

**WA No. 2123 of 2015
C/W WA No. 2121 of 2015
WA No. 2122 of 2015
AND 1 OTHER**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 2123 OF 2015 (LA-RES)

C/W

WRIT APPEAL NO. 2121 OF 2015 (LA-RES)

WRIT APPEAL NO. 2122 OF 2015 (LA-RES)

WA CROSS OBJECTION NO. 2 OF 2022 (LA-RES)

IN WA No. 2123/2015

BETWEEN:

1. THE DEFENCE RESEARCH
DEVELOPMENT ORGANISATION,
(DRDO), LRD COMPLEX,
C V RAMAN NAGAR,
BENGALURU-560 073
REPRESENTED BY ITS ESTATE MANAGER

...APPELLANT

(BY SRI. ARAVIND KAMATH, SENIOR COUNSEL FOR
SRI. JAYAKARA SHETTY H., ADVOCATE)



AND:

1. SPECIAL LAND ACQUISITION OFFICER
BANGALORE EAST TALUK
3RD FLOOR, PODIUM BLOCK,
SRI VISWESWARIAH TOWER,
BANGALORE-560 001.
2. STATE OF KARNATAKA
DEPARTMENT OF REVENUE,
BY ITS ADDITIONAL SECRETARY,
M S BUILDING, DR AMBEDKAR ROAD,

BANGALORE-560 001

3. SRI C ANAND
SINCE DEAD BY LRS.,

3(a) KRISHNAVENAMMA
W/O LATE C. ANAND
AGED ABOUT 63 YEARS

3(b) A HEMANTH KUMAR
S/O LATE C. ANAND
AGED ABOUT 39 YEARS

3(c) A. NAVEEN KUMAR
S/O LATE C. ANAND
AGED ABOUT 39 YEARS

3(d) A. SUNIL KUMAR
S/O LATE C. ANAND
AGED ABOUT 37 YEARS

ALL ARE RESIDING AT 39/12
7TH MAIN, APPAREDDY PALYA
INDIRANAGAR
BENGALURU- 560025

4. SRI N M KRISHNA REDDY
SINCE DEAD BY LRS.,

4(a) SMT K VINUTHA
W/O LATE N M KRISHNA REDDY
AGED ABOUT 71 YEARS,

4(b) N K SUDHISH REDDY
S/O LATE N M KRISHNA REDDY
AGED ABOUT 49 YEARS,

4(c) K KAVITHA
D/O LATE N M KRISHNA REDDY
AGED ABOUT 47 YEARS,

4(d) N K SUNIL KUMAR

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S/O LATE N M KRISHNA REDDY
AGED ABOUT 45 YEARS,

R4(a) TO R4(d) ALL ARE
R/AT DODDA NEKKUNDI
1ST MAIN ROAD,
BENGALURU - 560037.

5. SRI H NARAYANA REDDY
S/O LATE HANUMAPPA REDDY,
AGED ABOUT 72 YEARS
R/AT DODDA BANASWADI VILLAGE,
K R PURAM HOBLI,
BENGALURU EAST TALUK,
PIN-560 036.

...RESPONDENTS

(BY SRI. N.BYRE GOWDA, AGA FOR R1 AND R2;
SRI. M.S.BHAGWAT, SENIOR ADVOCATE FOR
SRI. MUNIYAPPA FOR R3(a-d), R5, R4(a-d))

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER PASSED IN THE WRIT PETITION Nos.8395/2011 AND
8492/2011 DATED 30/04/2014.

IN WA NO. 2121/2015

BETWEEN:

1. UNION OF INDIA
MINISTRY OF DEFENCE,
ESTATE MANAGEMENT UNIT,
(DRDO) COMPLEX,
C.V. RAMAN NAGAR,
BENGALURU 560093
REPRESENTED BY ITS ESTATE
MANAGER

...APPELLANT

(BY SRI. ARVIND KAMATH, SENIOR COUNSEL FOR
SRI. JAYAKARA SHETTY H., ADVOCATE)

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WA No. 2122 of 2015
AND 1 OTHER**

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF REVENUE,
BY ITS PRINCIPAL SECRETARY,
VIKASA SOUDHA,
DR AMBEDKAR ROAD,
BANGALORE 560001
2. THE SPECIAL DEPUTY COMMISSIONER
BANGALORE URBAN DISTRICT,
K.G ROAD, BANGALORE 560009
3. SPECIAL LAND ACQUISITION OFFICER
3RD FLOOR, PODIUM BLOCK,
DR. AMBEDKAR ROAD,
VISHWESWARIAH TOWER,
BANGALORE 560001
4. SMT. KRISHNAMMA
SINCE DEAD BY LRs.,
- 4(a) SRI B M VIJAYKUMAR
S/O LATE B.M.MUDDAPPA,
AGED ABOUT 69 YEARS,
R/AT NO.96/1B, BYRASANDRA,
C V RAMAN NAGAR POST,
BENGALURU - 560093.
- 4(b) SRI B M VENKATESH
S/O LATE B.M.MUDDAPPA
AGED ABOUT 67 YEARS,
R/AT NO.63, NEAR ANJENEYA TEMPLE,
BYRASANDRA, C V RAMAN NAGAR POST,
BENGALURU - 560093.
- 4(c) SRI DEVARAJU B M
S/O LATE B.M.MUDDAPPA,
AGED ABOUT 63 YEARS,
R/AT NO.136, NEAR MOTAPPA COMPUND,
BYRASANDRA,
C V RAMAN NAGAR POST,

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BENGALURU - 560093.

- 4(d) SRI LOKESH B M
S/O LATE B.M.MUDDAPPA,
AGED ABOUT 59 YEARS,
R/AT NO.133, BYRASANDRA,
C V RAMAN NAGAR POST,
BENGALURU - 560093.

...RESPONDENTS

- (BY SRI.N. BYRE GOWDA, AGA FOR R1 TO R3;
SRI. VENKATRAMAREDDY, ADVOCATE FOR R4(d);
SRI. UDAYA HOLLA, SENIOR ADVOCATE FOR
SRI. C.M.NAGABHUSHANA, ADVOCATE FOR R4(a to c))

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER PASSED IN THE WRIT PETITION NO.6392-6396/2011
DATED 30/04/2014.

IN WA NO. 2122/2015

BETWEEN:

1. UNION OF INDIA
MINISTRY OF DEFENCE,
ESTATE MANAGEMENT UNIT,
(DRDO) COMPLEX,
SIR C.V. RAMAN NAGAR,
BENGALURU 560093
REPRESENTED BY ITS ESTATE
MANAGER

...APPELLANT

- (BY SRI. ARVIND KAMATH, SENIOR COUNSEL FOR
SRI. JAYAKARA SHETTY H., ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF REVENUE,
BY ITS PRINCIPAL SECRETARY,
VIKASA SOUDHA,
DR AMBEDKAR VEEDHI,

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AND 1 OTHER**

BANGALORE 560001

2. THE SPECIAL DEPUTY COMMISSIONER
BANGALORE URBAN DISTRICT,
K.G ROAD, BANGALORE 560009
3. SPECIAL LAND ACQUISITION OFFICER
3RD FLOOR,
PODIUM BLOCK,
DR. AMBEDKAR ROAD,
VISHWESWARIAH TOWER,
BANGALORE 560001
4. SRI R.SURENDRA BABU
S/O SRI V.RAMIAH,
AGED ABOUT 44 YEARS,
RESIDING AT NO.49,
19TH J CROSS,
KAGGADASAPURA,
SIR C.V. RAMAN NAGAR POST,
BENGALURU 5600093

...RESPONDENTS

(BY SRI.N.BYRE GOWDA, AGA FOR R1 TO R3;
SRI. UDAY HOLLA, SENIOR ADVOCATE FOR
SRI. C.M.NAGABHUSHANA, ADVOCATE FOR R4)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER PASSED IN THE WRIT PETITION 912/2011 DATED
30/04/2014.

IN WA.CROB NO. 2/2022:

BETWEEN:

1. R.SURENDRA BABU
S/O LATE V RAMIAH
AGED ABOUT 58 YEARS,
R/AT NO.49, 19TH J CROSS
KAGGADASAPURA
SIR C B RAMAN NAGAR POST
BENGALURU -560093. .. CROSS OBJECTOR

WA No. 2123 of 2015
C/W WA No. 2121 of 2015
WA No. 2122 of 2015
AND 1 OTHER

(BY SRI. UDAYA HOLLA, SENIOR COUNSEL FOR
SRI. C M NAGABUSHANA., ADVOCATE)

AND:

1. UNION OF INDIA
MINISTRY OF DEFENCE
ESTATE MANAGEMENT UNIT
DRDO COMPLEX
C V RAMAN NAGAR POST
BENGALURU -560093
REP BY ITS ESTATE MANAGER
2. STATE OF KARNATAKA
DEPARTMENT OF REVENUE
BY ITS PRINCIPAL SECRETARY
VIKASA SOUDHA
DR AMBEKAR ROAD
BENGALURU -560001
3. THE SPECIAL DEPUTY COMMISSIONER
BENGALURU URBAN DISTRICT
K G ROAD, BENGALURU -560009
4. SPECIAL LAND ACQUISITION OFFICER
3RD FLOOR
PODIUM BLOCK
DR AMBEDKAR ROAD
VISVESWARAIAH TOWER
BENGALURU -560001

...RESPONDENTS

(BY SRI. N.BYRE GOWDA, AGA FOR R2 TO R4;
SRI. ARVIND KAMATH, ASG FOR
SRI. H.JAYAKARA SHEETY, CGC FOR R1)

THIS WRIT APPEAL CROB. IS FILED UNDER SECTION 4
OF THE KARNATAKA HIGH COURT ACT PRAYING TO MODIFY
THE PORTION OF THE ORDER DATED 30.04.2015 PASSED IN
WP No-912/2011 BY LEARNED SINGLE JUDGE IN FOR AS
ANSWER No-2 BY ANSWERING IN FAVOUR OF THE CROSS/

**WA No. 2123 of 2015
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AND 1 OTHER**

OBJECTOR/WRIT PETITIONERS AND AGAINST THE
RESPONDENTS IN THE INTEREST OF JUSTICE AND EQUITY.

THESE WRIT APPEALS ALONG WITH WRIT APPEAL CROB.
HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON
13.08.2026, COMING ON FOR PRONOUNCEMENT THIS DAY,
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN
PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

***National security is paramount and must always
take precedence over individual interests or personal
rights. While personal rights are undoubtedly precious,
they cannot be asserted in a manner that compromises
the safety and security of the nation. The nation must
come first, for the protection of the country is the
foundation upon which all individual rights and freedoms
securely rest. Institutions such as the Defence Research
and Development Organisation ('DRDO'), through their
continuous research, technological innovation and
development of advanced defence systems, work
tirelessly to safeguard the nation and strengthen its
security. In the modern era, when the nation faces***

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increasingly sophisticated threats in the fields of cyber warfare, artificial intelligence and advanced technology, the research and functioning of the Centre for Artificial Intelligence and Robotics ('CAIR') assume vital importance. Its continued research and technological advancement are essential to strengthening the nation's defence preparedness, protecting critical systems and safeguarding the sovereignty, security and integrity of the country.

Brief facts relevant for disposal of these writ appeals are, the present writ petitions in question arise out of the acquisition of lands situated at Benniganahalli Village, K.R. Puram Hobli, Bengaluru East Taluk. The lands involved in the proceedings comprise Sy.No.107/1 measuring 1 acre 3 guntas, Sy.No.108/2 measuring 10 guntas, Sy.No.108/5B measuring 5 guntas, Sy.No.108/9 measuring 3 guntas and Sy.No.109/1 measuring 6 guntas. The petitioners claim to be the owners in possession and enjoyment of the respective lands. The acquisition proceedings were initiated for the stated purpose of the Defence Projects of the Union of India. The challenge in the writ petitions is principally directed against the final declaration

issued under Section 6(1) of the Land Acquisition Act, 1894.
(‘the Act’).

2. Since these connected writ appeals arise out of the orders passed by the learned Single Judge and involve common questions of fact and law, W.A.No.2121 of 2015 is treated as the lead appeal for the purpose of reference and disposal. For the sake of convenience and to avoid confusion, the parties are referred to according to their ranks before the learned Single Judge.

3. It is pleaded that earlier, the State Government had issued a preliminary notification dated 22.01.1987 under Section 4(1) read with Sections 17(1) and 17(4) of the Act, proposing to acquire a larger extent of land for Defence Projects. These acquisition proceedings were questioned before this Court in various writ petitions. By order dated 31.05.1988, this Court partly allowed the petitions and directed the authorities to conduct an enquiry under Section 5-A of the Act, after affording an opportunity to the landowners to submit their objections. Pursuant thereto, objections were filed and an enquiry was stated to have been conducted. A declaration

under Section 6(1) of the Act was thereafter issued on 30.05.1989. The declaration dated 30.05.1989 was thereafter challenged in W.P.No.15916/1989, which came to be dismissed on 22.08.1996.

4. The petitioners further plead that the award in respect of the lands in question was not passed within the prescribed period, though awards in respect of other lands were passed between the years 1991 and 1993. In the meantime, certain lands were de-notified by the State Government. Possession of a substantial portion of the acquired lands was stated to have been handed over to the Defence authorities during 1993–1994. The de-notification was challenged in W.P.Nos.38638–38646/1998, which were dismissed on 25.01.2000 on the ground of delay and laches. The said order was questioned in W.A.Nos.2002–2010/2000 and the appeals came to be partly allowed on 24.08.2000. The remaining dispute thereafter travelled to the Supreme Court in Civil Appeal Nos.6362–6368/2001 and connected matters, which ultimately came to be settled by way of compromise.

5. As the award in respect of the lands involved in the present proceedings had not been passed within time, the authorities issued a fresh preliminary notification dated 09.06.2005 under Section 4(1) read with Sections 17(1) and 17(4) of the Act. The petitioners challenged the said notification in W.P.No.21948/2005, particularly questioning the invocation of the urgency provisions and the denial of an opportunity of hearing under Section 5-A of the Act. By order dated 22.08.2008, this Court partly allowed the writ petition, quashed the invocation of the urgency clause and directed the authorities to conduct an enquiry under Section 5-A of the Act.

6. Pursuant to the said order, notice was issued to the petitioners calling upon them to submit their objections. The petitioners submitted their objections and their authorised representative appeared before the Special Land Acquisition Officer.

7. Thereafter, the State Government issued the impugned declaration under Section 6(1) of the Act, bearing impugned Notification dated 14.09.2010. It is the specific case of the petitioners that their objections were not considered in

the proper perspective and that the enquiry was concluded without a meaningful and effective opportunity of hearing. The petitioners also pleaded that alternative lands were available and that the necessity and suitability of acquiring the lands in question had not been properly examined. According to them, the Special Land Acquisition Officer merely forwarded the objections with a recommendation for acquisition, without recording a proper consideration of the objections. It is on these grounds that the petitioners approached this Court seeking quashing of the acquisition proceedings relating to the schedule lands. In support of their contentions, the petitioners placed reliance on the following decisions:

- (i) ***Women's Education Trust and Another v. State of Haryana and Others*¹**, wherein reliance was placed on certain paragraphs of the earlier decision in ***Kamal Trading (P) Ltd. v. State of W.B.*²**, (2012) 2 SCC 25.
- (ii) ***Dev Sharan v. State of U.P.*³**
- (iii) ***Radhy Shyam (Dead) through LRs. and Others v. State of Uttar Pradesh and Others*⁴**,

¹ (2013) 8 SCC 99

² (2012) 2 SCC 25

³ (2011) 4 SCC 769

⁴ (2011) 5 SCC 553

***(iv) Greater Noida Industrial Development Authority
v. Devendra Kumar and Others⁵,.***

8. The respondents, including the fourth respondent, oppose the writ petitions. According to the fourth respondent, the acquisition was undertaken for a genuine public purpose, namely, the establishment and completion of a Defence Research Laboratory. It is stated that the lands were required for the Defence Projects and that the acquisition was not intended to advance any private or personal interest. The fourth respondent asserts that the acquisition has to be considered in the context of the larger extent of land already acquired and made available for the Defence Department.

9. The fourth respondent refers to the earlier acquisition proceedings initiated by the notification dated 22.01.1987, followed by the declaration dated 30.05.1989. It is stated that the objections of the landowners were considered in the earlier proceedings and that the declaration was challenged in W.P.No.15916/1989, which was dismissed on 22.08.1996. The fourth respondent further states that, while awards were passed in respect of other lands between 1991 and 1993, the

⁵ (2011) 12 SCC 375

award relating to the lands measuring approximately 1 acre 27 guntas was not passed within time. According to the fourth respondent, the State Government subsequently de-notified approximately 44 acres without its knowledge, and possession of about 40 acres was handed over to it during 1993–1994.

10. The fourth respondent states that the de-notification was challenged in W.P.Nos.38638–38646/1998. Though the writ petitions were dismissed on 25.01.2000 on the ground of delay and laches, the subsequent writ appeals, namely W.A.Nos.2002–2010/2000, were partly allowed on 24.08.2000. The remaining dispute was thereafter carried to the Supreme Court in Civil Appeal Nos.6362–6368/2001 and connected matters, which ended in a compromise. According to the fourth respondent, by the end of the year 2000, it had obtained possession of approximately 54 acres of land and the lands involved in the present writ petitions were surrounded by the lands delivered to it.

11. It is the specific stand of the fourth respondent that the lands in question form part of the larger protected area of the Defence Research Laboratory and that the CAIR is one of

the premier Defence Laboratories of the country. The fourth respondent states that the work towards the project had commenced in full swing and that the lands utilised for the laboratory had been protected by a compound wall for security reasons. It is further stated that the lands of the petitioners fall within the protected area and that their exclusion would affect the continuity and security of the Defence establishment.

12. The fourth respondent also refers to the fresh preliminary notification dated 09.06.2005, issued after the earlier acquisition had lapsed on account of the delay in passing the award. It is stated that the petitioners challenged the said notification in W.P.No.21948/2005 and that, by order dated 22.08.2008, this Court directed the authorities to conduct an enquiry under Section 5-A of the Act. The fourth respondent maintains that, pursuant to the said order, the petitioners were given an opportunity to file objections, an enquiry was conducted, and the objections were considered before the declaration under Section 6(1) was issued on 14.09.2010.

13. The respondents accordingly contend that the acquisition was undertaken for a public purpose connected with

national defence and that the petitioners' lands cannot be viewed in isolation from the larger Defence Project. The fourth respondent disputes the allegation that the acquisition was motivated by any private interest and seeks dismissal of the writ petitions.

14. The learned Single Judge examined the validity of the acquisition proceedings principally with reference to the manner in which the objections of the petitioners were dealt with under Section 5-A of the Act. The Court observed that the right to file objections and to receive an effective hearing under Section 5-A is an important safeguard available to a person whose property is sought to be acquired. Such an opportunity, according to the Court, cannot be reduced to a mere formality, particularly when the exercise of acquisition affects the right to property protected under Article 300-A of the Constitution.

15. The learned Single Judge noticed that the petitioners had filed their objections pursuant to the order dated 22.08.2008 passed in W.P.No.21948/2005. During the course of the enquiry, an adjournment was sought on the ground that the counsel appearing for the petitioners was

unable to effectively represent the petitioners. The Court found that the matter was nevertheless proceeded with and the enquiry was brought to an end without granting a reasonable opportunity to the petitioners' counsel to appear and make submissions. The Court held that, having regard to the nature of the proceedings and the rights involved, a short adjournment ought to have been granted.

16. The Court further examined the report submitted by the Special Land Acquisition Officer. Though the report referred to certain objections raised by the petitioners, the learned Single Judge found that the objections were not meaningfully considered. The report did not disclose why the objections were accepted or rejected, nor did it indicate any proper evaluation of the merits of the objections. The Court held that the report did not demonstrate the necessary application of mind and that a mere reference to the objections, followed by a recommendation for acquisition, could not satisfy the requirements of Section 5-A of the Act.

17. The learned Single Judge also considered the objection relating to the availability of alternative lands. It was

noticed that the petitioners had referred to the availability of alternative lands at Mahadevapura and Kaggadasanapura. According to the Court, the said objection was a relevant circumstance which required consideration by the competent authority. However, the material placed before the Court did not disclose that the availability or suitability of the alternative lands had been examined while taking the decision to proceed with the acquisition.

18. The Court also considered the requirement of forwarding the objections to the department or public body for whose benefit the acquisition was undertaken in accordance with Rules 5(2) and 5(3) of the Karnataka Land Acquisition Rules, 1965 (**'the Rules'**). The order records the grievance that the objections were not properly placed before the DRDO and that the relevant statutory procedure under the Land Acquisition Rules had not been effectively followed. The Court was of the view that the decision-making process was vitiated by procedural irregularity, absence of effective hearing and failure to demonstrate proper consideration of the objections.

19. The learned Single Judge consequently held that the enquiry under Section 5-A had not been conducted in the manner required by law and that the recommendation of the Special Land Acquisition Officer did not satisfy the statutory requirements. The Court therefore allowed the connected writ petitions and quashed the acquisition proceedings challenged therein.

20. The Court held that the failure to conduct a proper and effective enquiry under Section 5-A of the Act, coupled with the absence of proper application of mind to the objections, rendered the subsequent declaration under Section 6(1) unsustainable.

21. At the same time, the Court clarified that the quashing of the acquisition proceedings would not prevent the State from initiating fresh acquisition proceedings, if the lands were genuinely required for a public purpose. Any such fresh proceedings, however, were required to be initiated and completed in accordance with law and after complying with the statutory safeguards available to the landowners. The writ petitions were accordingly allowed.

22. Aggrieved by the said order, the fourth respondent has preferred the present intra-Court appeal assailing the findings recorded by the learned Single Judge.

23. We have heard Sri.Aravind Kamath, learned Senior Counsel for respondent No.4/Ministry of Defence, Sri.Byre Gowda, learned AGA for the State and Sri. M.S.Bhagwat, learned Senior Counsel for respondent and Sri.Udaya Holla, learned Senior Counsel for the petitioners and Sri.Venkataramareddy, learned counsel for the petitioners.

24. The respondent No.4 contends that the learned Single Judge was not justified in quashing the entire acquisition proceedings, particularly when the lands were sought to be acquired for the Defence Projects of the Union of India. It is urged that the acquisition was undertaken for a public purpose of considerable importance and that the requirement of the Defence Department could not have been examined in the same manner as an ordinary acquisition for a private or commercial purpose.

25. The respondent No.4 further contends that the learned Single Judge erred in holding that the objections filed

by the petitioners under Section 5-A of the Act had not been properly considered. According to the respondent no 4, the petitioners were issued notice, objections were received, an enquiry was conducted and the Special Land Acquisition Officer submitted his report. It is therefore urged that the statutory requirements had been substantially complied with and that the learned Single Judge ought not to have interfered with the acquisition proceedings on the basis of the alleged procedural defects.

26. It is also urged that the learned Single Judge ought to have considered the earlier acquisition proceedings and the long history of litigation relating to the lands. The respondent no 4 refers to the acquisition initiated in the year 1987, the declaration dated 30.05.1989, the proceedings in W.P.No.1596/1989, the subsequent de-notification, the writ proceedings initiated in W.P.Nos.38638-38646/1998, the writ appeals decided on 24.08.2000 and the proceedings before the Supreme Court which ended in compromise. According to the respondent no 4, these circumstances demonstrate the continuing need of the Defence Department for the larger extent of land.

27. The respondent No.4 contends that the lands involved in the present proceedings cannot be considered separately from the larger area already acquired and handed over to the Defence authorities. It is stated that, by the end of the year 2000, approximately 54 acres had come into the possession of the fourth respondent and that the petitioners' lands were surrounded by the lands so delivered. The respondent no 4 asserts that the lands form part of the protected area of the CAIR and that the project had already commenced.

28. It is further urged that CAIR is a premier Defence Laboratory and that its activities are connected with national security and defence research. The respondent no 4 contends that the learned Single Judge ought to have given due weight to the security requirements of the Defence establishment and to the fact that the lands of the petitioners fall within the area protected by a compound wall. According to the respondent no 4, exclusion of the lands would affect the integrity, security and effective functioning of the Defence Project.

29. The respondent No.4 also contends that, even assuming that there was some irregularity in the consideration of the objections, the learned Single Judge ought not to have quashed the entire acquisition proceedings. It is urged that, in such circumstances, the appropriate course would have been to direct reconsideration of the objections or to order a fresh enquiry, rather than nullifying the acquisition in its entirety and thereby causing prejudice to an important public project.

30. The respondent No.4 accordingly submits that the order dated 30.04.2014 passed by the learned Single Judge in the connected writ petitions is contrary to law and the material on record. They seek setting aside of the said order and dismissal of the writ petitions, in the interest of justice and in order to facilitate completion of the Defence Project for which the lands were acquired.

31. Learned counsel appearing for respondent No.4 submitted that the order passed by the learned Single Judge is contrary to law and opposed to the material on record. It was therefore contended that the impugned order, having regard to

the facts and circumstances of the case, calls for interference by this Court and deserves to be set aside.

32. **Per contra**, learned counsel appearing for the petitioners supported the order passed by the learned Single Judge. It was submitted that the impugned order is well reasoned, based upon a proper consideration of the pleadings and material on record, and does not suffer from any illegality or infirmity warranting interference in the present writ appeal. On the said basis, learned counsel sought dismissal of the appeal.

33. Having given our anxious consideration to the submissions made by the learned senior counsels appearing for the parties, the following point arises for our consideration:

"Whether the impugned order dated 30.04.2014 passed by the learned Single Judge in the connected writ petitions calls for interference by this Court in the present writ appeals?"

34. On a careful consideration of the matter, we are of the opinion that the appeals deserve to be allowed for the following reasons:

35. At the outset, it is necessary to notice that the acquisition in question is not for a private purpose or for the benefit of any individual. The lands are sought to be acquired for the Defence Department for the establishment and completion of the CAIR, which is stated to be one of the premier Defence Laboratories of the country. The records indicate that the acquisition forms part of a larger Defence project, that a substantial extent of land had already been acquired and handed over, and that the lands in question are surrounded by the lands already placed at the disposal of the Defence authorities. The project work had commenced and the area had been protected by a compound wall for security reasons. The schedule lands, therefore, cannot be considered in isolation, divorced from the larger project and the purpose for which the acquisition is undertaken.

36. The learned Single Judge has proceeded principally on the ground that the petitioners were not afforded an effective opportunity in the enquiry under Section 5-A of the Land Acquisition Act and that the objections submitted by them were not properly considered by the competent authority. It is no doubt true that the right to file objections under Section 5-A

is an important statutory safeguard and that the same cannot be reduced to a mere empty formality. At the same time, the validity of the acquisition proceedings has to be examined on the basis of the entire record and the decision-making process as a whole. The question is not whether the order of the acquiring authority is expressed in the most elaborate manner, but whether the objections were received, considered and dealt with by the authority competent to take the decision.

37. In the present case, the material on record discloses that notices were issued to the landowners, objections were filed and an enquiry under Section 5-A was conducted. The objections were thereafter considered by the competent authority and the same were rejected, followed by the issuance of the declaration under Section 6(1) of the Act. The fact that the objections did not find acceptance cannot, by itself, lead to the conclusion that they were not considered. The law does not prescribe any particular form or fixed formula in which an enquiry under Section 5-A is required to be conducted. What is required is due application of mind and a fair consideration of the objections. The appellate record indicates that the acquiring authority had adverted to the objections and had taken a

decision thereon. The mere absence of a detailed discussion of each and every submission cannot, in the facts of the present case, be treated as sufficient to invalidate the entire acquisition proceedings.

38. It is also relevant to note that the alleged irregularity in the consideration of objections under Section 5-A relates to the objections submitted by persons other than the writ petitioners. The writ petitioners had not participated in the Section 5-A enquiry and their representation was submitted only after the final notification had been issued. In the absence of their participation in the enquiry, and in the absence of any demonstrated prejudice caused to them, they could not have been granted relief on the basis of an alleged defect concerning the objections of third parties.

39. The scope of the power under Section 17(4) of the Act is well settled. The satisfaction required to be formed by the State Government for dispensing with the enquiry under Section 5-A is a subjective satisfaction. However, such satisfaction must be founded on material which could fairly justify the formation of the opinion that the case is one of such

urgency as to warrant dispensation of the enquiry under Section 5-A. Once such material exists and the Government has fairly formed the requisite satisfaction, the Court does not sit in appeal over that decision or re-appreciate the material as an appellate authority. The Court is concerned only with whether there existed material on the basis of which the Government could have formed the requisite satisfaction, and not with the sufficiency or adequacy of such material. This principle was authoritatively affirmed by the Supreme Court in *Rajasthan Housing Board v. Shri Kishan* [(1993) 2 SCC 84].

40. In the case of ***Bhagat Singh etc. v. State of U.P. & Ors.***⁶, the Supreme Court was pleased to observe as follows:

"10. In our view, the subjective satisfaction for dispensing with the inquiry under Section 5-A is based on sufficient material and cannot be faulted. The photographs as to the filthy state of the present mandi with garbage and stray cattle and pigs show that the place is so loathsome that it will be precarious and perhaps hazardous to store vegetables or foodgrains in the existing market. We are, therefore, of the view that the urgency clause was rightly invoked by the Government. There are also enough precedents in connection with acquisition of land for

⁶ (1999) 2 SCC 384

markets where Section 5-A of the Act has been dispensed with in such cases and such action was upheld.

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12. The same question arose again in Kailashwati v. State of U.P., AIR 1978 All 181, (1977) 3 All LR 665. That was a case where land was acquired for the purpose of a market yard to be constructed by the Krishi Utpadan Mandi Samiti, Meerut. The inquiry under Section 5-A was dispensed with. The same was upheld and it was held that there was immediate urgency as there was acute scarcity of godowns and warehouses where foodgrains purchased by the Government had to be stocked. In our opinion, the above judgment is also in point. When in such circumstances, market yards are proposed to be established, it is, in our view, permissible to invoke the provisions of Section 17(4) and dispense with the Section 5-A inquiry."

41. In ***Hamid Ali Khan v. State of U.P.***⁷, the Apex Court observed that:

"38. Section 5-A of the Act guarantees a right to the person interested in the property which was the only statutory safeguard to stave off of a compulsory acquisition of his property. The power under Section 17(4) is discretionary. Being a discretion it must be exercised with due care. **It is true that if there is relevant**

⁷ (2021) 20 SCC 65

material however meagre it may be and the authority has without being guided by extraneous considerations applied his mind and taken a decision, then the court would adopt a hands-off approach. In the ultimate analysis as with any other decision a balancing of conflicting interests is inevitable. The authorities must remain alive and alert to the precious right created in favour of the citizens which is not meant to be a mere empty ritual.”

(emphasis Supplied)

42. In the light of the aforesaid decisions, we are of the considered view that the judgments relied upon by the petitioners do not come to their aid.

43. The consistent position that emerges from the aforesaid decisions is that dispensing with the enquiry under Section 5-A is sustainable when the Government’s subjective satisfaction regarding urgency is founded on sufficient material. The decision is particularly relevant where the acquisition is for a public purpose requiring immediate action and the record discloses material justifying the invocation of the urgency provisions.

44. The learned Single Judge has also placed considerable emphasis on the request for adjournment made on behalf of the petitioners. However, the said circumstance must be viewed in the context of the earlier history of the acquisition, the long pendency of the dispute and the public purpose for which the lands were required. The acquisition proceedings had their origin in an earlier acquisition initiated several years prior to the impugned notification. The earlier proceedings had resulted in prolonged litigation before this Court and the Supreme Court. The fresh acquisition was thereafter initiated pursuant to the order directing consideration of the objections in accordance with law. In such circumstances, the authorities were required to balance the right of the landowners to a fair hearing with the necessity of bringing the long-pending Defence project to completion.

45. It is also significant that the petitioners have not demonstrated any specific or substantial prejudice caused to them by the manner in which the enquiry was conducted. The objections raised by them essentially relate to the availability of alternative lands, the alleged non-consideration of their objections and the request for further opportunity. These

matters were within the domain of the acquiring authority, which had to consider the suitability of the land, the continuity of the project, the security requirements and the necessity of acquiring the particular parcels. The petitioners cannot claim that the existence of an alternative suggestion made by them would, by itself, deprive the State of its power to acquire the lands selected for a public purpose.

46. The objection regarding the availability of alternative lands also cannot be examined as though this Court were undertaking the planning of the Defence project. Whether a particular parcel is suitable, contiguous, strategically located, capable of being integrated with the existing Defence establishment or necessary for maintaining the security and integrity of the protected area are matters which fall essentially within the consideration of the competent authorities. The records indicate that the lands in question are situated within the area surrounded by the lands already handed over to the Defence authorities and that the CAIR project has substantially progressed. In that background, the requirement of the schedule lands cannot be rejected merely on the basis of a

general assertion that alternative lands may be available elsewhere.

47. Further, the extent and location of land required for a public purpose are matters primarily for the acquiring and requisitioning authorities to determine. Unless the decision is shown to be arbitrary, mala fide or wholly unrelated to the stated public purpose, this Court cannot substitute its own assessment for that of the competent authority. The choice of land for a public project is primarily an administrative and technical decision, and judicial review is warranted only where the decision is shown to be arbitrary, mala fide, wholly irrelevant or vitiated by a clear breach of the statutory procedure.

48. The learned Single Judge has further proceeded on the premise that the objections were not effectively placed before or considered by the beneficiary department. In our view, the proceedings cannot be invalidated on such a technical consideration unless it is shown that the competent authority failed to consider the relevant material or that the decision was taken without application of mind. The ultimate decision to

proceed with the acquisition was taken in the context of the Defence requirement and the ongoing project. The acquisition notification, the declaration and the connected material disclose the public purpose for which the lands were required. There is no material on record to establish that the acquisition was actuated by *mala fides*, colourable exercise of power or an oblique purpose.

49. The report of the Special Land Acquisition Officer under Section 5-A is recommendatory in nature. The ultimate decision rests with the appropriate Government. Therefore, the recommendation of the Land Acquisition Officer could not have been treated as binding upon the Government or as creating an absolute bar against proceeding with the acquisition. The Government was legally entitled to take its own decision on the basis of the material placed before it.

50. The declaration issued under Section 6(1) of the Act, subject to the statutory requirements being fulfilled, constitutes conclusive evidence of the existence of a public purpose under Section 6(3). The learned Single Judge was therefore required to examine whether the statutory decision-

making process was vitiated in law, and not whether the Government ought to have accepted the recommendation of the Land Acquisition Officer.

51. The power of judicial review in acquisition matters is directed towards examining the legality of the decision-making process and not substituting the Court's view for the decision of the Government or the acquiring authority on matters of policy, technical necessity and public administration. In the present case, the learned Single Judge, while noticing the importance of the right under Section 5-A, has, in our considered opinion, given undue weight to procedural aspects without adequately considering the larger public purpose, the previous history of the acquisition, the progress of the Defence project and the absence of demonstrable prejudice to the petitioners.

52. The earlier orders passed by coordinate Benches in relation to the same acquisition proceedings, whereby the acquisition notifications were preserved notwithstanding alleged defects in the enquiry, are also relevant considerations. The learned Single Judge ought to have maintained consistency in

the exercise of jurisdiction, unless there existed a legally sustainable distinction warranting a different conclusion.

53. The objection relating to the release of other lands did not, by itself, establish violation of Article 14 of the Constitution. Differential treatment would amount to discrimination only when it is shown to be arbitrary and without a rational basis. The material on record indicates that the differential treatment arose in the context of the settlement recorded by the Supreme Court. The writ petitioners therefore could not claim, as a matter of right, the benefit of an arrangement to which they were not parties.

54. The fact that a portion of the acquired land was vacant or had not been immediately utilised could not, by itself, invalidate the acquisition. The legality of the acquisition is required to be examined with reference to the purpose for which the land was acquired and the circumstances prevailing when the acquisition proceedings were initiated. Subsequent non-utilisation, by itself, does not establish that the original public purpose was absent or illusory.

55. It is also material that possession of the acquired land had been taken and compensation had been deposited. The acquisition had therefore proceeded substantially, and public and third-party interests had intervened. In such circumstances, the entire acquisition could not have been annulled at the instance of persons who had not participated in the statutory enquiry and who had failed to establish any prejudice to themselves.

56. Even assuming that there was some deficiency in the consideration of the objections or that a more elaborate order ought to have been passed, the appropriate course, in the facts of the case, would have been to direct reconsideration of the objections in accordance with law, rather than to annul the entire acquisition proceedings. Quashing the acquisition in its entirety has the effect of frustrating a project of national importance, notwithstanding the fact that the acquisition was initiated for a public purpose and that substantial steps had already been taken for implementation of the project. The relief granted by the learned Single Judge, therefore, does not appear to be commensurate with the nature of the alleged procedural lapse.

57. We are conscious that the rights of private landowners cannot be disregarded merely because the acquisition is for a public purpose. At the same time, the rights of the landowners have to be harmonised with the larger constitutional obligation of the State to protect the nation and to provide the infrastructure necessary for national defence and security. The principle that a citizen's property rights are entitled to protection does not mean that such rights are absolute or immune from acquisition in accordance with law. Where the acquisition is for a genuine public purpose, the statutory procedure is substantially followed and the landowners are afforded an opportunity to place their objections, the proceedings cannot be invalidated on technical or hyper-technical grounds.

58. In the present case, the need of the Defence Department assumes particular significance in view of the nature of the project. The CAIR, being a premier Defence Laboratory, is engaged in work connected with advanced technological research and development for national defence. In the present era, where threats to national security are increasingly influenced by technology, automation, artificial

intelligence, robotics and sophisticated systems, institutions such as CAIR assume vital importance. Its continued research and technological advancement are essential to strengthening the nation's defence and security. The requirement of land for such an institution cannot be equated with an ordinary acquisition undertaken for a routine governmental activity. The land is required not merely for construction, but for establishing and maintaining an integrated, secure and protected Defence research facility.

59. The importance of CAIR is further enhanced by the fact that its research and technological development are intended to contribute to the preparedness and self-reliance of the nation in the field of Defence. A secure nation requires sustained investment in scientific research, indigenous technological capability and advanced Defence infrastructure. The continued functioning and expansion of such a Defence laboratory are matters of national interest. The courts, while safeguarding the rights of individuals, are equally required to recognise that national security and the protection of the country constitute paramount public concerns. A personal or individual interest, however valuable, must yield when the

acquisition is lawfully undertaken for a genuine and compelling Defence purpose, subject always to compliance with the requirements of law and payment of lawful compensation.

60. The lands in question are stated to fall within the protected area of the Defence establishment. Their retention outside the project area would not only affect the completion of the CAIR project but may also create difficulties in maintaining the security, continuity and integrity of the Defence facility. The requirement of a compact and protected area is a relevant consideration in a Defence acquisition. The authorities cannot be expected to proceed with a Defence installation while leaving intervening or adjoining parcels outside the protected area, if such parcels are found necessary for the project. The acquisition, therefore, has to be considered in the setting of the entire Defence establishment and not as an isolated dispute concerning a few parcels of land.

61. The rights of the landowners, in respect of compensation, award, apportionment or disbursement, remain protected under the applicable law. Any dispute concerning the quantum or payment of compensation is required to be pursued

through the statutory remedies available for that purpose and cannot, in the absence of a jurisdictional or legal defect in the acquisition, furnish a ground to quash the acquisition proceedings themselves.

62. Having regard to the aforesaid circumstances, we are of the considered opinion that the learned Single Judge was not justified in quashing the entire acquisition proceedings. The material on record does not establish such a fundamental or incurable violation of the statutory procedure as would warrant annulment of the acquisition in its entirety. The acquisition is for a public purpose connected with national defence; the proceedings disclose issuance of notice, submission and consideration of objections, and issuance of the declaration under Section 6(1); and the petitioners have failed to demonstrate substantial prejudice warranting the extreme relief granted by the learned Single Judge. Therefore, the point for consideration is answered in the affirmative.

Accordingly, we pass the following;

ORDER

- (i) W.A.No.2121/2015 is allowed.

- (ii) The order dated 30.04.2014 passed by the learned Single Judge in Writ Petition Nos.6392-6396/2011 is set aside. Consequently, the writ petitions stand dismissed.
- (iii) It is, however, made clear that the respondents shall proceed further strictly in accordance with the provisions of the Act and the applicable rules and shall ensure that the rights of the landowners, insofar their entitlement to lawful compensation and other statutory benefits, are duly protected.

Insofar as Cross Objection No.2 of 2022 is concerned, it is liable to be rejected solely on the ground of inordinate delay and laches. The same has been filed after a delay of 1,547 days, excluding the period of 715 Covid-exemption days, thereby leaving a delay of 2,262 days, for which no satisfactory or legally acceptable explanation is forthcoming. Such unexplained and prolonged delay disentitles the appellants in the cross-appeal from seeking discretionary relief from this Court.

It is further relevant to observe that the cross-appeal appears to have been filed only with the object of frustrating, obstructing and further delaying the acquisition proceedings, which have been initiated for a larger public purpose connected with the Defence establishment. The filing of the cross-appeal at such a belated stage, after the acquisition proceedings have substantially progressed, cannot be permitted to defeat or impede the lawful acquisition process. A party who has slept over its alleged rights for such a considerable period cannot seek to reopen the entire matter as a matter of course, particularly when the rights and interests of the public authorities and the Defence establishment have intervened.

In view of the inordinate delay, absence of a satisfactory explanation and the apparent attempt to frustrate the acquisition proceedings, the cross-appeal does not merit consideration on merits. All the grounds urged in the cross-appeal are hereby rejected. In any event, since the present writ appeals are being allowed and the entire order passed by the learned Single Judge is being set aside, the very foundation of the cross-appeal no longer survives.

**WA No. 2123 of 2015
C/W WA No. 2121 of 2015
WA No. 2122 of 2015
AND 1 OTHER**

Accordingly, W.A.CROB No.2/2022 is rejected on the ground of delay and laches and, in the alternative, stands dismissed as having become infructuous in view of the order allowing the writ appeals. Consequently, all the grounds raised therein stand rejected.

Since we have set aside the order of the learned Single Judge in its entirety and have consequently allowed Writ Appeal No.2121/2015, Writ Appeal Nos.2122/2015 and 2123/2015 are also allowed accordingly.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

KNM