

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).20600/2006

(From the judgement and order dated 23/11/2006 in WA Nos. 294, 362, 289, 356, 293, 433, 357 and 361 of 2006 of The HIGH COURT OF M.P AT INDORE BENCH)

RAJ KUMAR JAIN & ORS.

Petitioner(s)

VERSUS

STATE OF M.P. & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer for interim relief and office report))

WITH SLP(C) NO. 194 of 2007

(With prayer for interim relief and office report)

SLP(C) NO. 21024 of 2006

(With prayer for interim relief and office report)

Date: 15/01/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Petitioner(s) Mr. Harish N. Salve, Sr. adv.

 Mr. Puneet Jain, Adv.

 Ms. Christi Jain, Adv.

 Mr. Piyush Jain, adv.

 Mr. Ajay Ashudani, Adv. for

 Ms. Pratibha Jain, Adv.

 Ms. Pragati Neekhra, Adv.

For Respondent(s) Mr. Gopal Subramaniam, ASG

 Mr. S.K. Gambhir, Sr. Adv.

 Mr. Sanjay Kapur, Adv.

 Ms. Arti Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

The High Court while disposing of the appeal by the impugned order,

in the penultimate paragraph, has observed as under:

"As discussed hereinabove, the Authority did not exercise the discretion required under sub-section (4) of Section 17 of the Act and, herefore, the dispensing with Section 5A enquiry was not proper. However, as observed above, at this distance of time, though the petitioners are entitled to relief, we do not propose to quash any notification including the declaration under Section 6 of the Act. We may reiterate that declaration under Section 6 can be issued from time to time in respect of different parcels of land covered by the same notification under Section 4 of the Act. Thus, the publication of notification under Section 6 does not make it sacrosanct and the same can be altered, if it becomes absolutely necessary. Under these circumstances, we are of the opinion that the writ petitioners

should be granted an opportunity to raise their objections under Section 5 A of the Act before appropriate authority within fifteen days from the date of this decision and the authority concerned shall decide the objections within a fortnight thereafter. If after decision of the objections of the petitioners, the authority is of the view that land of any petitioner is to be excluded, only in that event it shall make request to the appropriate authority to modify the declaration under Section 6 or to issue order for exclusion of the land under Section 48."

Counsel for the respondent has pointed out that in pursuance to the aforesaid direction given by the High Court, Land Acquisition Collector has disposed of the Objections under Section 5A by its order dated 22nd of December, 2006.

Counsel for the petitioners contends that he intends to challenge the order passed by the Land Acquisition Collector dated 22nd December, 2006 and in case their challenge appeal is accepted, then the notification under Section 6 qua the petitioners' land shall require amendment.

The High Court has also ordered to the same effect but we clarify that in case challenge to the order passed under Section 5A is maintainable/accepted, then the notification under Section 6 qua the petitioners' land can be amended.

According to the petitioners, they are in possession of the land whereas according to the respondents, the possession of the land has already been taken by the respondents. It is further contended that construction is already going on. In view of this, we direct that status quo as regards possession, as it

exists today, be maintained for a period of one week qua the petitioners' land.

The special leave petition stands disposed of accordingly.

(J.S. Rawat) (Khushi Ram)

AR-cum-PS Court Master