SUPREME COURT OF INDIA

Shanti Sports Club

Vs.

Union of India

C.A.Nos.8500-8501 of 2001

(B.N. Agrawal and G.S. Singhvi JJ.)

25.08.2009

JUDGMENT

G.S. SINGHVI, J.

1. These appeals filed against order dated 21.8.2001 of the Division Bench of Delhi High Court whereby it refused to interfere with the Central Government's decision not to exercise discretion under Section 48(1) of the Land Acquisition Act, 1894 (for short `the Act') to withdraw from the acquisition of land comprised in khasra Nos.35, 369/36, 37, 38, 367/21 and 365/33 of Village Masudpur, Tehsil Mehrauli, Delhi are illustrative of how the litigants use the courts process for frustrating the acquisition of land for a public purpose for years together and seek equity after raising illegal construction over the acquired land under the cloak of interim order(s) passed by one or the other court. Background Facts:

2. In the aftermath of partition of the country, lakhs of people were forced to leave their habitat, properties, trade, business, etc. in the territory which became Pakistan. Most of them came and settled in northern parts of the country, particularly Punjab and Delhi. Out of sheer compulsion, they constructed houses, etc. without proper layouts and planning. Initially, the Government did not pay much attention to the haphazard construction of houses and the growth of unplanned colonies, but with rapid increase in population of the city on account of influx of thousands of people from other parts of the country, it was realized that planned development of the capital city is sine qua non for its healthy growth. Keeping this in mind, the Central Government created Delhi Development Authority (DDA) and also set up Town Planning Organization, which was entrusted with the task of

giving advice on all matters pertaining to planning in the territory of Delhi.

3. The master plan of Delhi was notified in 1962. It envisaged development of Delhi in different segments, i.e., residential, commercial, institutional, industrial etc. in a scientific and modern way. For implementing the concept of planned development in accordance with the notified master plan, large tracts of land were acquired vide notifications dated 13.11.1959, 24.10.1961, 4.4.1964, 16.4.1964 and 23.1.1965 issued under Section 4(1) of the Act. Writ petitions filed by those affected by the first notification were dismissed by the High Court and their appeals were dismissed by this Court in the case titled Aflatoon v. Lt. Governor of Delhi (1975) 4 SCC 285, with a categorical finding that the planned development of Delhi is a public purpose for which large tracts of land could be acquired.

4. The acquisitions made in furtherance of other notifications were also challenged by the land holders and other affected persons. C.W.P. No.963/1980 filed by one Ved Prakash was dismissed by the High Court. However, the special leave petition was entertained by this Court and leave was granted.

5. During the pendency of the civil appeal arising out of the special leave petition filed by Ved Prakash and some writ petitions which were directly entertained by this Court, a Division Bench of the High Court made a reference to the Full Bench for considering the questions whether the acquisition proceeding should be treated as having been abandoned on account of delay in making the awards and whether more than one award can be passed in respect of the land covered by the same notification. The Full Bench dismissed all the writ petitions and related miscellaneous applications vide judgment titled Roshanara Begum v. Union of India, AIR 1996 Delhi 206. Appeals filed against the judgment of Full Bench were dismissed by this Court - Murari v. Union of India (1997) 1 SCC 15.

6. The land which is subject matter of these appeals was acquired vide notification dated 23.1.1965. Declaration under Section 6 was published on 23.12.1968, notices under Sections 9 and 10 were issued in 1976 and the award was made on 22.12.1980.

7. Shri Amrit Lal Khanna, who is said to have purchased 26 bighas of land comprised in khasra Nos.35, 369/36 and 37 in Village Masudpur, Tehsil Mehrauli, Delhi along with three others, namely, S/Shri Srivastava, Naresh Kumar and Gopal Kishan from Shri Parmeshwar Lal vide sale deed dated 31.1.1969 challenged notification dated 23.1.1965 in W.P. No.1753/1980. He also filed an application for interim relief. By an order dated 9.12.1980, the High Court restrained the respondents in the writ petition from dispossessing the petitioner. The writ petition was finally dismissed by the Full Bench along with other cases.

8. While the writ petition filed by Shri Amrit Lal Khanna was pending, Shri Satish Khosla (appellant No.2 in one of the appeals) got registered a company in the name and style of Shanti India Private Limited under the Companies Act, 1956 and a society in the name of Shanti Sports Club under the Societies Registration Act, 1860. Between 1990-1993, Shri Satish Khosla appears to have entered into some arrangement/agreement with Shri Amrit Lal Khanna and other land owners and got possession of land bearing khasra Nos.35, 369/36, 37, 38, 367/21 and 365/33 of Village Masudpur, Tehsil Mehrauli, Delhi which had already been acquired by the Central Government. Thereafter, he got constructed complex over the acquired land in the name of appellant No.1 without even making an application to the competent authority for sanction of the building plan. He

did so because he knew that if an application for sanction of the building plan was to be made, the same would be rejected in view of the prohibition contained in Section 3 of the Delhi Lands (Restrictions on Transfer) Act, 1972 (for short `the 1972 Act') against transfer of the acquired land and the concerned authorities may stall the clandestine construction activities.

9. With a view to protect his possession of the acquired land and illegal construction raised over it, Shri Satish Khosla filed W.P. No.4777/1993 in the name of Shanti Sports Club of which he himself was described as President and Shri Sunil Nagar, Member Secretary of the Club for issue of a mandamus to the Central Government to release the land under Section 48(1) of the Act. In that petition, it was claimed that with the construction of a sports complex, the purpose of acquisition, i.e., planned development of the area has already been served.

10. At this stage, it is appropriate to note that before filing W.P. No.4777/1993, Shri Satish Khosla got filed two suits for injunction. The first suit bearing No.3318/1991 was filed on 29.10.1991 in the name of Shanti India Private Limited with the prayer that DDA be restrained from digging the land or constructing gates on the road leading to Shanti Garden. In that suit, it was pleaded that the plaintiff is a company registered under the Companies Act, 1956; that it purchased 38 bighas 13 biswas of land comprising in khasra Nos.35, 369/36, 37, 38, 367/21 and 365/33 situated in Village Masudpur, Tehsil Mehrauli, Delhi and floated Shanti Sports Club of India which formed a cricket academy with a view to provide cricketing facility for its members. It was then averred that on 28.10.1991, DDA started digging a road, which runs from Andheria Modh to Airport with a view to raise a wall for blocking the entire road and rendering the suit property inaccessible. Along with the suit, the plaintiff filed an application for temporary injunction. By order dated 4.1.1992, the Court permitted DDA to raise the wall without obstructing the plaintiff's access to the suit property. In the second suit bearing No.1544/1993 which was filed on 13.7.1993, appellant No.2 herein joined S/Shri Atma Ram and Amrit Lal Khanna as plaintiffs and prayed that DDA be restrained from dispossessing them or interfering with their possession or demolishing or sealing any part of existing structure. The subject matter of second suit was identical to the one for which earlier suit had been instituted. In the plaint, all the plaintiffs were described as owners of the property measuring 38 bighas 13 biswas and it was pleaded that a sports club in the name of Shanti Sports Club of India was built by plaintiff No.3, Shri Satish Khosla. It was alleged that officers of the DDA have demolished certain structures in Village Kishangarh on 29.6.1993 and threatened to demolish the suit property. In the second suit also an order of injunction was passed on 15.7.1993.

11. After filing Writ Petition No.4777/1993, Shri Satish Khosla instituted third suit bearing No.2865/1995 in his own name and that of Shri Amrit Lal Khanna claiming that they were Bhumidars of khasra Nos.35, 369/36 and 37 of Village Masudpur, Tehsil Mehrauli, Delhi, total measuring 26 bighas 6 biswas; that the suit property was surrounded by a boundary wall with an iron gate; that plaintiff No.1-Satish Khosla floated the Shanti Sports Club which runs a cricket academy for its members and that the officers of the DDA have threatened to demolish the boundary wall and take forcible possession of an area of about 250 sq. yds. on the pretext that it formed part of khasra Nos.460, 368 and 36, which was earmarked for construction of a dispensary. In the third suit, the court passed an order of temporary injunction on 12.12.1995 restraining DDA from dispossessing the plaintiffs or demolishing the boundary wall.

12. By filing Writ Petition No.4777/1993, Shri Satish Khosla had hoped that he will be able to convince the High Court to ignore the gross irregularities and illegalities committed by him in securing possession of the acquired land and raising construction over it and pass an order for

protection of the existing structure and also direct the Central Government to release the land from acquisition on which sports complex had already been constructed, but his hopes were belied because the High Court did not entertain the prayer for interim relief. Undeterred by this unexpected adverse result, Shri Satish Khosla got filed C.M. No.8269/1993 in Writ Petition No.1753/1980 with the prayer that the government be directed to release the land from acquisition because the same has already been developed. The Full Bench of the High Court considered similar prayer made on behalf of other land owners, referred to the judgment of this Court in Gandhi Grah Nirman Sahkari Samiti Ltd. V. State of Rajasthan (1993) 2 SCC 662 and held:

...... So, even if some land has been developed by the land owner according to his own notions and may be the construction raised by him on the said land is also serving some public purpose, still that cannot be a substitute for planned development of Delhi which object is visualized by the authorities. If the public object for which the land is sought to be acquired by the authorities is justified, it cannot be frustrated because the land owner has developed the land and is utilising the land for some other public purpose. So, this contention also does not survive in view of the law held down by the Supreme Court.

13. The Full Bench separately dealt with Writ Petition No.1753/1980 and C.M. No.8269/1993 and dismissed the same by recording the following observations:

181. Most of the points raised in this writ petition are common with the main points already discussed by us. However, Mr. G. L. Sanghi, Senior Advocate, who appeared for the applicant in C.M. 8269/93 has urged that the land in question has been developed into a sports complex and modern amenities have been provided and it would be national waste in allowing such constructions to be demolished.

182. It is urged that the applicant has acquired this land in 1969 before coming into force of the Delhi Land (Restrictions on Transfer) Act, 1972 and thus, there was no bar in the transferee raising constructions. However, it is the admitted fact that all these constructions have been raised after issuance of the notification under Section 4 of the Act. These constructions have been raised obviously with complete knowledge of the fact that this land is liable to be acquired for public purpose. It is true that transferee of the land such as the applicant is entitled to same benefits and rights as the transferor (See Smt. Gunwant Kaur v. Municipal Committee, Bhatinda, AIR 1970 SC 802). However, unless and until it is shown that public purpose for which the land was sought to be acquired by issuing a notification under Section 4 and declaration under Section 6 has elapsed, it would not be possible for this Court to hold that mere fact that land has been developed by the petitioner/applicant should lead to the conclusion that public purpose for which the land was sought to be acquired has been achieved. It is pointed out to us that this particular land is required for the residential scheme of Vasant Kunj. So, it cannot be said that the sports complex built up by the applicant in the land in question is in consonance with the public purpose for which the land has been earmarked in the scheme of the Government. Thus, we do not think that the petitioner/applicant can legally get the notification quashed on any valid grounds in the present matter. However, the petitioner/ applicant is at liberty to make any representation to the authorities for getting the land released and it is for the authorities to examine whether in view of the modern sports complex having been brought into existence in the land in question could it serve the public purpose of acquiring this land for that particular scheme or the scheme is liable to be modified or amended in respect of the land in question. However, the acquisition proceedings are not liable to be quashed on any such plea.

[Emphasis added]

14. In the appeals preferred against the judgment of the Full Bench, the land owners reiterated the prayer for issue of direction to the Government to release their land by asserting that the same has already been developed by constructing factories, workshops, godowns, schools, residential houses/quarters, farm houses with modern facilities and sports complex. This Court opined that the constructions raised by the appellants would be regarded as unauthorized because no sanction or permission is shown to have been obtained from the competent authority. The Court then referred to an earlier judgment in State of U.P. v. Pista Devi (1986) 4 SCC 251 and rejected the prayer for release of land by making the following observations:-

Some of the learned counsel for the appellants also submitted that even the land shown in green colour in the master plan which has been sought to be acquired but it is not understood as to for what purpose the said land is being acquired. It was also submitted that there are a large number of structures and complexes raised on the land sought to be acquired in which schools, sports and other recreational activities are going on. Shri G.L. Sanghi, learned counsel appearing for the appellants in Civil Appeal arising out of SLP (C) No. 5771 of 1996 and Civil Appeal arising out of SLP (C) No. 740 of 1996 as well as other advocates appearing for some other appellants submitted that there exist factories, workshops, godowns and MCD school besides residential houses and quarters over the land belonging to the appellant Partap Singh situated at Roshanara Road, Sabzi Mandi, Delhi which has been acquired and that there exists modern and well-developed farmhouse with modern facilities in the land belonging to the appellant Roshanara Begum, where there are a good number of other structures and fruit-bearing trees. Consequently these areas do not require further development as they are already developed and, therefore, the said land should be released from acquisition. Mr Sanghi, learned counsel appearing for some of the appellants urged that the appellant concerned had developed a sports complex providing modern amenities therein and if the same is demolished it would be a great national waste. It was, therefore, urged that such complexes and built-up areas should be deleted from the acquisition. It may be pointed out that in the master plan the land indicated in green colour is reserved for recreational facilities. The recreational facilities are also part of the planned development of Delhi and it cannot be disputed that recreational amenities are also part of the life of the people and an important feature of a developed society. Therefore, no legitimate objection can be made in the acquisition of such land which is shown in green colour. So far as the structures and constructions made on the land are concerned there is no material to show that they were made before the issuance of notification under Section 4 of the Act. It is also not clear whether such constructions were raised with or without necessary sanction/approval of the competent authority. No grievance therefore can legitimately be raised in that behalf as the same would be regarded as unauthorised and made at the risk of the landowners. Here a reference of a decision of this Court in the case of State of U.P. v. Pista Devi may be made with advantage, para 7 of which reads as under: (SCC p. 258, para 7) It was next contended that in the large extent of land acquired which was about 412 acres there were some buildings here and there and so the acquisition of these parts of the land on which buildings were situated was unjustified since those portions were not either waste or arable lands which could be dealt with under Section 17(1) of the Act. This contention has not been considered by the High Court. We do not, however, find any substance in it. The Government was not acquiring any property which was substantially covered by buildings. It acquired about 412 acres of land on the outskirts of Meerut city which was described as arable land by the Collector. It may be true that here and there there were a few super-structures. In a case of this nature where a large extent of land is being acquired for planned development of the urban area

it would not be proper to leave the small portions over which some superstructures have been constructed out of the development scheme. In such a situation where there is real urgency it would be difficult to apply Section 5-A of the Act in the case of few bits of land on which some structures are standing and to exempt the rest of the property from its application.

In the present case also a large extent of land measuring thousands of acres has been acquired and, therefore, it would not be proper to leave out some small portions here and there over which some structures are said to be constructed out of the planned development of Delhi. We may, however, add here that during the course of the arguments Shri Goswami, learned counsel appearing for the respondents-State made a statement that the Government will consider each of the structures and take a decision in that respect. We, therefore, leave this issue to the discretion of the respondent.

[Emphasis added]

15. By taking cue from the observations made by the High Court in last portion of paragraph 182 of its judgment and the statement made by the State's counsel before this Court, which finds mention in the last part of para 21 of the judgment reported in (1999) 1 SCC 15, a representation was made on behalf of appellant no.1 on 3.10.1997 to various functionaries of the Government and DDA for release of the land under Section 48(1) of the Act on the ground that several parcels of the acquired land have already been released in favour of Hamdard Public School, St. Xavier School, Sahabad State Extension Welfare Association, Village Pul Pehlad Ten Mehrauli and Sahabad Daulatpur. Another representation was made on 3.6.1999 for release of the land covered by the sports complex. These representations were considered in the meeting held in the office of the then Minister for Urban Development which was attended among others by the President of Shanti Sports Club and Vice Chairman of DDA and a decision is said to have been taken to de-notify the land in question and for regularization thereof in favour of appellant No.1. The President of appellant No.1 is said to have been asked to discuss the matter with the official of the DDA for working out the terms of regularization. On 8.6.1999, the Private Secretary to the then Urban Development Minister sought a report from the Commissioner of Planning, Delhi Development Authority in order to enable the Hon'ble Minister to take appropriate decision. On the same day, the concerned Minister recorded the following note in the file:-

Extensive construction has taken place. This must be with full cooperation of the public servants concerned. In accordance with the settled policy, no demolition can or will be ordered. At the last meeting, I indicated that suitable terms of regularization be settled by negotiations. I would leave this now to my successor.

16. The issue was then considered by the successor Minister in the Urban Development Department, who finally decided on 14.7.1999 that the land covered by the sports complex cannot be released because the development on the land was made after completion of the acquisition proceedings and making of the award and also because the land was needed for `Vasant Kunj Residential Project'. This decision was communicated to the appellants vide letter dated 9.6.2000, which reads as under:-

No.J-13039/1/95/DDIB, Vol-II

Government of India, Ministry of Urban Development Poverty Alleviation, (Delhi Division) Nirman Bhawan, New Delhi.

Dated 9th June, 2000

To

Shri Satish Khosla,

President,

Shanti Sports Club,

Shanti Sports Complex,

Vasant Kung,

New Delhi-110 070.

Sub: De-notification of Shanti Sports Club land comprising 50 bighas 12 biswas in respect of land bearing Khasra No. 367/21(1-10), 32 (8-05), 355/33 (3-07), 35 (5-19), 369/36 (11-14), 37 (8-13), 38 min (7-0) and 354/33 (4-04). Sir,

I am directed to refer to your representation dated 3.6.99 submitted to this Ministry representation dated 8.6.99 enclosed as Annexure to the Writ Petition on the above mentioned subject and to say that the matter has been examined in consultation with DDA. The Development on the land has taken place after the acquisition of land was completed and award was declared. The land has been acquired for the Vasant Kunj Residential Project which has been held up due to prolonged litigation. Apart from these the Hon'ble High Court in CWP No. 1753/80 filed by Shri Amrit Lal Khanna and subsequently the Hon'ble Supreme Court have upheld the acquisition proceedings in favour of the Government.

2. Therefore, it has been decided that your request to denotify the above land cannot be acceded as the land is required for public purpose. This is for your information.

3. This issues with approval of the competent authority. Yours faithfully,

Sd/-

(R.C. Nayak)

Under Secretary (DDVA)

17. The appellants challenged the aforementioned decision of the Government in Writ Petition No.3277/2000 mainly on the following grounds:

1. That on 8th June, 1999, the then Minister for Urban Development had taken final decision for de-notification of the land and regularization thereof in favour of appellant No.1 and his successor could not have overturned that decision.

2. The decision contained in letter dated June 9, 2000 is totally devoid of reasons inasmuch as while

refusing to release the land in question in favour of appellant No.1, the Government did not take into account the fact that a huge sports complex had been built by spending substantial amount and demolition thereof would be injurious to vast section of the people which was benefited by the facilities available in the sports complex.

3. That similar representations made for release of land were entertained and accepted by the Government, but without any rhyme and reason, the appellants were discriminated and in this manner, their right to equality guaranteed under Article 14 of the Constitution has been violated.

18. In the counter affidavit filed on behalf of the Union of India, it was averred that the alleged transfer of land in favour of the petitioners is contrary to the provisions of the 1972 Act and is, therefore, void; that no decision was taken by the then Minister on 8.6.1999 for release of land covered by the sports complex and that the representation was finally rejected on 14.7.1999 because the land was required for public purpose, namely, the `Vasant Kunj Residential Project'. On the issue of release of other parcels of land, it was pleaded that each case is decided on its merits depending on the use to which the land is to be put and various other factors and release of some land under Section 48(1) of Act does not create a right in favour of other land owners to seek a direction for release of their land.

19. In a separate counter affidavit filed on behalf of DDA, details of various litigious ventures undertaken by the writ petitioners, Amrit Lal Khanna and Atma Ram were given and it was pleaded that the petitioners are not entitled for relief because they appear to have entered into some transaction with the land owners in violation of the negative mandate contained in Section 3 of the 1972 Act against transfer of the acquired land and also because by taking advantage of interim order passed in Writ Petition No.1753/1980, they raised illegal construction. In para 5 of the counter affidavit it was averred that the construction was made in clear violation of the existing master plan. It was further averred that even in the master plan of 2001, the permitted use of the land in question is partly residential and partly rural; that residential portion of the land is to be used for Vasant Kunj Residential Scheme of DDA, which was held up due to protective orders of injunction passed by different courts and that in the rural zone, only rural centre, public and semi public facilities, orchards, plants, nurseries, wireless and transmission, forest and extractive industries and LNP are permitted.

20. The Division Bench of the High Court heard Writ Petition No.4777 of 1993 along with Writ Petition No.3277 of 2000 and dismissed both the writ petitions after threadbare consideration of various issues raised by the parties. The Division Bench referred to the notings recorded in the file in the context of representations made by the appellants including note dated 8.6.1999 recorded by the then Minister for Urban Development leaving the matter to his successor and observed:

...........We fail to appreciate the argument advanced on behalf of the petitioners that the then Minister had taken a final decision to regularise and denotify the land in favour of the petitioners. Assuming for the sake of argument that on June 3, 1999 and June 8, 1999 a decision to denotify and regularize the land was taken by the then Minister for Urban Development, it seems to us that such a decision will be of no consequence and will have no existence in the eye of law. This is so because the terms for denotification and regularization were not settled. Settlement, if any, was left for the future. In the event of the parties failing to reach a settlement there would be no occasion to withdraw from acquisition of the land and to regularize the same in favour of the petitioners. We also fail to appreciate as to how it can be argued that though the terms for regularization were still to

be settled, the decision to regularise the land in favour of the first petitioner was taken by Sh. Ram Jethmalani. The argument advanced on behalf of the petitioners, therefore, is fallacious and is hereby rejected. Besides, the withdrawal from acquisition of any land of which possession has not been taken is governed by section 48 of the Act. Undoubtedly, section 48 vests power in the Government to withdraw from acquisition except in the case provided for in section 36 thereof. But withdrawal from acquisition must necessarily be by a notification under sub-section (1) of section 48 of the Act published in the official gazette.

21. The Division Bench held that the construction made over the acquired land has to be treated as unauthorised because the same was raised in violation of various statutory provisions. The Division Bench then referred to master plan, 2001 in which land use of the area in question was shown partly residential and partly rural and observed that use of the land by the petitioner-club for recreational purposes is unauthorized. The Division Bench observed that if the land is regularised in favour of the petitioner-club, then the land use will have to be first changed from rural to recreational and for that purpose master plan would require amendment in accordance with Section 11(A) of the Delhi Development Act, 1957, which provides for issuance of a notice inviting objections and suggestions with respect to the proposed modification and consideration thereof by DDA and Central Government.

22. The Division Bench also considered the argument that as per the lay out plan of the Vasant Kunj, only 11 bighas 14 biswas was required for the housing scheme and the petitioners are prepared to part with that portion of the land and rejected the same by recording the following observations:-

..........Respondent no.5 in his counter affidavit dated August 5, 2000 has clearly stated that the land is required for development schemes of the DDA. It is pointed out that because of the illegal construction made by the petitions during the operation of the restraint orders the housing scheme of the DDA has been held up resulting in loss to the public. The affidavit also alludes to the fact that the land for peripheral road in Sector D-7 and land meant for primary school and dispensary has been encroached upon by the petitions. According to the affidavit, the permitted land use in the area is as follows:-

(1) Partly residential.

(2) Partly for rural use.

The affidavit goes on to state that the Technical Committee of the DDA has mooted a proposal for change of land use from rural use to 'residential use', keeping in view the need of lakhs of applicants who are on the waiting list for allotment of flats. The recommendation of the Technical Committee is stated to have been accepted by the DDA and a resolution has been passed recommending change of user of 23.08 hectares of land behind D-6, Vasant Kunj from rural to residential use. In view of the categorical stand of the DDA that the land is needed for housing project, the argument of the petitioners that only 11 bighas and 14 biswas was required for residential use fails. It has been noticed by the Supreme Court in Murari vs. Union of India (supra) that there is inflow of more than one lakh people every year to the city. It is also noted that Delhi is an ever expanding cosmopolitan, commercial and industrial city where millions of multifarious, national and international activities take place. The Supreme Court also noticed that the city is confronted with serious housing problems. As a sequitur, it was found that planned development of Delhi is a continuous and unending process. Therefore, we cannot find fault with the decision of the Government declining to

release the land from acquisition.

23. In the concluding part of its order, the Division Bench took cognizance of written statement filed by Satish Khosla, President of Club in Suit No.3064/1996 titled as M/s Eli Lilly Ranbaxy Limited and others v. Satish Khosla wherein, the plaintiff had sought a decree of permanent injunction, restraining the defendant from letting out garden for functions and parties during the currency of lease agreement entered by and between M/s Eli Lilly Ranbaxy Limited and Shri Satish Khosla in respect of cottage No.6. The Division Bench noted that in paragraphs 4, 6 and 11 of the written statement, the defendant had unequivocally given out that the premises are being used not only for sporting activities but for wedding parties, birthday parties and other festive occasions and cottages constructed in the premises were being given to the affluent parties like the plaintiff, several diplomats including Deputy High Commissioner of Pakistan, Ambassador of Kazakastan, that huge rent and other charges were being collected by the defendant from the plaintiff which ran into lacs of rupees and opined that the claim of the petitioner that the complex was being used for recreation of the members only was fallacious.

24. On the issue of discrimination, the Division Bench held that even if some other lands have been de-notified under Section 48(1), the same would be contrary to the purpose of acquisition and one wrong cannot justify another wrong.

25. Shri Mukul Rohtagi, learned senior counsel appearing for the appellants argued with his usual vehemence that the decision taken by the then Minister for Urban Development on 8.6.1999 for regularization of the construction made on the land in question was final and his successor was not justified in reviewing/reversing the same. He submitted that the Government is bound to respect the decision taken by the then Minister in favour of the appellant and mere change of portfolio or absence of formal notification under Section 48(1) of the Act cannot denude the earlier decision of its sanctity. Shri Rohtagi emphasized that if the decision taken by one Minister is overruled or overturned by his successor, the credibility of the Government will become questionable. Learned senior counsel further argued that even if the note recorded in the file by the then Minister for Urban Development on 8.6.1999 is not treated as a decision taken by the Government under Section 48(1) of the Act, rejection of the appellants representations is liable to be quashed on the ground of arbitrariness and non-application of mind. Shri Rohtagi made a pointed reference to the observations contained in para 182 of the judgment of the Full Bench in Roshanara Begum v. Union of India (supra) and the statement made by the counsel appearing on behalf of the State before this Court in Murari v. Union of India (supra) that the Government will consider each of the structure and take a decision in that respect and argued that the appellants prayer for withdrawal from acquisition could not have been rejected on the specious grounds that development has been carried out after acquisition of the land or that the same is required for Vasant Kunj Residential Project, more so, when power under that section had already been exercised in favour of Hamdard Public School, St. Xavier School, Shahbad Estate Extension Welfare Association, Scindia Potteries and others. Learned counsel pointed out that the sports complex constructed at the site has a cricket ground, tennis stadium, badminton courts, swimming pool, table tennis room, squash court where the people can play different games and sports under the watchful eyes of expert coaches. He submitted that the facilities available at the sports complex are of international standard, which can be used for various purposes including the impending Commonwealth Games and nobody is going to be benefited by demolition of the complex. Shri Rohtagi also referred to the guidelines issued by the Government of India, Ministry of Urban Affairs Employment, Department of Urban Development vide letter No.K-13011/17/96-DDIB dated 5.3.1989 and submitted that on the one hand the Government is

encouraging public private cooperation in development of the land for activities like construction of schools, shopping complexes, community centers, ration shops, hospitals and dispensaries, the sports complex constructed by the appellants by spending crores of rupees is sought to be demolished after a gap of more than 25 years. Learned counsel submitted that there is no sports club in Vasant Kunj and the appellants are willing to pay market price or offer half of the land for accomplishment of the residential project for which the land is sought to be acquired.

26. Ms. Indira Jaising, learned Additional Solicitor General and Shri A. Sharan, learned senior advocate, appearing for the DDA emphatically submitted that this Court should not grant any indulgence to the appellants because they constructed the so called sports complex knowing fully well that the land in question had already been acquired. Ms. Jaising submitted that the appellants had no business to raise construction on the acquired land because they do not have any title over it. She referred to Section 3 of the 1972 Act and argued that in the face of unequivocal prohibition against transfer of the acquired land, the appellants could not have constructed the building and that too without obtaining sanction or permission from any competent authority.

27. In the light of the submissions made by the learned counsel for the parties, we shall now consider whether note dated 8.6.1999 recorded by the then Minister for Urban Development can be treated as a decision of the Government to withdraw from the acquisition of land in question in terms of Section 48(1) of the Act, which lays down that except in the case provided for in Section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. Although, the plain language of Section 48(1) does not give any indication of the manner or mode in which the power/discretion to withdraw from the acquisition of any land is required to be exercised, having regard to the scheme of Parts II and VII of the 1894 Act, which postulates publication of notification under Section 4(1), declaration under Section 6 and agreement under Section 42 in the official gazette as a condition for valid acquisition of the land for any public purpose or for a company, it is reasonable to take the view that withdrawal from the acquisition, which may adversely affect the public purpose for which, or the company on whose behalf the acquisition is proposed, can be done only by issuing a notification in the official gazette. The decision to acquire the land for a public purpose is preceded by consideration of the matter at various levels of the Government. The revenue authorities conduct survey for determining the location and status of the land and feasibility of its acquisition for a public purpose. The final decision taken by the competent authority is then published in the official gazette in the form of a notification issued under Section 4(1) of the Act. Likewise, declaration made under Section 6 of the Act is published in the official gazette. The publication of notifications under Section 4(1) has two-fold objectives. In the first place, it enables the land owner(s) to lodge objections against the proposed acquisition. Secondly, it forewarns the owners and other interested persons not to change the character of the land and, at the same time, make them aware that if they enter into any transaction with respect to the land proposed to be acquired, they will do so at their own peril. When the land is acquired on behalf of a company, consent of the appropriate government is a must. The company is also required to execute an agreement in terms of Section 41 of the Act which is then published in the official gazette in terms of Section 42 thereof. As a necessary concomitant, it must be held that the exercise of power by the government under Section 48(1) of the Act must be made known to the public at large so that those interested in accomplishment of the public purpose for which the land is acquired or the concerned company may question such withdrawal by making representation to the higher authorities or by seeking courts intervention. If the decision of the Government to withdraw from the acquisition of land is kept secret and is not published in the official gazette, there is every likelihood that unscrupulous land owners, their agents and wheeler-

dealers may pull strings in the power corridors and clandestinely get the land released from acquisition and thereby defeat the public purpose for which the land is acquired. Similarly, the company on whose behalf the land is acquired may suffer incalculable harm by unpublished decision of the Government to withdraw from the acquisition.

28. The requirement of issuing a notification for exercise of power under Section 48(1) of the Act to withdraw from the acquisition of the land can also be inferred from the judgments of this Court in Municipal Committee, Bhatinda v. Land Acquisition Collector and others (1993) 3 SCC 24 (para 8), U.P. State Sugar Corporation Ltd. v. State of U.P. and others (1995) Supp 3 SCC 538 (para 3), State of Maharashtra and another v. Umashankar Rajabhau and others (1996) 1 SCC 299 (para 3) and State of T.N. and others v. L. Krishnan and others (1996) 7 SCC 450 (para 7). In Larsen Toubro Ltd. v. State of Gujarat and others (1998) 4 SCC 387, the Court considered the question whether the power under Section 48(1) of the Act can be exercised by the Government without notifying the factum of withdrawal to the beneficiary of the acquisition. It was argued that in contrast to Sections 4 and 6, Section 48(1) of the Act does not contemplate issue of any notification and withdrawal from the acquisition can be done by an order simpliciter. It was further argued that power under Section 21 of the General Clauses Act can be exercised for withdrawing notifications issued under Sections 4 and 6. While rejecting the argument, the Court observed:

..... When Sections 4 and 6 notifications are issued, much has been done towards the acquisition process and that process cannot be reversed merely by rescinding those notifications. Rather it is Section 48 under which, after withdrawal from acquisition is made, compensation due for any damage suffered by the owner during the course of acquisition proceedings is determined and given to him. It is, therefore, implicit that withdrawal from acquisition has to be notified.

31. Principles of law are, therefore, well settled. A notification in the Official Gazette is required to be issued if the State Government decides to withdraw from the acquisition under Section 48 of the Act of any land of which possession has not been taken. An owner need not be given any notice of the intention of the State Government to withdraw from the acquisition and the State Government is at liberty to do so. Rights of the owner are well protected by sub-section (2) of Section 48 of the Act and if he suffered any damage in consequence of the acquisition proceedings, he is to be compensated and sub- section (3) of Section 48 provides as to how such compensation is to be determined. There is, therefore, no difficulty when it is the owner whose land is withdrawn from acquisition is concerned. However, in the case of a company, opportunity has to be given to it to show cause against any order which the State Government proposes to make withdrawing from the acquisition. Reasons for this are not far to seek. After notification under Section 4 is issued, when it appears to the State Government that the land in any locality is needed for a company, any person interested in such land which has been notified can file objections under Section 5-A(1) of the Act. Such objections are to be made to the Collector in writing and who after giving the objector an opportunity of being heard and after hearing of such objections and after making such further enquiry, if any, as the Collector thinks necessary, is to make a report to the State Government for its decision. Then the decision of the State Government on the objections is final. Before the applicability of other provisions in the process of acquisition, in the case of a company, previous consent of the State Government is required under Section 39 of the Act nor (sic) unless the company shall have executed the agreement as provided in Section 41 of the Act. Before giving such consent, Section 40 contemplates a previous enquiry. Then compliance with Rules 3 and 4 of the Land Acquisition (Company) Rules, 1963 is mandatorily required. After the stage of Sections 40 and 41 is reached, the agreement so entered into by the company with the State Government is to be

published in the Official Gazette. This is Section 42 of the Act which provides that the agreement on its publication would have the same effect as if it had formed part of the Act. After having done all this, the State Government cannot unilaterally and without notice to the company withdraw from acquisition. Opportunity has to be given to the company to show cause against the proposed action of the State Government to withdraw from acquisition. A declaration under Section 6 of the Act is made by notification only after formalities under Part VII of the Act which contains Sections 39 to 42 have been complied and the report of the Collector under Section 5-A(2) of the Act is before the State Government who consents to acquire the land on its satisfaction that it is needed for the company. A valuable right, thus, accrues to the company to oppose the proposed decision of the State Government withdrawing from acquisition. The State Government may have sound reasons to withdraw from acquisition but those must be made known to the company which may have equally sound reasons or perhaps more, which might persuade the State Government to reverse its decision withdrawing from acquisition. In this view of the matter it has to be held that Yadi (memo) dated 11-4-1991 and Yadi (memo) dated 3-5-1991 were issued without notice to the appellant (LT Ltd.) and are, thus, not legal. (emphasis added)

29. The issue deserves to be considered from another angle. All executive actions of the Government of India and the Government of a State are required to be taken in the name of the President or the Governor of the concerned State, as the case may be [Articles 77(1) and 166(1)]. Orders and other instruments made and executed in the name of the President or the Governor of a State, as the case may be, are required to be authenticated in such manner as may be specified in rules to be made by the President or the Governor, as the case may be [Articles 77(2) and 166(2)]. Article 77(3) lays down that the President shall make rules for more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business. Likewise, Article 166(3) lays down that the Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business insofar as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion. This means that unless an order is expressed in the name of the President or the Governor and is authenticated in the manner prescribed by the rules, the same cannot be treated as an order on behalf of the Government. A noting recorded in the file is merely a noting simpliciter and nothing more. It merely represents expression of opinion by the particular individual. By no stretch of imagination, such noting can be treated as a decision of the Government. Even if the competent authority records its opinion in the file on the merits of the matter under consideration, the same cannot be termed as a decision of the Government unless it is sanctified and acted upon by issuing an order in accordance with Article 77(1) and (2) or Article 166(1) and (2). The noting in the file or even a decision gets culminated into an order affecting right of the parties only when it is expressed in the name of the President or the Governor, as the case may be, and authenticated in the manner provided in Article 77(2) or Article 166(2). A noting or even a decision recorded in the file can always be reviewed/reversed/overruled or overturned and the court cannot take cognizance of the earlier noting or decision for exercise of the power of judicial review.

30. In State of Punjab v. Sodhi Sukhdev Singh AIR 1961 SC 493, this Court considered the question whether a provisional decision taken by the Council of Ministers to reinstate an employee could be made basis for filing an action for issue of a mandamus for reinstatement and held:

.... We are unable to understand this argument. Even if the Council of Ministers had provisionally decided to reinstate the respondent that would not prevent the Council from

reconsidering the matter and coming to a contrary conclusion later on, until a final decision is reached by them and is communicated to the Rajpramukh in the form of advice and acted upon by him by issuing an order in that behalf to the respondent.

31. A somewhat similar question was considered by the Constitution Bench in Bachhittar Singh v. The State of Punjab (1962) Supp. 3 SCR 713, in the backdrop of the argument that once the Revenue Minister of PEPSU had recorded a note in the file that the punishment imposed on the respondent be reduced from dismissal to that of reversion, the same could not be changed/reviewed/overruled by the Chief Minister. This Court proceeded on the assumption that the note recorded by the Revenue Minister of PEPSU in the file was an order, referred to the provisions of Article 166 of the Constitution and held:

Merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government two things are necessary. The order has to be expressed in the name of the Governor as required by clause (1) of Art.166 and then it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up the State Government cannot, in our opinion, be regarded as bound by what was stated in the file. As along as the matter rested with him the Revenue Minister could well score out his remarks or minutes on the file and write fresh ones.

The business of State is a complicated one and has necessarily to be conducted through the agency of a large number of officials and authorities. The constitution, therefore, requires and so did the Rules of Business framed by the Rajpramukh of PEPSU provide, that the action must be taken by the authority concerned in the name of the Rajpramukh. It is not till this formality is observed that the action can be regarded as that of the State or here, by the Rajpramukh. We may further observe that, constitutionally speaking, the Minister is no more than an adviser and that the head of the State, the Governor or Rajpramukh (Till the abolition of that office by the Amendment of the Constitution in 1956), is to act with the aid and advice of his Council of Ministers. Therefore, until such advice is accepted by the Governor whatever the Minister or the Council of Ministers may say in regard to a particular matter does not become the action of the State until the advice of the Council of Ministers is accepted or deemed to be accepted by the Head of the State. Indeed, it is possible that after expressing one opinion about a particular matter at a particular stage a Minister or the Council of Ministers may express quite a different opinion, one which may be completely opposed to the earlier opinion. Which of them can be regarded as the 'order' of the State Government ? Therefore to make the opinion amount to a decision of the Government it must be communicated to the person concerned. In this connection we may quote the following from the judgment of this Court in the State of Punjab v. Sodhi Sukhdev Singh.

Mr. Gopal Singh attempted to argue that before the final order was passed the Council of Ministers had decided to accept the respondent's representation and to reinstate him, and that, according to him, the respondent seeks to prove by calling the two original orders. We are unable to understand this argument.

Even if the Council of Ministers had provisionally decided to reinstate the respondent that would not prevent the Council from reconsidering the matter and coming to a contrary conclusion later on, until a final decision is reached by them and is communicated to the Rajpramukh in the form of advice and acted upon by him by issuing an order in that behalf to the respondent. Thus it is of the essence that the order has to be communicated to the person who would be affected by that order

before the State and that person can be bound by that order. For, until the order is communicated to the person affected by it, it would be open to the Council of Ministers to consider the matter over and over again and, therefore, till its communication the order cannot be regarded as anything more than provisional in character. We are, therefore, of the opinion that the remarks or the order of the Revenue Minister, PEPSU are of no avail to the appellant.

[emphasis added]

32. In State of Bihar and others v. Kripalu Shankar and others (1987) 3 SCC 34, a two-Judge Bench while considering the question whether notings recorded in the file would constitute civil or criminal contempt within the meaning of Section 2(b) and (c) of the Contempt of Courts Act observed as under:-

14. Now, the functioning of Government in a State is governed by Article 166 of the Constitution, which lays down that there shall be a council of ministers with the Chief Minister at the head, to aid and advise the Governor in the exercise of his functions except where he is required to exercise his functions under the Constitution, in his discretion. Article 166 provides for the conduct of Government business. It is useful to quote this article: 166 (1) All executive action of the government of a State shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor. (3) The Governor shall make rules for the more convenient transaction of the business of the government of the State, and for the allocation among Ministers of the said business insofar as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.

15. Article 166(1) requires that all executive action of the State Government shall be expressed to be taken in the name of the Governor. This clause relates to cases where the executive action has to be expressed in the shape of a formal order or notification. It prescribes the mode in which an executive action has to be expressed. Noting by an official in the departmental file will not, therefore, come within this article nor even noting by a Minister. Every executive decision need not be as laid down under Article 166(1) but when it takes the form of an order it has to comply with Article 166(1). Article 166(2) states that orders and other instruments made and executed under Article 166(1), shall be authenticated in the manner prescribed. While clause (1) relates to the mode of expression, clause (2) lays down the manner in which the order is to be authenticated and clause (3) relates to the making of the rules by the Governor for the more convenient transaction of the business of the Government. A study of this article, therefore, makes it clear that the notings in a file get culminated into an order affecting right of parties only when it reaches the head of the department and is expressed in the name of the Governor, authenticated in the manner provided in Article 166(2).

33. In Rajasthan Housing Board v. Shri Kishan (1993) 2 SCC 84, this Court made a detailed reference to the records and affidavit filed on behalf of the Rajasthan Housing Board and held: From the above material, it is clear that there was no final decision at any time to de-notify the said lands. A tentative decision was no doubt taken in February 1990 but before it could be implemented the Government thought it necessary to ascertain in views of the Housing Board and to find out as

to what the Board had done upon the land, what structures it had raised and what amount it had spent so that the Board could be compensated while delivering the possession back to the Housing Society. Before this could be done there was a change in the Government and the said tentative decision was reversed. In this view of the matter, it is not necessary for us to go into the question whether there was a communication of the `decision' of the Government to the petitioner. The communication must be of a final decision and not of a provisional or tentative decision.

34. The issue was recently considered in Sethi Auto Service Station and another v. Delhi Development Authority and others (2009) 1 SCC 180. In that case, the appellant had claimed relocation of two petrol pumps which had become non-profitable on account of construction of 8 lane express highway between Delhi and Gurgaon. The appellants relied on the notings recorded by the technical committee headed by the Vice Chairman, DDA. It was urged that the technical committee had recommended relocation of the petrol pumps, it was not open to DDA to do a volte face and reject the representation of the appellants. On behalf of the respondents, it was urged that mere notings and proposal recorded in the files of DDA did not create any right in favour of the appellants and the final decision taken by DDA against relocation of petrol pumps was consistent with the policy in vogue. This Court approved the High Court's refusal to interfere with DDA's decision and observed: It is trite to state that notings in a departmental file do not have the sanction of law to be an effective order. A noting by an officer is an expression of his viewpoint on the subject. It is no more than an opinion by an officer for internal use and consideration of the other officials of the department and for the benefit of the final decision-making authority. Needless to add that internal notings are not meant for outside exposure. Notings in the file culminate into an executable order, affecting the rights of the parties, only when it reaches the final decision-making authority in the department, gets his approval and the final order is communicated to the person concerned.

35. In C.W.P. No.325/1982 - Ram Phal v. Union of India, which was decided by the Full Bench of the High Court along with other cases, vide Roshanara Begum v. Union of India, an application was moved by the petitioners with the prayer that the acquisition proceedings may be quashed because the Central Government has issued an order under Section 48(1) of the Act for withdrawal of the acquisition proceedings in respect of the land which was subject matter of the writ petition. On behalf of the Central Government, it was urged that no order has been made by the Central Government for withdrawing from acquisition of the land in question and communication regarding withdrawal was sent due to misreading of orders made in the file. Counsel representing the Union of India went to the extent of arguing that if the court was to infer that any such order has been made by the Central Government, then the same be treated as non est and declared as illegal and void because the land was being acquired for planned development of Delhi. It was argued that before an order under Section 48 could come into play, the same is required to be published in the official gazette in the same manner in which notification under Section 4 and declaration under Section 6, are published. The Full Bench adverted to Section 48(1) of the Act and observed:

Section 48 of the Act lays down that Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. The original record in which the Minister concerned had made the order was produced before us which we have perused and as a matter of fact, the learned counsel for the petitioner has placed on record the photocopies of the notings on which the order of the Minister has been accorded. It is evident that if this Court is to come to the conclusion on reading the said record that in fact no order has been made by the Minister concerned which amounts to withdrawing from acquisition, mere communication of the

misconstrued order by the officials would not have the effect of an order of the Government withdrawing from the acquisition.

36. The Full Bench then examined the notings in the file, referred to Section 21 of the General Clauses Act, 1897 and concluded:

157. Section 48 by itself does not require publication of such an order in the Official Gazette. As a matter of fact, there is no repugnancy between the provisions of Section 48 of the Act as read with Section 21 of the General Clauses Act. The purpose of issuance of publication of notifications and declarations under Sections 4 and 6 of the Act in Official Gazette are that public at large should become aware of the factum that the land so notified is to be acquired for public purpose so that people at large should not suffer any monetary loss or any other inconveniences in entering into any deals in respect of such land, subject-matter of compulsory acquisition. As an analogy of the purpose enshrined in notification issued under Section 4 and declaration issued under Section 6 for their publication in Official Gazette is also, in our view, linked to the order which is made under Section 48 of the Act for withdrawing from such acquisition and unless the same is also published in the manner as the original notifications, the said object could not be achieved i.e. of giving public notice to the public at large.

37. As a result of the above discussion, we hold that the noting recorded in the official files by the officers of the Government at different levels and even the Ministers do not become decision of the Government unless the same is sanctified and acted upon by issuing an order in the name of the President or Governor, as the case may, authenticated in the manner provided in Articles 77(2) and 166(2) and is communicated to the affected persons. The notings and/or decisions recorded in the file do not confer any right or adversely affect the right of any person and the same can neither be challenged in a court nor made basis for seeking relief. Even if the competent authority records noting in the file, which indicates that some decision has been taken by the concerned authority, the same can always be reviewed by the same authority or reversed or over-turned or overruled by higher functionary/authority in the Government.

38. Reverting to the case in hand, we find that representation made on behalf of appellant No.1 was examined by different functionaries of the Government and DDA. On 8.6.1999, the then Minister for Urban Development recorded a note in the file that extensive construction has taken place and this must have been possible with the cooperation of the concerned officers and opined that no demolition can or will be ordered as per the policy. He then recorded that suitable terms for regularization be settled by negotiations and left the matter there for consideration by his successor. That noting was never translated into an order nor the same was published in the official gazette in the form of a notification. It was not even communicated to the appellants or DDA. The reason for this is not far to seek. The Minister had himself left the matter for consideration and decision by his successor. The latter finally decided on 14.7.1999 that the appellants request for de-notification of the land cannot be accepted because the development was carried out after its acquisition and also because the land is required for a public purpose, i.e, Vasant Kunj Residential Project, which was held up due to prolonged litigation. This being the position, the appellants cannot rely upon the note recorded by the then Minister on 8.6.1999 for pleading before the Court that the Government had taken decision to withdraw from the acquisition of land in question in terms of Section 48(1) of the Act.

39. Before leaving this part of the discussion, we consider it necessary to observe that there have

been several cases of exercise of power under Section 48(1) of the Act for extraneous considerations defeating the very purpose of acquisition. Two such instances have been considered by this Court in Chandra Bansi Singh v. State of Bihar (1984) 4 SCC 316 and Rajasthan Housing Board v. Sri Kishan (supra). The facts of Chandra Bansi Singh's case were that on 19.8.1974, the Government of Bihar issued notification under Section 4 for acquisition of 1034.94 acres of land in village Digha for the purpose of construction of houses by the Bihar State Housing Board. After consideration of objections, declaration under Section 6 was issued and published on 20.2.1976. On 8.11.1976, a representation was made by one Mr. Ram Avtar Shastri, Member of Parliament for withdrawing the acquisition proceedings. The same was rejected in December, 1976. However, before compensation could be disbursed to the land owners, general elections were announced and, therefore, the matter was deferred and put in cold storage. On 24.5.1980, 4.03 acres land belonging to Pandey families was released from acquisition. In the same year, a writ petition was filed in the High Court challenging release of land in favour of Pandey families but the same was withdrawn. In May 1981, another writ petition was filed on the same subject and it was pleaded that release of land in favour of Pandey families is violative of Article 14 of the Constitution. The State Government supported the release of land in favour of Pandey families by asserting that they had put up buildings with boundary walls in the entire area covered by 4.03 acres and that it would have been difficult for government to demolish the construction. This was controverted by the petitioner, who produced several photographs to show that no huge buildings or houses were constructed and only small hutment had been put up on the land. After considering the entire record, this Court ruled that release of land in favour of Pandey families was pure and simple act of favouritism without there being any legal or constitutional justification for the same and declared the action of the State Government to be violative of Article 14 of the Constitution. The Court also declared that the entire acquisition will be deemed to be valid and the land released to Pandey families would form part of the acquisition initiated vide notification dated 19.8.1974.

40. The facts of Sri Kishan's case were that 2570 bighas of land (approximately equal to 1580 crores) was acquired for the benefit of the Rajasthan Housing Board by publication of notification under Section 4(1) read with Section 17(4) of the Act. The learned Single Judge of the High Court dismissed the writ petitions involving challenge to the acquisition proceedings. On appeals filed by the land owners, Judges constituting the Division Bench expressed divergent opinions. Thereupon, the matter was referred to the larger Bench. By a majority judgment, the larger Bench quashed the notification issued under Section 17(4) and declaration issued under Section 6. During the pendency of appeals before this Court, a writ petition was filed by New Pink City Grah Nirman Sahkari Sangh. Therein it was pleaded that by virtue of the decision of the Minister-in-charge, Urban Development Department and the Chief Minister, the State Government must be deemed to have withdrawn from the acquisition within the meaning of Section 48(1) of the Act. This Court noted that the society, which claims to have purchased 525 bighas of land from khatedars, represented the Government to de- notify the land. The then Minister-in-charge, Urban Development Department recorded a decision in the file on July 20, 1984 that the lands be released, but his decision was overruled by the Chief Minister. After about five years, the society again represented for de-notification of the land. The Minister for Urban Development made recommendation in favour of the society. This time, the Chief Minister agreed with the Minister by observing that the land of the society was regularised according to the decision of the Cabinet. Thereafter, Deputy Secretary, Urban Development and Housing Department wrote a letter to the Secretary of the Housing Board that the Government has decided to release the land of the society. A copy of the letter was marked to the society. During the pendency of writ petition before this Court, an additional affidavit of the Secretary, Rajasthan Housing Board was filed with a categorical assertion that at no point of time

any notification was issued withdrawing from the acquisition and the Beri Commission, which was constituted to look into the illegalities and irregularities committed by functionaries and officials of the previous Government, recorded a categorical finding that the decision to de-acquire the land of the petitioner - society was in contravention of the earlier decision of the Cabinet and was also contrary to law and against public interest. This Court held that the notings recorded by the Minister and Chief Minister for release of land in favour of the society, were totally unjustified.

41. The next question which needs consideration is whether the decision contained in letter dated 9.6.2000 is liable to be nullified on the ground of arbitrariness and violation of Article 14 of the Constitution. The plea of the appellants is that even though the construction of the sports complex and other buildings may not be in conformity with law, the Government is duty-bound to treat them at par with others like Hamdard Public School, St. Xavier School, Shahbad Estate Extension Welfare Association, Scindia Potteries etc., whose land was released from acquisition despite the fact that constructions were made after issue of notification under Section 4(1) and declaration under Section 6 of the Act and, in some cases, even after the award was made. Their further plea is that in view of the observations contained in the last part of para 182 of the judgment of the Full Bench in Roshanara Bgum v. Union of India (supra) and statement made by the counsel appearing on behalf of the State, which finds mention in para 21 of the judgment of this Court in Murari v. Union of India (supra), the representations made by them for release of the land could not have been rejected on the grounds that the construction has been raised after the acquisition of land and the acquired land is needed for Vasant Kunj Housing Project.

42. In our opinion, the Government's decision not to withdraw from the acquisition of land in question or de-notify the acquired land, does not suffer from the vice of discrimination or arbitrary exercise of power or non application of mind. With due deference to the Full Bench of the High Court which disposed of the batch of writ petitions and miscellaneous applications, the observations contained in the last part of paragraph 182 of the judgment suggesting that the petitioner/applicant can make representation for release of the land and the concerned authorities can examine whether the sports complex could serve the purpose of acquiring the land for the particular scheme or the scheme can be modified or amended in respect of the land in question were nothing more than pious hope and the Government rightly did not take them seriously because in the same paragraph the Full Bench unequivocally ruled that the land is required for residential scheme of Vasant Kunj and the sports complex built by the applicant was not in consonance with the public purpose for which the land was earmarked in the scheme. The statement made by the counsel representing the State before this Court which finds mention in paragraph 21 of the judgment in Murari v. Union of India (supra) was neither here nor there. It did not amount to a commitment on behalf of the Government that representations made for release of land will receive favourable consideration. In any case, once this Court had made it clear in Murari v. Union of India (supra) that in a matter involving acquisition of thousands of acres of land, it would not be proper to leave out some small portions here and there over which some construction may have been made, the decision of the Government not to withdraw from the acquisition of the land in question cannot be faulted.

43. The appellants' plea that the Government ought to have de- notified the land covered by the sports complex because the same has been built by spending crores of rupees and is being used by a large section of people sounds attractive, but, after having given serious thought to the entire matter, we are convinced that the Government rightly refused to exercise discretion under Section 48(1) of the Act for de-notifying the acquired land and the High Court did not commit any error whatsoever by refusing to fall in the trap of alluring argument that demolition of the sports complex built by

spending substantial amount will be a waste of national wealth and nobody will be benefited by it. The appellants have not denied the fact that the land on which the sports complex has been constructed was acquired by the Government by issuing notification dated 23.1.1965 under Section 4(1) of the Act, which culminated in the making of award dated 22.12.1980. It is also not their case that the construction activity was started prior to initiation of acquisition proceedings. Rather, their admitted stance is that they came in possession of the land between 1990-1993, i.e., more than 10 years after finalization of the acquisition proceedings. This being the position, the appellants cannot plead equity and seek court's intervention for protection of the unauthorised constructions raised by them. It is trite to say that once the land is acquired by following due process of law, the same cannot be transferred by the land owner to another person and that any such transfer is void and is not binding on the State. A transferee of the acquired land can, at best, step into the shoes of the land-owner and lodge claim for compensation - Gian Chand v. Gopala and others (1995) 2 SCC 528, Secretary, Jaipur Development Authority, Jaipur v. Daulat Mal Jain and others (1997) 1 SCC 37, Yadu Nandan Garg v. State of Rajasthan and others JT (1995) 8 S.C. 179 and Jaipur Development Authority v. Mahavir Housing Coop. Society, Jaipur and others (1996) 11 SCC 229.

44. The appellants have another unsurmountable hurdle in the form of Section 3 of the 1972 Act, which contains prohibition against transfer of the acquired land. That section reads as under:-

Prohibition on transfer of lands acquired by Central Government.-- No person shall purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union territory of Delhi, which has been acquired by the Central Government under the Land Acquisition Act, 1984 or under any other law providing for acquisition of land for a public purpose.

Section 4 which contains provision for regulation of transfer of lands which are under acquisition also reads as under:- Regulation on transfer of lands in relation to which acquisition proceedings have been initiated. - No person shall, except with the previous permission in writing of the competent authority, transfer or purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union territory of Delhi, which is proposed to be acquired in connection with the Scheme and in relation to which a declaration to the effect that such land or part thereof is needed for a public purpose having been made by the Central Government under section 6 of the Land Acquisition Act, 1894, (1 of 1894) the Central Government has not withdrawn form the acquisition under section 48 of that Act.

45. The distinction between the above reproduced two provisions is that while Section 3 contains an absolute prohibition on transfer of the acquired land by sale, mortgage, gift, lease or otherwise, Section 4 declares that no person shall, except with the previous permission in writing of the competent authority, transfer or purport to transfer by sale etc. of any land or part thereof, which is proposed to be acquired in connection with the scheme and in relation to which a declaration to the effect that such land or part thereof is needed for a public purpose has been made by the Central Government and the Central Government has not withdrawn from the acquisition under Section 48(1).

46. The present case falls within the ambit of Section 3 of the 1972 Act. The land owners and Shri Satish Khosla must have been aware of the prohibition on transfer of the acquired land, but by taking advantage of the stay order passed by the High Court in Writ Petition No.1753/1980, they appear to have entered into some clandestine transaction pursuant to which Shri Satish Khosla acquired possession of the land and proceeded to build the sports complex and commercial facilities

to which reference has been made in the order of the Division Bench. We have described the transaction as clandestine because the appellants are conspicuously silent as to how Shri Satish Khosla came in possession of land in question after 35 years of initiation of the acquisition proceedings and 10 years of finalization thereof. During the course of hearing, Shri Mukul Rohtagi, learned senior counsel appearing for the appellants did make a statement that his client were put in possession in furtherance of an agreement of sale, but no document has been produced in support of this statement. Therefore, it is not possible to take cognizance of the so-called agreement of sale. In any case, even if such a transaction did take place, the same will have to be treated as void in view of the express prohibition contained in Section 3 of the 1972 Act.

47. Although, the then Minister for Urban Development, who recorded note dated 8.6.1999, was extremely magnanimous to the appellants when he wrote that the extensive construction must have been made with full cooperation of public servants concerned, but having carefully examined the entire record, we have no hesitation to observe that the construction of this magnitude could not have been possible, but for the active connivance of the concerned public servants who turned blind eye to the huge structure being built on the acquired land without any sanctioned plan. We are amazed to note that after having secured some sort of transfer of the acquired land in stark violation of the prohibition contained in Section 3 of the 1972 Act, the appellants could raise massive structure comprising cricket ground, tennis stadium, badminton courts, swimming pool, table tennis room, squash court, etc. and cottages with modern facilities without even submitting building plans for sanction by any competent authority and without being noticed by any of the authorities entrusted with the duty of checking illegal/unauthorised construction. This mystery may perhaps never be solved because the officers responsible for ignoring the blatant violation of Section 3 of the 1972 Act, Delhi Development Authority Act and Building Rules, Regulations and By-laws must have either retired or moved to higher positions in the administration where they will be able to block any inquiry in the matter. Be that as it may, such illegal constructions cannot be protected by the court by nullifying the decision taken by the Government not to withdraw from the acquisition of the land in question.

48. At this stage, we may also take cognizance of the commercial activities being undertaken in what has been described by the appellants as sports complex simpliciter. The nature and magnitude of the commercial activities may never have been revealed but for the fact that the officer representing the respondents could bring to the High Court's notice the written statement filed by Shri Satish Khosla in Suit No. 3064/1996 - M/s. Eli Lilly Ranbaxy Ltd. and others v. Satish Khosla. In that suit, the plaintiff had sought a decree of permanent injunction restraining the defendant from letting out the garden for parties and functions during the currency of lease agreement in respect of cottage no. 6. The contents of paras 4, 6 and 11 of the written statement, which have been extracted in the impugned order of the Division Bench of the High Court, read as under:-

4. Para no. 4 is denied. It is pertinent to note that the Cottage in question is situated in the Shanti Sports Club and is one of the 7 cottages in the said Sports Club. Shanti Sports Club, of which the defendant is the Chairman, came into existence in 1989 and the sports facilities of the said Club are being utilized by its members as well as others. The said Club has amongst others a cricket ground, six tennis courts, swimming pool, squash courts, billiards rooms and a host of other facilities for use for its members. The Club has large beautifully manicured lawn appealing to the eye. Since the very inception of the Club, its beautiful lawns are hired for wedding parties, birth-day parties and for other festive occasions. These wedding parties have been held on the lawns of the Club since 1991, and are the very life and soul of the Club apart from its sports activities. In fact, the aforementioned

wedding parties and other functions which are held on the lawns are the major source of revenue for the Club. The club has more than 1500 members and about 200-300 frequent the club every day.

6. Para 6 is denied. The contents of this para are absolutely false to the knowledge of the plaintiffs inasmuch as the plaintiffs all along knew that the garden in between the two Cottages was let out on hire for marriage and other private parties. The defendant denies any verbal assurance was given to the plaintiffs that the garden was to be used for the families residing in two cottages and not for any other purpose. The lawn/garden in question in between the two cottages is of more than 3000 sq. yards in size and it was not hired out to the plaintiff.

11. The averments made in para 11 are denied. It is submitted that the plaintiffs have filed the present suit only to harass the defendant. It is pertinent to note that in the other Cottages in the Club several Diplomats including Deputy High Commissioner of Pakistan, Ambassador of Kazakastan and other dignitaries are staying for several years without any complaint. It is denied that the plaintiffs are entitled to a decree of permanent injunction restraining the defendant from hiring out the garden for functions and parties during the tenure of the alleged lease agreement. The revenue generated from hiring out the garden for functions and parties is significant revenue and is necessary for the proper and efficient running of the Club and these functions and parties are the very life and soul of the Club.

The aforesaid averments made in the written statement filed by Shri Satish Khosla in the above noted suit clearly reveal that the cottages at the club and its lawns are being used for commercial and rental purposes. In respect of cottage No. 6 alone the club was charging large amounts as per below under various agreements. These details are as follows:-

1. According to the lease agreement by and between the club and M/s.Eli Lilly Ranbaxy Ltd. the latter was required to pay a rental of Rs.60,000/- p.m. to the former during the first year of the lease.

2. The rent was liable to be increased by 5% after the first years, 10% over the last rent paid after second year and every year thereafter.

3. Agreement stipulated payment of advance rent in the sum of Rs.4,50,000/- by M/s. Eli Lilly Ranbaxy Ltd. to the Club.

4. Under maintenance and service agreement in respect of the said premises M/s. Eli Lilly Ranbaxy Ltd. Were required to pay Rs.40,000/- p.m. to the Club.

5. The maintenance charges of the premises were liable to be increased by 5% over the last charge paid after the first year, and increase of 10% over the last charge paid after the second year and every year thereafter.

6. Under an agreement for security services, for the same cottage, the aforesaid lessee was required to pay Rs.30,000/- to the club and these charges were liable to be increased by 5% after first year and 10% after the second year and every year thereafter.

7. Under an agreement styled as 'hire agreement', the lessee was required to pay to the club a sum of Rs.70,000/- p.m. for the use of the fittings and fixtures installed in the cottage.

8. The lessee was also liable to pay to the club hire charges of Rs.7,50,000/- as advance for the fittings and fixtures installed in the cottage.

49. From what we have noted above, it is crystal clear that the appellants have been undertaking large scale commercial activities in the complex and their so-called love for sports has substantial flavor of commerce.

50. The plea of discrimination and violation of Article 14 of the Constitution put forward by the appellants is totally devoid of substance because they did not produce any evidence before the High Court and none has been produced before this Court to show that their land is identically placed qua the lands on which Hamdard Public School, St. Xavier School, Scindia Potteries, etc. exist. In the representations made to different functionaries of the Government and DDA, the appellants did claim that other parcels of the land have been de-notified and before the High Court a copy of notification dated 6.9.1996 issued under Section 48(1) was produced, but the said assertion and notification were not sufficient for recording a finding that their case is identical to those whose land had been denotified. The burden to prove the charge of discrimination and violation of Article 14 was on the appellants. It was for them to produce concrete evidence before the court to show that their case was identical to other persons whose land had been released from acquisition and the reasons given by the Government for refusing to release their land are irrelevant or extraneous. Vague and bald assertions made in the writ petition cannot be made basis for recording a finding that the appellants have been subjected to invidious or hostile discrimination. That apart, we are prima facie of the view that the Government's decision to withdraw from the acquisition of some parcels of land in favour of some individuals was not in public interest. Such decisions had, to some extent, resulted in defeating the object of planned development of Delhi on which considerable emphasis has been laid by the Full Bench of the High Court and this Court. This being the position, Article 14 cannot be invoked by the appellants for seeking a direction to the respondents to withdraw from the acquisition of the land in question. Article 14 of the Constitution declares that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. The concept of equality enshrined in that Article is a positive concept. The Court can command the State to give equal treatment to similarly situated persons, but cannot issue a mandate that the State should commit illegality or pass wrong order because in another case such an illegality has been committed or wrong order has been passed. If any illegality or irregularity has been committed in favour of an individual or a group of individuals, others cannot invoke the jurisdiction of the High Court or of this Court and seek a direction that the same irregularity or illegality be committed in their favour by the State or its agencies/instrumentalities. In other words, Article 14 cannot be invoked for perpetuating irregularities or illegalities. In Chandigarh Administration v. Jagjit Singh (1995) 1 SCC 745, this Court made a lucid exposition of law on this subject. The facts of that case were that the respondents, who had given the highest bid for 338 sq. yds. Plot in Section 31A, Chandigarh defaulted in paying the price in accordance with the terms and conditions of allotment. After giving him opportunity of showing cause, the Estate Officer cancelled the lease of the plot. The appeal and the revision filed by him were dismissed by the Chief Administrator and Chief Commissioner, Chandigarh respectively. Thereafter, the respondent applied for refund of the amount deposited by him. His request was accepted and the entire amount paid by him was refunded. He then filed a petition for review of the order passed by the Chief Commissioner, which was dismissed. However, the officer concerned entertained the second review and directed that the plot be restored to the respondent. The latter did not avail benefit of this unusual order and started litigation by filing writ petition in the High Court, which was dismissed on March 18, 1991. Thereafter, the respondent again approached the Estate Officer

with the request to settle his case in accordance with the policy of the Government to restore the plots to the defaulters by charging forfeiture amount of 5%. His request was rejected by the Estate Officer. He then filed another writ petition before the High Court, which was allowed only on the ground that in another case pertaining to Smt. Prakash Rani, the Administrator had restored the plot despite dismissal of the writ petition filed by her. While reversing the order of the High Court, this Court observed as under:-

We are of the opinion that the basis or the principle, if it can be called one, on which the writ petition has been allowed by the High Court is unsustainable in law and indefensible in principle. Since we have come across many such instances, we think it necessary to deal with such pleas at a little length. Generally speaking, the mere fact that the respondent-authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order. The extraordinary and discretionary power of the High Court cannot be exercised for such a purpose. Merely because the respondent-authority has passed one illegal/unwarranted order, it does not entitle the High Court to compel the authority to repeat that illegality over again and again. The illegal/unwarranted action must be corrected, if it can be done according to law -- indeed, wherever it is possible, the Court should direct the appropriate authority to correct such wrong orders in accordance with law -- but even if it cannot be corrected, it is difficult to see how it can be made a basis for its repetition. By refusing to direct the respondent-authority to repeat the illegality, the Court is not condoning the earlier illegal act/order nor can such illegal order constitute the basis for a legitimate complaint of discrimination. Giving effect to such pleas would be prejudicial to the interests of law and will do incalculable mischief to public interest. It will be a negation of law and the rule of law. Of course, if in case the order in favour of the other person is found to be a lawful and justified one it can be followed and a similar relief can be given to the petitioner if it is found that the petitioners' case is similar to the other persons' case. But then why examine another person's case in his absence rather than examining the case of the petitioner who is present before the Court and seeking the relief. Is it not more appropriate and convenient to examine the entitlement of the petitioner before the Court to the relief asked for in the facts and circumstances of his case than to enquire into the correctness of the order made or action taken in another person's case, which other person is not before the case nor is his case. In our considered opinion, such a course -- barring exceptional situations -- would neither be advisable nor desirable. In other words, the High Court cannot ignore the law and the well-accepted norms governing the writ jurisdiction and say that because in one case a particular order has been passed or a particular action has been taken, the same must be repeated irrespective of the fact whether such an order or action is contrary to law or otherwise. Each case must be decided on its own merits, factual and legal, in accordance with relevant legal principles. The orders and actions of the authorities cannot be equated to the judgments of the Supreme Court and High Courts nor can they be elevated to the level of the precedents, as understood in the judicial world.

[emphasis added]

51. Similar is the ratio of the judgments in Narain Das v. Improvement Trust, Amritsar (1973) 2 SCC 265, Gursharan Singh v. New Delhi Municipal Committee (1996) 2 SCC 459, Secretary, Jaipur

Development Authority v. Daulat Mal Jain (supra), Yadu Nandan Garg v. State of Rajasthan and others (supra), State of Haryana v. Ram Kumar Mann [(1997) 3 SCC 321, Faridabad CT. Scan Centre v. D.G. Health Services [(1997) 7 SCC 752], Style (Dress land) v. Union Territory, Chandigarh [(1999) 7 SCC 89], State of Bihar v. Kameshwar Prasad Singh (2000) 9 SCC 94, Union of India v. International Trading Co. (2003) 5 SCC 437, Ekta Sakthi Foundation v. Govt. of NCT of Delhi (2006) 10 SCC 337, Sanjay Kumar Munjal v. Chairman, UPSC (2006) 8 SCC 42, K.K. Bhalla v. State of M.P. and others (2006) 3 SCC 581, National Institute of Technology v. Chandra Sekhar Chaudhary (2007) 1 SCC 93, Vice Chancellor, M.D. University, Rohtak v. Jahan Singh (2007) 5 SCC 77, State of Kerala and others v. K. Prasad and another (2007) 7 SCC 140, Punjab State Electricity Board and others v. Gurmail Singh (2008) 7 SCC 245 and Panchi Devi v. State of Rajasthan and others (2009) 2 SCC 589.

52. Before concluding, we consider it necessary to enter a caveat. In all developed countries, great emphasis has been laid on the planned development of cities and urban areas. The object of planned development has been achieved by rigorous enforcement of master plans prepared after careful study of complex issues, scientific research and rationalisation of laws. The people of those countries have greatly contributed to the concept of planned development of cities by strictly adhering to the planning laws, the master plan etc. They respect the laws enacted by the legislature for regulating planned development of the cities and seldom there is a complaint of violation of master plan etc. in the construction of buildings, residential, institutional or commercial. In contrast, scenario in the developing countries like ours is substantially different. Though, the competent legislatures have, from time to time, enacted laws for ensuring planned development of the cities and urban areas, enforcement thereof has been extremely poor and the people have violated the master plans, zoning plans and building regulations and bye-laws with impunity. In last four decades, almost all cities, big or small, have seen unplanned growth. In the 21st century, the menace of illegal and unauthorized constructions and encroachments has acquired monstrous proportions and everyone has been paying heavy price for the same. Economically affluent people and those having support of the political and executive apparatus of the State have constructed buildings, commercial complexes, multiplexes, malls etc. in blatant violation of the municipal and town planning laws, master plans, zonal development plans and even the sanctioned building plans. In most of the cases of illegal or unauthorized constructions, the officers of the municipal and other regulatory bodies turn blind eye either due to the influence of higher functionaries of the State or other extraneous reasons. Those who construct buildings in violation of the relevant statutory provisions, master plan etc. and those who directly or indirectly abet such violations are totally unmindful of the grave consequences of their actions and/or omissions on the present as well as future generations of the country which will be forced to live in unplanned cities and urban areas. The people belonging to this class do not realize that the constructions made in violation of the relevant laws, master plan or zonal development plan or sanctioned building plan or the building is used for a purpose other than the one specified in the relevant statute or the master plan etc., such constructions put unbearable burden on the public facilities/amenities like water, electricity, sewerage etc. apart from creating chaos on the roads. The pollution caused due to traffic congestion affects the health of the road users. The pedestrians and people belonging to weaker sections of the society, who cannot afford the luxury of air-conditioned cars, are the worst victims of pollution. They suffer from skin diseases of different types, asthma, allergies and even more dreaded diseases like cancer. It can only be a matter of imagination how much the government has to spend on the treatment of such persons and also for controlling pollution and adverse impact on the environment due to traffic congestion on the roads and chaotic conditions created due to illegal and unauthorized constructions. This Court has, from time to time, taken cognizance of buildings constructed in

violation of municipal and other laws and emphasized that no compromise should be made with the town planning scheme and no relief should be given to the violator of the town planning scheme etc. on the ground that he has spent substantial amount on construction of the buildings etc. - K. Ramdas Shenoy v. Chief Officers, Town Municipal Council, Udipi 1974 (2) SCC 506, Dr. G.N. Khajuria v. Delhi Development Authority 1995 (5) SCC 762, M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu 1999 (6) SCC 464, Friends Colony Development Committee v. State of Orissa 2004 (8) SCC 733, M.C. Mehta v. Union of India 2006 (3) SCC 399 and S.N. Chandrasekhar v. State of Karnataka 2006 (3) SCC 208.

53. Unfortunately, despite repeated judgments by the this Court and High Courts, the builders and other affluent people engaged in the construction activities, who have, over the years shown scant respect for regulatory mechanism envisaged in the municipal and other similar laws, as also the master plans, zonal development plans, sanctioned plans etc., have received encouragement and support from the State apparatus. As and when the courts have passed orders or the officers of local and other bodies have taken action for ensuring rigorous compliance of laws relating to planned development of the cities and urban areas and issued directions for demolition of the illegal/unauthorized constructions, those in power have come forward to protect the wrong doers either by issuing administrative orders or enacting laws for regularization of illegal and unauthorized constructions in the name of compassion and hardship. Such actions have done irreparable harm to the concept of planned development of the cities and urban areas. It is high time that the executive and political apparatus of the State take serious view of the menace of illegal and unauthorized constructions and stop their support to the lobbies of affluent class of builders and others, else even the rural areas of the country will soon witness similar chaotic conditions.

54. In the result, the appeals are dismissed. However, by taking note of the submission made by Shri Mukul Rohtagi that some time may be given to his clients to vacate the land, we deem it proper to grant thee months' time to the appellants to handover possession of the land to the concerned authority of DDA. This will be subject to the condition that within two weeks from today an affidavit is filed on behalf of the appellants by an authorised person that possession of the land will be handed over to DDA by 30 th November, 2009 and during this period no encumbrances whatsoever will be created by the appellants or their agents and that no compensation will be claimed for the construction already made. Needless to say that if the required undertaking is not filed, the concerned authorities of DDA shall be entitled to take possession of the land and, if necessary, take police help for that purpose. Contempt Petition Nos. 252-253 of 2001

55. We have dismissed the civil appeals by the above order. Hence, the contempt petitions are dismissed.