

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

D.B. Special Appeal Writ No. 502/2023

In

S.B. Civil Writ Petition No.10544/2012

Jaipur Metro Rail Corporation Limited, Through Its Managing Director, Third Floor, Khanij Bhawan, Tilak Marg, C-Scheme, Jaipur.

----Appellant

Versus

1. Alok Kotahwala S/o Haridas Kotahwala, Aged About 59 Years, R/o Kotahwala Market, Tripolia Bazar, Jaipur.
2. M/s Central Orchid Private Ltd, Through Its Proprietor And Director Alok Kotahwala, Kotahwala Market, Tripolia Bazar, Jaipur.
3. M/s Subh Agro Farms And Properties Private Ltd., Through Its Promoter And Director Pramod Kotahwala, Kotahwala Market, Tripolia Bazar, Jaipur.
4. Gyarsilal S/o Chotmal, R/o Village Sheopura, Tehsil Sanganer, District Jaipur.
5. State Of Rajasthan, Through Secretary Department Of Urban Development, Jaipur.
6. The Jaipur Development Authority, Through Its Commissioner, J.L.N. Marg, Jaipur.
7. The Land Acquisition Officer, Jaipur Development Authority, J.L.N. Marg, Jaipur.
8. The Delhi Metro Rail Corporation, Through Its Commissioner, Behind Nehru Place, Lal Kothi, Tonk Road, Jaipur-302015.

----Respondents

Connected With

D.B. Special Appeal Writ No. 739/2023

In

S.B. Civil Writ Petition No.10544/2012

1. State Of Rajasthan, Through Secretary Department Of Urban Development, Jaipur.
2. The Jaipur Development Authority, Through Its Commissioner, J.L.N.Marg, Jaipur.
3. The Land Acquisition Officer, Jaipur Development Authority, J.L.N. Marg, Jaipur.

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- Years, R/o Kotahwala Market, Tripolia Bazar, Jaipur.
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  4. Gyarsilal S/o Chotmal, R/o Village Sheopura, Tehsil Sanganer, District Jaipur.
  5. Jaipur Metro Rail Corporation Limited, Through Its Managing Director, Third Floor, Khanij Bhawan, Tilak Marg, C-Scheme, Jaipur.
  6. The Delhi Metro Rail Corporation, Through Its Commissioner, Behind Nehru Place, Lal Kothi, Tonk Road, Jaipur-302015.

----Respondents

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For Appellant(s)	: Mr.Rajendra Prasad, Advocate General with Mr. Sandeep Pathak, Adv., Ms. Jaya P. Pathak, Adv., Mr. Sheetanshu Sharma, Adv., Ms. Dhriti Laddha, Adv. & Mr. Tanay Goyal, Adv.,
For Respondent(s)	: Mr. A.K. Bhandari Sr. Adv. assisted by Mr. Vaibhav Bhargava. Mr. Kamlakar Sharma, Sr. Adv. assisted by Ms. Alankrita Sharma. Mr. Kamlesh Kumar Sahu (for respondent No.6-JDA in SAW No. 502/2023)

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**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA**

**HON'BLE MRS. JUSTICE SANGEETA SHARMA**

**Judgment**

<b>Date of conclusion of arguments</b>	<b>:</b>	<b><u>19/02/2026</u></b>
<b>Date on which judgment was reserved</b>	<b>:</b>	<b><u>19/02/2026</u></b>
<b>Whether the full judgment or only the operative part is pronounced</b>	<b>:</b>	<b><u>Full judgment</u></b>
<b>Date of pronouncement</b>	<b>:</b>	<b><u>30<sup>th</sup>/04/2026</u></b>

**REPORTABLE**  
**(Per Hon'ble The Acting Chief Justice)**

1. The appellant had preferred the Special Appeals (Writ) before this Court being aggrieved by the impugned judgment dated 09.05.2023 passed by the Learned Single Judge whereby the notification under Section 4 of the Land Acquisition Act, 1894 dated 26.05.2011, declaration under section 6 dated 05.07.2012 and notice dated 11.07.2012 have been quashed and the appellants have been directed not to interfere in the land under acquisition proceedings which have been quashed and the respondents may not be deprived of their possession and rights.

2. The present case arises out of land acquisition proceedings initiated by the State Government for the Jaipur Metro Rail Project. Initially, the Jaipur Development Authority (JDA) proposed construction of a terminal depot at Bambala Nala, which included the land belonging to the respondents. Subsequently, the project was taken forward in accordance with the requirements of the Jaipur Metro Rail Corporation (JMRC), and the Metro route was extended up to Sitapura. In this regard, a Detailed Project Report (DPR) was prepared and the land of the respondents, situated in Village Sheopura, Tehsil Sanganer, District Jaipur, falling under various khasra numbers, was identified as necessary for construction and development of a Metro depot.

3. Pursuant thereto, the State Government initiated acquisition proceedings by issuing a notification dated 26.05.2011 under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "Act of 1894"), covering approximately 27 hectares of land. The respondents filed objections under Section 5A of the Act on 27.06.2011, to which a detailed reply was submitted by JMRC.

A copy of the reply was furnished to the respondents on 09.03.2012, and an opportunity was granted to file a rejoinder. However, no rejoinder was filed and no appearance was made on 09.04.2012. Consequently, the objections and replies were considered, and a report under Section 5A was forwarded to the Government on 18.05.2012.

4. Thereafter, administrative deliberations took place at various levels, including consultation with JMRC and DMRC officials. It was concluded that the entire land under acquisition was required for depot purposes, considering the expansion of the Metro line and project requirements. The competent authority found the acquisition to be justified and reasonable. Accordingly, a declaration under Section 6 of the Act of 1894 was issued on 05.07.2012, followed by a notice under Section 9 dated 11.07.2012 for taking possession.

5. Aggrieved thereby, the respondents filed a writ petition, S.B. Civil Writ Petition No. 10544/2012, challenging the notification dated 26.05.2011, the declaration dated 05.07.2012, and subsequent proceedings. It was specifically averred that the acquisition was being carried out for the benefit of JMRC, the appellant herein, and that the mandatory procedure prescribed under Sections 4, 5A, and 6 of the Act of 1894 had not been properly followed, thereby vitiating the entire acquisition process.

6. During the pendency of the writ petition, interim orders were passed, including a stay on acquisition proceedings, which was later set aside by the Division Bench in D.B. S.A.W. 1294/2012. The matter eventually reached the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No. 37292/2012, which directed

maintenance of status quo and expeditious disposal of the writ petition. Ultimately, the writ petition came to be decided on 09.05.2023.

7. Hence, this appeal.

8. Learned counsel for the appellants submits that the provisions of Section 4 of the Land Acquisition Act, 1894 were duly complied with, and the notification dated 26.05.2011 was published through all modes as prescribed under the Act. It was contended that the declaration under Section 6 dated 05.07.2012 was preceded by a detailed enquiry conducted by the Land Acquisition Officer (LAO) under Section 5A, wherein adequate opportunity of hearing was afforded to all concerned persons. The respondents, in fact, availed such opportunity and filed their objections before the LAO.

9. It is further submitted that after filing objections, the respondents, despite appearing through counsel, chose not to participate further in the proceedings. Consequently, the LAO proceeded to consider the material available on record along with the reply submitted by the Appellant and prepared a report under Section 5A of the Act. The LAO duly considered and adjudicated upon the objections, including issues relating to title of land, jurisdiction of the LAO, and the public purpose underlying the acquisition. Upon such consideration, the LAO concurred with the reply filed by the Appellant and concluded that the land in question was required for a public purpose, namely, development of a Metro Depot, and accordingly recommended issuance of declaration under Section 6 to the State Government.

10. The Learned Counsel further submits that the State Government, upon receipt of the LAO's report, independently applied its mind and considered the overall circumstances necessitating acquisition of the land. It was observed that the acquisition was essential in view of the length of the Metro line, the number of stations proposed in Phase-II vis-à-vis Phase-I, and the provisions contained in the DPR. After due deliberation, the Government found the acquisition to be reasonable and justified, and accordingly issued the declaration under Section 6 of the Act of 1894, which, it was argued, cannot be termed as illegal or arbitrary.

11. It is also submitted that the land in question is indispensable for the development of a Metro Depot, which requires a large contiguous parcel of land for construction of essential infrastructure, including depot buildings, storm water drains, sewer lines, electrical and signaling trenches, circulating roads, metro lines, stations, and other ancillary structures. It was emphasized that Phase-II of the Metro project, extending approximately 23.099 kilometers as compared to 12.067 kms in Phase-I, necessitated a suitably located and sufficiently large depot, and technical experts had identified the subject land as most appropriate.

12. The Learned Counsel further submitted that detailed replies were furnished to each objection raised by the respondents, including their suggestion to acquire alternate land. It was contended that the determination of the site for a Metro Depot is a matter within the domain of the competent authorities and is based on technical considerations such as route alignment and

operational requirements. Therefore, the respondents cannot insist on acquisition of alternate land or challenge such decisions under Article 226 of the Constitution.

13. Additionally, it was argued that the impugned order of the learned Single Judge suffers from a fundamental error in treating proceedings under Sections 5A and 6 as judicial or quasi-judicial in nature, whereas in law, such proceedings are administrative. It was contended that administrative decisions are not required to be supported by detailed reasons unless expressly mandated by statute, and the absence of elaborate reasoning does not vitiate such decisions.

14. The Learned Counsel also relied upon settled legal principles to contend that a declaration under Section 6(1) is conclusive evidence of the satisfaction of the Government regarding the existence of a public purpose, and the scope of judicial review in this regard is limited. It was further submitted that the report of the LAO is merely recommendatory in nature and is not required to be communicated to landowners, nor is there any requirement of affording a second hearing by the Government at the stage of Section 6. It was contended that while the LAO is required to apply its mind while preparing the report, it is not obligatory to deal with each objection in elaborate detail, and the report prepared in the present case satisfies the requirements of law.

15. Learned counsel relies on **Province of Bombay v Khushaldas S. Advani AIR 1950 SC 222; Patel Gandlal Somnath and others v. State of Gujarat & Ors. AIR 1963 Gujarat 50 DB; Jayantilal Amrat Lal Shodhan vs. F.N. Rana and others AIR 1964 SC 648** to submit that where there is only

one party, the action would be administrative unless there is a duty to act judicially and where the language of the statute indicates with sufficient clearness that the function be regarded as administrative function.

16. Learned Counsel also submits that in the case of **Aircraft Employees Housing Cooperative Society Ltd. Vs. Secretary, Rural Development & Panchayat Raj. Govt. of Karnataka, Bangalore & Ors. (1996) 11 SCC 475**, the Hon'ble Apex Court held that when the petitioner himself was absent on the scheduled date of hearing, it cannot be assumed that the petitioner has not been given an opportunity of hearing.

17. Further, he submits that in **Abdul Hussain Tayabali etc. vs. State of Gujarat AIR 1968 SC 432**, it was held that Section 5A is only of recommendatory value and not binding upon the Government. There is no provision for giving the second opportunity before issuance of notification under section 6.

18. Per contra, learned counsel for the respondents have supported the judgment passed by the learned Single Judge and submitted that the writ petitioners-respondents were not granted fair opportunity of hearing as required under Section 5-A of the Land Acquisition Act. It is submitted that merely because the writ petitioners-respondents' counsel was not present on the day fixed for filing of the rejoinder, the LAO could not have concluded the proceedings and sent the report to the State Government subsequently on the next date, i.e. 18.05.2012.

19. He submits that the date 18.05.2012 was not notified to the parties and their valuable land has been wrongfully acquired without following the necessary requirement of hearing objections

under Section 5A of the Act of 1894. He relies on the judgments passed in the case of **Kamal Trading (P) Ltd. vs. State of West Bengal: (2012) 2 SCC 25.**

20. Learned counsel for the respondents have further submitted that the LAO has failed to apply his mind to the contentions raised by the objectors and has merely recorded the reason for rejecting the objections that the land was required for public purpose.

21. Learned counsel has also submitted that the entire record was not examined by the State Government before issuing notice under Section 6 of the Act of 1894. The mandatory provisions of Section 5A of the Act of 1894 have been cursorily ignored. He insists that the proceedings under Section 5A cannot be said to be merely administrative in nature, but are quasi judicial in nature as held in **State of Mysore Vs. V.K. Kangan: (1976) 2 SCC 895, Shyam Nandan Prasad Vs. State of Bihar: (1993) 4 SCC 255** and **Kranti Associates Vs. Masood Ahmed: (2010) 9 SCC 496.**

22. It is his further submission that the State Government also did not apply its mind to the report of the LAO without examining whether there is any need of the land for the purpose of acquisition.

23. It is also submitted that a large number of trees have grown there, and the Metro Rail project has already been completed. Therefore, even if the land was earlier required, it now deserves to be de-acquired, as it will no longer be put to use since the metro rail has already been set up.

24. Section 5A of the Act of 1894, reads as under:

**"5A. Hearing of objections.** - (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, [within thirty days from the date of the publication of the notification], object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard [in person or by any person authorized by him in this behalf] or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, [either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government]. The decision of the [appropriate Government] on the objections shall be final.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.]"

25. From a perusal of the aforesaid provision, it is apparent that where an acquisition is not required to be done for emergent purposes, the Collector shall receive objections, and the objectors shall be afforded an opportunity of being heard, whereafter the Collector/LAO shall submit a report.

26. The learned Single Judge has noted that the LAO issued appropriate notice to the objectors to raise their objections to the proposed acquisition. Not only did the writ petitioners submit their objections, but the JMRC also filed its response thereto. After considering all relevant aspects, the LAO proceeded to submit his report and rejected the objections.

27. However, we find that the learned Single Judge proceeded to examine the report of the LAO as if sitting in appeal. It is well

settled that, while exercising jurisdiction in a writ petition, the Court is concerned only with the decision-making process and not with the actual decision itself.

28. The Hon'ble Apex Court in the case of **State of Haryana v. Gopi Nath & Sons, 1992 Supp (2) SCC 312** has discussed the scope of Judicial review. The relevant observation is as follows:-

*"8. But here what was assailed was the correctness of findings as if before an appellate forum. Judicial review, it is trite, is not directed against the decision but is confined to the decision making process. Judicial review cannot extend to the examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual receives fair treatment and not to ensure that the authority after according fair treatment reaches, on a matter which it is authorised by law to decide, a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It will be erroneous to think that the Court sits in judgment not only on the correctness of the decision making process but also on the correctness of the decision itself"*

29. Further in the case of **State of A.P. v. Sree Rama Rao, 1963 SCC OnLine SC 6; Union of India v. Dwarka Prasad Tiwari, (2006) 10 SCC 388; Sushil Kumar v. State of Haryana, (2022) 3 SCC 203**, the Hon'ble Apex Court has held that the scope of judicial review is limited to the deficiency in decision-making process and not the actual decision.

30. Learned Single Judge has allowed the writ petition on the ground of non-compliance of Section 5A of the Act of 1894. In **Kalumiya Karimmiya v. State of Gujarat, (1977) 1 SCC 715**, the Apex Court held as under:

*"6. Mr Dave confines his submissions before us only to the following points; which we will deal with seriatim.*

*7. First, that in spite of the appellant's request for furnishing a copy of the report under Section 5-A the*

Collector did not grant him a copy. He further complains that there was no proper and adequate hearing under Section 5A(2) of the Act. According to the learned counsel a proper hearing would include furnishing of a copy of the report under Section 5A. We are unable to accept this submission. Although, ordinarily, there should be no difficulty in furnishing a copy of the report under Section 5-A to an objector, when he asks for the same, it is not a correct proposition that hearing under Section 5-A is invalid because of failure to furnish a copy of the report at the conclusion of the hearing under the said section. Unless there are weighty reasons, a report in a public enquiry like this, should be available to the persons who take part in the enquiry. But failure to furnish a copy of the report of such an enquiry cannot vitiate the enquiry if it is otherwise not open to any valid objection. Apart from this solitary ground, our attention has not been drawn to any infirmity in the hearing under Section 5A. We are therefore, unable to hold that the said enquiry under Section 5-A was invalid.

8. The matter would have been different if a second enquiry were essential under the law at the stage when the State Government was considering the report under Section 5-A for issuing its declaration under Section 6 of the Act. We are, however, clearly of opinion that there is no reason to hold that a second hearing by the State Government at the stage is necessary under Section 6 of the Act. (See *Abdul Husein Tayabali v. State of Gujarat* [AIR 1968 SC 432 : (1968) 1 SCR 597 : (1968) 2 SCJ 425] .) Since that is the position in law, failure to furnish a copy of the report under Section 5-A is innocuous. The matter, again, may be different if there is a proper allegation of mala fide against the Collector or the State Government. There is no such allegation in this case. The first submission of the learned counsel is, therefore, devoid of substance.

9. The learned counsel next contends that there was considerable delay between the notification under Section 4 which was issued on June 7, 1966, and the declaration under Section 6 made on January 13, 1969. Since numerous dags of land belonging to a number of persons were the subject-matter of acquisition and individual objections had to be heard, we do not think that there has been any inordinate delay in making the notification. Even, the appellant has not submitted, before the High Court a copy of his written objection nor is the same produced before us to indicate when his objections were actually filed and whether he was not also responsible for some delay in the conclusion of the enquiry. The delay in this case is only about 2½ years and, as we have said, there is not even a clear statement of the responsibility for delay which may be attributable to

*the Government. The second submission of the learned counsel is also of no avail."*

31. In **Sam Hiring Co. v. A.R. Bhujbal, (1996) 8 SCC 18**, the question was whether the land appurtenant to the land being used for construction was required to be acquired. It was held as under:

*"5. The question then is: Whether the appellant is entitled to the further hearing? After the report was submitted by the Executive Engineer with regard to the objections raised by the appellant, the Division Bench of the High Court has pointed out that the Land Acquisition Officer had considered the objections after hearing him and with a view to satisfy himself whether the objections raised by the appellant were tenable, he required factual material and so he called for the report from the Executive Engineer. The Executive Engineer's report was submitted clearing the position and the finding is not adverse to the appellant but beneficial to him. Therefore, the need to give further opportunity does not arise nor is there any need to call the Executive Engineer for cross-examination. Accordingly, the principle of natural justice has not been violated."*

32. In almost a similar case from Karnataka reported in **Aircraft Employees' Housing Coop. Society Ltd. v. Secy., Rural Development and Panchayat Raj, Govt. of Karnataka, (1996) 11 SCC 475**, where on the date, the landowner failed to appear and the LAO submitted his report, the Apex Court held as under:

*"5. The next question is whether the view taken by the High Court that the enquiry under Section 5-A is vitiated in law, is correct? In our view, the High Court has not correctly interpreted the legal position. It is seen that the respondent was given opportunity thrice to file his objections. At his instance the case was posted for hearing on 30-11-1981 on which date neither the respondent nor his counsel was present. Under these circumstances, the respondent having failed to present himself either in person or through counsel on 30-11-1981, the omission to give a right of hearing to him does not vitiate enquiry under Section 5-A. On the other hand, the respondent denied himself of the opportunity of being heard. Therefore, enquiry under Section 5-A is not vitiated by the error of law. Consequently, the declaration under Section 6 is not vitiated by any error of law. Shri Juneja equally is not correct in contending that even under the unamended Act by operation of the first proviso to Section 6(1), the three years' period had expired by 19-11-1994*

and therefore, the notification under Section 4(1) stood elapsed. Admittedly, the notification under Section 4(1) was published on 24-11-1981. The writ petition was filed in 1982 sometime after October 1982. Therefore, the stay was granted. In the interregnum, the Government was disabled to take further steps and, therefore, it cannot be said that though the stay was granted the notification under Section 4(1) stood elapsed for non-publication of the declaration under Section 6 within three years up to 23-9-1994. We place on record our deep appreciation for the valuable assistance rendered by Shri Juneja."

33. Thus, Section 6 notification cannot be said to be vitiated solely because the LAO did not wait for the objectors to appear again, despite their having been informed of the dates.

34. Once the LAO submitted his report stating that the objections were rejected on the ground that the land was being acquired for a public purpose, the same must be treated as a sufficient decision on his part. He was not required to deal with each and every objection individually, particularly in the absence of any representation on behalf of the writ petitioners when the matter was taken up on the date fixed by the LAO for filing a rejoinder.

35. It is apparent that the LAO heard the submissions of the representative of the Jaipur Metro and thereafter fixed the matter for 18.05.2012 for submission of the report. If the writ petitioners had been diligent in pursuing their objections, they would have made inquiries with the office of the LAO and filed appropriate applications. However, it appears that the writ petitioners approached the Court only after the report had been submitted and the notification under Section 6 had been issued.

36. Persons who sleep over their rights or allow proceedings to continue without any demur cannot subsequently be permitted to turn around and challenge the consequential actions. Once Section

6 notice has been issued, the proceedings under Section 5A of the Act of 1894 stand terminated and the learned Single Judge, with great respect, has failed to address these aspects and therefore, the judgment passed by the learned Single Judge cannot be sustained.

37. In the case of **Haryana Urban Development Authority v. Abhishek Gupta, 2024 SCC OnLine SC 2991**, the Hon'ble Apex Court while dealing with this issue held as under:

*"17. The choice of different terminologies for the role of the Collector and the role of the Government makes it evident that the Legislature intended different roles for each of them. The Collector has no power to "decide" the case and can only give "recommendations" to the Government. It is the Government which is the ultimate arbiter for determining whether the land is to be released or not. No other authority can dictate the outcome of Section 5A proceedings—neither the Collector nor the landowner.<sup>5</sup> While the Collector's report can form the "basis" of such decision, the Government is free to independently evaluate and take a final decision, of course, based on relevant and lawful considerations."*

38. At the same time, while we uphold the acquisition, we cannot lose sight of the fact that several trees are growing on the concerned land, which also require due protection. Modern techniques have now been developed for transplanting large trees from one place to another. Such trees can be relocated along with their roots and successfully regrown at another site.

39. We have a considerable amount of land available in and around Jaipur where trees can be grown, including areas such as Jhalana Wildlife Sanctuary as well as in and around Chandlai Lake. Trees can also be regrown along the sides of highways. Therefore, appropriate steps must be taken for the relocation and regrowth of the trees existing on the concerned land.

40. One of the contentions raised by the respondents, namely that the project is already over, is found to be wholly misconceived. Metro rail has expanded significantly, and we have already witnessed two phases of the metro system being developed in the Pink City of Jaipur. We cannot lose sight of the fact that a city evolves over years and centuries. There is a constant increase in population, which must be catered to by appropriate means of transportation, and metro rail systems provide an effective solution. Recently, when the case was reserved, we have noticed that a third phase of metro railway has also been announced by the State Government.

41. It is noteworthy to mention that conservation of environment and developmental activities go hand in hand.

42. Moreover, the Court has to weigh public interest vis-a-vis the private interest while exercising the power under Article 226 of the Constitution. In the case of **Ramniklal N. Bhutta v. State of Maharashtra, AIR 1997 SC 1236**, the Hon'ble Apex Court has highlighted the same as under-

*"10. Before parting with this case, we think it necessary to make a few observations relevant to land acquisition proceedings. Our country is now launched upon an ambitious programme of all-round economic advancement to make our economy competitive in the world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with China economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as "Asian tigers", e.g., South Korea, Taiwan and Singapore. It is, however, recognised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our country. The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without any delay. It is, however, natural that in most of these cases, the persons affected challenge*

*the acquisition proceedings in courts. These challenges are generally in the shape of writ petitions filed in High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power of granting stay/injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. Even in a civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The courts have to weigh the public interest vis-à-vis the private interest while exercising the power under Article 226 — indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings.”*

43. We, therefore, cannot, while exercising jurisdiction under Article 226 of the Constitution of India, presume that land which has been acquired would not be required for future projects concerning the metro railway. The contention of the respondents in this regard is, therefore, rejected.

44. However, adequate compensation has to be determined and released to the entitled parties in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as held in the case of **Indore Development Authority (LAPSE-5 J.) v.**

**Manoharlal, (2020) 8 SCC 129.** As per the provisions of Section 24(1)(a), in case the award is not made as on 1-1-2014, the date of commencement of the 2013 Act, there is no lapse of proceedings.

45. In view of above, we allow the appeals and set aside the judgment dated 09.05.2023 passed by the learned Single Judge, and direct the Jaipur Metro Rail Corporation to take possession of the land in question.

46. However, the trees shall be transplanted and regrown at appropriate sites to be earmarked by the Jaipur Development Authority and the Forest Department. At the same time, the JMRC shall also undertake additional plantation by growing twice the number of trees being relocated from the concerned land, in areas designated for forests in and around Jaipur, as well as near water bodies and wetlands.

47. A report in this regard shall be filed before this Court and the case will be listed only for that purpose in the month of August 2026.

48. All pending applications also stand disposed of.

(SANGEETA SHARMA),J

(SANJEEV PRAKASH SHARMA),ACTING CJ

Govind/Gaurav