pleadings, contentions urged on behalf of both the sides, different reports submitted by the revenue authorities, as also of the Committee constituted by this Court vide order dated 19 May 2015, it is clear that large scale manipulation and fabrication of entries in the course of preparation of the record of villages Nagli Sagpur and Nagli Nagla appears to have taken place. It also appears that the maps of the villages were also fabricated by the revenue officials. Original maps are not available in respect to village Nagli Nagla, which had been acquired for the benefit of the defence authorities. It is clear from the reports, which have been prepared by the Committee as well as the revenue officials, that the land has been illegally dealt with, encroached and trespassed upon, and the revenue authorities of the State, in respect of most of the land, have taken the stand that maps and records pertaining to the land in question are not available. Moreover, the Air Force/Defence Estates Officer, permitted or conveniently allowed land grabbers

to encroach/trespass upon the land in question to the detriment of the defence forces. Unfortunately, after the acquisition was complete in 1950 itself and the possession was taken by the Air Force after payment of compensation, a complete apathy was shown by them towards protection of the land in question, which gave ample scope not only to land grabbers/unscrupulous elements of society but even the revenue officials to manipulate and fabricate entries while preparing the record of these villages.

22.1 That, however, by itself, it was submitted on behalf of the Air Force/Defence Estates Officer, is not sufficient to oust the Air Force/defence authorities from the land in question and confer title upon encroachers/trespassers, even if it is assumed that they are all bona fide purchasers of the land. It is the submission of the learned ASG that their remedy is against their vendors. Even the Air Force/Defence Estates Officer are not aware as to when the act of land grabbing or encroachment of the acquired land of the defence had initially taken place, nor have the petitioners brought anything on record to show that who was/were the original owners of the farm land purchased by them and how they acquired title over the said property. Even in the case of Nagli Nagla, where the land has been purchased by the petitioner in person, in the leading writ petition (Writ-C No 41653 of 2015), it is not clear who was the original owner of the khasra in which he acquired the farm land. These facts, according to the Air Force/Defence Estates Officer support their case that all the petitioners are trespassers/encroachers.

23. It is clear that out of 482 acres of land in the State of Uttar Pradesh, that was acquired to develop a Firing and Bombing Range for the Air Force at Tilpat

Range, 105 acres of land is situated in village Nagli Nagla and 377 acres of land is situated in village Nagli Sagpur. It is true that, in the notifications under Sections 4 and 6 of the Act, khasra numbers were not mentioned, insofar as the lands in Nagli Sagpur are concerned. In view thereof, the contentions urged by learned ASG assumes importance. It was submitted that insofar as the lay out of the Air Bombing Range is concerned, superimposition of the blueprint of the proposed lay out dated 17 January 1950 and the aerial photograph dated 10 January 1950 was done to ascertain the exact location of the acquired area/land. From the record, it appears that an exercise of analysing pre-acquisition aerial photographs and the digital village maps was undertaken by the Survey of India to identify the acquired land. Similarly, composition of the digital revenue map and analysis of the pre-acquisition map/photographs done by the Survey of India, further helped in verifying the exact location of the acquired land on the map. In short, the blue-print map prepared in 1950 (17.01.1950) of the Air Bombing Range and aerial photographs taken on 10.01.1950 give a clear picture of the land in question, so as to pinpoint and identify the exact location of the acquired area not only in Haryana but also in Uttar Pradesh. On the basis thereof, it appears that a major portion of the land in Uttar Pradesh, forming approximately 482 acres in 1950 was in the river Yamuna and, therefore, it was not likely to be farm land, or owned by any person or having any khasra numbers. In other words, the land was not owned by any individuals and, therefore, no names were appearing in the record of rights in 1950-51 when the land in Nagli Sagpur was acquired. Insofar as the land situated in village Nagli Nagla is concerned, in April 2015, the revenue office of Gautam Budh Nagar had undertaken demarcation on the basis of the revenue records showing clear

title in favour of the Air Force authorities and describing it as an Air Bombing Range. This portion forms part of the northern boundary of the acquired land. Similarly, in case of Nagli Sagpur, the land situated therein has also been demarcated and it has been found that the petitioners are in possession of small pieces/farm lands over which they have developed farms and constructed farm houses. We also find substance in the submission made on behalf of Air Force/Defence Estates Officer, that they would place all these materials in support of their contentions in the eviction proceedings under the Act, 1971 or in the civil suits filed by the petitioners.

24. We, therefore, find force in the submission of learned ASG explaining as to why khasra numbers were not mentioned in the notification insofar as village Nagli Sagpur is concerned and as to why no award was made and possession taken from private persons. In other words, since the acquired land in village Nagli Sagpur was a part of the river, the question of passing any award as such did not arise and what was necessary was only the taking of its possession from the State authorities. Insofar as the land situated in village Nagli Nagla is concerned, it appears that the lands were owned by individuals and the proceedings of acquisition were initiated against them, which came to be concluded by the passing of an award and, as stated on affidavit, even compensation was paid to the landowners. We also find force in the submission of learned ASG, in respect of the land in village - Nagli Nagla, that if the claim of the petitioners was correct, then the landowners would not have kept quite for decades and they would have certainly come forward to seek compensation. Counsel for the petitioners could not and did not place any materials on record to show as to who were the owners of land situated in village Nagli Nagla and

Nagli Sagpur in 1950-51. It is also not in dispute that at no point of time, though those lands, according to the petitioners of village Nagli Nagla, were in possession of tenure holders, none of them ever approached either the concerned authorities or any court for either challenging the acquisition or seeking compensation of the acquired lands. This supports the contention urged on behalf of the Air Force/Defence Estates Officer, that the acquisition was complete in all respects, and therefore, none of the landowners made any grievance about it at any point of time.

25. Additionally we note that no details have been disclosed or brought on record to sustain the assertion that the land was not acquired in 1950 in accordance with law and, therefore, the Air Force/Defence Estates Officer cannot claim this land and they have no legal right or authority therein, except for oral submissions. It was also vehemently submitted that no procedure, as contemplated under the provisions of the Act, was followed to claim acquisition of lands situated in villages Nagli Nagla and Nagli Sagpur. If the case of the petitioner is examined in light of the sequence of facts which emerged and have been noticed so far, the case of the Air Force/Defence Estates Officer appears to be not only probable but also truthful. The petitioners have been unable to show the source of their title. It would not be possible for this Court to accept that they are the legal owners of the lands in the light of the material which has been brought on record. On the other hand, it has come on record that notifications and declaration under Sections 4 and 6 respectively were issued, award was passed, possession was taken and compensation was paid, insofar as village Nagli Nagla is concerned. In case of Nagli Sagpur also, it is more than apparent that acquisition proceedings were initiated in respect of 377 acres of land and

the possession thereof was also taken in pursuance thereof. Therefore, we find substance in the submissions advanced on behalf of the Air Force/Defence Estates Officer that the petitioners are trespassers/encroachers and that writ petitions at their behest are not maintainable. Merely because the petitioners acquired the land by way of registered sale deeds, does not mean that they became owners, if the original source of title is defective. The documents, such as notifications under Section 4 and declaration under Section 6 of the Act and the possession certificates, cannot be overlooked in this backdrop and they support the allegation of encroachment/trespass. The petitioners will have to establish their title, either in the suits pending or by instituting suits for appropriate relief before the jurisdictional civil court or by contesting eviction proceedings, which have already been initiated and/or would be initiated under the provisions of the Act, 1971. If they succeed in those proceedings, consequences would follow. In this backdrop, we would like to consider the questions whether a subsequent purchaser can challenge the acquisition proceedings?; whether writ petitions under Article 226 of the Constitution, by such persons are maintainable?; whether the land which statutorily vested in the government can revert to the original owner or a subsequent purchaser?; what is the right of trespassers/encroachers in such a situation?; whether the petitioners, in the facts of the present case, could be termed as “persons aggrieved” or “persons interested” or have “locus”? etc.

26. Before we deal with the questions, we would like to consider the judgments relied upon by counsel for the petitioners in support of the contention urged on their behalf that the process of acquisition of private land for a public purpose under Section Section 4 read with Section 17 (1) of the Act was not

taken to its logical conclusion in accordance with the provisions of the Act in the year 1950 since, neither a mandatory notice under Section 9(1) of the Act was given nor any compensation paid to the landowners nor possession taken from its owners and, therefore, in view of the provisions of Section 24 of the Act, 2013, the land acquisition proceedings initiated in 1950 under the provisions of the old Act, lapsed. Heavy reliance in this regard was placed on the judgment of the Supreme Court in **Pune Municipal Corporation** (supra). In this judgment, after referring to Section 24, the Supreme Court in paragraphs 10, 11, 14, 15 and 18, observed thus:

> "**10**. Insofar as sub-section (1) of Section 24 is concerned, it begins with non obstante clause. By this, Parliament has given overriding effect to this provision over all other provisions of the 2013 Act. **It is provided in clause (a) that where the land acquisition proceedings have been initiated under the 1894 Act but no award under Section 11 is made, then the provisions of the 2013 Act shall apply relating to the determination of compensation**. Clause (b) of Section 24(1) makes provision that where land acquisition proceedings have been initiated under the 1894 Act and award has been made under Section 11, then such proceedings shall continue under the provisions of the 1894 Act as if that Act has not been repealed.
>
> **11**. Section 24 (2) also begins with non obstante clause. This provision has overriding effect over Section 24 (1). **Section 24 (2) enacts that in relation to the land acquisition proceedings initiated under the 1894 Act, where an award has been made five years or more prior to the commencement of the 2013 Act and either of the two contingencies is satisfied viz. (i) physical possession of the land has not been taken, or (ii) the compensation has not been paid; such acquisition proceedings shall be deemed to have lapsed**. On the lapse of such acquisition proceedings, if the appropriate government still chooses to acquire the land which was the subject-matter of acquisition under the 1894 Act then it has to initiate the proceedings afresh under the 2013 Act. The proviso appended to Section 24 (2) deals with a situation where in respect of the acquisition initiated under the 1894 Act an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the

beneficiaries then all the beneficiaries specified in the Section 4 notification become entitled to compensation under the 2013 Act.

14. Section 31 (1) of the 1894 Act enjoins upon the Collector, on making an award under Section 11, to tender payment of compensation to persons interested entitled thereto according to award. It further mandates **the Collector to make payment of compensation to them unless prevented by one of the contingencies contemplated in sub-section (2). The contingencies contemplated in Section 31(2) are: (i) the persons interested entitled to compensation do not consent to receive it, (ii) there is no person competent to alienate the land, and (iii) there is dispute as to the title to receive compensation or as to the apportionment of it**. If due to any of the contingencies contemplated in Section 31(2), the Collector is prevented from making payment of compensation to the persons interested who are entitled to compensation, then the Collector is required to deposit the compensation in the court to which reference under Section 18 may be made.

15. Simply put, Section 31 of the 1894 Act makes provision for payment of compensation or deposit of the same in the court. **This provision requires that the Collector should tender payment of compensation as awarded by him to the persons interested who are entitled to compensation**. If due to happening of any contingency as contemplated in Section 31(2), the compensation has not been paid, the Collector should deposit the amount of compensation in the court to which reference can be made under Section 18.

18. 1894 Act being an expropriatory legislation has to be strictly followed. The procedure, mode and manner for payment of compensation are prescribed in Part V (Sections 31-34) of the 1894 Act. The Collector, with regard to the payment of compensation, can only act in the manner so provided. It is settled proposition of law (classic statement of Lord Roche in *Nazir Ahmad*[1]) that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden."

(emphasis supplied)

26.1 This judgment, in our opinion, is of no avail to the petitioners in the facts of the present case. In relation to land acquisition under the Act, where an award

1 Nazir Ahmad v. King Emperor, (1935-36) 63 IA 372 : (1936) 44 LW 583 : AIR 1936 PC 253 (2)

has been made five years or more prior to the commencement of the Act, 2013, under Section 24 (2) thereof, the law requires either of two contingencies to be satisfied, namely physical possession of the land having not been taken, or the compensation having not been paid. Only in such a situation can it be said that the acquisition proceedings shall be deemed to have lapsed. In the present case, both the conditions stood satisfied. Even if it is assumed that there is no sufficient material on record to support that either possession was taken or compensation was paid, still the question is whether petitioners, who are encroachers/trespassers, can raise such contentions. Petitioners have not placed any material to show who were the original owners, and on what basis they state that possession was not taken from the original owners and the compensation was not paid. It is clear from the facts and the material placed on the record that the acquisition was complete in 1950 itself. Not only were all stages under the provisions of the Act complied with but even the possession was taken by the Defence Estates Officer/Air Force and none of the original owners ever made any grievance in respect thereof till today. Petitioners, except for the bald averments made in the writ petition, have not brought any material on record to show that the acquisition was either not complete or compensation not paid and possession not taken. That apart, none of the original owners have come forward making such a grievance. The petitioners, who are purchasers of the land in their possession between 2009 and 2013, decades subsequent to the notification under Section 4 and declaration under Section 6 of the Act, without bringing any material on record to show as to how their vendors acquired right, title and interest, have relied upon this judgment. The principles/ratio laid down by the Supreme Court thus is of no avail to trespassers/encroachers and/or the

purchasers of the land subsequent to the notification under Sections 4 and 6 of the Act. We have already recorded our finding that the petitioners are encroachers/trespassers in and over the farm lands/plots in their possession.

26.2 The judgment of the Supreme Court in **Laxmi Devi** (supra) also, for the reasons recorded in the foregoing paragraph, is of no avail to the petitioners in light of the fact that no original owner of the land has made any grievance about payment of compensation. In this case, the Supreme Court considered the question whether the Land Acquisition Act, 1894, as amended from time to time, requires an award to be passed even in respect of lands expropriated by the State pursuant to the exercise of special powers in cases of urgency as contemplated in Section 17 thereof. After dealing with the provisions of Section 17 in depth, the Supreme Court in paragraphs 16.2 and 18.4, to which our attention was specifically drawn, observed thus:

> "**16.2** *Secondly*, it is available only on the expiration of fifteen days from the issuance of Section 9 notice. This hiatus of fifteen days must be honoured as its purpose appears to be to enable the affected or aggrieved parties to seek appropriate remedy before they are divested of the possession and the title over their land. **The Government shall perforce have to invite and then consider objections preferred under Section 5-A, which procedure, as painstakingly and steadfastly observed by this Court, constitutes the constitutional right to property of every citizen; inasmuch as Section 17 (4) enables the obliteration of this valuable right, this Court has repeatedly restated that valid and pressing reasons must be present to justify the invocation of these provisions by the Government**.
>
> ... ...
>
> **18.4 A reading of sub-section (4) sounds the death-knell to the arguments put forward for the respondent State, inasmuch as it allows the option to the appropriate Government to make the provisions of Section 5-A inapplicable. Paraphrased differently, even where the urgency provisions contained in Section 17 are resorted to, ordinarily the provisions of Section 5-A have to be adhered**

> **to i.e. inviting and then deciding the objections filed by the landowners**. Significantly, sub-section (4) of Section 17 does not, as it very easily could have, exempt compliance with the publication of the declaration under Section 6 and the hearing of parties preparatory to the passing of an award under Sections 9 to 11 of the Act. There is, therefore, not even an iota of doubt that remains pertaining to the absolute necessity of the passing of an award under Section 11 of the LA Act."
>
> (emphasis supplied)

26.2.1 Relying on these paragraphs, it was vehemently submitted that it was not open to the State to dispense with the hearing contemplated under Section 5-A of the Act. We are afraid, petitioners cannot rely either on the observations made by the Supreme Court in this case or on the provisions of the Act for more than one reason. As observed earlier, none of the landowners ever made any grievance about the acquisition, raised the issue of inadequate compensation or sought hearing as contemplated under Section 5-A for that matter. The acquisition took place in 1950 and, after invoking the urgency clause as contemplated under Section 17, it was concluded in 1950 itself by taking and handing over possession to the Air Force. The petitioners have not brought anything on record in support of their contention that the original landowners were wrongly deprived of an opportunity to object, were not paid compensation or that possession was not taken from them of the acquired land. In the absence of this material, it is not open to the petitioners to place reliance on this judgment to contend that the procedure as contemplated under the provisions of the Act was not complied.

26.3 In **Om Prakash Sharma** (supra), it appears that the notifications issued under Sections 4 and 6 were vague and no description of the lands, such as survey number or khasra number were given nor were the names of landowners,

whose lands were sought to be acquired mentioned. In this backdrop, the Supreme Court held that the notifications being vague stood vitiated and could not be sustained in law. Having regard to the facts which obtain in the present batch of writ petitions, in our opinion, this judgment also is of no avail to the petitioners. At the cost of repetition, we observe that the lands situated in village Nagli Sagpur in 1950 were not standing in the name of any landowners and it in fact constituted a river bed. That seems to be the reason why khasra numbers do not find mention in the notification under Section 4 of the Act. That apart, the petitioners, who are purchasers of the pieces of lands/farm lands in 2011-13, cannot raise such contentions, after more than sixty years of the acquisition.

26.4 For the very same reasons, in our opinion, even the judgments of this Court in **Ram Sewak** (supra), **Ram Jiyawan** (supra) and **Bahori Lal** (supra) would not help the petitioners or take their case further. The other judgments relied upon in support of the contention that the acquisition fails if the particulars of the land, such as khasra number and the extent of acquisition is not mentioned in the notification are also of no avail to the petitioners, insofar as lands situated in village Nagli Sagpur are concerned, since it is the case of the Union respondents that these lands were not owned by any individuals and, therefore, the question of payment of any compensation or taking possession of such land did not arise. The judgment of the Supreme Court in **Manav Dharam Trust** (supra), which reiterates the principle laid down in **Pune Municipal Corporation** is also of no avail to the petitioners for the very same reasons recorded earlier.

27. At this stage, it would be necessary to have a glance at the judgments of

the Supreme Court dealing with the word/expression "trespasser" and "encroachers". The Supreme Court, in **Laxmi Ram Pawar Vs Sitabai Balu Dhotre & Anr, (2011) 1 SCC 356**, while dealing with the question: is a trespasser covered by the definition of "occupier" in Section 2(e)(v) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 and, if yes, whether for his eviction from the land or building in a declared slum area, the written permission of the competent authority under Section 22(1)(a) of the said Act is mandatorily required, considered the purport of the words "trespass"/"trespasser". In paragraphs 12, 13 and 14, the Supreme Court observed thus:

> "**12. A "trespass" is an unlawful interference with one's person, property or rights**. With reference to property, it is a wrongful invasion of another's possession. In *Words and Phrases*, Permanent Edn. (West Publishing Company), pp. 108, 109 and 115, in general, a "trespasser" is described, inter alia, as follows:
>
> > "**A 'trespasser' is a person who enters or remains upon land in the possession of another without a privilege to do so created by the possessor's consent or otherwise**. (*Wimmer's Estate, In re*[2] P 2d at 121.)"
> >
> > A 'trespasser' is one entering or remaining on land in another's possession without a privilege to do so created by the possessor's consent, express or implied, or by law. (*Keesecker v. G.M. Mckelvey Co*.[3], NE at 226, 227.)
> >
> > * * *
> >
> > **A 'trespass' is a transgression or wrongful act, and in its most extensive signification includes every description of wrong, and a `trespasser' is one who does an unlawful act, or a lawful act in an unlawful manner, to the injury of the person or property of another**. (*Carter v. Haynes, Tex*.[4], SW at 220.)"
>
> **13.** In *Black's Law Dictionary* (6th Edn.), 1990, p. 1504, the term "trespasser" is explained as follows:
>
> "*Trespasser.*- One who has committed trespass. One

2 182 P 2d 119 : 111 Utah 444
3 42 NE 2d 223 : 68 Ohio App 505
4 269 SW 216

> who intentionally and without consent or privilege enters another's property. **One who enters upon property of another without any right, lawful authority, or express or implied invitation, permission**, or license, not in performance of any duties to owner, but merely for his own purpose, pleasure or convenience".

14. In *Halsbury's Laws of England,* Vol. 45 (Fourth Edn.), pp. 631-32, the following statement is made under the title "What Constitutes Trespass to Land":

> "1384. *Unlawful entry*.- **Every unlawful entry by one person on land in the possession of another is a trespass for which an action lies, even though no actual damage is done**. A person trespasses upon land if he wrongfully sets foot on it, rides or drives over it or takes possession of it, or expels the person in possession, or pulls down or destroys anything permanently fixed to it, or wrongfully takes minerals from it, or places or fixes anything on it or in it, or if he erects or suffers to continue on his own land anything which invades the airspace of another, or if he discharges water upon another's land, or sends filth or any injurious substance which has been collected by him on his own land onto another's land."

27.1 After considering the purport of the words trespass/trespasser, the Supreme Court in concluding paragraphs 21 and 22, held thus:

> "**21.** Insofar as present case is concerned, the first respondent set up the case in the plaint that the appellant was a trespasser in the subject room. The first appellate court has also recorded a categorical finding, which has not been disturbed by the High Court, that the appellant was occupying the subject room as trespasser. In the circumstances, the suit was clearly not maintainable for want of written permission from the Competent Authority and was rightly dismissed by the trial court.
>
> **22.** In view of the above, the appeal is allowed; the judgment of the High Court dated 20-9-2004 affirming the judgment of the VIIIth Additional District Judge dated 30-7-2004 is set aside. **The suit filed by the first respondent stands dismissed. However, this will not preclude the first respondent in instituting a fresh suit or proceeding for eviction against the appellant after obtaining necessary**

written permission from the Competent Authority. The parties shall bear their own costs."

(emphasis supplied)

27.2 In the present case, the petitioners came into possession over the farm lands between 2007 and 2013, whereas the acquisition notifications were issued in 1950. This itself shows that the possession of the petitioners is as encroachers and an encroacher cannot have any right, title and interest over the encroached property. However, during the continuance of possession over the property, an encroacher may have obtained the record from the revenue authorities showing his possession but that possession would not entitle him to claim ownership. We are making such an observation in view of the fact that the petitioners have admittedly purchased these lands 60 years after the acquisition stood completed and they thus could not have acquired any right, title or interest on the basis of their possession and the sale deeds executed in their favour. The petitioners have further failed to bring any material on record to even prima facie show that the petitioners' vendors had title over the property.

27.3 The Supreme Court, in **Ahmedabad Municipal Corporation Vs Nawab Khan Gulab Khan & Ors, AIR 1997 SC 152**, while dealing with the removal of encroachments, held that the Constitution does not put an absolute embargo on the deprivation of life and personal liberty, but such a deprivation must be, according to a procedure which is fair and reasonable. It must be a procedure which is pragmatic and realistic depending upon the facts of the situation. No inflexible rule of hearing and due application of mind can be insisted upon in such a backdrop. The removal of encroachments needs urgent action. But, in this behalf, what is required to be done by the competent authority is to ensure

constant vigil on encroachments of public places. The Supreme Court, in the said case, further held that it is true that in all cases it may not be necessary that alternative accommodation must be provided at the expense of the State, which if given due credence, is likely to result in abuse of the judicial process. No absolute principle of universal application can be laid down in this behalf.

27.4 In **B Saraswathi & 8 Ors Vs Tahsildar Poonamallee Taluk, Thiruvalur District, 1998 WLR 181**, the petitioners therein admitted that they were in possession of Government land and that they did not claim that they came into possession on the basis of consent by the Government. They were thus treated as rank trespassers a factual position which was evident from their own admission. Even though they claimed to be in possession for the last more than 20 years, their legal status was held to be only as trespassers. The learned Judge held that after entering into another man's land, in this case Government land, the trespassers themselves claim writ jurisdiction and claim equity in their favour though they have no legal right and declined to grant relief to the petitioners following the judgment of the Calcutta High Court. The learned Judge followed the decision of the Supreme Court in **A P Christian Medical Educational Society Vs Government of Andhra Pradesh, AIR 1986 SC 1490** and **Chief Secretary & Ors Vs Mathai Kuriya Kose & Ors, AIR 1989 Ker 113** in refusing the relief of mandamus at the hands of trespassers.

27.5 From a perusal of the judgment of the Supreme Court, it is clear that a trespasser or encroacher is a person who enters or remains upon land in the possession of another, without a privilege to do so being created or conferred by the possessor's consent or otherwise. Thus, every unlawful entry by one person

on land in possession of another is trespass for which an action lies. In the present case, the petitioners have taken advantage of the extent of land, the purpose of acquisition, attitude of the Air Force or apathy shown by them to protect the land, frequency of the use of land having regard to the purpose of acquisition, and the attitude of the local revenue officials. All this made it convenient for them to enter and remain upon the land in possession of the Air Force, may be on the basis of sale deeds executed by persons who did not have any right, title or interest. Merely because one enters the land, after execution of a sale deed, does not mean that he acquires a valid title to the property. It is, however, true that even for evicting a trespasser from the property, one requires to institute a suit or proceedings for eviction as contemplated under the relevant enactment. In the present case, the relevant enactment is Act, 1971 and, as stated by learned ASG, they have already instituted proceedings against some of the trespassers and against others they propose to institute fresh proceedings.

28. Encroachment of public property, undoubtedly, obstructs or upsets planned development. Public property needs to be preserved and protected and it is the duty of the State, district administration/revenue officials and local bodies to ensure the same. It is true that every citizen has a fundamental right to redress the perceived legal injury through judicial process but question remains whether an encroacher/trespasser would also fall in that category and, if yes, to what extent he could be given protection. The observations made by the Supreme Court in **Ahmedabad Municipal Corporation** (supra), while dealing with the expression “encroacher”, may be relevant for our purpose. The relevant observations in paragraph 30 read thus:

> "**30**. ... Every citizen has a fundamental right to redress the perceived legal injury through judicial process. The encroachers are no exceptions to that Constitutional right to judicial redressal. The Constitutional Court, therefore, has a Constitutional duty as sentinel qui vive to enforce the right of a citizen when he approaches the Court for perceived legal injury, provided he establishes that he has a right to remedy. **When an encroacher approaches the Court, the Court is required to examine whether the encroacher had any right and to what extent he would be given protection and relief**. In that behalf, it is the salutary duty of the State or the local bodies or any instrumentality to assist the Court by placing necessary factual position and legal setting for adjudication and for granting/refusing relief appropriate to the situation. Therefore, the mere fact that the encroachers have approached the Court would be no ground to dismiss their cases. The contention of the appellant-Corporation that the intervention of the Court would aid impetus to the encroachers to abuse the judicial process is untenable. As held earlier, if the appellant-Corporation or any local body or the State acts with vigilance and prevents encroachment immediately, the need to follow the procedure enshrined as an inbuilt fair procedure would be obviated. **But if they allow the encroachers to remain in settled possession sufficiently for long time, which would be a fact to be established in an appropriate case, necessarily suitable procedure would be required to be adopted to meet the fact-situation and that, therefore, it would be for the respondent concerned and also for the petitioner to establish the respective claims and it is for the Court to consider as to what would be the appropriate procedure required to be adopted in the given facts and circumstances**."
>
> (emphasis supplied)

28.1 The Supreme Court in **Krishna Ram Mahale Vs Shobha Venkat Rao, (1989) 4 SCC 131**, has observed that where a person is in settled possession of property, even on the assumption that he had no right to remain on the property, he cannot be dispossessed by the owner of the property except by recourse to law.

29. In the present case, the learned ASG has fairly submitted that all the petitioners are in possession and, therefore, they would follow the due process

of law for evicting them from the farm lands. The petitioners have not prima facie proved the case of their legal right over the land in their possession in these proceedings, though they may be in possession thereof. However, their right, title and interest would have to be proved in appropriate proceedings and if they succeed therein, consequences would follow.

30. In this backdrop, we would also like to consider whether the petitioners are "persons interested" within the meaning of Section 3 (b) of the Act and, as such, have locus to file a writ petition under Article 226 of the Constitution of India? This question will have to be considered in the backdrop of the facts as they have emerged and have been narrated by us in detail in the foregoing paragraphs. In our prima facie opinion, the petitioners, who claim to be "persons interested", may be able to make such a claim only and only if they can establish their legal right before the appropriate forum or in appropriate proceedings. The question which however, still remains to be considered is whether the petitioners, being purchasers, subsequent to the Sections 4 and 6 notification/declaration, can claim to be persons interested/aggrieved or have locus. In the present case, we have already observed that there is no material on record to show that the petitioners have right, title and interest in the properties, since they could not and did not bring anything on record to show, who were their vendors when they purchased the land, how their vendors derived title from persons who were the recorded tenure holders at the time of acquisition or even whether the vendors themselves were the recorded tenure holders at the time of issuance of the acquisition notifications and whether, on the basis of such sale deeds, they can claim any right under the provisions of the Act, read with the

provisions of the Constitution, including to claim compensation, even if it is assumed that they are bona fide purchasers for value.

31. The Supreme Court has considered the question whether subsequent purchaser of the land, that has already been acquired or in respect of which notifications under Section 4 (1) and/or Section 6 of the Act have been issued, can challenge the acquisition proceedings or claim right, title and interest in such a property, on several occasions. We would like to refer to a few judgments in support of this proposition of law so as to understand the right of the petitioners and/or to appreciate the submissions advanced on their behalf.

31.1 In **Sneh Prabha Vs State of U P, AIR 1996 SC 540**, the Supreme Court, while dealing with the contention urged on behalf of the appellant that the owner of the land is entitled under the policy for the allotment of the land in terms of three categories enumerated in the land policy, observed that "though at first blush, we are inclined to agree with the appellant but on deeper probe, we find that the appellant is not entitled to the benefit of the land policy". After so observing in paragraph 5, the Supreme Court held thus:

> "...**It is settled law that any person who purchases land after publication of the notification under Section 4 (1), does so at his/her own peril. The object of publication of the notification under Section 4 (1) is notice to everyone that the land is needed or is likely to be needed for public purpose and the acquisition proceedings points out an impediment to anyone to encumber the land acquired thereunder**. It authorizes the designated officer to enter upon the land to do preliminaries etc. Therefore, any alienation of land after the publication of the notification under Section 4 (1) does not bind the Government or the beneficiary under the acquisition. **On taking possession of the land, all rights, titles and interests in land stand vested in the State, under Section 16 of the Act, free from all encumbrances and thereby absolute title in the land is acquired thereunder. If**

> **any subsequent purchaser acquires land, his/her only right would be subject to the provisions of the Act and/or to receive compensation for the land**. In a recent judgment, this Court in *Union of India v. Shivkumar Bhargava, (1995) 6 JT (SC) 274 : (1995 AIR SCW 595)* considered the controversy and held that a person who purchases land subsequent to the notification is not entitled to alternative site. It is seen that the Land Policy expressly conferred that right only on that person whose land was acquired. **In other words, the person must be the owner of the land on the date on which notification under Section 4 (1) was published. By necessary implication, the subsequent purchaser was elbowed out from the policy and became disentitled to the benefit of the Land Policy**."
>
> (emphasis supplied)

31.2 In **Ajay Krishan Shinghal Vs Union of India, AIR 1996 SC 2677**, the Supreme Court, while considering the similar question in paragraph 13, observed thus:

> "Another contention raised by Shri Ravinder Sethi is that **the claimant in the first appeal had purchased the property after the declaration under Section 6 was published and that therefore he does not get any right to challenge the validity of the notification published under Section 4 (1). Since his title to the property is a void title, at best he has only right to claim compensation in respect of the acquired** land claiming interest in the land which his predecessor-in-title had. In support thereof, he placed reliance on the judgments of this Court in State of U.P. v. Smt. Pista Devi (1986) 4 SCC 251 : (AIR 1986 SC 2025); Gian Chand v. Gopala (1995) 2 SCC 528 : (1995 AIR SCW 1487); Mahavir v. Rural Institute, Amravati (1995) 5 SCC 335 and Laxmi Engineering Works v. P.S.G. Industrial Institute (1995) 3 SCC 583 : (1995 AIR SCW 2114). **We need not deal at length with this issue as is the settled legal position**..."
>
> (emphasis supplied)

31.3 In a similar situation, the Supreme Court in **Mahavir Vs Rural Institute, Amravati, (1995) 5 SCC 335**, observed thus:

> "...Admittedly, notification under Section 4(1) of the Land Acquisition Act (for short, `the Act') was published on 29-1-1957 and thereafter the owner sold the properties to the

> petitioners on 11-6-1957 and 22-8-1958. Declaration under Section 6 was published on 14-8-1958. **Thus, it could be seen that the sales made after the publication of the notification under Section 4(1) are void sales and the State is not bound by such a sale effected by the owner**. Admittedly, the notice under Sections 9 and 10 was served on 23-9-1958 and award was made on 9-10-1959 and possession was taken on 18-11-1959. **Thus, the acquisition was complete. The possession of the Government is complete as against the original owner and title of the original owner stood extinguished and by operation of Section 16 the State acquires the right, title and interest in the property free from all encumbrances. So any encumbrance made by the owner after notification under Section 4(1) was published does not bind the State...**"
>
> (emphasis supplied)

31.3.1 In this case, the Supreme Court also negatived the claim of the petitioners that they had perfected title by adverse possession. It was observed that no question of adverse possession arises unless it is pleaded and proved that after the possession was taken and handed over to the third respondent, the petitioners had asserted their own right to the knowledge of the third respondent and it had acquiesced in it and remained in uninterrupted possession and enjoyment, *nec vi, nec lam and nec pre cario*. That was not the case before the Supreme Court and, therefore, it was observed that the appellants could not have any semblance of right by prescription.

31.3.2 We referred to the above judgment in view of the fact that in one of the writ petitions before us it was urged that the petitioners had perfected their title over the land by virtue of adverse possession. We may also observe that though such a contention was urged, it was then given up and was not pressed thereafter. No other petitioner raised such a contention. We may also observe that none of the petitioners, in the writ petition, has pleaded or proved that after

the possession was taken and handed over to the third respondent, the petitioners had asserted their own right to the knowledge of the Air Force.

31.4 In **Gian Chand Vs Gopala, (1995) 2 SCC 528**, while dealing with a similar question, the Supreme Court in paragraph 2, observed thus:

> "...**On publication of notification under Section 4(1) of the Act, though it is not conclusive till declaration under Section 6 was published, the owner of the land is interdicted to deal with the land as a free agent and to create encumbrances thereon or to deal with the land in any manner detrimental for public purpose**. Therefore, though notification under Section 4(1) is not conclusive, the owner of the land is prevented from encumbering the land in that such encumbrance does not bind the Government. If ultimately, declaration under Section 6 is published and acquisition is proceeded with, it would be conclusive evidence of public purpose and the Government is entitled to have the land acquired and take possession free from all encumbrances. Any sale transaction or encumbrances created by the owner after the publication of notification under Section 4 (1) would therefore be void and does not bind the State..."
>
> (emphasis supplied)

31.5 In **Jaipur Development Authority Vs Mahavir Housing Coop Society**, **(1996) 11 SCC 229**, the Supreme Court in para 4, observed thus:

> "...In view of the settled legal position that the claimants being the **subsequent purchasers cannot have a higher right than that the original owner himself had. They cannot set up any title to the property on the basis of sale deeds and *consideration* but may be entitled to the compensation obviously getting into the shoes of the claimant...**"
>
> (emphasis supplied)

31.6 The Supreme Court in **V Chandrasekaran Vs Administrative Officer, (2012) 12 SCC 133**, also considered the question whether a subsequent purchaser can challenge the acquisition proceedings. This question was

considered in the following backdrop of the facts : the predecessors in the title of the appellants were the owners and the possessors of the suit land. The notification under Section 4 of the Act was issued on 15.05.1978 and the declaration under Section 6 was issued on 06.06.1981. Very few among the persons interested challenged the land acquisition proceedings by way of writ petitions, which were filed by some of the original tenure-holders of the suit land on several grounds. The petitioners before the Supreme Court, however, did not challenge the acquisition proceedings so far as the lands in question were concerned, rather they chose to restrict their case to the other part of their lands. A Single Judge of the High Court allowed the petitions, whereas the Division Bench reversed the orders of the Single Judge and that is how the matter went before the Supreme Court. The Supreme Court, in this backdrop, while dealing with the question, in paragraphs 15, 16, 17 and 18, observed thus:

> "**15.** The issue of maintainability of the writ petitions by the person who purchases the land subsequent to a notification being issued under Section 4 of the Act has been considered by this Court time and again. In *Lila Ram v. Union of India*[5], **this Court held that, any one who deals with the land subsequent to a Section 4 notification being issued, does so, at his own peril**. In *Sneh Prabha v. State of U.P.*[6], this Court held that a Section 4 notification gives a notice to the public at large that the land in respect to which it has been issued, is needed for a public purpose, and **it further points out that there will be "an impediment to any one to encumber the land acquired thereunder". The alienation thereafter does not bind the State or the beneficiary under the acquisition**. The purchaser is entitled only to receive compensation. While deciding the said case, reliance was placed on an earlier judgment of this Court in *Union of India v. Shiv Kumar Bhargava*[7].
>
> **16.** Similarly, in *U.P. Jal Nigam v. M/s. Kalra Properties (P) Ltd.*[8], this Court held that, **purchase of land after publication of a Section 4 notification in relation to**

5 (1975) 2 SCC 547 : AIR 1975 SC 2112
6 (1996) 7 SCC 426 : AIR 1996 SC 540
7 (1995) 2 SCC 427
8 (1996) 3 SCC 124 : AIR 1996 SC 1170

> **such land, is void against the State** and at the most, the purchaser may be a person interested in compensation, since he steps into the shoes of the erstwhile owner and may therefore, merely claim compensation. [See also *Star Wire (India) Ltd. v. State of Haryana*[9].]
>
> **17.** In *Ajay Krishan Singhal v. Union of India*[10], *Mahavir v. Rural Institute*[11], Gian Chand v. Gopala[12] and *Meera Sahni v. Lt. Governor of Delhi*[13] this Court categorically held that, **a person who purchases land after the publication of a Section 4 notification with respect to it, is not entitled to challenge the proceedings for the reason, that his title is void and he can at best claim compensation on the basis of vendor's title**. In view of this, the sale of land after issuance of a Section 4 notification is void and the purchaser cannot challenge the acquisition proceedings. (See also: *Tika Ram v. State of U.P.*[14]).
>
> **18.** In view of the above, the law on the issue can be summarized to the effect that **a person who purchases land subsequent to the issuance of a Section 4 notification with respect to it, is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the sale deed executed in his favour does not confer upon him, any title and at the most he can claim compensation on the basis of his vendor's title**."
>
> (emphasis supplied)

31.7 The Supreme Court has, thus, settled the position of law, holding that any one who deals with the land subsequent to a Section 4 notification being issued, does so, at his own peril. In other words, purchase of lands after publication of Section 4 notification in relation to such land is void against the State and, at the most, the purchaser may be a person interested in compensation, since he steps into the shoes of the erstwhile owner and may therefore, merely claim compensation. In the present case, the petitioners purchased the farm lands/plots between 2007 and 2012, whereas the acquisition was complete in 1950. No recorded landowner who held the land at the time of issuance of the acquisition

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9 (1996) 11 SCC 698
10 (1996) 10 SCC 721 : AIR 1996 SC 2677
11 (1995) 5 SCC 335
12 (1995) 2 SCC 528
13 (2008) 9 SCC 177
14 (2009) 10 SCC 689 : 2009 (4) SCC (Civ) 328

notifications ever raised any grievance in respect of the acquisition or initiated a legal challenge to the same. We have, therefore, no hesitation in holding that the petitioners being persons, who purchased lands subsequent to the issuance of a Section 4 notification with respect to it, are not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the deeds executed in their favour are void against the State and the beneficiary of the acquisition. There has also been an abject failure of the part of the petitioners to establish or prove that the original landholder who possessed the land at the time of issuance of the notifications was deprived of compensation. The petitioners, therefore, at the most, can claim that they cannot be dispossessed without the due process of law being followed.

32. We would also like to consider the contention urged on behalf of the petitioners that the revenue record supports their claim of ownership/title. It is well settled that a revenue record is not a document of title. It merely raises a presumption in regard to possession. Presumption of possession and/or continuity thereof both forward and backward can also be raised under Section 110 of the Evidence Act. (See **Gurunath Manohar Pavaskar & Ors Vs Nagesh Siddappa Navalgund & Ors, AIR 2008 SC 901)**. In the instant writ petitions, the question of acting on such a presumption does not arise in view of the peculiar facts and circumstances of the case and in view of the findings on questions of fact recorded so far which clearly show that large scale manipulation and fabrication of entries in preparation of record of rights of both the villages had taken place and that too in collusion with the revenue officials. It is also well settled that possession may prima facie raise a presumption of

title. No one can deny this but a presumption can hardly arise when the facts are known. When the facts disclose no title in either party, possession alone decides. (See **Nair Service Society Ltd Vs K C Alexander & Ors, AIR 1968 SC 1165**). Reliance placed on Section 110 of the Evidence Act is misplaced because the petitioners, in the facts and circumstances of the case, as noticed so far, cannot claim title to the property in dispute. Presumption under Section 110 of the Evidence Act, which is rebuttable, is attracted when the possession is prima facie lawful and when the contesting party has no title. (See **Chief Conservator of Forests, Govt of A P Vs Collector & Ors, AIR 2003 SC 1805**). Thus, in the present case, prima facie, it cannot be stated that the petitioners have title in the property in their possession. We may also usefully refer to the legal maxims : *Nemo dat quid non habet* (no one gives what he has not got); and n*emo plus juris tribuit quam ipse habet* (no one can bestow or grant a greater right, or a better title than he has himself).

32.1 Having noticed the legal status of the petitioners in the backdrop of the judgments referred to in the earlier paragraphs and the facts which stand established on the record, we proceed to consider the issue whether the petitioners can claim any relief or title for that matter only on the basis of the fact that they came to hold and possess the land on the basis of sale deeds which were duly registered. This question is no more res integra and has been answered in several judgments of the Supreme Court. It is well settled that mere registration of a document does not confer title on the vendee/alienee. In other words, registration of a document *per se* does not create any new title and the same is governed by the principles enunciated by the maxim *Nemo Dat Quad*

Non Habet, i.e. no person can transfer a better title than what he possesses in the property so transferred. Mere registration of a conveyance deed cannot come in the way of the government in asserting its right, and title to the land, and claim the property back, in accordance with law. [See Full Bench judgment of the High Court at Hyderabad authored by one of us, Dilip B Bhosale, CJ, in **Vinjamuri Rajagopala Chary & Ors Vs Principal Secretary, Revenue Department, Hyderabad & Ors, 2016 (2) ALD 236**]. In this connection, we may also refer to the judgment of the Supreme Court in **Government of Andhra Pradesh Vs Thummala Krishna Rao, (1982) 3 SCR 500**. In this case, while dealing with the Andhra Pradesh Land Encroachment Act, 1945, the Supreme Court has laid down that the summary remedy for eviction provided by Section 6 of the said Act could be resorted to by the Government only against persons who are in unauthorised occupation of any land which is the property of the Government and if the person in occupation has a bona fide claim to litigate he could not be ejected save by the due process of law and that the summary remedy prescribed by Section 6 was not that kind of a legal process.

33. Based on these principles of law, in our opinion, the petitioners have absolutely no right to seek any benefit under the provisions of the Act or to challenge the acquisition on the ground that the procedure as contemplated under the Act was not followed or complied with. In these proceedings, petitioners cannot claim any right, title and interest in the property in their possession. The petitioners are encroachers/trespassers and that being so, they cannot be treated as “persons interested” in the property in dispute. If the right of a trespasser in such a situation is either accepted or recognized, then no

proceedings under the provisions of the Act would ever get concluded. As observed earlier, none of the petitioners has produced any document to substantiate their plea that they have right, title and interest in the property. In other words, they have not produced any document on record to show that they are the purchasers of the properties in their possession from the original land owners who did not either receive compensation or had not lost possession after the acquisition was complete in 1950-51 itself or from the legal owners of the properties as they existed at the time of issuance of the acquisition notifications. None of the original land owners, as observed earlier, has come forward, claiming either compensation or challenging the acquisition that was initiated and completed in 1950-51.

34. Next, we would like to consider the question whether the petitioners have locus standi to file a writ petition under Article 226 of the Constitution of India. In other words, whether there exists any legal right as such of the petitioners which is alleged to have been violated entitling them to invoke the jurisdiction of the High Court under Article 226 of the Constitution. The Supreme Court in **Calcutta Gas Company (Proprietary) Ltd Vs State of West Bengal, AIR 1962 SC 1044**, considered Article 226 of the Constitution in the light of the challenge to the "locus standi" of the appellant therein to file a writ petition under Article 226 of the Constitution. The argument advanced was that the appellant was only managing the industry and it had no proprietary right therein and, therefore, could not maintain the writ petition. The relevant observations in paragraph 5 of the judgment, read thus:

> "...Article 226 confers a very wide power on the High Court to issue directions and writs of the nature mentioned

> therein for the enforcement of any of the rights conferred by Part III or for any other purpose. It is, therefore, clear that persons other than those claiming fundamental rights can also approach the court seeking a relief thereunder. **The Article in terms does not describe the classes of persons entitled to apply thereunder; but it is implicit in the exercise of the extraordinary jurisdiction that the relief asked for must be one to enforce a legal right**. In State of Orissa v. Madan Gopal, 1952 SCR 28 : (AIR 1952 SC 12) **this Court has ruled that the existence of the right is the foundation of the exercise of jurisdiction of the Court under Art. 226 of the Constitution**. In Charanjit Lal Chowdhuri v. Union of India, 1950 SCR 869 : (AIR 1951 SC 41), it has been held by this Court that **the legal right that can be enforced under Art. 32 must ordinarily be the right of the petitioner himself who complains of infraction of such right and approaches the Court for relief**. We do not see any reason why a different principle should apply in the case of a petitioner under Art. 226 of the Constitution. **The right that can be enforced under Art. 226 also shall ordinarily be the personal or individual right of the petitioner himself, though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified...**"
>
> (emphasis supplied)

34.1 Similarly, in **Mani Subrat Jain Vs State of Haryana, AIR 1977 SC 276**, while considering Article 226 of the Constitution, the Supreme Court in paragraph 9, observed thus:

> "...**It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by some one who has a legal duty to do something or to abstain from doing something**. (See Halsbury's Laws of England 4th Ed. Vol. I, paragraph 122); State of Haryana v. Subash Chander, (1974) 1 SCR 165 = (AIR 1973 SC 2216); Jasbhai Motibhai Desai v. Roshan Kumar Haji Bashir Ahmed, (1976) 3 SCR 58 = (AIR 1976 SC 578) and Ferris Extraordinary Legal Remedies paragraph 198."
>
> (emphasis supplied)

34.2 It is well settled that existence of a legal right of a petitioner which is

alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under Article 226 of the Constitution. While reiterating this legal proposition, the Supreme Court in paragraph 38 of its judgment in **Ghulam Qadir Vs Special Tribunal, (2002) 1 SCC 33**, held thus:

> "**38**. There is no dispute regarding the legal proposition that **the rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in the case where the writ prayed for is for habeas corpus or quo warranto**. Another exception in the general rule is the filing of a writ petition in public interest. **The existence of the legal right of the petitioner which is alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid Article**. The orthodox rule of interpretation regarding the locus standi of a person to reach the court has undergone a sea change with the development of constitutional law in our country and the constitutional courts have been adopting a liberal approach in dealing with the cases or dislodging the claim of a litigant merely on hypertechnical grounds. **If a person approaching the court can satisfy that the impugned action is likely to adversely affect his right which is shown to be having source in some statutory provision, the petition filed by such a person cannot be rejected on the ground of his having not the locus standi**. In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be non-suited on the ground of his not having the locus standi."
>
> (emphasis supplied)

34.3 Article 226 of the Constitution confers a very wide power on the High Court to issue appropriate writs for enforcement of any of the rights conferred by Part III or for any other purpose. This Article does not specify the classes of persons entitled to apply thereunder; but it is implicit in the exercise of this extraordinary jurisdiction that the relief asked for must be to protect and preserve a legal right. The legal right must be of the petitioner himself who complains of infraction of such a right. In other words, no one can ask for a mandamus without a legal right. Having regard to these principles laid down by

the Supreme Court, if we examine the present case, in the light of the facts noted herein above, in our opinion, the petitioners cannot claim infraction of any right so as to claim any relief in the writ petitions. In other words, petitioners being trespassers/encroachers, cannot be stated to have any legal right in the properties in their possession, or have any enforceable legal right. In short, the petitioners cannot claim to be “aggrieved person”.

35. The expression “aggrieved person” has fallen for consideration of the Supreme Court on several occasions. We would like to make reference to the judgments of the Supreme Court, which are relevant to the facts of the present case. A plain reading of the expression “person aggrieved” or “aggrieved person” would mean, a person who has suffered a legal injury or one who has been unjustly deprived of or denied something, which he would be interested to obtain in the usual course or similar benefits or advantage or results in wrongful affectation of his title to compensation under the provisions of the Act. This has been observed by the Supreme Court in **Babua Ram Vs State of U P, (1995) 2 SCC 689**. In this judgment, the Supreme Court also considered the dictionary meaning of the word “aggrieved” and in paragraph 17, observed thus:

> “**17.** In Collins English Dictionary, the word 'aggrieved' has been defined to mean "to ensure unjustly especially by infringing a person's legal rights". In Webster Comprehensive Dictionary, International Edition at page 28, aggrieved person is defined to mean "subjected to ill-treatment, feeling an injury or injustice. Injured, as by legal decision adversely infringing upon one's rights". In Strouds Judicial Dictionary, Fifth Edn., Vol. 1, pages 83-84, person aggrieved means "person injured or damaged in a legal sense". In Black's Law Dictionary, Sixth Edn. at page 65, aggrieved has been defined to mean "having suffered loss or injury; damnified; injured" and aggrieved person has been defined to mean:
>
> > "One whose legal right is invaded by an act complained of, or whose pecuniary interest is

> directly and adversely affected by a decree or judgment. One whose right of property may be established or divested. The word 'aggrieved' refers to a substantial grievance, a denial of some personal, pecuniary or property right, or the imposition upon a party of a burden or obligation."

The person aggrieved, therefore, must be one who has suffered a legal injury.

35.1 In **Jasbhai Motibhai Desai Vs Roshan Kumar Haji Bashir Ahmed, AIR 1976 SC 578**, while dealing with the expression "aggrieved person", the Supreme Court in paragraph 12, observed thus:

> "**12.** According to most English decisions, in order to have the locus standi to invoke certiorari jurisdiction, the petitioner should be an "aggrieved person" and in a case of defect of jurisdiction, such a petitioner will be entitled to a writ of certiorari as a matter of course, but if he does not fulfill that character, and is a "stranger", the Court will, in its discretion, deny him this extraordinary remedy, save in very special circumstances. This takes us to the further question: Who is an "aggrieved person"? And what are the qualifications requisite for such a status? The expression "aggrieved person" denotes an elastic, and, to an extent, an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. At best, its features can be described in a broad tentative manner. **Its scope and meaning depends on diverse variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him**. English Courts have sometimes put a restricted and sometimes a wide construction on the expression "aggrieved person". However, some general tests have been devised to ascertain whether an applicant is eligible for this category so as to have the necessary locus standi or 'standing' to invoke certiorari jurisdiction."

35.1.1 The observations made by the Supreme Court in paragraphs 25 and 29 are also relevant, which read thus:

> "**25.** Emphasising the 'very special circumstances' of the case, the court read into the statute, a duty to act fairly in

accordance with the principles of natural justice. Thus, a corresponding right to be treated fairly was also imported, by implication, in favour of the applicants. Viewed from this standpoint, the applicants had an interest recognised in law, which was adversely affected by the impugned action. They had suffered a wrong as a result of the unfair treatment on the part of the corporation.

29. ...Salmon J. quoted with approval these observations of James LJ in Re James LJ in Sidebothem (1880) 14 Ch D 458 at p. 465

> The words 'person aggrieved' do not really mean a man who is disappointed of a benefit which he might have received if some other order had been made. **A 'person aggrieved' must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something**."

(emphasis supplied)

35.1.2 Finally, in paragraph 38, the Supreme Court laid down the broad test in the following worlds:

"**38.** To distinguish such applicants from 'strangers', among them, some broad tests may be deduced from the conspectus made above. These tests are not absolute and ultimate. Their efficacy varies according to the circumstances of the case, including the statutory context in which the matter falls to be considered. These are: **Whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense that his interest, recognised by law, has been prejudicially and directly affected by the act or omission of the authority, complained of**? Is he a person who has suffered a legal grievance, a person 'against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something? Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is the statute, in the context of which the scope of the words 'person

> aggrieved' is being considered, a social welfare measure designed to lay down ethical or professional standards of conduct for the community? Or is it a statute dealing with private rights of particular individuals?"
>
> (emphasis supplied)

35.2 A Bench of seven learned Judges of the Supreme Court considered the question, whether the Bar Council of a State was an "aggrieved person" to maintain an appeal under Section 38 of the Advocates' Act, 1961 in **Bar Council of Maharashtra Vs M V Dabholkar, AIR 1975 SC 2092**. Answering the question in the affirmative, the Supreme Court indicated how the expression "aggrieved person" is to be interpreted in the context of a statute. The relevant observations read thus:

> "**27**. ...The meaning of the words "a person aggrieved" may vary according to the context of the statute. One of the meanings is that a person will be held to be aggrieved by a decision if that decision is materially adverse to him. **Normally, one is required to establish that one has been 'denied or deprived of something to which one is legally entitled in order to make one "a person aggrieved**". Again a person is aggrieved if a legal burden is imposed on him. The meaning of the words "a person aggrieved" is sometimes given a restricted meaning in certain statutes which provide remedies for the protection of private legal rights. **The restricted meaning requires denial or deprivation of legal rights**. A more liberal approach is required in the background of statutes which do not deal with property rights but deal with professional conduct and morality. The role of the Bar Council under the Advocates Act is comparable to the role of a guardian in professional ethics. The words "persons aggrieved" in Sections 37 and 38 of the Act are of wide import add should not be subjected to a restricted interpretation of possession or denial of legal rights or burdens or financial interests..."
>
> (emphasis supplied)

35.3 The Supreme Court in **Ayaaubkhan Noorkhan Pathan Vs State of Maharashtra, (2013) 4 SCC 465**, while dealing with the expression "person

aggrieved" in paragraph 9 observed thus:

> "**9.** It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. **Only a person who has suffered, or suffers from *legal injury* can challenge the act/action/order etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities.** Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. **It is implicit in the exercise of such extraordinary jurisdiction that the relief prayed for must be one to *enforce a legal right*. In fact, the *existence of such right, is the foundation of the exercise of the said jurisdiction by the Court*. The *legal right that can be enforced* must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same.** [Vide State of Orissa v. Madan Gopal Rungta, AIR 1952 SC 12, Saghir Ahmad v. State of U.P., AIR 1954 SC 728, Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B., AIR 1962 SC 1044, Rajendra Singh v. State of M.P., (1996) 5 SCC460 and Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar, (2009) 2 SCC 784.]"
>
> (emphasis supplied)

35.4 The words "aggrieved person" correspond to the requirement of "locus standi", which arises in relation to judicial remedies. The Supreme Court in **Bar Council of Maharashtra** (supra) observed that where a right of appeal to Courts against an administrative or judicial decision is created by statute, the right is invariably confined to a person aggrieved or a person who claims to be aggrieved. Thus, the meaning of the words "a person aggrieved" may vary

according to the context of the statute. Normally, one is required to establish that he has been denied or deprived of something to which he is legally entitled in order to make one "a person aggrieved". Thus, the person approaching the Court, may be a civil court or a High Court under Article 226 of the Constitution of India, must show that his legal right has been infringed or he is legally entitled for something which has been denied or has been deprived of by an individual or the State. Unless he establishes this prerequisite, he would have no locus standi to raise or espouse a legal challenge as such and, at the most, if he has claimed right in any property and that he is in established possession thereof, he can seek the relief of not being dispossessed without following the due process of law. Thus, it becomes clear that words “person aggrieved” or “locus standi” are required to be ascertained with reference to the purpose of the provisions of the statute and the context in which they occur. A person who has no legal right does not have a right to make any claim either in a court of law or in a High Court under Article 226 of the Constitution, with reference to the purpose of the provisions of the statute, such as the Act. In short, as observed by the Supreme Court in **Ayaaubkhan Noorkhan Pathan** (supra), a person who raises a grievance, must show how he has suffered a legal injury. Generally, a stranger having no right whatsoever in any property cannot invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

35.5 In **A Subhash Babu Vs State of A P, AIR 2011 SC 3031**, the Supreme Court in paragraph 11 held thus:

> “**10**. ...The expression "aggrieved person" denotes an elastic and an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition.

> Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of complainant's interest and the nature and the extent of the prejudice or injury suffered by the complainant..."

35.6 A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one whose "legal right" has been adversely affected or jeopardised. [Vide **Shanti Kumar R Canji Vs Home Insurance Co of New York, (1974) 2 SCC 387 : AIR 1974 SC 1719** and **State of Rajasthan Vs Union of India, (1977) 3 SCC 592 : AIR 1977 SC 1361**].

35.7 The Supreme Court in **M S Jayaraj Vs Commissioner of Excise, Kerala, (2000) 7 SCC 552**, examined the issue of "locus standi" from all angles and, in short, held that the person should be asked to disclose the legal injury suffered by him and if he cannot, then, obviously, the person has no locus standi to file a writ petition under Article 226 of the Constitution of India. The observations made by the Supreme Court after considering its judgments in **Nagar Rice & Flour Mills Vs N Teekappa Gowda & Bros, (1970) 1 SCC 575** and in **Jasbhai Motibhai Desai** (supra) in paragraph 12 are relevant, which read thus:

> "**12.** In this context we noticed that this Court has changed from the earlier strict interpretation regarding locus standi as adopted in Nagar Rice & Flour Mills v. N. Teekappa Gowda & Bros.[15] and Jasbhai Motibhai Desai v. Roshan Kumar[16] and a

15 (1970) 1 SCC 575
16 (1976) 1 SCC 671

> much wider canvass has been adopted in later years regarding a persons entitlement to move the High Court involving writ jurisdiction. **A four-Judge Bench in Jasbhai Motibhai Desai (supra) pointed out three categories of persons vis-à-vis the locus standi: (1) a person aggrieved; (2) a stranger; and (3) a busybody or a meddlesome interloper**. Learned Judges in that decision pointed out that any one belonging to the third category is easily distinguishable and such person interferes in things which do not concern him as he masquerades to be a crusader of justice. The Judgment has cautioned that the High Court should do well to reject the petitions of such busybody at the threshold itself. Then their Lordships observed the following: (SCC p. 683, para 38)
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> > "38. The distinction between the first and second categories of applicants, though real, is not always well demarcated. **The first category has as it were, two concentric zones; a solid central zone of certainty, and a grey outer circle of lessening certainty in a sliding centrifugal scale, with an outermost nebulous fringe of uncertainty. Applicants falling within the central zone are those whose legal rights have been infringed. Such applicants undoubtedly stand in the category of persons aggrieved**. In the grey outer circle the bounds which separate the first category from the second, intermix, interfuse and overlap increasingly in a centrifugal direction. All persons in this outer zone may not be 'persons aggrieved'."
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> (emphasis supplied)

35.8 For the reasons record so far, in our opinion, the petitioners are not "person aggrieved" so as to make any claim in the High Court under Article 226 of the Constitution. Even in the light of the expanded concept of locus standi, we are afraid, in the present case, the petitioners cannot claim that they have locus standi to challenge acquisition proceedings for more than one reason. As noticed earlier, apart from a person (subsequent purchaser), like the petitioners having no right to challenge the acquisition proceedings, it is also necessary that he should establish that his legal rights have been infringed before he be held entitled to invoke the jurisdiction of the Court under Article 226 of the Constitution. The person whose legal right has been infringed, undoubtedly,

would stand in the category of a person aggrieved. Thus, the words “person aggrieved” and “locus standi”, though may convey different meanings, in the context of the facts before the Court for consideration, are synonyms. In other words, unless the person is held to be a person aggrieved, he would not have a locus standi to challenge the acquisition even if the expanded concept of locus standi is kept in view. Writ petition under Article 226 of the Constitution is maintainable for enforcing the statutory or legal right or when there is a complaint by the petitioners that there is a breach of the statutory duty on the part of the respondents. In other words, there must be a judicially enforceable right for the enforcement of which the writ jurisdiction can be resorted to. The existence of a legal right is a condition precedent to invoke the writ jurisdiction under Article 226 of the Constitution.

36. We would also like to consider the submission advanced by learned ASG that once the possession of land is taken under the provisions of the Act, the land vests in the State free from all encumbrances, whatsoever, and it cannot be divested. In other words, once the possession of the land is taken under the provisions of the Act, it cannot be restored to the tenure holder/person interested, even if it is not used for the purpose for which it was acquired or for any other purpose.

36.1 The Supreme Court in **Fruit & Vegetable Merchants Union Vs Delhi Improvement Trust**, **AIR 1957 SC 344**, considered the word 'vest' in the context of the provisions of the Uttar Pradesh Town Improvement Act (8 of 1819) and, while doing so, also considered the purport of this word in the light of the provisions of the Land Acquisition Act, 1894. The observations made by

the Supreme Court in paragraph 19 are relevant for our purpose, which read thus:

> "**(19)** That the word "vest" is a word of variable import is shown by provisions of Indian statutes also. For example, s. 56 of the Provincial Insolvency Act (V of 1920) empowers the court at the time of the making of the order of adjudication or thereafter to appoint a receiver for the property of the insolvent and further provides that "such property shall thereupon vest in the receiver." The property vests in the receiver for the purpose of administering the estate of the insolvent for the payment of his debts after realising his assets. The property of the insolvent vests in the receiver not for all purposes but only for the purpose of the Insolvency Act and the receiver has no interest of his own in the property. **On the other hand, Ss. 16 and 17 of the Land Acquisition Act (Act I of 1894), provide that the property so acquired, upon the happening of certain events, shall "vest absolutely in the Government free from all encumbrances". In the cases contemplated by Ss. 16 and 17 the property acquired becomes the property of Government without any conditions or limitations either as to title or possession**. The legislature has made it clear that the vesting of the property is not for any limited purpose or limited duration. It would thus appear that the word "vest" has not got a fixed connotation, meaning in all cases that the property is owned by the person or the authority in whom it vests. It may vest in title, or it may vest in possession, or it may vest in a limited sense, as indicated in the context in which it may have been used in a particular piece of legislation. The provisions of the Improvement Act, particularly Ss. 45 to 49 and 54 and 54-A when they speak of a certain building or street or square or other land vesting in a municipality or other local body or in a trust, do not necessarily mean that ownership has passed to any of them."
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> (emphasis supplied)

36.2 In **U P State Industrial Development Corporation Vs Rishabh Ispat Ltd & Ors, CDJ 2006 SC 1152**, the High Court found that there was no evidence whatsoever to substantiate the plea that the claimants were in illegal and unauthorised possession of the lands, which had vested in the State of Uttar Pradesh. Further, the High Court also noted that the Special Land Acquisition

Officer offered compensation to the claimants and later, in proceedings under Section 18 of the Act, it was contended that the claimants were unauthorised occupants of the lands. In such circumstances, the Hon'ble Apex Court had held that the High Court was right in holding that there was no material on record to prove that some of the claimants were unauthorised occupants of Government land and not entitled to compensation for such lands. Further, it was held that the High Court was also justified in holding that in a reference under Section 18 of the Act, such a contention cannot be raised, because matters that may be considered by a Court in a reference under Section 18 of the Act are matters enumerated in Section 18 itself as also the following sections. Thus, the said judgment may not be of any relevance to the facts on hand. In the present case,we have already recorded our prima facie view that the petitioners are encroachers and that they are not entitled for any compensation.

36.3 The expression “free from all encumbrances” also has been interpreted by the Supreme Court in several judgments. In **State of Himachal Pradesh Vs Tarsem Singh, AIR 2001 SC 3431**, the Supreme Court, while dealing with the expression “free from all encumbrances” observed that it means the vesting of land in the State without any burden or charge on the land, including an easementary right. Therefore, the consequences of vesting of land free from all encumbrances is that the interest, right and title to the land including any easementary rights therein stand extinguished and such rights stand vested in the State free from all encumbrances.

36.4 The Supreme Court in **State of Madhya Pradesh Vs Vishnu Prasad Sharma, AIR 1966 SC 1593**, considered the question whether a notification

under Section 4(1) of the Act may be followed by successive notifications under Section 6 for small parts of the land comprised in one notification issued under Section 4. While dealing with this question, the Supreme Court observed that when possession of the land is taken under Section 17 (1) of the Act, the land vests in the Government. There is no provision by which land statutorily vested in the government reverts to the original owner by mere cancellation of the notification.

36.5 Similarly, in **Satendra Prasad Jain Vs State of U P, AIR 1993 SC 2517**, it was observed that when Section 17 (1) is applied by reason of urgency, the Government takes possession of the land prior to the making of the award under Section 11 and thereupon the owner is divested of title to the land which is vested in the Government. Section 17 (1) states so in unmistakable terms. Clearly, Section 11-A can have no application to cases of acquisition under Section 17 because lands have already vested in the Government and there is no provision in the said Act by which lands statutorily vested in the Government can revert to the owner. The further observations in this case are also relevant in the light of the facts of the said case, that 80 percent of the estimated compensation was not paid to the claimants, although Section 17 (3-A) required that it should have been paid before possession of the said land was taken. While dealing with this situation, the Supreme Court observed that it does not mean that the possession was taken illegally or that the said land did not thereupon vest in the State. It is, at any rate, not open to the claimants, who, even if the Land Acquisition Officer failed to make the necessary monies available and who has been in occupation of the said land ever since its possession was taken, to

urge that the possession was taken illegally and, therefore, the said land has not vested in the State and the State is under no obligation to make an award.

36.6 Once the acquisition is complete, as provided for under Sections 16 and 17 of the Act, the property so acquired vests absolutely in the Government free from all encumbrances. It becomes the property of the Government without any condition or limitation either as to title or possession. The expression "free from all encumbrances" means that the vesting of the land in the State is without any burden or charge of the land, including that of an easementary right. The consequence of land vesting free from all encumbrances, therefore, is that the interest, right and title to the land, including easementary rights, stand extinguished and such rights vest in the State free from all encumbrances. Thus, in the present case, as observed earlier, the petitioners who are either trespassers or encroachers over the land in question do not have any right and title to the land.

37. Apart from all of the above, the writ petitions with the prayers as made, also deserve to be dismissed on the ground of delay and laches. In this connection, we would like to make reference to a few judgments of the Supreme Court.

37.1 In **State of Mysore Vs V K Kangan, AIR 1975 SC 2190**, the Supreme Court observed that the claimant was not entitled to challenge the validity of a Section 4 notification after an unreasonable lapse of time. In other words, challenge to the validity of a Section 4 notification can be made and also entertained, if it is made within a reasonable time of the publication of the

notification. In **State of Tamil Nadu Vs L Krishnan, AIR 1996 SC 497**, the Supreme Court observed that the delay in challenging the notification was fatal and the writ petitions were liable to be dismissed on the ground of laches only and exercise of power under Article 226 after the award was made, was held to be unjustified. Similarly, in **State of Maharashtra Vs Digambar, AIR 1995 SC 1991**, the Supreme Court held that if the land acquisition proceedings stood finalised, interference by the writ Court, quashing the notification and declaration under Sections 4 and 6, was unwarranted and uncalled for. Exercise of jurisdiction in such a case cannot be said to be judicious and reasonable. [Also see **Girdharan Prasad Missir Vs State of Bihar, (1980) 2 SCC 83,** and **H D Vora Vs State of Maharashtra, AIR 1984 SC 866**].

37.2 In **State of Rajasthan Vs D R Laxmi, (1996) 6 SCC 445**, the Supreme Court observed that even void proceedings need not be set at naught if the parties have not approached the Court within reasonable time, as judicial review is not permissible at a belated stage. The relevant observations in paragraph 9 read thus:

> "**9.** Recently, another Bench of this Court in *Municipal Corpn. of Greater Bombay v. Industrial Development & Investment Co. (P) Ltd.*[17] re-examined the entire case law and had held that once the land was vested in the State, the Court was not justified in interfering with the notification published under appropriate provisions of the Act. Delay in challenging the notification was fatal and writ petition entails with dismissal on grounds of laches. It is thus, well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loathe to quash the notifications. **The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification under Section 4(1) and declaration under Section 6. But it should be exercised taking all relevant**

17 C.A. No 286 of 1989, decided on 6-9-96 (see infra)

factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third party rights were created in the case, is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned single Judge dismissing the writ petition on the ground of laches. Reliance was placed by Shri Sachar on *M.P. Housing Board v. Mohd. Shafi*[18], in particular para 8, wherein it was held that compliance of the requirements is mandatory and non-compliance thereof renders all subsequent proceedings connected therewith unexceptionably illegal; but the question is what will be its effect. That was not the question in that case, since no award had come to be passed. In ***Nutakki Sesharatanam v. Sub-Collector, Land Acquisition***[19]**, a two-Judge Bench of this Court had held that if the requirements of Section 4 are not complied with, all proceedings had become invalid and possession was directed to be re-delivered to the appellant. We are of the view that the ratio therein is not correctly laid down**. The question whether violation of the mandatory provisions renders the result of the action as void or voidable has been succinctly considered in *Administrative Law* by H.W.R. Wade (7th Edn.) at pp. 342-43 thus:

> "**The truth of the matter is that the court will invalidate an order only if the right remedy is sought by the right person in the right proceedings and circumstances. The order may be hypothetically a nullity, but the court may refuse to quash it because of the plaintiff's lack of standing, because he does not deserve a discretionary remedy, because he has waived his rights, or for some other legal reason. In any such case the 'void' order remains effective and is, in reality, valid**. It follows that an order may be void for one purpose and valid for another; and that it may be void against one person but valid against another. A common case where an order, however void, becomes valid is where a statutory time-limit expires after which its validity cannot be questioned. The statute does not say that the void order shall be valid; but by cutting off legal remedies it produces that result."

The Supreme Court, in the facts of that case, also considered the question

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18 (1992) 2 SCC 168

19 (1992) 1 SCC 114

whether Section 4(1) notification and Section 6 declaration were required to be quashed and, while dealing with this question, observed that the Court has to consider the conduct of the parties and the effect thereof. Under the scheme of the Act, after the possession of the land was taken either under Section 17 (2) or Section 16, the land stands vested in the State free from all encumbrances. Thereafter, there is no provision under the Act to divest the State of title which validly came to vest in it. Under Section 48 (1), before the possession is taken, the State Government is empowered to withdraw from the acquisition by its publication in the Gazette and not thereafter.

37.3 We would also like to refer to the observations made by the Supreme Court in **Senjeevanagar Medical & Health Employees' Cooperative Housing Society Vs Mohd Abdul Wahab, (1996) 3 SCC 600**, which are relevant for our purpose. The relevant observation reads thus:

> "That apart, as facts disclose, the award was made on 24-11-1980 and the writ petition was filed on 9-8-1982. It is not in dispute that compensation was deposited in the Court of the Subordinate Judge. It is asserted by the appellant Society that possession of the land was delivered to it and the land had been divided and allotted to its members for construction of houses and that construction of some houses had been commenced by the date the writ petition was filed. It would be obvious that the question of division of the properties among its members and allotment of the respective plots to them would arise only after the Land Acquisition Officer had taken possession of the acquired land and handed it over to appellant Society. By operation of Section 16 the land stood vested in the State free from all encumbrances. In Satendra Prasad Jain v. State of U.P.[20], the question arose: whether notification under Section 4(1) and the declaration under Section 6 get lapsed if the award is not made within two years as envisaged under Section 11-A? **A Bench of three Judges had held that once possession was taken and the land vested in the Government, title to the land so vested in the State is subject only to determination of**

20 (1993) 4 SCC 369

> **compensation and to pay the same to owner. Divesting the title to the land statutorily vested in the Government and reverting the same to the owner is not contemplated under the Act. Only Section 48 (1) gives power to withdraw from acquisition that too before possession is taken**. **That question did not arise in this case.** The property under acquisition having been vested in the appellants, in the absence of any power under the act to have the title of the appellants divested except by exercise of the power under Section 48(1), valid title cannot be defeated. **The exercise of the power to quash the notification under Section 4 (1) and the declaration under Section 6 would lead to incongruity. Therefore, the High Court under those circumstances should not have interfered with the acquisition and quashed the notification and declaration under Sections 4 and 6 respectively. Considered from either perspective, we are of the view that the High Court was wrong in allowing the writ petition**."
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> (emphasis supplied)

37.4 The petitioners have no locus to make a grievance that no procedure contemplated under the provisions of the Act was complied or the acquisition was not complete. If the courts start entertaining such submissions after 65 years of the acquisition, then the acquisition proceedings would never conclude and no acquiring body would ever succeed in enjoying the property for the purposes for which it was acquired.

38. In the present case, challenge to the validity of the notification under Section 4 and declaration under Section 6 is made after more than 60 years and that too by subsequent purchasers who claim to have purchased the farm lands/plots in the land in question between 2007-12. Thus, the delay in challenging the notification is not only unreasonable but is also fatal and on this ground alone petitions are liable to be dismissed. In other words, the petitions are liable to be dismissed on the ground of laches. In any case, exercise of power under Article 226 of the Constitution after the award was made would be

wholly unjustified. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash a notification under Section 4(1) and declaration under Section 6 of the Act, but it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the question of exercise of the powers under Article 226 of the Constitution does not arise. Even if it is assumed that the order of acquisition is a nullity, the Court can still refuse to quash it on the ground of laches, locus and also on the ground that the petitioners are encroachers, trespassers and do not have right and title to the property in their possession.

39. Thus, the petitioners herein as also those in the connected writ petitions, do not deserve any relief from this Court in the writ petitions filed by them under Article 226 of the Constitution of India, for the following reasons:

(i) The petitioners being purchasers subsequent to the notifications under Section 4(1) and declaration under Section 6 of the Act have no locus standi to challenge the acquisition that was initiated and completed in the year 1950 itself.

(ii) The petitioners cannot be treated or termed as persons aggrieved so as to maintain a writ petition under Article 226 of the Constitution. In other words, the petitioners do not have locus to maintain writ petitions under Article 226 of the Constitution challenging the acquisition proceedings after about 60 years.

(iii) The petitioners being trespassers/encroachers over the land forming part of the land in question are not entitled for any relief, as prayed in the instant writ petitions.

(iv) The petitions are liable to be dismissed on the ground of laches.

(v) The land in question vested absolutely in the Government in 1950 itself free

from all encumbrances and as a result thereof, interest, right and title of the original landowners to the land stood extinguished.

40. In the result, Public Interest Litigation (PIL) No 11539 of 2015 is allowed in terms of this judgment, Writ-C No 13666 of 2016 is disposed of as rendered infructuous, and the connected writ petitions, except Writ-C No 7067 of 2017, are dismissed. Writ-C No 7067 of 2017 is allowed insofar as petitioner nos 1 and 4 are concerned and is dismissed insofar as the remaining petitioners are concerned.

41. While parting, we issue the following directions:

(i) The Committee that has been constituted vide order dated 19 May 2015 (for short, "the Committee") shall continue to monitor the proceedings already instituted and that would be instituted in respect of the land in question before all forums and shall take all steps and/or to issue appropriate directions to the officials, who are in charge of any such litigation, that are necessary to ensure that litigation that may ensue is neither neglected nor remains uncontested, or suffers for want of proper attention.

(ii) The Committee shall also take steps for immediate correction of land records; preparation of village maps; and, if they find it necessary, initiating appropriate disciplinary as well as penal action under the criminal law against errant officials of the State Government as well as Defence/Air Force officers and any other person for that matter.

(iii) The Chairman of the Board of Revenue of the State of Uttar Pradesh shall personally monitor the matter and shall ensure that all necessary cooperation is

extended to the Committee in locating records and maps and making available all necessary information and material that would be required to pursue and protect the interest of the Indian Air Force.

(iv) In order to facilitate the work which is being carried out by the Committee, the Commanding Officer of the Air Force Station and/or the Defence Estates Officer shall coordinate with the Chairman of the Board of Revenue. We hope and trust that both the authorities shall work in close coordination, so that necessary directions can be issued to the concerned officials to facilitate the work of the Committee and to ensure that all necessary steps are taken for protecting the interest of the Indian Air Force/Union Government in the acquired land.

(v) The Committee shall also issue appropriate directions from time to time to all concerned for getting back the possession of the encroached portion of the land, out of the acquired land, from the encroachers/trespassers/petitioners by following due process of law.

(vi) The Collector and District Magistrate, Gautam Budh Nagar is directed to see that every requisition made by the Defence Estates Officer or any other officer of the Defence/Air Force, if any, or made by the Committee is immediately complied with.

(vii) It is open to the Committee to launch criminal prosecution, whenever and wherever they find it necessary, not only against the errant officers but even the encroachers, if they so desire and are so advised.

July 6th, 2017
AHA

(Yashwant Varma, J) (Dilip B Bhosale, CJ)