

First National  
Bank, Ltd.

v.  
The Mandi  
(State) Indus-  
tries, Ltd.,  
Joginder Nagar

Tek Chand, J.

the opinion that the claim of the petitioner is with-  
in time.

On the second issue, there is no force in the objections of the respondent, that recovery cannot take place in India. The respondent-company was incorporated in India and has always been doing its business at Joginder Nagar (Himachal Pradesh), the pledged goods are also lying at Joginder Nagar where the registered office of the respondent-company is situated. The First National Bank was no doubt doing its business in Lahore and before the partition of the country in 1947, its registered office was shifted to Ludhiana. Winding up petition was presented in this Court which passed winding up order. It does not admit of the least doubt that the amount in question can be recovered in India.

Lastly, it is amply established on the record that the amount claimed, is due from the respondent to the petitioner. Exhibit P. 7 referred to above shows, that a sum of Rs. 76,961/10/- was due from the respondent to the petitioner on July 30, 1954. Thus, the claim of the petitioner for Rs. 76,224/8/- including interest calculated up to 31st March, 1954, stands proved. I, therefore, pass a payment order for Rs. 76,224/8/- with interest at 7 per cent calculated up to the date of this order from 1st April, 1954, against the pledged property. There will be no order as to future interest. Parties will bear their own costs.

D. K. M.

CIVIL WRIT

Before Falshaw, J.

TEJ RAM,—Petitioner

versus

THE UNION OF INDIA AND OTHERS,—Respondents

Civil Writ No. 136-D of 1957.

*Land Acquisition—Land acquired for the use of a Co-operative House Building Society—Such acquisition, whether for a public purpose—Public purpose with reference to acquisition of land, what is, stated.*

1957

August, 26th

*Held*, that the acquisition of land for the use of a Co-operative house building society is for a public purpose. The Land Acquisition Act itself makes provision for the acquisition of land by companies or industrial concern for certain purposes, one of which is for the erection of dwelling houses and provision of amenities for workmen, and while this is contained in a separate section of the Act and treated as something distinct from the acquisition of land by the Government directly for public purpose, at the same time it is quite obvious that the acquisition of land by companies for the specified purposes must have been considered as *ejusdem generis*, and that the purposes for which companies were enabled to acquire land under the Act were regarding as being, if not actual public purposes, something closely akin thereto.

*Held also*, that the meaning of the term "public purpose" is undoubtedly hard to define but in the case of acquisition of land it is not confined to the direct use of the land by Government itself or even that the land acquired is to be made available to the public at large.

*PETITION under Article 226 of the Constitution of India praying that, (a) a writ in the nature of certiorari be issued quashing all the proceedings including the award, dated the 26th February, 1957, relating to the acquisition of the petitioner's land; (ii) that an appropriate writ or direction be issued directing the respondents to treat the Acquisition and the Award as void and wholly ineffective; (iii) that the necessary interim orders to preserve the status quo be made; (iv) that such other writs, directions and orders may be issued as may be deemed just and expedient in the circumstances of the present case; and (v) that the petitioner may be awarded costs of the petition.*

A. N. GROVER, for Petitioner.

I. D. DUA, BISHAMBAR DAYAL and KESHAV DAYAL, for Respondents.

### ORDER

FALSHAW, J.—These are thirteen petitions filed under Article 226 of the Constitution by person owning land in a village called Chiragh Delhi challenging the validity of the acquisition proceedings

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culminating in the award of the Land Acquisition Collector dated the 26th February, 1957, by which an area of 141 *bighas* 16 *biswas* of land situated in the village was acquired, including the various holdings of the present petitioners.

The petitioners' case is that in the later part of 1954 respondent No. 3 the Dayalbagh Co-operative House Building Society, Limited, Delhi, which is admittedly a society registered under the Co-operative Societies Act, had been negotiating with various landowners of Chiragh Delhi for the purchase of land for the purpose of carrying out its house-building scheme, but the negotiations did not lead to anything as the Society considered that the price being asked for the land was too high. The petitioners naturally maintain that the Society was not willing to pay the market value of the land, but be that as it may, the Society reported to the Registrar, Co-operative Societies that it had not been able to buy the land required to carry out its scheme the price demanded was too high.

Thereafter the Chief Commissioner of Delhi issued a notification dated the 19th of March, 1955, under section 4 of the Land Acquisition Act, notifying that a certain area of land situated in Chiragh Delhi was to be acquired for the construction of houses for the Dayalbagh Co-operative House Building Society. The land belongs to 33 owners, of whom only 13 are now challenging the proceedings.

The objections of landowners, including the petitioners, were heard and overruled and a notification was issued on the 30th of June, 1956, under section 6 of the Land Acquisition Act ordering the acquisition of the land, which was stated to be required for public purpose, namely for the Society. The usual proceedings followed and

the evidence produced by the landowners regarding the market value of the land was recorded before the award of the Collector was delivered on the 26th of February, 1957.

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The real grievance of the petitioners is undoubtedly that the amount awarded by the Collector as compensation for the land is inadequate and does not represent the true market value of the land, but the validity of the acquisition proceedings as a whole is attacked on the ground that the acquisition of land for the housing scheme of a private body, even though it may be a registered co-operative society and not a profit-making concern, is not a public purpose and therefore, it was illegal for the State Government to enter upon the acquisition proceedings at all.

The position of the respondents is that in view of the acute shortage of house accommodation it is definitely the policy of the Government of India and the Delhi State Government to encourage house-building schemes, and especially it is the policy of the Government to encourage in the public interest such schemes proposed by co-operative house-building societies. In fact requests by such societies to the Government requiring land for carrying out their schemes were expressly invited in a meeting of representatives of co-operative house-building societies convened on the 18th of November, 1954, and it was in consequence of this encouragement from the Government that the Society in the present case applied for assistance in the acquisition of land for its scheme.

It was also contended on behalf of the respondents that the present petitions should be summarily dismissed on account of certain facts which have not been mentioned by the petitioners in the present petitions. These facts are that in May, 1956, when the

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proceedings before the Collector were nearly concluded, and the announcement of his award would not have been long delayed, one of the landowners of the village Deep Chand filed a petition in this Court under Article 226 purporting to be on his own behalf and on behalf of other properties of Chiragh Delhi challenging the acquisition proceedings on grounds similar to those now taken. This petition was admitted on the 11th of May, 1956, when a stay order was granted. When this petition came up for hearing on the 19th of November, 1956, nobody appeared in support of it and it was dismissed in default. The acquisition proceedings were then resumed in December, 1956, and the landowners were given further opportunities to produce evidence and the Collector's award was announced on the 26th of February, 1957. Thereafter the compensation was deposited with the Collector for payment to the owners, who were invited to receive it and the owners as a whole, including the present petitioners, then applied for a reference to the Court of the District Judge under section 18 of the Land Acquisition Act, this virtually amounting to an appeal against the Collector's award, and this reference, in which the present petitioners are active parties, is still pending.

From the facts as a whole it is clear that the grievance of the petitioners is not that they are being deprived of their land but they are not getting what they consider to be the proper price for it, and it cannot be denied that the petitioners have come to Court very late after participating in the acquisition proceedings and presenting their case, although their grievance really arose in 1955 when the acquisition scheme was first notified, and moreover they are even now pursuing another remedy by way of what amounts to an appeal against the award of the Collector for the purpose of getting the compensation increased. It is stated on their behalf that they were not actual parties

to the previous writ petition which had the effect of getting the acquisition proceedings stayed for six months before it was dismissed in default, but at the same time I have no doubt that they were behind that petition, of which they must have been aware if only on account of the staying of the acquisition proceedings. On these grounds alone I think the Court would be entitled to dismiss the present petitions.

However, I am of the opinion that there is no force in the contention that the present acquisition proceedings, although the land has been acquired for the use of a co-operative house-building society and not directly for the use of Government, are not for a public purpose. The Land Acquisition Act itself makes provision for the acquisition of land by companies or industrial concerns for certain purposes, one of which is for the erection of dwelling houses and provision of amenities for workmen, and while this is contained in a separate section of the Act and treated as something distinct from the acquisition of land by the Government directly for public purpose, at the same time it is quite obvious that the acquisition of land by companies for the specified purposes must have been considered as *ejusdem generis*, and that the purposes for which companies were enabled to acquire land under the Act were regarding as being, if not actual public purposes something closely akin thereto, and this Act, which is of the year 1894, was enacted at a time when development was comparatively slow and gradual, and half a century before war-time congestion in large cities, followed, particularly in the case of Delhi, by huge influx of refugees after the partition, had caused the problem of housing accommodation to become acute.

The meaning of the term "public purpose" is undoubtedly hard to define but in the case of acquisition of land it is not confined to the direct

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use of the land by Government itself or even that the land acquired is to be made available to the public at large. This was laid down by their Lordships of the Privy Council in *Hamabai Framjee Petit v. The Secretary of State for India in Council* (1). If the Government were to acquire land for the purpose of building houses for persons of a particular class, such as Government servants or displaced persons I do not think it could possibly be objected that the acquisition was not for a public purpose. I even do not think that this objection could be made if Government were to acquire land for housing scheme of any kind in which the houses were to be sold or let to persons of any class if an acute housing shortage existed and this shortage could not be, and was not being adequately met, by private enterprise.

In the Delhi area an acute housing shortage undoubtedly existed and I cannot see why it should not be regarded as a legitimate public policy to encourage people to form themselves into co-operative house-building societies for the purpose of building homes for themselves on a strict co-operative and non-profit-making basis, and, if, as is said to be the case, the Government is even prepared to lend financial aid to such co-operative societies I should go so far as to say that it could be almost the duty of the Government to help such societies to acquire the land needed at its proper value, which can only be done in proceedings under the Land Acquisition Act. The case would be of course different if the Government proposed to help a profit-making company to acquire land for development as a residential estate. As it is I consider the purpose for which the present acquisition has been made falls within the limits of a public purpose. I accordingly

(1) 42 I.A. 44.

dismiss the present petitions with costs. The counsel's fee in the thirteen petitions are consolidated as Rs. 100 for each of the respondents. The stay order will accordingly be vacated.

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APPELLATE CIVIL

*Before Falshaw and Mehar Singh, JJ.*

THE ITHAD MOTOR TRANSPORT, LTD.,—Appellant

*versus*

KARNAL CO-OPERATIVE TRANSPORT SOCIETY,—  
*Respondent.*

**R. F. A. 175-D of 1956.**

1957

August, 28th

*Specific Relief Act (I of 1877) Section 54—Motor Vehicles Act (IV of 1939)—Sections 42(1), 47, 48, and 123—Permit issued to transport companies A and B to ply passenger vehicles subject to condition that company B will not pick passengers from within certain specified areas—Company B, violating this condition of the permit—Suit by company A for damages on account of loss suffered by the violation of the condition—Such suit, whether maintainable—Permit, nature of—Whether right in property.*

*Held*, that there is nothing under the Motor Vehicles Act which goes to give, what to say directly, even by implication any right to a permit-holder to maintain a suit for damages. On the contrary the Act is a complete code in itself and provides all the remedies for breaches of its provision, in fact, it provides a far more effective remedy to meet a breach of the conditions of a permit by cancellation of the permit and seizure and detention of the vehicle than by giving such right of action as is claimed by the plaintiff company. These provisions completely negative any implied right of action in the plaintiff company based on a breach of the conditions of their permit by the defendant-companies to maintain a suit for damages. The statutory protection and benefit from which an implied civil right of action has been inferred must arise out of statutory provisions and refer to defined individual or individuals but where the