sale also. The act of possessing a contraband or a prohibited article constitutes a continuing offence. Even if the petitioner could validly put forth the defence of Article 20 against his prosecution for possession of drugs on the date of the issue of notification, he could not do so for his acts of possession of such drugs during any period following the date of the issue of notification and thereafter. In *Behram Khurshid Pesikaka* v. *State of Bombay* (7), it was held that the American rule that if a statute is repugnant to the Constitution it becomes void from its birth, had not been adopted in this country Consequently, I am unaole to give any relief to the petitioner on this ground.

(20) For the foregoing reasons, I hold that the impugned notification violates the rights of the petitioner under Articles 304(b) and 19(1)(f) and (g) of the Constitution. The complaint dated July 9, 1976 filed by respondent No. 4 against the petitioner and pending in the Court of the learned Chief Judicial Magistrate, Ludhiana, is, therefore, quashed, with no order as to costs. The goods seized from the petitioner be restored to him.

N.K.S.

Before S. S. Sandhawalia C.J. and R. N. Mittal, J.

STATE OF HARYANA and others,—*Appellants.*

versus

HAKAM SINGH and another,—*Respondents.*

Letters Patent Appeal No. 345 *of* 1974.

January 15, 1979.

Land Acquisition Act (1 *of* 1894)—*Sections* 4 *and* 6 *and Part VII—'Public purpose'—Meaning of—Land ac uired by Government to develop residential and commercial areas—Compensation for acquisition paid by the Government—Acquired land made over to a Company for purposes of integrated development—Development undertaken by the Company for considerations of profit—Such acquisition—Whether a colourable exercise of power—Provisions of Part VII—Whether necessary to be followed.*

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(7) A.I.R. 1955 S.C. 123.

Held, that the term 'public purpose' as defined in the Land Acquisition Act, 1894 is an inclusive definition and as such is not of much assistance in order to determine the ambit of the said term. The said expression has been used in a generic sense. It includes a purpose in which the general interest of the community as opposed to particular interest of the individuals is directly concerned. It will also include the purpose in which a fraction of the community is interested. The public purpose varies with the times and prevailing conditions in localities. Therefore, acquisition of land developing residential and commercial plots for the benefit of the community is a public purpose. (Para 6).

Held, that the Act does not provide that if some land is acquired by the State for public purpose, it must be so utilized by the State itself. The requirement of law for acquisition is that land is needed for public purpose and the compensation to be awarded is paid wholly or partly out of the public revenues or some funds controlled or managed by a local authority. It is not necessary that whole of the compensation should be paid by the State but it may be paid partly by the State and partly by other persons. The fact that the State's contribution is nominal is not sufficient to show that the transaction is a colourable transaction. The facts and circumstances of each case have to be gone into in order to decide whether the transaction is colourable or not. There is nothing in the Act which prevents acquisition at the instance of a private agency as long the purpose of the acquisition is a public purpose. If the acquisition is made fore public purpose under sections 4 and 6 of the Act, the State Government after acquiring the property can hand it over to a company which is to carry out the public purpose and the acquisition of the land cannot be dubbed as a colourable exercise of power.

(Para 6).

Held, (per S. S. Sandhawalia, C.J.) that it is indisputable that the regulated development of urban areas for residential, commercial and industrial purposes in the altogether new or developing towns assumes a momentous significance and would therefore fall clearly within the ambit of a public purpose. It appears inevitable and perhaps even desirable that in case of the inability of the State itself to take over the whole burden of co-ordinated urbanisation in all the towns or otherwise for good reasons, private enterprise should not only be not debarred but even encouraged to enter this field so long as the larger public purpose of urban development of land is clear and unobscured. To expect that any private organisation will take on the onerous burden of urban development for merely altruistic considerations and devoid of any motive of gain or profit would

be too Utopian an ideal. Once the larger public purpose of regulated development is clear, the entrustment of such function to a private body even for considerations of profit would not in any way detract from that larger public purpose or be deemed colourable. In order to provide some aid by way of acquisition to a private organisation in order to facilitate the purpose of regulated urbanisation would not be a colourable exercise of power. (Paras 15, 18 and 19)

Held, that under section 4 of the Act an appropriate Government is authorised to acquire land whenever it is likely to be needed for any public purpose. If the land has been acquired for a public purpose and whole or part of the compensation is paid by the Government out of the public revenues, the Government in such an eventuality need not resort to the provisions of Part VII of the Act. (Para 13).

Letters Patent Appeal under Clause X of the Letters Patent Act against the order dated 6th May, 1974 passed by Hon'ble Mr. Justice Prem Chand Jain in Civil Writ No. 1666 *of* 1973.

S. C. Mohunta, A.G. Haryana, *for the Appellants.*

H. L. Sibal, Sr. Advocate with R. C. Setia, Advocate.

C. D. Dewan, Advocate with N. C. Jain, Advocate, *for the Respondents.*

JUDGMENT

Rajendra Nath Mittal, J.

(1) This judgment will dispose of Letters Patent Appeals Nos. 342 to 345 and 386 to 389 of 1974, which involve similar questions of law. The facts in the judgment are being given from Letters Patent Appeal No. 345 of 1974.

(2) Hukam Singh, respondent No. 1 is the owner and in possession of land measuring about 57 Bighas situated within the revenue estate of village Sihi, Tehsil Ballabgarh, District Gurgaon, which he has been using for agricultural purposes. D.L.F. Housing and Construction Private Limited (hereinafter referred to as the Company) respondent No. 2, proposed to develop sectors 10 and 11 of Faridabad. The said land falls within sector 10. It is averred that the Directors of the Company are influential people and they prevailed upon the Government to issue notification under section 4 of

the Land Acquisition Act (hereinafter referred to as the Act) to acquire the land of respondent No. 1 which was later on withdrawn at his representation. Thereafter, another notification under section 4 was issued by the State Government which was published on October 3, 1972. Respondent No. 1, again filed objections under section 5-A of the Act and the State withdrew the notification on February 22, 1973. Subsequently, another notification dated February 23, 1973, was issued by the State under section 4 of the Act which was published on the same day. Respondent No. 1 filed objections under section 5-A. It is alleged that without conducting any inquiry, appellant No. 3 submitted a report to the Government and thereafter a notification under section 6 was issued on May 3, 1973. Respondent No. 1 challenged the legality and propriety of the notification *inter alia* on the ground that it was colourable exercise of jurisdiction by the State Government, that the land should have been acquired under Part VII of the Act as it was being done for the purpose of the Company and that the objections under section 5-A of the Act were not properly disposed of.

(3) The learned single Judge came to the conclusion that the notifications had been issued under colourable exercise of jurisdiction by the State Government. He did not consider it necessary to decide the other two points for the reason that the writ was being allowed by him. In view of the said finding, the learned Judge quashed the notifications issued under sections 4 and 6. Two appeals have been filed against the said order, one by the State Government etc. respondents Nos. 1, 2 & 3 (Letters Patent Appeal No. 345 of 1974) and the other by the Company (Letters Patent Appeal No. 387 of 1974). The other three writ petitions were filed by some other landowners on the same grounds. Those writ petitions were also allowed by the learned single Judge. In each case, two appeals have been filed, one by the State and the official respondents and the other by the Company. Thus there are in all eight appeals.

(4) The first question that arises for determination is whether the State issued notifications under sections 4 and 6 of the Act under colourable exercise of its jurisdiction. It cannot be disputed that sectors 10 and 11 are being developed as residential and commercial areas. In the impugned notifications, it has been specifically mentioned that the land was needed for a public purpose, namely for development of residential and commercial areas. It is well settled that a declaration under section 6 of the Act, that the land is needed

for public purpose, is conclusive evidence to prove the said fact. There is only one exception to the above principle. It is, that if there is colourable exercise of the power, the declaration will be open to challenge. The term colourable exercise of power has been interpreted by the Supreme Court in *Somawanti* v. *State of Punjab* (1) as under :

> "If it appears that what the Govenment is satisfied about is not a public purpose but a private purpose or no purpose at all, the Action of the Government would be colourable as not being relatable to the power conferred upon it by the Act........"

So the main question that requires decision is, what is a 'public purpose'? The argument of the learned counsel for the appellants is that if the land is needed for development of residential and commercial areas it is a public purpose even though the development is to be done by a Company. On the other hand the contention of the learned counsel for the respondents is that if the land is to be developed by the State itself, only then the acquisition can be considered for public purpose. According to him the purpose of the acquisition in the present case is to give the land to the Company for making profits and this cannot be said to be a public purpose.

(5) The term public purpose has been defined in the Act as under :—

> "the expression 'public purpose' includes the provision of village-sites in districts in which the (appropriate Government) shall have declared by notification in the Official Gazette that it is customary for the Government to make such provision."

This being an inclusive definition is of not much assistance in order to determine the ambit of the term 'public purpose'. It has also been judicially interpreted in various cases. It shall be useful to refer to some of them. In *Hamavi Pramjee Petit* v. *Secy. of State* (2), a similar matter came up before the judicial committee.

(1) AIR 1963 S.C. 151.
(2) AIR 1914 Privy Council 20.

In that case, a lease was granted by the East India Company with a condition that it could resume the land for public purpose. The lease was proposed to be resumed later, in order to construct buildings for the purpose of housing employees of the Government. An argument was raised that the lease was not being resumed for the benefit of the public at large but for making accommodation for employees of the Government and it could not be termed as public purpose. The judicial committee approved the view taken by Bombay High Court, wherein Batchelor, J. defined the term as follows :—

> "General definitions are, I think rather to be avoided where the avoidance is possible and I make no attempt to define precisely the extent of the phrase "public purpose" in the lease; it is enough to sav that, in my opinion the phrase, whatever else it may mean, must include a purpose, that is an object or aim, in which the general interest of the community, as opposed to the particular interest of individuals, is directly and vitally concerned."

Repelling the contention that if the land was not available to the public at large, it cannot be held that it was a public purpose, the Privy Council observed :

> "That being so, all that remains is to determine whether the purpose here is a purpose in which the general interest of the community is concerned. *Prima facie* the Government are good judges of that. They are not absolute Judges. They cannot say 'sic volo sic jebeo' but at least a Court would not easily hold them to be wrong. But here, so far from holding them to be wrong, the whole of the learned Judges who are thoroughly conversant with the conditions of Indian life, say that they are satisfied that the scheme is one which will redound to public benefit by helping the Government to maintain the efficiency of its servants. From such a conclusion their Lordships would be slow to differ, and upon its own statement it commends itself to their judgment."

From the above observations, it is clear that the public purpose meant a purpose in which general interest of the public as against

the particular interest of the individuals is directly concerned. In *State of Bombay* v. *Bhanji Munji* (3), the vires of Bombay Land Acquisition Act of 1948 were challenged on the ground that it did not state in express terms the purpose for which property was being acquired by the Government. Bose, J. while speaking for the Bench held as follows :

> "At that time the housing situation in Bombay was acute, largely due to the influx of refugees. Questions of public decency, public morals, public health and the temptation to lawlessness and crime, which such a situation brings in its train, at once arose; and the public conscience was aroused on the ground of plain humanity. A race of proprietors in the shape of rapacious landlords who thrived on the misery of those who could find no decent roof over their heads, sprang into being. Even the efficiency of the administration was threatened because Government servants could not find proper accommodation. Milder efforts to cope with the evil proved ineffective. It was necessary therefore for Government to take more drastic steps and in doing so they acted for the public weal. There was consequently a clear public purpose and an undoubted public benefit."

The question recurred before the Supreme Court in many other cases but I shall refer to three of them namely *Babu Barkya Thakur* v. *State of Bombay* (now Maharashtra) *and others* (4), *Somawanti* v. *State of Punjab* (5), and *Ratilal* v. *State of Gujarat* (6). In *Babu Barkya Thakur's case* (supra), Sinha, C.J. speaking for the Court after referring to the decision in *Bhanji Munji's case* (supra), observed that in an industrial concern employing a large number of workmen, away from their homes, it is a social necessity that there should be proper housing accommodation available for such workmen. He further observed that where a large section of the community is concerned, its welfare is a matter of public concern. In Somawanti's case (Supra) it was held that particularly speaking the expression 'public purpose' would include a purpose for which the general interest of individuals is directly and vitally concerned.

(3) AIR 1955 S.C. 41.
(4) AIR 1960 S.C. 1203.
(5) AIR 1963 S.C. 151.
(6) AIR 1970 S.C. 984.

Similarly, Hegde, J. in *Ratilal's case* (Supra) ruled that a housing scheme for a limited number of persons is a public purpose.

(6) From the above discussion, it emerges that the expression public purpose has been used in a generic sense. It includes a purpose in which the general interest of the community as opposed to particular interest of individuals is directly concerned. It will also include the purpose in which a fraction of the community is interested. All that is necessary is that it would serve the general interests of the society. It is well settled that public purpose varies with the times and prevailing conditions in localities (See *Arnold Rodricks* v. *State of Maharashtra* (7). Therefore, acquisition of land for developing residential & commercial plots is for a public purpose The second limb of the argument is whether the acquisition of land by the State for its development for residential purpose by a Company would also constitute a public purpose. The Act does not provide that if some land is acquired by the State for public purpose, it must be so utilised by the State itself. The requirement of law for acquisition is that land is needed for public purpose and the compensation to be awarded is paid wholly or partly out of the public revenues or some funds controlled or managed by a local authority. It is not necessary that whole of the compensation should be paid by the State but it may be paid partly by the State and partly by other persons. The fact that the State's contribution is nominal is not sufficient to show that the transaction is a colourable transaction. The facts and circumstances of each case have to be gone into in order to decide whether the transaction is colourable or not. The matter is not *res integra* but has been noticed by the Courts. In *Somawanti's case* (Supra), the State of Punjab acquired the land for the purposes of a public Company which had to start a factory for manufacture of various ranges of refrigeration, compressors and ancillary equipment. The State contributed an amount of Rs. 100 towards the total price of the land which was worth Rs. 4,50,000. It was held that the notification under section 6 could not be challenged as a colourable exercise of the power in spite of the fact that there was no provision in the budget in respect of amount contributed by the State. In *Arnod Rodricks's case* (supra) the Government. acquired land for handing over it to Maharashtra Industrial Development Corporation for its utilisation as an industrial and residential

(7) AIR 1966 S.C. 1788.

area. An argument was raised that the State Government was not entitled to acquire property from one person and give it to another. It was observed by Sikri, J. speaking for the Court as follows :

> "The purpose viz., "development and utilisation of the lands as industrial and residential areas" is a public purpose within the Land Acquisition Act as it stood before the amendment made by the Bombay Legislature (S) AIR 1955 SC 41 (45) Rel. on.
>
> 'Public purpose' varies with the times and the prevailing conditions in localities, and in some towns like Bombay, the conditions are such that it is imperative that the State should do all it can to increase the availability of residential and industrial sites. It is true that these residential and industrial sites will be ultimately allotted to members of the public and they would get individual benefit, but it is in the interest of the general community that these members of the public should be able to have sites to put up factories. The main idea in issuing the impugned notifications was not to think of the private comfort or advantage of the members of the public but the general public good. At any rate where a very large section of the community is concerned its welfare is a matter of public concern and when the notifications served to enhance the welfare of this section of the community this is public purpose and the notifications are valid and cannot be impugned on the ground that they were not issued for any public purpose."

In this regard it will be beneficial to refer to *Ratilal's case* (Supra) also, wherein the land was acquired for housing scheme prepared by a registered Co-operative Society. One of the contentions was that as the land was being acquired for a Company, therefore, the provisions of Sections 40 to 42 in Part VII of the Act which relate to the acquisition of land for Companies should have been complied with. The contention was repelled and it was observed that it cannot be held that the housing scheme for limited number of persons cannot be considered as a public purpose. Similarly in *Jage Ram* v. *State of Haryana* (8), land was acquired by the State Government for

(8) 1971 Supreme Court Cases 671.

benefit of a Company which had to set up a factory for the manufacture of China-ware Glazed Tiles etc. In that case as well the Government contributed a sum of Rs. 100/- An argument was raised on behalf of the owners of the land that the Government should have resorted to provisions of Part VII of the Act as the purpose of the Company could not be considered to be a public purpose. The contention was not accepted and the acquisition was upheld. The counsel for the appellants also referred to *A. N. Nath* v. *State of W.B.* (9). In that case the land acquisition proceedings were started at the instance of college authorities of a private women college for improvement of the institution. An objection was raised that the State Government could not acquire the property for the purposes of private college. It was held by a Division Bench that there was nothing in the Act which prevented the acquisition at the instance of a private agency as long as the purpose of the acquisition was a public purpose. It was further held that the acquisition was for a public purpose since women students in large numbers would be given proper education facilities to equip themselves for life. From the aforesaid cases, it is evident that if the acquisition is made for public purpose the State Government after acquiring the property can hand it over to a Company which is to carry out the public purpose.

(7) Now I advert to the facts of the present case. As already stated above the Company is developing sectors 10 and 11 at Faridabad which is a developing town and consists of large number of industries. It cannot be denied that many new industries are coming up there. The population of the town is also increasing with the increase of industries. In the circumstances, it is necessary to provide residential and commercial accommodation to the residents of the town. The Company has a large tract of land but some pockets in that area belong to the private respondents. In order to develop the sectors properly it is necessary that the pockets should be developed alongwith other area by the Company otherwise the development cannot be uniform. If individual owners are allowed to develop small pieces of land the development cannot be integrated one and is likely to give a shabby look. In order to avoid such results, integrated development of the sectors is the only solution.

(8) The learned counsel for the respondents has vehemently argued that village Sihi was situated within the area to which the

(9) 1977 Calcutta Weekly Notes 647.

Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (hereinafter referred to as the Controlled Act) was applicable and no one could develop plots for residential and commercial purposes without the prior approval of the Director, Town & Country Planning Department. He has further argued that the Company submitted plans to the Director for development of the area, wherein it showed the lands belonging to the private owners, as its own. The Director, thereupon, suggested to the Company to acquire the lands of the private owners. The Company, however, refused to do so on the ground that the private owners were demanding exorbitant price and requested the Government to acquire the land and hand it over to the Company. The Government at the instance of the Directors of the Company, who were influential persons, acquired the land and agreed to transfer it to the Company on getting in exchange 20 per cent more area at another place. The State, however, put no restriction on the sale price of the developed plots, in spite of the fact that the State had acquired land for the Company. The Company, the learned counsel contends, would make huge profit by selling the plots at the prices to be fixed by it. Mr Sibal forcefully argues that in fact the land has been acquired not for a public purpose but for the benefit of the Company. According to him, these facts clearly go to show that acquisition has been made by the State in colourable exercise of its jurisdiction.

(9) I have given due consideration to the argument of the learned counsel but regret my inability to accept it. The decision to acquire the land has been taken by the State in the interest of integrated and compact development of Sectors 10 and 11. It cannot be disputed, if the lands of the private owners had not been acquired, the development of Sectors 10 and 11 could not be uniform. No doubt it is true that the State has agreed to hand over the lands of the private owners to the Company but on this ground it cannot be held that the transaction is colourable. In *Somawanti's and Jage Ram's case* (Supra) the lands were acquired for the purpose of Companies and a small contribution was made by the State towards acquisition charges. The acquisitions were held to be good in both the cases. In the present case land has been acquired by making payment of the compensation out of the public funds for development of plots for residential and commercial purposes. I have already held that to provide developed plots to the citizens of the Country is a public purpose. The State is over burdened with welfare activities and it may not be possible for it, either on account of

lack of funds or otherwise to carry out all such activities. If it considers proper it can entrust some of the activities to private companies. In that situation, it cannot be said that it has been done with oblique motive because the private companies would make some profit out of the deal. It is but natural that if a Company undertakes any work, it is done to earn some profit. The private owners in the present case were demanding an exorbitant price of the land. In that eventuality the State chose to acquire the land from public funds and hand it over to the Company. The fact that 20 per cent more area has been taken by the State in exchange to the land acquired at another place also does not make any difference. After taking into consideration the circumstances of this case, I am clearly of the view that the acquisition of the land by the State is not in colourable exercise of its jurisdiction.

(10) It is next sought to be argued by the learned counsel for the private respondent that an argument was raised before the learned single Judge that the respondent filed objections under section 5-A of the Act before the Land Acquisition Collector and that no hearing was given to him and the matter was not dealt with properly by him. He further contends that the notifications were liable to be quashed on this short ground.

(11) I am not convinced with the argument of Mr Sibal. It is specifically stated in the written statement that the respondent was heard by the Land Acquisition Collector in respect of the objections filed under section 5A and thereafter the report was submitted for decision of the Government. Section 5A contemplates a hearing by the Land Acquisition Officer of the owner either in person or through a pleader. In this case, it is evident, from the report that the provisions of section 5A had been duly complied with. Therefore, I reject the contention of the learned counsel.

(12) Mr. Sibal has then vehemently argued that the land was being acquired for a Company and the State Government should have resorted to the provisions of Part VII. He has further submitted that this matter was raised before the learned Single Judge but it too has not been dealt with by him.

(13) I also do not find any substance in it. Under section 4 appropriate Government is authorised to acquire land whenever it is likely to be needed for any public purpose. In the present case

the land has been acquired for public purpose and whole of the compensation was paid by the Government out of public revenues. The Government in such an eventuality need not resort to the provisions of Part VII of the Act. This matter is settled by the Supreme Court in *Jage Ram's case* (Supra). In that case too an argument was raised on behalf of the owners that the acquisition should have been made by the Government under Part VII as the land was being acquired for the purpose of the Company. It was observed by Hegde, J. as follows :

> "We were informed at the bar that the State Government had contributed a sum of Rs. 100 towards the cost of the land which fact is also mentioned in the award of Land Acquisition Officer. That being so it was not necessary for the Government to proceed with the acquisition under Part VII of the Act (See Somavanti's case (Supra)."

The above observations are fully applicable to this case. I, therefore, reject this contention of the learned counsel also.

(14) For the reasons recorded above, the appeals are accepted and the order of the learned single Judge is set aside. The parties are, however, left to bear their own costs.

S. S. Sandhawalia, C.J.

(15) As the inevitable drift of people from villages towards the towns gains momentum in a country already over-populated, the problems of quick urbanisation loom large and, indeed, sometimes appear to defy solution. It is, hence, indisputable that the regulated development of urban areas for residential, commercial and industrial purposes in the altogether new or developing towns assumes a momentous significance and would, therefore, fall clearly within the ambit of a public purpose. This position is, indeed, admitted on all hands.

(16) Once that is so, the question that follows and inevitably arises is as to who is to be entrusted with the coordinated development of urban areas. As a counsel of perfection it may well be said that the State should itself discharge this important function. But what if the State does not have the wherewithal, the expertise, the finance or even the will to lay out and take over the urban

development in each and every city and town or other areas within its jurisdiction In such a case, would it be permissible for the State to allow private enterprise to enter this field and aid and assist it for the larger public purpose of the development and utilisation of land for urbanisation ? This, indeed, is the material question which falls for determination in this case.

(17) The learned Single Judge seems to have taken the view that if in the process of acquisition and later urban development of land, the State aids the private Corporation or the latter has a profit motive in the scheme it must be deemed as a colourable exercise of power under the statute. It was observed by the learned Judge :

> "I have no manner of doubt in my mind that the impugned notifications suffer from the vice of colourable exercise of jurisdiction. The necessity of issuing the notifications arose in order to achieve the object of the Company, which it would not achieve by negotiations with the land-owners. The Company owned some land in Sectors 10 and 11. There were other landowners, including the petitioner, who also owned land in these Sectors. The Company could not purchase the land of the landowners, rather the fact appears to be that the Company did not want to purchase the land, though the pretence shown was that exhorbitant price was being demanded by the land-owners, as it had successfully managed to get it acquired. By using the agency of the Government, the Company achieved what it could not legally achieve otherwise under the provisions of the Controlled Act."

(18) The aforesaid streak of reasoning and this premise seems to basically underlie; the whole judgment of the learned Single Judge. With great respect, I am clearly inclined to take a contrary view. It appears inevitable and perhaps even desirable that in case of the inability of the State itself to take over the whole burden of coordinated urbanisation in all the towns, or otherwise for good reasons, this private enterprise should not only be not debarred but even encouraged to enter this field so long as the larger public purpose of urban development of land is clear and unobscured. To expect that any private organisation will take on the onerous burden of urban development for merely altruistic considerations and devoid

of any motive of gain or profit would be too Utopian an ideal. Inevitably, therefore, once the larger public purpose of regulated development is clear, the entrustment of such function to a private body even for considerations of profit would not in any way detract from that larger public purpose or be deemed colourable.

(19) Nor am I able to agree that providing some aid by way of acquisition (obviously at a market price) to a private organisation in order to facilitate the purpose of regulated urbanisation would be a colourable exercise of power. As the present case discloses, the respondent-land owners refused to part with their patch of land in the centre of the planned urban sector by private negotiations and apparently wanted their pound of flesh nearest to the heart. If in the interest of the coordinated development of the rising industrial town of Faridabad, the State stepped in to acquire and pay them the market value for their property in the larger public interest then I am unable to see why such action should either be deprecated or held colourable.

(20) The view which the learned Single Judge has taken, when carried to logical conclusion, would rule out all State or statutory aid for regulated urban development unless it is done by the State itself and that too perhaps without a profit motive. It deserves recalling and perhaps highlighting that in many urban areas development by the State itself is not wholly devoid of an element of profit. The recent development of the town of Chandigarh is perhaps a salient example nearer home. With respect, I feel that if the view of the learned Single Judge is subscribed to then it would tend to hamstring all urban development except by governmental agencies and in the event of the latter being unable to do so it would raise the monster of uncontrolled and unregulated rise of slums around towns which can ultimately choke the whole development of an urban complex.

(21) I am, therefore, of the view that the learned Single Judge erred primarily in holding that because the entrustment of urban development was made to a private organisation and the State aided the same, it would necessarily become a colourable exercise of power. With these few added words I entirely concur with what has fallen from the pen of my learned brother Mittal, J. in his elaborate and lucid judgment.

H.S.B.