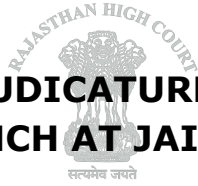


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 12/1987

URN: CW / 250U / 1987

1. Sohan Lal (since deceased) represented by his legal representatives :

1/1. Roop Chand Jain, son

1/2. Dinesh Kumar Jain, son

1/3. Suresh Kumar, son

1/4. Smt. Nirmala Jain wife of Bhanu Kumar Jain, daughter

1/5. Smt. Urmila Jain wife of Ravi Kant Jain, daughter

2. Dharam Chand since deceased through his legal representatives :-

2/1. Suman Jain Wife of Dharam Chand Jain, R/o Lakheri Kalan, Tehsil Indargarh, District Bundi.

2/2. Manish Jain Son of Dharam Chand Jain, R/o Lakheri Kalan, Tehsil Indargarh, District Bundi.

2/3. Akshita Jain Daughter of Dharam Chand Jain, R/o 2-KH-13, Dadabadi, Kota.

3. Ashok Kumar resident of Lakheri Kalan, tehsil Indergarh, District Bundi

4. Narendra Kumar son of Nemi Chand resident of Lakheri Kalan, tehsil Indergarh, district Bundi.

-----Petitioners

Versus

1. State of Rajasthan.

2. Land Acquisition Officer cum SDO, Bundi.

3. Municipal Board, Lakheri, district Bundi.

-----Respondents

For Petitioner(s)	:	Mr. Kamlakar Sharma, Senior Counsel with Mr. Madhusudan Singh Rajpurohit, Adv., Mr. Yogesh Kalla, Adv. & Ms. Alankrita Sharma, Adv.
For Respondent(s)	:	Mr. G. S. Gill, AAG with Mr. Manoj Choudhary, Adv., Mr. Yadvendra Patel, Adv. Ms. Pooja Dixit, Adv.

HON'BLE MR. JUSTICE ANAND SHARMA
Judgment

Reportable

Date of conclusion of arguments	::	17.07.2026
Date on which judgment was reserved	::	17.07.2026
Whether the full judgment or only the operative part is pronounced	::	Full Judgment
Date of pronouncement	::	29.07.2026

1. By way of filing this writ petition, the petitioners have challenged legality, validity and propriety of notification dated 21.11.1978 issued under Section 4, notification dated 08.02.1984 issued under Section 6, notification dated 28.02.1984 issued under Section 9 of the Rajasthan Land Acquisition Act, 1953 (for short 'the Act of 1953') and award dated 24.09.1986 passed under Section 11 of the Land Acquisition Act, 1894. Although, by way of making amendment in the writ petition prayer No.IV was inserted by the petitioners for seeking a declaration that the entire land acquisition proceedings have lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013'), however, during the pendency of the writ petition, in the light of Constitutional Bench Judgment delivered by Hon'ble Supreme Court in the case of **Indore Development Authority Vs. Manoharlal & Ors.; AIR 2020 SC 1496**, prayer No.IV with regard to lapsing of the acquisition proceedings in view of Section 24 of the Act of 2013 has not been pressed.

2. The facts in brief are that land bearing Khasra No.1687, 1688, 1689, 1690, 1691, 1694, 1696, 1697, 1698, 1699 situated at village Lakheri Kalan, Tehsil Keshoraipatan, Bundi was recorded in the name of late Shri Bajrang Lal. Petitioners have come out with the case that Bajrang Lal expired on 13.01.1974. It is further

stated that Bajrang Lal had three sons namely Gop Chand, Sohan Lal and Nemi Chand, Gop Chand had already pre-deceased Bajrang Lal leaving his wife Smt. Gopi Bai, who also adopted Ashok Kumar son of Nemi Chand. Thus, after death of Bajrang Lal mutation was sanctioned and opened in favour of Gopi Bai, Sohan Lal and Nemi Chand vide mutation order dated 21.04.1978.

3. The petitioners in the writ petition have contended that notification dated 21.11.1978 under Section 4(1) of the Act of 1953 was issued by the respondent-Government for public purposes namely expansion of residential area of Municipal Board, Lakheri Kalan, Tehsil Keshoraipatan, District Bundi. Petitioners have further stated that although, much earlier to issuance of notification dated 21.11.1978, Bajrang Lal had already expired on 13.01.1974 and thereafter, vide mutation entry dated 21.04.1978, the aforesaid land was recorded in the name of Gopi Bai, Sohan Lal and Nemi Chand in the revenue record, yet in notification dated 21.11.1978, deceased Bajrang Lal was shown as Khatedar of the above land. The aforesaid notification dated 21.11.1978 was further published in official gazette on 22.02.1979, thereafter, one notice under Form No.4 as prescribed under Rule 13 of Rajasthan Land Acquisition Rules, 1956 (for short 'the Rules of 1956') was issued on 15.01.1979. As per petitioners, Form No.4 appended to the Rules of 1956 was recorded to be issued for service of notice under Section 9 of the Act of 1953.

4. Further, it is submitted that after receiving notice dated 15.01.1979, Nemi Chand, who was son of late Shri Bajrang Lal submitted objections in writing before Land Acquisition Officer, Bundi highlighting therein that the notification under Section 4 has

been issued in the name of dead person Bajrang Lal, whereas after death of Bajrang Lal, mutation has also been opened in favour of Gopi Bai, Sohan Lal and Nemi Chand. It was also stated that the purpose shown in the notification cannot be said to be a public purpose. Sufficient land is already available with the respondents, therefore, land of the petitioners was not required. It was also mentioned that no proceedings against a dead person can be continued by the respondents.

5. It is submitted that on the basis of such objections raised by Nemi Chand, it was recorded by the Land Acquisition Officer in its report that Bajrang Lal had already expired prior to initiation of land acquisition proceedings. Thereafter, patwari of the concerned area confirmed mutation in favour of legal heirs of deceased Bajrang Lal, namely Gopi Bai, Sohan Lal and Nemi Chand by replacing name of erstwhile Khatedar Bajrang Lal in revenue record. Petitioners have further submitted that despite specifically pointing out that after death of Bajrang Lal much prior to initiation of acquisition proceedings, names of Gopi Bai, Sohan Lal and Nemi Chand have been entered in the revenue records, no corrective measures were taken by the respondents and declaration under Section 6 dated 08.02.1984 was issued again in the name of deceased Bajrang Lal, which is clear cut non application of mind on the part of the respondents. The aforesaid declaration under Section 6 was followed by notice under Section 9 dated 28.02.1984, which was also issued by the respondents in the name of deceased Bajrang Lal. The aforesaid notice under Section 9 was responded by the petitioners while submitting reply

to the notice in which again it was pointed out that the proceedings have initiated against a dead person.

6. It is further submitted that the above objections raised by the petitioners were never adjudicated and ignoring the fact that the proceedings were initiated and proceeded in the name of dead person, award dated 24.09.1986 was passed by the Land Acquisition Officer.

7. Feeling aggrieved by notification under Section 4, declaration under Section 6, notice under Section 9 and award under Section 11, writ petition was filed by the petitioners. However, during the pendency of the writ petition, Smt. Gopi Bai and Sohan Lal passed away, therefore, legal representatives of Sohan Lal were brought on record and name of Smt. Gopi Bai was deleted from the array of the parties. Adopted son of Gopi Bai was already on record as petitioner No.3. Since, Nemi Chand had already passed away prior to filing of the writ petition, therefore, writ was filed by his legal representatives namely Kamla Devi (wife of deceased Nemi Chand), Ashok Kumar, Dharam Chand and Narendra Kumar, who all are the sons of Nemi Chand.

8. It is a matter of fact that writ petition filed by the petitioners was earlier dismissed by the learned Single Judge vide order dated 19.09.1997. Feeling aggrieved, the petitioners filed D.B. Special Appeal (Writ) No.269/2000. The aforesaid appeal was allowed by the Division Bench vide order dated 13.05.2008, whereby order dated 19.09.1997 passed by the learned Single Judge for dismissing the writ petition was quashed and the matter was remanded back to the learned Single Bench for deciding the matter afresh on merits after considering the ground taken by the

petitioners that the proceedings were initiated against the dead person namely Bajrang Lal. Both the parties were given liberty to raise other points also.

9. Petitioners have stated that they have never been paid compensation as awarded vide award dated 24.09.1986 and the same has been deposited with the Government Treasury and by virtue of interim order passed in this case, they are still in possession of land in question.

10. Under the aforesaid circumstances, the petitioners have prayed for quashing the aforesaid proceedings and sought a direction to de-acquire the land of the petitioners.

11. The writ petition filed by the petitioners have been opposed by the respondents. It has been stated by the respondent Nos.1 and 2 in their reply that the land in question has been acquired for public purposes. It was further submitted that date of death of Bajrang Lal was never communicated by the petitioners to the respondents, nor were they aware of any acquisition proceedings drawn in favour of Gopi Bai, Sohan Lal and Nemi Chand after death of Bajrang Lal. It was submitted that in ignorance of factum of death of Bajrang Lal, notification under Section 4 was rightly issued against erstwhile Khatedar Bajrang Lal. It was submitted that merely the fact that Bajrang Lal had expired much before initiation of acquisition proceedings is irrelevant at this stage, when the notification under Section 4 was objected by Nemi Chand son of Bajrang Lal, which shows that the petitioners had knowledge of acquisition proceedings. It is also submitted that after following the due process, award has already been passed on 24.09.1986. The allegation with regard to lack of

opportunity of hearing in respect of land acquisition proceedings has also been denied by the respondents. It was submitted that notices under Section 9 were also issued and served upon the petitioners, who also filed response to notices under Section 9. Hence, at this belated stage, no such plea can be raised by the petitioners. The respondents prayed for dismissing the writ petition.

12. Mr. Kamalakar Sharma, learned Senior Counsel appearing for the petitioners submitted that in the instant case, where part of the land in question has already been used by the petitioners for residential and other purposes, under these circumstances, the purpose of acquiring the land in question i.e. expansion of residential area of Lakheri cannot be said to be a public purpose.

13. Learned Senior Counsel further argued that right from the inception, proceedings have been initiated by the respondents against a dead person Bajrang Lal, who had died way back in the year 1974 and even mutation in favour of his legal heirs was also opened on 21.04.1978. Thus, despite there being complete information with regard to death of Bajrang Lal and ignoring the fact that names of Gopi Bai, Sohan Lal and Nemi Chand had already been entered as Khatedar of the land in question, in quite malicious manner, just to deprive the petitioners of their right to be heard against the proposed acquisition proceedings, instead of issuing notification in the name of recorded Khatedars, at the relevant time on record, the notification under Section 4 was issued showing Bajrang Lal as Khatedar of the land. Learned Senior Counsel submitted that it is a settled proposition of law

that acquisition proceedings initiated against a dead person is a nullity and all the proceedings drawn pursuant to initiation of notification against a dead person were also meaningless and void. Learned Senior Counsel further submitted that the proceedings have also been conducted against the scheme of the Act by the respondents. Notices under Section 4 (5) (i) and (ii) of the Act of 1953 were never issued which is violation of mandatory provisions of law.

14. Learned Senior Counsel further argued that much prior to that issuance of declaration under Section 6 one notice under Form No.4 dated 15.01.1979 was issued by the respondents, which is meant to be issued for service of notices under Section 9 of the Act of 1953 for the purpose of inviting the persons interested to claim compensation. Thus, mere issuance of notice under Section 9 before issuance of declaration under Section 6, in itself makes the proceedings in utter violation of the scheme of the act. Hence, such proceedings cannot be permitted to be sustained in the eye of law.

15. Learned Senior Counsel appearing for the petitioners also emphasized that while responding to aforesaid notice issued under Form No.4, it was specifically pointed out that the notification had been issued in the name of dead person, hence, the proceedings cannot be allowed to be continued and such fact has also been taken on record by the Land Acquisition Officer, yet the respondents have utterly failed to rectify their mistakes committed earlier and again declaration under Section 6 was issued in the name of dead person Bajrang Lal. Learned Senior Counsel submits that thus, in the circumstances, where quite

consciously and willingly the declaration under Section 6 has been issued again in the name of dead person, only on this point, the entire proceedings have vitiated and land of the petitioners is liable to be de-acquired.

16. Learned Senior Counsel further submitted that under Section 6, while issuing declaration the appropriate Government is required to record its satisfaction with regard to validity of the proceedings and public purpose attached to it. In the circumstances, where despite highlighting the grave error of continuing the proceedings against a dead person, in quite mechanical manner, declaration under Section 6 was again issued in the name of Bajrang Lal, a dead person, which shows clear cut non application of mind on the part of the respondent-Government and it also reflects that satisfaction qua the validity of proceedings has been recorded in declaration under Section 6 in quite cursory and casual manner. Learned Senior Counsel further submits that declaration under Section 6 is considered to be conclusive evidence for all purposes, hence, such a significant notification is required to be issued strictly in accordance with law and any such discrepancy, as pointed hereinabove, would make it a meaningless and ineffective document.

17. Learned Senior Counsel further submitted that thereafter, the respondents proceeded further and passed award dated 24.09.1986. However, till this date, the compensation has not been paid to the petitioners and possession of the land in question, by virtue of stay order granted in this case, is still with the petitioners. Hence, it is clear that when proceedings under Section 16 have not been drawn in the present case, it is clear

that land in question has not vested with the State Government free from all encumbrances. As the petitioners are still having possession over the land in question, which was intended to be acquired by way of issuing notification in the year 1978, after lapse of more than 47 years, no fruitful purpose is likely to be achieved by upholding the acquisition proceedings.

18. Learned Senior Counsel also pointed out that while allowing SAW No.269/2000 filed by the petitioners, Division Bench of this Court has also found that the issue with regard to initiation of proceedings against dead person is a significant factor.

19. Learned Senior Counsel for the petitioners relied upon the judgments delivered by Hon'ble Supreme Court in the cases of **Lajja Ram Vs. UT Chandigarh & Ors.** reported in **2013 (11) SCC 235**; **I.I.S. Employees House Building Cooperative Society Ltd. Vs. State of Karnataka & Ors.** reported in **(2005) 12 SCC 483**; **Collector Vs. Raja Ram Jaiswal** reported in **1985 (3) SCC 1**; judgment of this Court in **Baga Ram Vs. State of Rajasthan** reported in **1992 (2) RLW 432**; **Bishambhar Dayal Vs. State of Rajasthan** reported in **1991 (1) WLC 686**; **Dr. Laxmi Vs. State of Rajasthan & Ors.** reported in **AIR 1986 Raj. 149**; **UIT Vs. Balveer Singh** reported in **AIR 1985 Raj 71**; **M/s Rajasthan Udhyog Vs. State of Raj.** reported in **1976 WLN 835** and judgment of Delhi High Court in **Savita Kapila Vs. Assistant Commissioner of I.T. Delhi** decided on **16.09.2020**.

20. *Per contra*, Mr. G. S. Gill, learned Additional Advocate General for the State while opposing the writ petition submitted that the petition is totally baseless, unfounded and misconceived.

Learned AAG submitted that admittedly, notification under Section 4 in the present case was issued on 21.11.1978, whereas the present writ petition was filed by the petitioners on 18.12.1986 i.e. with a delay of more than 8 years from the date of issuance of notification under Section 4. Learned AAG further pointed out that the petitioners were aware of land acquisition proceedings as Nemi Chand one of the son of late Shri Bajrang Lal and predecessor in rights/interest of original petitioners No.3, 4, 5 and 6 objected to the acquisition proceedings by way of filing objections way back on 15.01.1979. Further, after obtaining report of Land Acquisition Officer, on recording satisfaction declaration under Section 6 was issued on 08.02.1984 and the grounds raised in the instant writ petition were very much available to the petitioners on the date when objections were raised by Late Shri Nemi Chand in the year 1979 and thereafter, when declaration under Section 6 was issued on 28.02.1984. However, no reason whatsoever, much less than justified reason, has been mentioned by the petitioners in the memo of writ petition, for not approaching this Court within reasonable time. Even if, issuance of declaration under Section 6 is taken to be cause of action of filing the writ petition, even then, there was admitted delay of more than one year and nine months in filing the present writ petition. Learned AAG submitted that it is settled proposition of law that in the matters of land acquisition delay of only a few days can be said to be fatal and in the present case, where there is substantial long delay, the writ petition filed by the petitioners is liable to be rejected on the ground of delay and laches.

21. Learned Additional Advocate General while responding to ground raised by learned Senior Counsel for the petitioners that the proceedings have been although initiated and proceeded against a dead person, submitted that it is not a case where on account of showing wrong name or name of dead person in notification under Sections 4 and 6, the petitioners were deprived of any right of hearing. Learned AAG further submits that may be the name of Khatedar was wrongly entered in notification under Section 4, yet the facts on record would reveal that the petitioners were well aware of land acquisition proceedings, for the reason that son of late Shri Bajrang Lal admittedly raised objections against validity and propriety of the proceedings as against a public purpose of the acquisition. Thus, in the obtaining circumstances, where the petitioners have already availed the opportunity of hearing as prescribed under law, merely a clerical error occurred in notification under Sections 4 and 6, the proceedings cannot be held to be invalid, nor can they be quashed.

22. Learned AAG further argued that on receiving notices under Section 9 of the Act all the petitioners filed their claim petition claiming compensation and the moment they filed their claim for receiving monetary compensation, they acquiesced their right to challenge the land acquisition proceedings.

23. Learned AAG further objected that in the present case, admittedly the writ petition has been filed after passing of the award. He submitted that as per settled proposition of law, the writ petition under Article 226 of the Constitution of India cannot be maintained after issuance of award under Section 11 of the

Act. Learned AAG submits that only on account of the fact that the petitioners voluntarily did not receive the compensation as awarded in the impugned award and the possession is lying with them only on account of stay granted by this Court, it cannot be said that by the lapse of time, proceedings have been rendered fruitless or meaningless. Learned AAG also submitted that as the notification under Sections 4 and 6 were published in official gazette and the details of land were correctly mentioned in both the notifications, therefore, there arises a presumption that all the concerned persons must have knowledge of initiation and continuation of land acquisition proceedings. Learned AAG also raised question with regard to scope of judicial review in the matters of land acquisition proceedings and submitted that in the instant case, where there is no apparent illegality or violation of procedure prescribed in Land Acquisition Act, no interference can be made in the instant writ petition.

24. This Court carefully heard the rival submissions advanced by learned counsel for the parties and meticulously examined the record.

25. Having given thoughtful consideration to the rival submissions and upon a meticulous examination of the material available on record, this Court finds that apart from other grounds, challenge raised by the petitioners essentially rests on the ground that the acquisition proceedings were initiated and continued in the name of deceased Bajrang Lal and, therefore, the entire acquisition proceedings stand vitiated.

26. At the outset, it deserves to be noticed that the notification under Section 4 of the Act of 1953 was issued on

21.11.1978. It is also an admitted position that immediately upon issuance of the notification, Nemi Chand, son of late Bajrang Lal and one of the persons claiming interest in the acquired land, submitted objections before the Land Acquisition Officer. The objections were not confined merely to the factum of death of Bajrang Lal, but also extended to the necessity of acquisition and the public purpose sought to be achieved. Thus, from the very inception of the proceedings, the persons claiming through Bajrang Lal were fully aware of the acquisition proceedings and actively participated therein.

27. The principal question, therefore, is whether the mention of the name of deceased Bajrang Lal in the notifications issued under Sections 4 and 6 of the Act of 1953, by itself, renders the entire acquisition proceedings void notwithstanding the fact that his legal heirs had complete knowledge of the proceedings and were afforded an opportunity of participation. In the opinion of this Court, the answer has to be in the negative.

28. The object underlying the issuance of notification under Section 4 and the subsequent proceedings is to ensure that persons interested in the land proposed to be acquired are made aware of the acquisition and are afforded an opportunity to raise objections in accordance with law. In the present case, that object stood substantially achieved. Not only were the legal heirs aware of the acquisition proceedings, but they actively availed the statutory opportunity by filing objections, placing relevant facts before the Land Acquisition Officer and thereafter responding to notices issued under Section 9. The petitioners have not been able to demonstrate any prejudice whatsoever caused to them on

account of the name of Bajrang Lal being reflected in the notifications.

29. It is a settled principle that every irregularity or mistake occurring during acquisition proceedings does not necessarily vitiate the acquisition. The Court is required to examine whether the alleged defect goes to the root of jurisdiction or whether it is merely a procedural irregularity which has not occasioned any failure of justice. In the present case, the identity of the land sought to be acquired was never in dispute. The khasra numbers, area and location of the acquired land were correctly mentioned in the notifications. The acquisition proceedings related to a specific parcel of land and not merely to the individual whose name happened to be recorded therein. Once the interested persons were aware of the proceedings and participated therein, the error relating to description of the khatedar cannot be elevated to the status of a jurisdictional defect rendering the entire acquisition void.

30. It would be relevant to refer that in the case of **State And Others v. Jaipur Nagar Graha Nirman Sahakari Samitiya Association & 115 Others, (1996) 3 RLW 453**, Division Bench of this Court has held as under:

"Even for arguments sake, if it is taken that there have been some irregularities in the publishing of the public notice or the substance of the notification at convenient places in the locality, no prejudice has been caused to the respondents petitioners. This is evident from the fact that the detailed objections have been filed u/s. 5A by them before the Land Acquisition Officer. Therefore, on the concept of want of prejudice the notification u/s. 4(1) of the Acquisition Act cannot be held invalid merely because some irregularities in the publishing of the public notice or the substance of notification at convenient places in the locality has taken place."

31. Much emphasis has been laid by learned Senior Counsel for the petitioners on the fact that even after the authorities became aware of the death of Bajrang Lal, the declaration under Section 6 was issued in his name. However, merely because the authorities did not substitute the names of the legal heirs in the declaration, it cannot automatically lead to the conclusion that the declaration itself is *non est*. The petitioners have failed to establish that by reason of such omission they were deprived of any substantive right available under the statute. On the contrary, the record unequivocally establishes that they continued to participate in the proceedings and were fully conscious of the acquisition at every stage.

32. The judgment of **Baga Ram (supra)** relied upon the by learned Senior Counsel for the petitioners was delivered by the Coordinate Bench of this Court on entire different facts where on account of entering name of dead person in the notification under Section 4, his legal heirs were deprived of opportunity of hearing and could not file objections against the proposed acquisition proceedings. Whereas in the present case, admittedly Nemi Chand who was son of deceased Bajrang Lal participated in the proceedings and filed his objections against Notification under Section 4. Judgment in the case of **Bishambhar Dayal (supra)** was also delivered in altogether different context and it is not clear that in that case as to whether publication of name of dead person deprived his heirs from opportunity of hearing or not. In the peculiar facts and circumstances of this case, where on account of participation of legal heirs of Bajrang Lal, there cannot be any possible ground of not affording an opportunity of hearing

prior to proceeding further in the acquisition proceedings, the aforesaid judgment cannot be made applicable. In the case of **Savita Kapila (supra)**, the Delhi High Court was dealing with a case arising out of taxing statute namely Income Tax Act, 1961 and plea of issuing notices to a dead person was dealt with in the light of non-compliance of principles of providing hearing and the Court has rendered the judgment where the legal heirs of the deceased had not submitted themselves to the jurisdiction of the Assessment Officer. Hence, such judgment also does not have any application in the instant case.

33. Similarly in the case of In the case of **I.I.S. Employees House Building Cooperative Society Ltd. (supra)** also, where notification reflected name of dead person, land acquisition proceedings were quashed on the ground of denial of opportunity of hearing under Section 5-A of the Act to the legal heirs, which admittedly are not the facts of the present case, hence, the aforesaid judgment is also not attracted in the present case.

34. In the considered opinion of this Court, once the legal representatives had actual notice of the acquisition proceedings, actively participated in the statutory enquiry and their objections were duly considered, they cannot subsequently contend that the entire acquisition proceedings stand vitiated merely because the preliminary notification mentioned the name of the deceased recorded khatedar. Such a contention, in the absence of any demonstrable prejudice or denial of opportunity, is wholly devoid of merit and cannot be accepted.

35. The submission regarding alleged non-application of mind while issuing the declaration under Section 6 also does not merit acceptance. The declaration under Section 6 records the satisfaction of the Government regarding the public purpose for which the land was acquired. The petitioners have not produced any material to demonstrate that such satisfaction was either mala fide or based on irrelevant considerations. Merely because the declaration mentioned the name of Bajrang Lal instead of his legal heirs cannot lead to an inference that the statutory satisfaction itself was absent.

36. Equally untenable is the argument that the purpose of acquisition was not a public purpose. The acquisition was undertaken for expansion of the residential area of Municipal Board, Lakheri. Planned urban development and expansion of residential infrastructure have consistently been recognized as public purposes within the meaning of the land acquisition laws. The Court, while exercising power of judicial review, does not sit in appeal over the subjective satisfaction of the Government regarding the necessity of acquisition unless the same is shown to be arbitrary, mala fide or wholly without foundation. No such material has been placed on record in the present case.

37. The contention founded upon issuance of Form No.4 on 15.01.1979 also does not advance the case of the petitioners. On bare perusal of such notice would make it clear that it was in fact a notice under Section 4 inviting objections against proposed acquisition and by no stretch of imagination, it can be considered as a notice under Section 9 to invite the claims for compensation. Even assuming that some clerical error has occurred in using the

incorrect form number over the notice, otherwise sent with the specific language of notice under Section 4, any such irregularity occurred at an intermediate stage of the proceedings, the same would not be sufficient to invalidate the entire acquisition in the absence of proof of prejudice. It is settled preposition of law that instead of form, substance would prevail. The petitioners were admittedly aware of the proceedings, filed objections and participated therein. Therefore, no prejudice can be said to have been occasioned on account of the alleged irregularity.

38. Another significant circumstance which cannot be ignored is that the petitioners, after receiving notices under Section 9 of the Act, submitted their claims relating to compensation. By participating in the award proceedings and asserting their entitlement to compensation, the petitioners accepted the acquisition proceedings at least to the extent of claiming benefits thereunder. Having participated in the statutory process and pursued their claims for compensation, it does not lie in their mouth to contend at a later stage that the entire proceedings were *void ab initio*.

39. This Court also finds considerable force in the objection raised by the respondents regarding delay and laches. The notification under Section 4 was issued on 21.11.1978. The petitioners admittedly acquired knowledge of the proceedings immediately thereafter and raised objections in January, 1979. Even the declaration under Section 6 was issued on 08.02.1984. However, the writ petition came to be instituted only on 18.12.1986 after the award had already been passed on 24.09.1986. No satisfactory explanation has been offered for not

approaching this Court at the appropriate stage. It is trite law that challenges to acquisition proceedings must be made promptly and with utmost diligence. In the case of **Lajja Ram (supra)**, Hon'ble Supreme Court, while dealing with the plea of delay and laches, considered that since there were different and contradictory recommendations of LAO, taken from time to time, it gave a reasonable cause to the petitioner in that case to approach the court with delay. Petitioners in the present case have not come out with any such similar circumstances to justify the delay.

40. Interference after completion of the acquisition process and after passing of the award, although permissible to some extent only in the cases of manifest illegal and void proceedings, yet in absence of any such established facts and grounds, ordinarily ought not to be made by the writ court exercising jurisdiction under Article 226 of the Constitution of India.

41. The contention that compensation has not been paid and possession remains with the petitioners also does not assist them. The prayer based upon lapsing of acquisition proceedings under Section 24 of the Act of 2013 has admittedly not been pressed in view of the Constitution Bench judgment in **Indore Development Authority Vs. Manoharlal (supra)**. Therefore, the consequences flowing from non-payment of compensation or retention of possession only by virtue of interim order granted by this Court, cannot now be invoked to invalidate acquisition proceedings which otherwise attained finality decades ago.

42. There cannot be any quarrel with the ratio laid down in the cases of **Collector Vs. Raja Ram Jaiswal (supra)**, **Dr. Laxmi (supra)**, **UIT Vs. Balveer Singh (supra)**, **M/s**

Rajasthan Udhyog (supra) that the provisions of Land Acquisition Act are mandatory in nature and are to be construed strictly, yet this court finds that the petitioners have not succeeded in establishing any manifest violation of any provision so as to warrant any interference in the instant writ petition.

43. The argument that the acquisition has become meaningless because of passage of time is equally misconceived. The delay in culmination of the proceedings is substantially attributable to the pendency of litigation before this Court. The petitioners cannot be permitted to take advantage of the passage of time occasioned by pendency of proceedings initiated at their own instance and thereafter contend that the public purpose has ceased to exist.

44. The scope of judicial review in matters of land acquisition is well settled. Unless there exists a patent illegality, violation of a mandatory statutory provision causing prejudice, lack of jurisdiction or demonstrable mala fides, the Court ought not to interfere with acquisition proceedings undertaken for a public purpose. In the present case, the petitioners have failed to establish any such ground. The record instead demonstrates that they had complete knowledge of the acquisition proceedings, participated in the statutory process, submitted objections, responded to notices under Section 9 and claimed compensation. No prejudice has been shown to have been caused merely because the name of deceased Bajrang Lal continued to be reflected in the notifications.

45. In view of the aforesaid discussion, this Court is satisfied that the defect pointed out by the petitioners was, at

best, an irregularity which neither deprived them of an opportunity of hearing nor resulted in any failure of justice. The acquisition proceedings cannot be invalidated on such hyper-technical grounds, particularly after passing of the award and completion of the statutory process.

46. Consequently, this Court finds no merit in the writ petition. The challenge laid to the notification dated 21.11.1978 issued under Section 4, declaration dated 08.02.1984 issued under Section 6, notice dated 28.02.1984 issued under Section 9 and the award dated 24.09.1986 passed under Section 11 fails and is hereby rejected.

47. The writ petition is accordingly dismissed.

48. Pending application(s), if any, stand(s) dismissed.

(ANAND SHARMA),J