(ii) that Section 69(2) of the Punjab Waqf Act, 1954 is no warrant for the proposition that Section 11 of the Administration of Evacuee Property Act, 1950, stands expressly repealed thereby;

(iii) the earlier view in *Prithipal Singh* v. *Punjab Waqf Board*, (supra) and *Khushi Ram and another* v. *Punjab Waqf Board* (supra), is hereby affirmed; and,

(iv) the Regular Second Appeal is allowed and the plaintiff's suit is dismissed and the parties are left to bear their own costs.

S. S. Sandhawalia, C.J.

Kulwant Snigh Tiwana, J.

S. P. Goyal, J.

N. K. S.

FULL BENCH

Before S. S. Sandhawalia, C.J., P. C. Jain and S. C. Mital, JJ.

NAWAL SINGH,—*Petitioner.*

versus

THE ADMINISTRATOR, MUNICIPAL COMMITTEE, CHARKHI DADRI AND OTHERS,—*Respondents.*

Civil Writ Petition No. 467 *of* 1982.

October 11, 1983.

Punjab Town Improvement Act (IV of 1922) (as applicable to State of Haryana)—Sections 24, 28, 42(1) and 44-A—Improvement Scheme duly prepared by Trust and notified under section 42(1)—Such scheme not executed within a period of five years from the notification as provided by section 44-A—Such scheme—Whether liable to be quashed—Meaning of the word 'execute' in section 44-A—Explained.

Held, that a reading of section 44-A of the Punjab Town Improvement Act, 1922 (as applicable to the State of Haryana) indicates the intent of the Legislature to put a time limit for the execution of the scheme duly prepared under sections 24 and 28

and notified under section 42(1). From the section it is manifest that in order to strike at the evil of long delays in the execution of the scheme, the Legislature has fixed two clear cut termini. The first one is with regard to the sanction and commencement of the scheme from the date of its notification under section 42 of the Act in the official Gazette. This point of time is thus clearly and inflexibly fixed. The other terminus for the execution of the said scheme has been fixed at five years precisely from the date of such a notification. As a general rule, a reasonable period is thus provided for the commencement and the completion of the scheme envisaged by the Act in Chapter IV. It is only by way of an exception that the proviso to the main provision spells out the conditions where an extension of this prescribed time may be granted. The power of extension is not vested in the Trust itself but in the State Government and is further hedged by the condition of its satisfaction that it was beyond the control of the Trust to execute the scheme within the period laid out. The overall view of the section would consequently indicate that the basic rule is that of completion within five years and the exception of the grant of extension by the Government is again hedged by a pre-condition. It is thus plain from the legislative background, the evil which the Legislature intended to remedy as also the specific language of section 44-A of the Act, that a true interpretation of the same mandates that the scheme must be executed and completed within the prescribed period of five years or duly extended, if any. As such the proceedings not completed within the said time limit are in clear infraction of section 44-A of the Act and are liable to be quashed to that extent.

(Paras 9 and 15)

Held, that reading of the word 'execute' in section 44-A of the Act in its context indicates that the very object and intent of the Legislature in inserting the said section by way of amendment to ensure the execution and accomplishment of the scheme within the time limit and to curb the evil of long procrasatination in this context. Even on the stricter levels of grammatical construction, it would appear that the word 'execute' or 'execution' encompasses within it a completion and accomplishment of the scheme and not a mere initiation thereof. If would thus follow that the true meaning of the word 'execute' with reference to section 44-A of the Act must imply the accomplishment or completion of the scheme within the time limit spelt out thereof.

(Paras 10 and 11).

Tirlok Singh Jain *Vs.* State of Haryana and another, Civil Writ Petition No. 3790 of 1981 decided on 25th September, 1981.

OVERRULED.

Case referred by Division Bench consisting of Hon'ble Mr. Justice Prem Chand Jain, and Mr. Justice S. P. Goyal, to a

larger Bench on 14th April, 1982 for decision of an important questions of law involved in the case. The Larger Bench consisting of Hon'ble The Chief Justice, S. S. Sandhawalia, Hon'ble Mr. Justice Prem Chand Jain, and Hon'ble Mr. Justice S. C. Mital, finally decided the case on 11th October, 1983.

Civil Writ Petition under Articles 226 and 227 of the Constitution of India praying as under :—

(*i*) *that this Hon'ble Court may be pleased to summon the record of the present case and after perusing the same issue a writ of certiorari to the effect that the scheme dated 23rd January, 1976 framed by the respondents,— vide Annexure P-1 be declared to be quashed, having ceased to exist and having become inexecutable and all action allegedly taken by the respondents in furtherance of the said scheme be quashed.*

(*ii*) *that the respondents be restrained from dispossessing the petitioner from his land and house and holding the third public auction and further auctions and allotments allegedly in furtherance of the scheme which has become inexecutable during the pendency of this writ petition in this Hon'ble Court.*

(*iii*) *that an appropriate writ direction or order be issued to the respondents restraining them from dispossessing the petitioner from his land and house.*

(*iv*) *that the filing of certified copies of Annexure P-1 to P-8 and issuing of notices of motion to the respondents be dispensed with.*

(*v*) *that any other writ, direction or order as deemed fit by this Hon'ble Court be passed.*

(*vi*) *that the costs of this writ petition be awarded to the petitioner.*

R. L. Sarin, Advocate, *for the Petitioner.*

Harbhagwan Singh, A. G. Haryana, *for Respondent No.* 1 *and* 3.
G. L. Batra, Sr. D.A.G., *for Respondent No.* 2.

JUDGMENT

S. S. Sandhawalia, C.J.

The true import of section 44-A of the Punjab Town Improvement Act, 1922, inserted by way of Amendment by Haryana Act No. 17 of 1973 — is the significant question which falls for determination in this reference to the Full Bench in the set of 4

connected civil writ petitions. Equally at issue is some apparent discordance of view within this Court on the point.

2. The learned counsel for the parties are agreed on the similarity of the facts and the identity of the legal issue in those cases and this judgment will, therefore, govern all of them. It consequently suffices to pick matrix of facts from Civil Writ Petition No. 467 of 1982 (*Nawal Singh* v. *The Administrator, Municipal Committee and others*).

3. The Charkhi Dadri Improvement Trust, Charkhi Dadri, prepared a scheme dated 23rd January, 1976, titled as "The Development Scheme No. IB" for constructing a Harijan colony near Gaushala Gandhi Ashram and Delhi-Narnaul Road under sections 24 and 28 of the Punjab Town Improvement Act, 1922 (hereinafter called 'the Act'). The said scheme was duly published under section 42(1) of the Act in the Official Gazette dated 6th February, 1976. The land of the petitioner situated within the municipal limits of Charkhi Dadri upon which the petitioner had constructed a residential house came within the said scheme. In pursuance thereof the award of the Collector was announced on 3rd November, 1976.

4. It is, however, the case of the writ petitioner that the respondent — Trust thereafter has not taken any steps to execute this scheme and the petitioner has neither been dispossessed from his land and the house nor has possession of land and the house been taken from other owners similarly affected. It is averred that instead of carrying out the scheme, the respondents planned to sell plots for 302 houses, 44 booths and 17 shop-cum-flats to the general public by auction and, in fact, on 26th December, 1981, the first auction was held when 91 plots for houses were sold to the general public and the second auction was later held on 8th January, 1982. The petitioner informed respondent No. 1 on the dates aforesaid that the auction of plots to the general public was contrary to the scheme which itself had not been either executed or extended beyond the period of five years expiring on 23rd January, 1981. However, the petitioner was wrongly informed that the scheme had been duly and legally extended beyond that date. Later the petitioner was able to secure a copy of resolution No. 1, dated 29th January, 1981 (Annexure P-3) wherein specific mention is made of the fact that the scheme could not be implemented and the sanction should be secured from the Haryana Government for an extension of two

years upto 5th January, 1983, to implement the same, Later,—*vide* Annexure P-5 a reminder dated 27th August, 1981 by the Administrator to the Government was issued for the grant of the said extension for two years. On these premises it is highlighted that undoubtedly the scheme has not even been remotely executed and further that the same has not been got extended beyond 23rd January, 1981, and thus being violative of section 44-A of the Act, the same should be quashed.

5. Despite some specious defences, the broad factual ground remains uncontroverted in the reply of the respondents to the writ petition. The framing of the scheme and its publication in the Gazette on 6th February, 1976, is admitted as well as the fact that the petitioner's land and house come within its ambit. In para 6 of the reply, it is averred that a part of the land governed by the scheme has been allotted to Paras Ram Net Ram Kalania Balika Vidya Mandir for constructing a school building for children and two houses were under construction as a sample to accommodate the weaker sections. The factum of subsequent auctions to the general public on 26th December, 1981 and 8th January, 1982 is admitted, but the stand taken is that a part of the area under this scheme was still to be allotted to Harijans. It is admitted that the sales in favour of the purchasers in open auction have not been confirmed in view of the stay granted by this Court. Resolution No. 1 passed on 29th January, 1981, specifically stating that the scheme had not been executed is admitted, but is sought to be explained away that it was passed in routine and similarly the issuance of the reminder (Annexure P-5) dated 27th August, 1981, is admitted though it is now tenuously stated that no extension was necessary.

6. From the pleadings, it seems to be manifest that though the scheme was published under section 42 of the Act on 6th February, 1976, as yet next to nothing has been done to execute or complete the same despite the passage of more than six years. It would appear that the original purpose of the scheme is now sought to be altered, if not totally transformed, by making public auctions for purposes other than the construction of colonies for the weaker sections. It is proved beyond doubt from the respondent-Trust's own resolution and documents that the scheme could not be executed and an extension for a period of two years therefor was sought and reminders issued for securing the same. It is common ground

that no such extension or sanction has been accorded within the period of five years or beyond it either.

7. This case had originally come up for hearing before the Division Bench comprised of my learned brothers P. C. Jain and S. P. Goyal, JJ. Before them the respondent-State placed reliance on *Tirlok Singh Jain* v. *The State of Haryana and onother* (1) and contended that the writ petitions were liable to be dismissed on that score. Noticing some conflict of opinion in *Tirlok Singh Jain's* case (supra) with earlier Division Bench judgments, the matter was referred to a larger Bench.

8. It is plain that the controversy here must turn on the true interpretation to be placed on the provisions of section 44A of the Act. However, before one proceeds to construe its plain and unequivocal language, it seems apt to view the matter in its true legislative context. The Punjab Town Improvement Act was originally enacted way back in 1922 and Chapter IV (comprising of sections 22 to 44) therein provided for the framing and execution of a wide variety of schemes under the Act. As originally enacted, this Chapter did not specify any limit for the schemes envisaged thereby. This seems to have led to grave procrastination in the execution of such schemes and in fact resulted in harassment of the citizens and abuse of these provisions in so far as the schemes were initiated and prices of the acquisition pegged down without any meaningful hope of their execution and finalisation in the foreseeable future. The grave hardship that ensues to citizens in this context has recently been highlighted by the Full Bench in *Radhey Sham Gupta and others* v. *State of Haryana and others*, (2) by holding that unexplained inordinate delay in the finalisation of the acquisition proceedings may well taint it with the vice of colourable exercise of power and wholly vitiate the same.

9. It was apparently to remedy this evil that section 44A of the Act was inserted by the Haryana Legislature by Act No. 17 of 1973 along with other amendments made in the said statute and in particular adding Chapter V-A thereto. It is against the aforesaid

(1) C.W. 3790 of 1981 decided on 25th September, 1981.

(2) AIR 1982 Pb. and Hary. 519.

backdrop that one must now proceed to analyse the specific provisions of section 44A, which is in the following terms :—

"44A. *Time limit for execution of schemes.*—

Any scheme in respect of which a notification has been published under section 42, shall be executed by the trust within a period of five years from the date of such notification :

Provided that the State Government may, if it is satisfied, that it is beyond the control of the trust to execute the scheme within the said period, extend the same as it may deem fit."

As the very heading of the section indicates the intent of the Legislature is to put a time limit for the execution of schemes under Chapter IV. From the language of the section it is manifest that in order to strike at the root of the evil of long delays in the execution of schemes the Legislature has fixed two clear cut termini. The first one is with regard to the sanction and commencement of the scheme from the date of its notification under section 42 of the Act in the official Gazette. This point of time is thus clearly and inflexibly fixed. The other terminus for the execution of the said scheme has been fixed at five years precisely from the date of such a notification. As a general rule, a reasonable period is thus provided for the commencement and the completion of the schemes envisaged by the Act in Chapter IV. It is only by way of an exception that the proviso to the main provision spells out the conditions where an extension of this prescribed time may be granted. The power of extension is not vested in the Trust itself but in the State Government and is further hedged by the condition of its satisfaction that it was beyond the control of the Trust to execute the scheme within the period laid out. The overall view of the section would consequently indicate that the basic rule is that of completion within five years and the exception of the grant of extension by the Government is again hedged by a pre-condition. It is thus plain from the legislative background, the evil which the Legislature intended to remedy as also the specific language of section 44A of the Act, that a true interpretation of the same mandates that the scheme must be executed and completed within the prescribed period of five years or duly extended, if any.

10. The learned Advocate-General, Haryana, however, took up an ingenious plea that the word 'execute' and its derivatives

employed in the section do not mean the completion or accomplishment of the scheme as such, but merely the initiation of some basic steps to achieve the said object. In particular, it was sought to be argued that the acquisition proceedings having been duly commenced under the Schedule to the Act and the award having been announced, the scheme must be deemed to be executed without anything more and the petitioner be non-suited on that ground. The aforesaid contention does some credit to the ingenuity of the learned Advocate-General, but it needs no great erudition to hold that it is plainly untenable. As noticed earlier, the whole context indicates that the very object and intent of the Legislature in inserting section 44A by way of amendment was to ensure the execution and accomplishment of the schemes within the time prescribed and to curb the evil of long procrastination in this context. To accede to the arguments of the learned Advocate-General would in a way be frustrating the very underlying object of the provision. This is so because if it is once held that the initiation of the scheme and taking of a few basic steps for its completion, would satisfy the law, then any delay, however, inordinate and malignment, would be beyond the arm of the law and leaving the citizen without remedy against the same. On this specific ground also, the argument canvassed on behalf of the respondents does not commend itself to us.

11. Apart from the aforesaid larger considerations even on the stricter levels of grammatical construction, it would appear that the word 'execute' or 'execution' encompasses within it a completion and accomplishment of the scheme and not a mere initiation thereof. In Webster's Third New International Dictionary, the meaning of the word 'execute' is given as 'to put into effect : carry out fully and completely' and again in Chamber's Twentieth Century Dictionary the word 'execute' is the equivalent of 'to perform : to give effect to'. It would thus follow that on the plain dictionary meaning of the word 'execute' as well, the true meaning to be given to section 44A must imply the accomplishment or the completion of the scheme within the time limit spelt out therein.

12. Within this Court there seems to be a consistent line of precedent interpreting section 44A in the manner aforesaid. In *Surat Ram and others* v. *The State of Haryana and others*, (3), the Division Bench had observed as follows :—

> "To us it appears that by the insertion of the aforesaid provision, a big lacuna is sought to be removed, i.e., that

(3) 1979 P.L.J. 430.

> now the Improvement Trust cannot allow the Scheme to linger on for indefinite period and would have to execute and accomplish the Scheme before the expiry of five years. There is no gain-saying that in case of delay, the purpose of the Scheme generally gets frustrated and the land-owners or other persons who are affected by the Scheme, are put to great inconvenience.

The same view has been taken in *Rajeshwar Parshad* v. *State of Haryana and others* (4). The correctness of these judgments was sought to be assailed in *Brij Lal and others* v. *Sirsa Improvement Trust, Sirsa and others,* (5), but the Division Bench in categoric terms repelled the said challenge. This in turn have then been followed in *Bakshi Ram and others* v. *State of Haryana and others* (6). We see no reason whatsoever to differ from the aforesaid view and in fact being in whole-hearted agreement therewith would affirm the same.

13. One must now inevitably turn to the slightly discordant note struck in *Tirlok Singh Jain's case* (supra) which, as already noticed, had necessitated this reference to the Full Bench. Therein the challenge raised to this very scheme in Charkhi Dadri was briefly repelled at the admission stage itself. However, if the observations therein are to be construed as any warrant for the proposition that the mere initiation of some steps for the execution of a scheme is sufficient for the purpose of section 44A of the Act, then the same are untenable in our view. A reference to the brief judgment would show that at the motion stage the matter was neither adequately canvassed on principle or in the context of its legislative background nor the earlier Division Bench judgments were brought to the notice of the motion Bench. For the detailed reasons recorded above, it appears to us, with the greatest respect, that this case does not lay down the law correctly and is hereby overruled.

14. To conclude, it must be held that Section 44A of the Act provides inflexibly a period of five years for the completion and accomplishment of the scheme from the date of the notification under

(4) C.W. 1087 of 1979 decided on 24th May, 1979.

(5) 1980 P.L.J. 436.

(6) 1981 P.L.J. 145.

section 42 of the Act unless duly extended by the State Government under the proviso thereto.

15. Applying the aforesaid rule, the writ petitioner herein is clearly entitled to succeed. It is manifest that the scheme has not been completed or accomplished within the period of five years from the date of the notification under section 42 of the Act, nor has there been any valid extension of the same by the State Government under the proviso. The proceedings after the said time limit are thus in clear infraction of section 44A of the Act and are hereby quashed. The writ petition is hereby allowed with costs.

16. Before parting with this judgment, we may, however, by way of clarification, reiterate what the Division Bench had observed in Brij Lal's case (supra) :—

> "However, it may be made clear that part of the Scheme, which stands executed finally before the expiry of five years, will not be considered to have been abondoned. The provisions of section 44-A only postulate that part of the Scheme, which could not be executed within five years, cannot be executed after the expiry of that period until and unless time is extended in accordance with law."

Prem Chand Jain, J.—I agree.

S. C. Mittal J.

17. I am in respectful agreement with my Lord, the Chief Justice as to the true import of section 44-A of the Punjab Town Improvement Act, 1922. However, I would like to add that the interpretation of section 44-A has so far been in the context of acquisition of lands for the purpose of executing the schemes under the Act. As such, the ratio of the Full Bench decision in *Radhey Sham's case* (supra), reinforced the view earlier expressed by the Division Benches in *Surat Ram and others* v. *State of Haryana and others,* (supra) *and Brij Lal and others* v. *Sirsa Improvement Trust and others,* (supra) and other cases referred to by my Lord, the Chief Justice. But, *Tirlok Singh Jain* v. *State of Haryana and others,* (supra), by the Division Bench of which I was a member, with utmost respect, is clearly distinguishable from not only the above-cited cases of Surat Ram and Brij Lal but also of *Naval Singh and others,* now under consideration.

18. Adverting to the execution of a scheme, as envisaged by section 44-A of the Act, a brief reference to the present development scheme, running into 19 pages, is necessary. It starts by setting out the area with its boundaries covered by the scheme. Then comes provision for acquisition of the area and the demolition of any building or a portion thereof on the area, for clearing the site. Provisions are also made for : (1) laying out streets, roads and open spaces, (2) drainage, water supply and lighting of the streets, (3) doing of all acts intended to promote the health of the residents of the area comprised in the scheme. The scheme further spreads as under :—

Part I — General.
Part II — Reservation and Designation of Land Use.
Part III — Building Restrictions.
Part IV — Miscellaneous.

A perusal of each part indicates the meticulous details in which the scheme is framed and is to be executed. For the foregoing reasons, the irresistible conclusion is that the period of five years prescribed by section 44-A of the Act for the execution of the scheme cannot be said to be confined to the acquisition of the area falling within the scheme. That in fact is one of the initial steps taken for the execution thereof. Now, there appears to be no quarrel with the proposition that if in a given case, the acquisition of the area is complete in all respects within the prescribed period of five years, it cannot be said that if a scheme otherwise remains completely unexecuted within five years, the said acquisition of the area would be *non-est.*

19. The discussion above brings me to a very significant analysis of section 44-A of the Act, which reads :—

> "Any scheme in respect of which a notification has been published under section 42, shall be executed by the trust within a period of five years from the date of such notification ;
>
> Provided that the State Government may, if it is satisfied that it is beyond the control of the trust to execute the scheme within the said period, extend the same as it may deem fit."

It is clearly in two parts. The enacting part provides for the execution of a scheme by the Trust within a period of five years from the date of its notification under section 42 of the Act. The proviso empowers the State Government to extend the prescribed period of five years if it is satisfied that it is beyond the control of the Trust to execute the scheme within the said five years. As to the first part of section 44-A of the Act, it is now well-settled by this Court,—*vide Brij Lal's case* (supra) that part of the scheme which stands executed finally before the expiry of five years, will not be considered to have been abandoned. I am also in respectful agreement with the view that in the exercise of its powers under the proviso to section 44-A of the Act, the State Government is required to extend the period of five years, before its expiry; any extension granted after the expiry of the said five years is illegal. In consequence, any act done by the Trust for the execution of the scheme after obtaining an invalid extension would be illegal. This discussion inevitably leads to the conclusion that the Court is required to examine whether the case to be decided falls within the ambit of enacting part of the section or its proviso.

20. Against the backdrop, the salient facts are that the scheme in question was published under section 42(1) of the Act on 6th February, 1976. For its execution, section 44-A of the Act prescribed the period of five years. On 29th January, 1981, resolution (Annexure P. 3 in Naval Singh's case) was passed for securing the extension of two years from the Haryana Government. Then on 27th August, 1981, the Administrator issued a reminder in that regard to the Government. Suffice it to say that before the expiry of the said five years, the Government did not extend the period. Thus, there can be no two opinions that any act, including the completion of acquisition proceedings, done by the Trust after the expiry of five years cannot be saved, as the scheme became inexecutable after the said period,—vide *Surat Ram's case and Brij Lal's case* (supra). The cases of Naval Singh and others under consideration stand almost on the same footing. I, therefore, agree with my Lord the Chief Justice that these writ petitions be allowed.

21. As regards Tirlok Singh Jain's case, C.W.P. No. 3790 of 1981, it may be mentioned at the outset that its dismissal in limine was by a brief order. Doubtless, in that case also, acquisition of T. S. Jain's land took place in the course of the execution of the scheme (Annexure P. 1) in question. Now, *State of Orissa* v.

Sudhansu Sekhar Misra and others, (7) may be cited with advantage, wherein their Lordships ruled that "a decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. The material facts of T. S. Jain's case were that after the publication of the scheme, the Land Acquisition Collector on 7th July, 1976, issued notice under section 9 of the Land Acquisition Act for taking possession of the land. The award for compensation was passed on 3rd November, 1976. T. S. Jain's allegation that notwithstanding the passing of the award, he continued to remain in possession of the land was stoutly refuted by the respondents in their written statements. They specifically pleaded that after the Collector's award, T. S. Jain received compensation and he was dispossessed on 19th January, 1977. Thus, by virtue of section 16 of the Land Acquisition Act, T. S. Jain's land vested in the Charkhi Dadri Improvement Trust, free from all encumberances. The receipt of compensation was not denied by T. S. Jain. In the nature of things, there was nothing tangible on the record to disbelieve the respondents' stand that T. S. Jain had been dispossessed, the end-result being that the acquisition of T. S. Jain's land was complete on 19th January, 1977. It cannot be denied that the prescribed period of five years for the execution of the scheme expired in February, 1981. It follows, therefore, that T. S. Jain's case falls under the above-said category of cases covered by the enacting part of section 44-A of the Act and the acquisition of his land is protected by the observations, quoted by my Lord the Chief Justice, in Brij Lal's case.

22. Nevertheless, very vaguely T. S. Jain endeavoured to get over the confirmed situation by making the following averment in para 9 of his writ petition :—

> "That the main law points involved in this writ petition are whether the scheme Annexure P-1 of respondent No. 2 has become un-executable or non-existent after the expiry of five years as provided by section 44-A of the Town Improvement Act and whether the respondent ought to have withdrawn the acquisition proceedings when the Scheme for which the land was sought to be acquired has become un-executable and thus non-existent in the eyes of law."

(7) AIR 1968 S.C. 647.

Accordingly, in para 14 (ii) of the writ petition, the following prayer was made :—

> "That a Writ of certiorari be issued to the effect that the Scheme sanctioned through Annexure P-1 may be declared to have ceased to exist and acquisition proceedings taken on its basis may also be declared to be inoperative since no part of the Scheme was ever executed during the period of five years."

Apart from the fact that the respondent stoutly denied the allegation that no part of the scheme was ever executed within five years, the other material distinguishing feature of T. S. Jain's case is that the acquisition of his land being complete before the expiry of the prescribed period of five years, he, like Naval Singh and others, did not rely on the above-mentioned resolution dated 19th January, 1981, which is Annexure P-3 to Naval Singh's writ petition by which the Government was moved for extending the period in the exercise of its powers under the proviso to section 44-A of the Act. In other words, it was not T. S. Jain's case before the Bench that by getting the period for executing the scheme extended, the Trust was endeavouring to complete the acquisition of his land.

23. Knowing full well that T. S. Jain's case was distinguishable from the other decided cases like that of Brij Lal, his learned counsel did not rely on any one of them. As such, there was no occasion for the Bench to express any opinion, which may be construed to be different. With greatest respect, the question of its overruling does not arise.

ORDER OF THE COURT.

24. It is held unanimously :

(i) That section 44-A of the Punjab Town Improvement Act, 1922, inflexibly provides for a period of five years for the completion and accomplishment of the Scheme from the date of its Notification under section 42 of the Act unless duly extended by the State Government under the proviso thereto ;

(ii) That the writ petition must succeed and is hereby allowed with costs.

It is held by majority :

That *Tirlok Singh Jain* v. *State of Haryana and another* (supra) does not lay down the law correctly and is hereby overruled.

S. S. Sandhawalia, C.J.
Prem Chand Jain, J.
S. C. Mital, J.

H. S. B.

FULL BENCH

Before S. S. Sandhawalia, C.J., P. C. Jain and S. C. Mital, JJ.

PRITAM KAUR,—*Appellant.*

versus

SURJIT SINGH,—*Respondent.*

First Appeal from Order No. 106-*M of* 1978.

October 31, 1983.

Judicial precedents—Binding nature of—Judgment of a larger Bench—When could be referred by a smaller Bench for reconsideration.

Held, that the law specifically laid down by the Full Bench is binding upon the High Court within which it is rendered and any and every veiled doubt with regard thereto does not justify the reconsideration thereof by a larger Bench and thus put the law in a ferment afresh. The ratios of the Full Benches are and should be rested on surer foundations and are not to be blown away by every side wind. It is only within the narrowest field that a judgment of a larger Bench can be questioned for re-consideration. One of the obvious reasons is, where it is unequivocally manifest that its ratio has been impliedly overruled or whittled down by a subsequent judgment of the superior Court or a larger Bench of the same Court. Secondly, where it can be held with certainty that a co-equal Bench has laid the law directly contrary to the same. And, thirdly, where it can be conclusively said that the judgment of the larger Bench was rendered *per incuriam* by altogether failing to take notice of a clear-cut statutory provision or an earlier binding precedent. It is normally within these constricted parameters that a smaller Bench may suggest a reconsideration of the earlier view and not otherwise. However, it is best in these matters to be