CASE NO.:
Appeal (civil) 1704 of 2007

PETITIONER:
Ravi Khullar and another

RESPONDENT:
Union of India and others

DATE OF JUDGMENT: 30/03/2007

BENCH:
B.P. SINGH & ALTAMAS KABIR

JUDGMENT:
JUDGMENT
(Arising out of SLP) No.6093 of 2003)
WITH
CIVIL APPEAL NO 1707 2007
(Arising out of SLP) No.6095 of 2003)
M/s. Palam Potteries \005.Appellant
Versus
Union of India and others .\005Respondents
WITH
CIVIL APPEAL NO 1705 2007
(Arising out of SLP) No.6384 of 2003)
Hari Chand and another \005.Appellants
Versus
Union of India and others .\005Respondents
WITH
CIVIL APPEAL NO 1706 2007
(Arising out of SLP) No.8574 of 2003)
Punjab Potteries \005.Appellant
Versus
Union of India and others .\005Respondents

B.P. SINGH, J.

Special leave granted.

In the appeals arising out of SLP (C) Nos. 6093 of 2003; 6095 of 2003 and 6384 of 2003 the appellants have impugned the common judgment and order of the High Court of Delhi dated February 13, 2003 disposing of Civil Writ Petition Nos. 2672 of 1996 ; 1851 of 1986 and 2003 of 1986.

In the appeal arising out SLP ) No. 8574 of 2003, M/s. Punjab Potteries has assailed the judgment and order of the High Court of Delhi in C.W.P. No.2168 of 2003 dated 26th March, 2003.
The High Court dismissed all the writ petitions preferred by the appellants herein.

A few broad facts may be noticed at the threshold to appreciate the contentions urged on behalf of the parties in these appeals.

A Notification under Section 4 of the Land Acquisition Act (hereinafter referred to as 'the Act') was issued by the Lieutenant Governor of Delhi on January 23, 1965 for acquisition of lands

measuring 6241 bighas 12 biswas in village Mahipalpur which was required for a public purpose, namely - Planned Development of Delhi. A declaration under Section 6 of the Act relating to 4759 bighas 1 biswa was made on December 12, 1966 and another declaration relating to 1459 bighas 18 biswas was made on December 26, 1968. Another Notification under Section 4 of the Act was published on December 3, 1971 for acquisition of land in Village Nangal Dewat for a public purpose, namely - Development of Palam Airport. A declaration under Section 6 of the Act was made with respect to the said lands on July 16, 1972.

The case of the appellants is that the matter remained pending for a considerable period and it appears from various documents which have been brought on record that the lands acquired were really for the benefit of the International Airport Authority of India (IAAI). Reliance is placed on a Resolution dated September 10, 1981 of the Delhi Development Authority regarding change of land user from "Green Belt and Agriculture Cultivable Land" to "Circulation Airport". The Resolution recites that the Delhi Development Authority had approved the change of land user so that the land could be utilized for the purpose of development of the Palam Airport. This was subject to the condition that the IAAI prepared a detailed plan which should include the proposal for rehabilitation/resettlement of the villagers to be affected by the proposed expansion of the Airport, and the plan be discussed with the Municipal Corporation of Delhi and the Delhi Electric Supply Undertaking. It also appears from the record that the notice issued under Section 9(1) of the Act on June 22, 1983 was challenged in several writ petitions filed before the High Court in which an interim order was passed directing maintenance of status quo with regard to possession of the lands but permitted the acquisition proceeding to continue. Reliance has been placed on the correspondence exchanged between the various statutory authorities to indicate that it was really for the purpose of IAAI that the lands were being utilised. The letter of the Land Acquisition Officer dated July 1, 1986 indicates that IAAI had supplied details of khasra numbers to be acquired for the expansion of the Delhi Airport which had been discussed. A statement enclosed with the aforesaid communication showed that the lands to be acquired were in villages Mahipalpur, Nangal Dewat and Nangal Dewat Village abadi measuring 69 bighas 11 biswas, which included some of the khasra numbers belonging to some of the appellants herein. A communication from the Secretary, Department of Civil Aviation, addressed to the Lieutenant Governor of Delhi dated September 15, 1986 emphasised the need to acquire immediately the industrial structures in the Mahipalpur and Nangal Dewat area in the overall interest of security and development of Delhi Airport. The IAAI was said to be willing to accept the suggestion for provision of land for land, provided alternative land was acquired by the Delhi Administration/Delhi Development Authority and no further liability was imposed on IAAI for payment of additional compensation for acquired industrial structures.

On September 19, 1996 an Award under Section 11 of the Act was declared by the Land Acquisition Collector.

On December 23, 1986 a Notification was issued under Section 4 of the Act for acquisition of land for a public purpose, namely for rehabilitation of the persons displaced or affected due to the expansion/development of the Palam Airport. The lands mentioned therein are in village Malikpur Kohi Rangpuri.

Since the challenge to the acquisition failed and the appellants were not provided alternative sites under the rehabilitation package, they approached the High Court for relief which, as noticed earlier, has been refused by the High Court. It will, however, be necessary to

deal with each writ petition separately since the facts of each case are different as also the pleas raised therein.

APPEAL ARISING OUT OF SLP ) NO. 6093 OF 2003

The appellants before us are the son and daughter of Late Balraj Khullar. The lands in question in village Mahipalpur measuring 23 bighas and 18 biswas (approximately 5 acres) devolved upon the appellants after the death of their father. Late Balraj Khullar had constructed a factory over the lands in question in the year 1955 which went into production later after obtaining registration on July 27, 1960. He carried on the business of manufacture of ceramic goods in the name and style of M/s. Pelican Ceramic Industries. On January 23, 1965 the aforesaid lands of the appellants were notified for acquisition under Section 4 of the Act for the public purpose of planned development of Delhi. According to the appellants, when the factory was established and became functional, there was no Master Plan of Delhi, which came into existence only in the year 1962 in which the lands were shown as 'green area'. Late Balraj Khullar objected to the acquisition but without considering his objections, a declaration under Section 6 was made on December 26, 1968. A notice under Section 9(1) of the Act was issued on June 23, 1983. Upon receipt of the notice late Balraj Khullar challenged the acquisition by filing a writ petition before the Delhi High Court, being Civil Writ Petition No. 1550 of 1983 primarily on the ground of inordinate delay in completing the acquisition proceeding and other illegalities in Section 4 Notification. Notice was issued in the said writ petition on July 26, 1983 and an interim order was passed for maintenance of status quo with regard to possession. The interim order dated July 26, 1983 was modified on August 30, 1983 directing maintenance of status quo with regard to possession but the acquisition proceedings were allowed to continue. During the pendency of the writ petition, the award was announced on September 19, 1986 which was followed by notices under Sections 12(2) and 13(1) of the Act. The total area acquired measured 23 bighas and 18 biswas. Ultimately the writ petition filed by late Balraj Khullar was dismissed by the High Court by its order dated December 14, 2005. On coming to know about the dismissal of the said writ petition, the petitioners (appellants herein) filed a special leave petition before this Court being SLP ) No. 7821 of 1996. The same was, however, withdrawn on a statement being made on behalf of the petitioners that they would file a review petition before the High Court. It appears from the special leave petition filed by the petitioners that a contention was raised before this Court that the lands having been acquired for the planned development of Delhi, could not be given to the IAAI since the development of the Palam Airport was not within the contemplation of the notification under Section 4 of the Act. Accordingly the petitioners filed the review petition being Review Petition No.42 of 1996 before the High Court in which several fresh grounds were also urged but the said review petition was dismissed by the High Court by its order of May 24, 1996 observing that the new points sought to be raised in the review petition had not been pleaded in the original writ petition. The High Court also rejected the contention of the petitioners that on discovery of new facts a review petition was maintainable. No appeal was preferred against the order dismissing the review petition and hence the proceeding initiated by filing of C.W.P. No. 1550 of 1983 challenging the acquisition proceeding got a quietus by dismissal of the review petition by the High Court. Apparently, therefore, the petitioners cannot be permitted to challenge the same acquisition proceeding.

However, the petitioners filed another writ petition, being Writ Petition No. 2672 of 1986 again questioning the acquisition proceeding. The said writ petition was dismissed by order dated July 4, 1996. It appears from the record that the point sought to be urged

in the aforesaid writ petition was that the acquisition proceeding was bad for non compliance with the provision of Chapter \026VII of the Act. The submission proceeded on the basis that the acquisition was for the purposes of a Company within the meaning of that term in the Act, namely \026 the International Airport Authority of India (IAAI). The same submission has been urged before us as well.

We are of the view that the High Court was justified in rejecting this contention. As noticed by it, the Notification under Section 4 was issued on January 23, 1965. The public purpose for which the acquisition was made was stated to be "planned development of Delhi". Admittedly at the relevant time when Section 4 Notification was published, the management of the airport vested with the Department of Civil Aviation. It cannot be denied that the words used in the Notification, namely "the planned development of Delhi" are wide enough to include the expansion and development of the airport. That is also a "public purpose." Since the IAAI came into existence much later only on December 8, 1971 and was vested with the power to manage the airports, there was no question of the acquisition being made for the purpose of the IAAI since that body did not exist in the year 1965. The acquisition was for the planned development of Delhi and, as observed earlier, the expansion and modification of the airport is a "public purpose". It so happened that after the constitution of the IAAI, the power of management of airports, was vested in it and, therefore, the development work which otherwise would have been undertaken by the concerned competent authority in the year 1965, was to be executed by the IAAI. The submission that the provisions of Chapter-VII of the Act were not complied with must, therefore, be rejected because the acquisition purported to be for the planned development of Delhi and it is no one's case that the Notification had been issued mala fide. The procedure laid down in Chapter-VII of the Act was not attracted since the acquisition was not for any "Company" within the meaning of Chapter-VII of the Act.

The High Court has also rejected the submission on the ground that it was barred by the principle of constructive res judicata. It is not necessary for us to express any opinion on this issue, in view of our earlier finding, but the appellants have themselves drawn the attention of this Court to the fact that the land was being acquired for the purpose of the IAAI as was evident from the Resolution of the Delhi Development Authority dated September 10, 1981. The appellants, therefore, admit that they had knowledge of the fact that the land was to be utilized by the IAAI for its own purposes, which according to the appellants, was not a part of the planned development of Delhi. Such being the factual position, the father of the appellants who filed Writ Petition No.1550 of 1983 ought to have challenged the acquisition on the ground of non compliance with the provisions of Chapter VII of the Act since all the relevant facts were within his knowledge. He not having done so, we do not find that the High Court was in error in holding that the writ petition was barred also by the principle of constructive res judicata.

The question which survives consideration is whether in view of the public purpose declared in the Notification under Section 4 of the Act, the lands can be utilized for any other public purpose. While considering this question it would be useful to remember that the Notification under Section 4 of the Act was issued in January, 1965 and the declaration made in the following year. The IAAI came into existence in December, 1971, six years later, whereafter the task of developing and extending the Palam Airport was entrusted to the said authority. When the said authority was constituted, the acquisition proceeding had already been initiated.

The learned Additional Solicitor General appearing on behalf of

the respondents submitted that having regard to the authorities on the subject the question is no longer res integra. It is not as if lands acquired for a particular public purpose cannot be utilized for another public purpose. He contended that as long as the acquisition is not held to be mala fide, the acquisition cannot be invalidated merely because the lands which at one time were proposed to be utilized for a particular public purpose, were later either in whole or in part, utilized for some other purpose, though a public purpose. He, therefore, submitted that some change of user of the land, as long as it has a public purpose, would not invalidate the acquisition proceeding which is otherwise valid and legal.

In Gulam Mustafa and others vs. The State of Maharashtra and others : (1976) 1 SCC 800, this Court noticing the submission of learned counsel for the petitioner that the excess land out of the lands which were acquired for a country fair was utilized for carving out plots for the housing colony, held that it did not invalidate the acquisition. This Court observed :-

"\005..Apart from the fact that a housing colony is a public necessity, once the original acquisition is valid and title has vested in the Municipality, how it uses the excess land is no concern of the original owner and cannot be the basis for invalidating the acquisition. There is no principle of law by which a valid compulsory acquisition stands voided because long later the requiring authority diverts it to a public purpose other than the one stated in the Section 6(3) declaration."

The same principle has been reiterated in Mangal Oram and others vs. State of Orissa : (1977) 2 SCC 46.

In Union of India and others vs. Jaswant Rai Kochhar and others : (1996) 3SCC 491, lands which had been acquired for public purpose of housing scheme were sought to be utilized for a commercial purpose, namely for locating a district center. It was contended before this Court that since the acquisition was for a housing scheme, the land cannot be used for commercial purposes. The submission was rejected in the following words:-
"\005.We find no force in the contention. It is conceded by the learned Counsel that the construction of the District Centre for commercial purpose itself is a public purpose. No doubt it was sought to be contended in the High Court that in a housing scheme, providing facilities for commercial purpose is also one of the composite purpose and that, therefore, acquisition was valid in law. However, the contention was rejected by the High Court. We need not go to that part. Suffice it to state that it is a well-settled law that land sought to be acquired for public purpose may be used for another public purpose. Therefore, when the notification has mentioned that the land is sought to be acquired for housing scheme but it is sought to be used for District Centre, the public purpose does not cease to be public purpose and the nomenclature mentioned in the notification under Section 4(1) as housing scheme cannot be construed to be a colourable one. The notification under Section 4(1) could not have been quashed on the ground that the land is sought to be used for District Centre, namely, for commercial purpose. It is obvious that the lands acquired for a public purpose should serve only the public purpose of providing facilities of commercial purpose, namely, District Centre as conceded by the learned Counsel in fairness to be a public purpose. The notification under Section 4(1) cannot be quashed on the ground of change of user. The High Court was wholly wrong in quashing the notification on the ground of change of user."

Though not directly in point, the observations of this Court in State of Maharashtra vs. Mahadeo Deoman Rai alias Kalal and others : (1990) 3 SCC 579 are significant to determine the approach of courts in such matters. In that case a Notification under Section 4 of the Land Acquisition Act was issued for the purpose of establishing a 'tonga' stand. The respondent applied for permission to raise a construction which was denied on the ground that the land was reserved for road widening under a Town Planning Scheme which was being implemented. Since the respondent was prevented from continuing with the construction work undertaken by him, he initially field a writ petition before the High Court which was withdrawn and subsequently filed a suit claiming damages etc. The Municipal Council took a decision to accord permission to the respondent as asked for, and the suit was withdrawn. When the State Government came to know about it, it asked the Municipal Council to explain the circumstances under which such permission had been granted. A High Powered Committee was appointed to examine the entire matter. The resolution of the Municipal Council granting permission to the respondent was rescinded. Another application filed by the respondent was kept in abeyance which compelled the respondent to file another writ petition which was allowed by the High Court. The plea of the Municipal Council was that it had passed a fresh resolution inter alia deciding to re-plan the scheme with respect to the area in question in the light of the recommendations made by the Committee. Consequently the matter was re-opened and the objections from the affected persons were invited. Even the respondent filed his objections. This fact was not brought to the notice of the High Court which allowed the writ petition. This Court, set aside the judgment and order of the High Court and observed :-

"Besides, the question as to whether a particular Scheme framed in exercise of statutory provisions is in the public interest or not has to be determined according to the need of the time and a final decision for all times to come cannot be taken. A particular scheme may serve the public purpose at a given point of time but due to change of circumstances it may become essential to modify or substitute it by another scheme. The requirements of the community do not remain static; they indeed, go on varying with the evolving process of social life. Accordingly, there must be creative response from the public authority, and the public scheme must be varied to meet the changing needs of the public. At the best for the respondent, it can be assumed that in 1967 when the resolution in his favour was passed, the acquisition of the land was not so urgently essential so as to call for his dispossession. But for that reason it cannot be held that the plots became immune from being utilised for any other public purpose for ever. The State or a body like the Municipal Council entrusted with a public duty to look after the requirements of the community has to assess the situation from time to time and take necessary decision periodically. We, therefore, hold that the Resolution dated 13-2-1967 was not binding on the Municipal Council so as to disable it to take a different decision later."

In Bhagat Singh vs. State of Uttar Pradesh and others : (1999) 2 SCC 384 this court upheld an acquisition even when the public purpose to which the land was put was contrary to the permitted user under the Master Plan. This Court held that the acquisition was valid but it was for the beneficiary of the acquisition to move the competent authority and obtain the sanction of the said authority for change of user. That it could do only after it got possession of the land in question.

The learned Additional Solicitor General also relied upon the decision of this Court in Northern Indian Glass Industries vs. Jaswant Singh and others : (2003) 1 SCC 335 wherein this Court has

held that the High Court was not right in ordering restoration of land to the respondents on the ground that the land acquired was not used for the purpose for which it was acquired. It was held that after passing of the Award and possession taken under Section 16 of the Act the acquired land vests with the Government free from all encumbrances. Even if the land is not used for the purpose for which it is acquired, the landowner does not get any right to ask for restoration of possession.

Referring to the facts of the instant case, it cannot be disputed that the planned development of Delhi for which purpose the land was acquired under Section 4 of the Act is wide enough to include the development and expansion of an airport within the city of Delhi. Thus it cannot be said that the land is actually being utilized for any purpose other than that for which it was acquired. The only difference is that whereas initially the development work would have been undertaken by the D.D.A. or any other agency employed by it, after the constitution of the IAAI, the said development work had to be undertaken by the newly constituted authority. Thus there has been no change of purpose of the acquisition. All that has happened is that the development work is undertaken by another agency since constituted, which is entrusted with the special task of maintenance of airports. Since the said authority was constituted several years after the issuance of the Notification under Sections 4, the acquisition cannot be invalidated only on the ground that the public purpose is sought to be achieved through another agency. This, as we have noticed earlier, was necessitated by change of circumstances in view of the creation of the authority i.e. IAAI. Moreover since there is no change of public purpose for which the acquired land is being utilized, the acquisition cannot be invalidated on that ground. The purpose for which the lands are being utilized by a governmental agency is also a public purpose and as we have noticed earlier, would come within the ambit of the public purpose declared in Section 4 Notification. Therefore, the acquisition cannot be challenged on the ground that the acquired lands are not being utilized for the declared public purpose. Having regard to the facts of the case it cannot be contended, nor has it been contended, that the Notification under Section 4 of the Act was issued mala fide.

We, therefore, find no merit in the appeal arising out of SLP (C) No.6093 of 2003 and the same is accordingly dismissed.

APPEAL ARISING OUT OF SLP ) No. 6384/2003

In this appeal the lands belonging to the appellant in village Mahipalpur were notified for acquisition under Section 4 of the Act on January 23, 1965 A declaration under Section 6 followed on December 7, 1966. Ultimately an Award was pronounced under Section 11 of the Act on September 19, 1986. Thereafter the appellant filed Civil Writ Petition No.2003 of 1986 before the High Court challenging the acquisition proceeding. The High Court by the impugned judgment and order dismissed the appeal on the ground of delay and latches

It will be noticed that the appellants filed the writ petition challenging the acquisition proceeding which was initiated in 1965 as late as on September 25, 1986, after the Award had been declared under Section 11 of the Act. The High Court, in our view, has rightly noticed that the acquisition was challenged almost 21 years after the issuance of the Notification under Section 4 of the Act. Indeed the writ proceeding was initiated after the Award was declared. The High Court has relied upon the decisions of this Court in Aflatoon vs. Lt. Governor of Delhi : AIR 1974 SC 2077 ; Tilockchand Motichan vs. H.B. Munshi : AIR 1970 SC 898 ; Indrapuri Griha Nirman Sahakari

Samiti Ltd. vs. The State of Rajasthan and others : AIR 1974 SC 2085 ; Pt. Girharan Prasad Missir and another vs. State of Bihar and another : (1980) 2 SCC 83 and H.D. Vora vs. State of Maharashtra and others : AIR 1984 SC 866. Following the principles laid down therein the High Court dismissed the writ petition on the ground of delay and latches. In the facts and circumstances of the case no exception can be taken to the order of the High Court dismissing the writ petition. There was no good reason explaining the delay in moving the High Court in exercise of its writ jurisdiction. It is not necessary to refer to the large number of authorities on the subject since the law is so well settled that there is no need for a further reiteration.

We, therefore, find no merit in this appeal and the same is accordingly dismissed.

CIVIL APPEAL ARISING OUT OF SLP ) NO. 8574 OF 2001

The appellant in this appeal is M/s. Punjab Potteries whose lands were notified for acquisition under Section 4 of the Act on December 3, 1971 and the declaration under Section 6 was published on July 10, 1972. The petitioner had earlier filed a writ petition being C.W.P. No. 432 of 1987. It appears from the order passed in the said writ petition dated February 18, 1987 that a prayer was made for leave to withdraw the petition. The order notices the fact that in the aforesaid writ petition there was no prayer for mandamus directing the respondents to allot any alternative site. It merely questioned the acquisition and validity of the Notifications under Sections 4 and 6 of the Act. The High Court recorded a finding that it found nothing wrong with the acquisition so far as the validity of the Notifications under Sections 4 and 6 was concerned. It accordingly dismissed the writ petition as withdrawn but with liberty to file a fresh petition for claiming any alternative site, if it had any such right. Whereafter the petitioner filed the instant writ petition on March 7, 2003. In the instant petition as well the acquisition proceedings were challenged but the same was dismissed by the High Court on March 26, 2003. The High Court noticed the order passed by the Court earlier on February 18, 1987 and also the fact that the writ petition was being filed after a lapse of 16 years. It did not entertain the challenge to the Notifications issued under Sections 4 and 6 of the Act since challenge to the aforesaid Notifications stood rejected by order of February 18, 1987. It noticed the earlier common judgment delivered in the writ petitions preferred by other appellants in this batch of writ petitions and held that the inordinate delay in filing the writ petition challenging the validity of the Notifications was not condonable.

It then proceeded to consider the submission urged on behalf of the appellant that in any event it was entitled to the allotment of alternative land in lieu of the lands acquired. The High Court after noticing the Full Bench decision of the High Court in Ramanand vs. Union of India : AIR 1994 Delhi 29 and the judgment of this Court in New Reviera Cooperative Housing Society vs. Special Land Acquisition Officer & others : (1996) 1 SCC 731 observed that if there was a scheme promulgated by the State to provide alternative sites to persons whose lands had been acquired, the Court could give effect to the Scheme. However, it could not be argued as a matter of principle that in each and every case of acquisition the land owners must be given an alternative site because such a principle, if adopted, would result in the State being unable to acquire any land for public purpose. In the instant case the High Court dismissed the writ petition in view of the fact that there was nothing on record to indicate that any application was made to the competent authority for allotting an alternative site within a reasonable period. Reliance placed on the decision of the learned Single Judge of the Delhi High Court in Daryao Singh and others vs. Union of India and others (Civil Writ

Petition No. 481/1982) dated 2nd August, 2001 was rightly rejected. That case related to a different award and the land owners concerned in that case gave up the challenge to the acquisition proceedings in view of the assurance given that an alternative plot under the Scheme to be formulated shall be given to them. Those facts do not exist in the instant case. Moreover the Government had agreed to allot the plots to the land owners and there was no question of recognizing any right of the land owners to an allotment of alternative plots. In view of these findings the writ petition preferred by the appellant was rejected.

The appellants in the other appeals as well have contended that an alternative site should be allotted to them in view of the lands acquired. We may at the threshold notice that the Notification under Section 4 of the Act was issued in the cases of the other appellants on January 23, 1965. The lands were located in village Mahipalpur which were required for the public purpose of planned development of Delhi.

So far as the case of Punjab Potteries is concerned the Section 4 Notification was issued on December 3, 1971. It related to lands located in Nangal Dewat acquired for public purpose, namely the development of Palam Airport.

It was submitted by Mr. Andhyarujina, leaned senior counsel appearing for the appellant Ravi Khullar in appeal arising out of SLP No. 6093 of 2003 that in view of the Notification of December 23, 1986 the appellants are entitled to the benefit of rehabilitation in view of the acquisition of their lands for the expansion/development of the Palam airport. According to him the lands which were subject matter of Notification under Section 4 dated January 23, 1965 for the planned development of Delhi were owned by the appellants over which they had been carrying on business of ceramic industries for over 15 years. It is his contention that a Notification under Section 4 of the Act was issued on December 23, 1986 for acquisition of lands in village Malikpur Kohi Rangpuri measuring 713 bigha and 0.2 biswa for the rehabilitation of those displaced or affected due to the expansion/development of Palam airport. He, therefore, submitted that regardless of the fact that their lands were acquired under a different Notification than the lands of Ravi Khullar, in view of the issuance of the Notification dated December 23, 1986, it made no difference since all of them were displaced or affected due to the expansion/development of the Palam airport. The generality of the aforesaid notification could not be limited by administrative decision to only certain beneficiaries as a matter of policy.

Learned counsel for the respondents on the other hand contended that though the matter relating to rehabilitation package was considered, no decision was taken nor any scheme formulated for the rehabilitation of industries. Only those displaced from village Nangal Dewat, pursuant to the Notification under Section 4 dated December 3, 1971 for acquisition of land for development of the Palam airport, were to be allotted lands in village Rangpuri and that too for residential purposes. Succinctly stated the State contended that the acquisition of land in village Rangpuri was meant for rehabilitation of persons from village Nangal Dewat and that too for residential purpose, and that the other land owners, whose lands were acquired for the planned development of Delhi could not claim such benefit. The State has relied upon three decisions taken in this regard.

We shall, therefore, consider the material placed on record by the parties on the question of rehabilitation.

The first document to be considered is a letter dated December 5, 1986 written by the Joint Director of Industries to the Deputy Commissioner, Delhi, informing him that the position regarding acquisition of land occupied by the industrial units in Mahipalpur-Nangal Dewat area and providing of alternate plots to the land owners was to be reviewed by the Chief Secretary shortly. An enquiry was made as to whether awards had been announced in respect of affected industrial units in that area. The Deputy Commissioner was also requested to intimate regarding the steps taken to provide alternative lands to the affected units so that the whole position was brought to the notice of the Chief Secretary. This letter does not refer to any decision taken by the Government to provide alternate site. At best the matter was to be reviewed by the Chief Secretary.

It appears that earlier a Joint Survey Report had been submitted sometime in August, 1983 with a view to assess the needs of the different ceramic industries located on the Mehrauli-Mahipalpur Road which had to be shifted in view of the expansion of Palam airport. On the basis of the survey conducted by the Committee the industries were classified in three groups. The appellants fell in the first category, namely \026 those who had a turnover of Rs. 15 lakhs and above with an area of 5 acres in their possession on ownership basis. The Committee recommended that they be allowed 25000 sq. yards each. The Committee also made its recommendations with regard to other two categories of industries and assessed that the total requirement of land would be about 20.86 acres if such allotments were to be made. It also noticed the fact that the aforesaid factories were located over an area of 25.70 acres.

No document has been produced to show that the recommendations contained in the said survey report were at any time accepted by the Government. The appellants also relied upon the letter written by the Secretary, Civil Aviation, to the Lieutenant Governor of Delhi on September 15, 1986 wherein a view was firmly expressed that in the over all interest of security and development of Delhi Airport, the industrial structures in Mahipalpur and Nangal Dewat area need to be acquired immediately. The letter also stated that the IAAI will be willing to accept the suggestion for provision of land for land, provided alternative land is acquired by the Delhi Administration/D.D.A. and no further liability is imposed on them for payment of additional compensation for the acquired industrial structures. Though this letter records the willingness of the IAAI to provide land for land subject to the condition that it shall incur no additional liability for payment of compensation for the acquired industrial structures, it does not refer to any firm decision taken in this regard.

Mr. Rakesh Dwivedi, learned senior counsel appearing for the appellant in Punjab Potteries also placed reliance on a decision of the High Court of Delhi dated August 2, 2001 in CWP No. 481 /1982 : Daryao Singh (supra) and submitted that the aforesaid judgment supports the case of the appellants that the lands acquired in village Rangpuri were meant for rehabilitation of the persons displaced from village Nangal Dewat, such as the appellants. As noticed earlier, the High Court has considered this decision and distinguished the same on the ground that it related to another award. Moreover a mere perusal of the judgment discloses that the plea of the petitioners before the High Court was that they were not interested in challenging the acquisition but they were only interested in allotment of an alternative piece of land for the purpose of their residence. In reply counsel appearing for the respondents stated that for allotment of land to the persons whose lands had been acquired a scheme was being formulated. Such persons whose names appear in the Award shall be allotted land in terms of the Scheme within 6 months. In this view of the matter the writ petition was dismissed.

It will be seen that in the aforesaid writ petition the question of rehabilitating an industrial unit did not come up for consideration. So far as the allotment of residential site is concerned, counsel appearing for the respondents submitted before us that if the appellant was eligible for allotment in terms of the scheme formulated for the purpose, it could as well have asked for allotment of alternative site, but the appellant was not interested in allotment of alternative plot for residence. Its demand was that a site should be given to it for establishing an industry, which was not contemplated under the scheme. There is substance in the contention of the respondents that so far as the aforesaid decision goes it only related to allotment of alternative sites for residence of the displaced persons and not for relocation of an industry. The respondents on the other hand relied on atleast 3 documents and contended that at no time any decision was taken to allot alternative sites with a view to relocate the displaced industrial units.

The first document is the Minutes of the Meeting held by the Lieutenant Governor of Delhi on June 16, 1982 to consider issues connected with acquisition of lands in village Nangal Dewat etc. for the International Airport Authority of India (IAAI). At the meeting were present the Lieutenant Governor of Delhi and officers of the concerned department; the Vice Chairman of the Delhi Development Authority and its officers as also the representatives of the Municipal Corporation of Delhi; Ministry of Tourism and Civil Aviation and IAAI. The relevant part of the Minutes reads as under :-

"After further discussions, Lt. Governor directed that in the special circumstances obtaining in Delhi, there was no alternative to IAAI undertaking t he responsibility for the rehabilitation of the village abadi. The cost of rehabilitation would have to be borne by IAAI over and above the compensation to be paid by them for the land and structures. International Airport Authority of India would also bear the cost of acquiring, if necessary, the alternative area where the abadi would be shifted. The cost of rehabilitation would include provision of developed and serviced plots to the residents and also provision for community facilities such as schools, tube wells, electricity, community hall and dispensaries etc. However, the cost of construction of houses would be borne by the villagers themselves. Lt. Governor felt that early selection of the alternative plots where the village abadi would be shifted and announcement of the facilities to be offered, would be helpful in inducing people to shift to the new site. This would be the responsibility of Delhi Administration.

It was pointed out that there were other villages in the neighbourhood where there were certain other industrial structures. The owners of these industrial structures would not be provided any assistance beyond what they may be entitled to by way of the usual compensation under the Land Acquisition Act."

It would thus appear that after considering all aspects of the matter, the IAAI was burdened with the cost of rehabilitation of the displaced persons from the village abadi, meaning thereby to provide them land for residence over which the villagers could construct houses at their own cost. So far as industrial structures are concerned, it was clearly decided that the owners of industrial structures would

not be provided any assistance beyond what they may be entitled to as compensation under the Act.

The second document is the letter of April 16, 1986 written to the Chief Secretary, Delhi Administration which refers to a meeting held on April 4, 1986 wherein it was decided that a site may be selected for shifting the residents of village Nangal Dewat. The letter discloses that the site had been selected in village Rangpuri and the same may be acquired on priority basis so that the village abadi may be shifted to this alternative site. This letters also refers to the rehabilitation of villagers displaced from village Nangal Dewat and for the purpose of providing them an alternative plot for residence.

The last document on which reliance has been placed by the respondents is of August 21, 1991 which is the Minutes of the Meeting held in the room of the Chief Secretary, Delhi Administration on July 30, 1991 regarding acquisition of land for IAAI. The Minutes disclose that the representatives of the various departments put forwards their points of view and though the Delhi Administration suggested that the agency for which the land was being acquired should pay not only for the land but also for meeting cost of rehabilitation of the concerned industrial units, the Ministry of Civil Aviation, Government of India, was not agreeable to pay any amount over and above the cost of land and super-structures. Paragraph 3.1 of the Minutes is relevant which reads as follows :-

"Reverting to the specific question of acquiring land under the above said five industrial units the Chief Secretary remarked that linking obligation of re-location with the acquisition of their land would not be advisable as neither DDA nor Delhi Administration could undertake such an obligation especially as units were now required to shift out of UT of Delhi. The Delhi Administration could at best assist in the allotment of the land by the concerned states. The affected units should therefore be discouraged from expecting any special concession. At the same time it would be necessary for the IAAI to pay rehabilitation cost to these units and not merely the cost of acquisition of land and super structures. He advised the Land Acquisition Collector to keep this in view while determining award for acquisition. The LAC said that award in 4 of the cases had already been announced. The Chief Secretary advised the LAC that in case it was not possible to revise the award the LAC should determine the additional compensation on above lines and intimate t he same to IAAI. He also advised the IAAI representatives that in case they wanted this land urgently they should be prepared to pay the said additional cost."

The documents relied upon by the respondents do establish that though at different stages the question of rehabilitation of the affected persons as a result of the acquisition was considered, no firm decision was ever taken to rehabilitate the industries affected thereby. The decision taken was only to provide alternative sites for residentce of the oustees from village Nangal Dewat in village Rangpuri. The proposal to allot lands for setting up the displaced industrial units was always turned down and it was decided that owners of such industries would only be entitled to compensation under the Land Acquisition Act. Having regard to the material on record we are satisfied that no scheme was ever framed for rehabilitation of industrial units. The scheme was framed only for the affected villagers of village Nangal Dewat and that too for residential purpose alone.

Learned counsel for the appellants strenuously urged before us that the land in village Rangpuri is still available and even if the three industries with which we are concerned in the instant batch of appeals are allotted land to the extent of 25,000 sq. yards each, as recommended in the Joint Survey Report, their purpose will be served. We are afraid we cannot accede to the request because that is a matter of policy and it is for the government to take appropriate decision in that regard. In law we find no justification for the claim that even in the absence of a scheme for rehabilitation of displaced industries alternative sites should be allotted to them for relocating the industrial units. It is no doubt true that the acquisition of land in village Rangpuri by issuance of Notification under Section 4 of the Act on December 23, 1986 was for the public purpose, namely \026 for rehabilitation of the persons displaced or affected due to the expansion/development of the Palam airport. Learned counsel appearing for the State contended that this public purpose has been achieved and the persons who were displaced from village Nangal Dewat in view of the acquisition of their lands for the development of Palam airport have been allotted plots in village Rangpuri for their residence. There is nothing in the Notification which obliges the State to provide equal alternative site to the industries for their rehabilitation.

We find substance in the stand of respondents.

CIVIL APPEAL ARISING OUT OF SLP ) NO. 6095 of 2003

In this appeal apart from other questions which have been raised in this batch of appeals, a question of limitation has been raised. It is submitted on behalf of the appellant that the award made by the Collector in the instant case was barred by limitation under Section 11A of the Act inasmuch as it was not made within a period of 2 years from the date of the publication of the declaration after excluding the period during which an order of stay granted by the High Court operated. The facts are not in dispute and since this plea became available to the appellant only after the dismissal of the writ petition by the High Court, we permitted the appellant to raise this plea after giving an opportunity to the respondents to reply to the same. Since the facts are not in dispute, we proceed to decide the question of limitation in this appeal.

It is not in dispute that the Notification under Section 4 of the Act was issued on January 23, 1965. A declaration under Section 6 of the Act was published on December 26, 1968. The appellant filed the writ petition before the High Court on September 12, 1986 in which an order for maintenance of status quo was made on September 18, 1986. It is the case of the respondents that in view of the status quo order the award could not be pronounced. While the awards were pronounced in other cases on September 19, 1986, it was not pronounced in the case of the appellant in view of the status quo order. The High Court by the impugned judgment dismissed the writ petition filed by the petitioner on February 13, 2003 whereafter the award was pronounced on March 1, 2003.

We may notice that the Land Acquisition (Amendment) Act, 1984 came into force w.e.f. September 24, 1984.

Keeping in view these dates it will be seen that award ought to have been made within a period of 2 years from the date of the publication of the declaration under Section 6 of the Act. However, in a case where the said declaration was published before the commencement of the Land Acquisition (Amendment) Act, 1984 the award must be made within a period of two years from such commencement. This is the mandate of Section 11A of the Act. In the instant case the declaration under Section 6 of the Act was published on December 26, 1968 i.e. before the commencement of the Amendment Act of 1984. Thus the proviso to sub-section (1) of

Section 11A applied and the award was required to be made within a period of two years from such commencement. So calculated the award ought to have been made on or before the 23rd September, 1986 when the period of 2 years from the commencement of the Amendment Act, 1984 expired. It is not disputed that an order of status quo was made on 18th September, 1986 which prevented the Land Acquisition Officer from pronouncing the award. The aforesaid order of status quo operated till February 13, 2003 which period, as rightly submitted by the learned Additional Solicitor General, had to be excluded in calculating the period of 2 years. Thus after excluding the aforesaid period the award should have been pronounced on or before February 18, 2003. However, the award was pronounced on March 1, 2003. Ex facie, therefore, the award having not been made within the period prescribed by Section 11A of the Act, the entire proceeding for acquisition of the land lapsed on February 18, 2003, the last date for pronouncement of the award.

The learned Additional Solicitor General, however, submitted that the judgment in the writ petition was pronounced on February 13, 2003 and an application was made for certified copy of the same on February 14, 2003. The certified copy was ready on February 27, 2003. It is his contention that the period between February 14, 2003 and February 27, 2003 must be excluded and if that period is excluded, time to make the award was available upto March 4, 2003 whereas the award was pronounced on March 1, 2003. He submitted that the period taken by a public authority to obtain the authentic copy of the order, which is evidence of the contents thereof, must in all cases be excluded and the period taken to obtain a certified copy cannot cause any prejudice in the matter of calculation of the period of limitation. Since the Land Acquisition Officer, who is a public functionary, had to look into the contents of the order passed by the court before taking any action including the pronouncement of the award, the said period ought to have been excluded. In effect the learned Additional Solicitor General contended that the rule incorporated in Section 12 of the Limitation Act must apply in computing the period of limitation under Section 11A of the Act. He also relied on judgments of this Court reported in N. Narasimbhaiah and others vs. State of Karnataka and others : (1996) 3 SCC 88 ; General Manger, Department of Communications vs. Jacob : (2003) 9 SCC 662 ; and Shakuntala Devi Jain vs. Kuntal Kumari and others : AIR 1969 SC 575. He submitted that since the authority had taken immediate steps in applying for certified copy and since the explanation to Section 11A prescribed a principle of limitation, it is necessary that analogous principles contained in the Limitation Act must necessarily be applied. Applying the principle underlined under sub-section (1) of Section 11 A of the Act read with Sections 76 and 77 of the Indian Evidence Act and also based on the principle actus curaie neminem gravabit, the period during which the certified copy was not obtained has to be excluded.

Shri K.K. Venugopal, learned senior counsel appearing on behalf of the intervener also reiterated the same submission and contended that the Land Acquisition Officer could not have proceeded to make the award unless he had seen the authenticated copy of the order which had the effect of vacating the order of status quo passed as an interim measure.

Learned counsel for the appellants on the other hand contended that Section 11A of the Act does not provide for extension of time to make an award or condonation of delay in making the award. Though it provides for exclusion of the period during which any action or proceeding to be taken in pursuance of the declaration is stayed by an order of the court, it does not exclude the time taken for obtaining a certified copy of the judgment or order vacating or having the effect of vacating the order of stay. He further submitted that the Land Acquisition Collector was a party in the writ petition and had,

therefore, knowledge of the fact that the writ petition had been dismissed which resulted in vacation of the interim order of status quo. In the absence of any provision in the Land Acquisition Act for exclusion of time taken to obtain a certified copy of the judgment of the High Court, the Land Acquisition Collector, ought to have proceeded to make the award having come to know that the writ petition filed by the appellant had been rejected by the High Court.

In the matter of computing the period of limitation three situations may be visualized, namely \026 (a) where the Limitation Act applies by its own force ; (b) where the provisions of the Limitation Act with or without modifications are made applicable to a special statute ; and (c) where the special statue itself prescribes the period of limitation and provides for extension of time and or condonation of delay. The instant case is not one which is governed by the provisions of the Limitation Act. The Land Acquisition Collector in making an award does not act as a Court within the meaning of the Limitation Act. It is also clear from the provisions of the Land Acquisition Act that the provisions of the Limitation Act have not been made applicable to proceedings under the Land Acquisition Act in the matter of making an award under Section 11A of the Act. However, Section 11A of the Act does provide a period of limitation within which the Collector shall make his award. The explanation thereto also provides for exclusion of the period during which any action or proceeding to be taken in pursuance of the declaration is stayed by an order of a court. Such being the provision, there is no scope for importing into Section 11A of the Land Acquisition Act the provisions of Section 12 of the Limitation Act. The application of Section 12 of the Limitation Act is also confined to matters enumerated therein. The time taken for obtaining a certified copy of the judgment is excluded because a certified copy is required to be filed while preferring an appeal/revision/review etc. challenging the impugned order. Thus a court is not permitted to read into Section 11A of the Act a provision for exclusion of time taken to obtain a certified copy of the judgment and order. The court has, therefore, no option but to compute the period of limitation for making an award in accordance with the provisions of Section 11A of the Act after excluding such period as can be excluded under the explanation to Section 11A of the Act.

Our conclusion finds support from the scheme of the Land Acquisition Act itself. Section 11A of the Act was inserted by Act 68 of 1984 with effect from 24.09.1984. Similarly, Section 28A was also inserted by the Amendment Act of 1984 with effect from the same date. In Section 28A the Act provides for a period of limitation within which an application should be made to the Collector for re-determination of the amount of compensation on the basis of the award of the Court. The proviso to sub-section 1 of Section 28A reads as follows:-

"Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded."

It will thus be seen that the legislature wherever it considered necessary incorporated by express words the rule incorporated in Section 12 of the Limitation Act. It has done so expressly in Section 28A of the Act while it has consciously not incorporated this rule in Section 11A even while providing for exclusion of time under the explanation. The intendment of the legislature is therefore unambiguous and does not permit the Court to read words into Section 11A of the Act so as to enable it to read Section 12 of the Limitation Act into Section 11A of the Land Acquisition Act.

The judgments cited at the Bar are also of no help to the respondents. In Shakuntala Devi Jain (supra) this Court held that an appeal is incompetent unless the memorandum of appeal is accompanied by a certified copy of the decision. It condoned the delay in that case giving the benefit of Section 5 of the Limitation Act in the facts and circumstances of the case. The applicability of the Limitation Act was not in dispute in that case.

In N. Narasimhaiah and others (supra) the order under Section 17(4) of the Land Acquisition Act dispensing with the enquiry under Section 5-A was quashed by the court with liberty to the State to proceed further in accordance with law. In such circumstances it was held that running of the limitation should be counted from the date of the order of the court received by he Land Acquisition Officer. The limitation prescribed in clause (ii) of the first proviso to sub-section (1) of Section 6 would apply to publication of declaration under Section 6(1) afresh. If it was published within one year from the date of the receipt of the order of the court by Land Acquisition Officer, the declaration published under Section 6(1) would be valid. The principle laid down therein does not help the respondents because by an order of the court the limitation prescribed for publication of a declaration under Section 6(1) stood extended. That is how this Court construed the order of the High Court giving liberty to the State to proceed further in accordance with law. In the instant case no such question arises. The situation that arises in the instant case is fully governed by the provisions of Section 11A of the Act which does not give any discretion to the court to exclude any period in computing limitation other than that provided in the explanation to Section 11A of the Act.

In General Manager, Department of Telecommunications (supra) a question arose as to whether the High Court by directing the passing of the award by certain date, irrespective of the provisions contained in the Act, could prevent the Collector from passing an award at any time beyond the specified date. In that case the facts were that the High Court had directed the passing of the award by December 3, 1992 irrespective of the provisions contained in the Land Acquisition Act. This was done with a view to avoid further delay and ensure expeditious conclusion of the proceedings. This Court found that there was nothing to indicate in the order of the High Court stipulating or extending the time for passing the award, that beyond the time so permitted, it cannot be done at all and the authorities are disabled once and for all even to proceed in the matter in accordance with law, if it is so permissible for the authorities under the law governing the matter in issue. This Court held that the court cannot be imputed with such an intention to stifle the authorities from exercising powers vested with them under statute, or to have rendered an otherwise enforceable statutory provision, a mere dead letter. This Court considered the decision in N. Narasimhaiah and others (supra) and observed :-

"This decision is of no assistance whatsoever to the respondents in the present case. Notwithstanding the statutory period fixed, further time came to be granted due to intervention of Court proceedings in which a direction came to be issued to proceed in the matter afresh, as directed by the Court, apparently applying the well-settled legal maxim - Actus curiae neminem gravabit : an act of the Court shall prejudice no man. In substance what was done therein was to necessitate afresh calculation of the statutory period from the date of receipt of the copy of the order of the Court. Granting of further time than the one stipulated in law in a given case as a sequel to the decision to carry out the dictates of the Court afresh is not the same as curtailing the statutory

period of time to stultify an action otherwise permissible or allowed in law. Consequently, no inspiration can be drawn by the respondents in this case on the analogy of the said decision."

In our view the principle laid down in this judgment is of no help to the respondents and if at all it supports the contention of the appellant that the period of limitation prescribed cannot be curtailed by order of the Court. As a necessary corollary it cannot be extended contrary to the statutory provisions. We have, therefore, no doubt in holding that so far as the acquisition of the lands belonging to Palam Potteries is concerned, the proceedings lapsed for failure of the Collector to make an award within the prescribed period of limitation under Section 11A of the Act.

Before parting with this matter we may notice the fact that in the award made by the Collector three khasra numbers belonging to the appellant were not included. It was, therefore, submitted before us that in any view of the matter the acquisition proceedings in relation to those 3 khasra numbers must lapse. This was indeed not contested by the respondents. However, in view of the fact that we have reached the conclusion that the acquisition proceeding as against the lands of the appellant lapsed for failure to make an award within the period prescribed by Section 11A of the Act, this aspect of the matter lose its significance.

In the result Civil Appeals arising out of SLP ) Nos. 6093/2003; 6384/2003 and 8574 of 2003 are dismissed. Civil Appeal arising out of SLP ) No. 6095 of 2003 is allowed and it is declared that the award made by the Collector on March 1, 2003 was barred by limitation prescribed by Section 11A of the Act and as such the acquisition proceeding in relation thereto lapsed on February 18, 2003, which was the last date for making the award. Parties shall bear their own costs.