A VED PRAKASH AND ORS.

v.

MINISTRY OF INDUSTRY, LUCKNOW AND ANR.

MARCH 12, 2003

B [DORAISWAMY RAJU AND SHIVARAJ V. PATIL, JJ.]

Land Acquisition Act, 1894—Section 48(1)—Land acquisition—Land covered by Uttar Pradesh Industrial Area Development Act—Land claimed to C *be abadi land—Exemption from acquisition sought—On litigation direction by Supreme Court to State authority to consider the nature of land for considering its exemption from acquisition—Representation to State authority—Land found not liable to be exempted from acquisition as the same was not abadi land—Writ petition dismissed by High Court—On appeal, held: Land not liable to be exempted—Representation rightly rejected by the State* D *Authority—Uttar Pradesh Industrial Area Development Act, 1976—United Provinces Village Abadi Act, 1948—U.P. Land Revenue Act, 1901.*

Constitution of India, 1950—Article 226—Judicial Review of administrative or executive action—Scope of—Held: while examining such action infirmity in the decision making process and not the decision itself is E *to be seen.*

Certain lands were acquired under Land Acquisition Act, 1894. Notifications under Sections 4 and 6 were issued. Appellant filed writ petitions in High Court challenging the acquisition on the ground that the lands acquired were having abadi and in view of existing State policy such F **lands could not be acquired. The petition was dismissed. In Special Leave Petitions against the same, the Court in *Om Prakash* case held that the State authorities were not justified in invoking Section 17(4) of the Acquisition Act for dispensing with inquiry under Section 5A of the Act. The Court refused to exercise its discretionary jurisdiction under Article** G **136 of the Constitution in the facts and circumstances of the case and instead of relegating the appellants to the remedy under Section 5-A of the Acquisition Act, relegated them to the remedy by way of suitable representation before appropriate authority u/s 48 of the Acquisition Act to decide as to whether appellants' lands were to be treated immune from acquisition proceedings on the ground that they were having abadi thereon**

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acquisition proceedings on the ground that they were having abadi thereon and hence covered by policy decision of the State not to acquire such land. A

Pursuant to the directions of the Court, appellants made representations before the State Government. The authority heard the appellants, and on inspecting the spot found that most of the land owners were not original residents of the village but from different parts of the country; that no abadi was found on the land and the constructions on the lands were in scattered position and were done after the notifications u/ss. 4 and 6 of Acquisition Act were issued. The authority concluded that it was not feasible to release the lands of the appellants from acquisition u/s 48(1) of the Acquisition Act. Hence, the appellants approached High Court by filing Writ Petitions challenging the order of the authorities. High Court dismissed the Writ Petitions holding that administrative authority could not be expected to discuss each and every evidence; that the authority had recorded a finding on each and every aspect required to be considered as per the directions given by Supreme Court; that consideration of all the representations of the appellants by the authority and passing of common order did not suffer from any difficulty or infirmity because the entire material and evidence placed before it had been considered before passing the impugned order. B C D

In appeal to this Court appellants contended that in view of the order of Supreme Court in *Om Prakash* case acquisition proceedings was otherwise bad but the directions were given only in order not to disturb the scheme for the purpose for which large area was acquired; and that the order by the Competent Authority was violative of Article 14 of the Constitution, being arbitrary and discriminatory in view of the policy of the Government of U.P. E F

Respondent authority contended that in the order passed by the competent authority directions given by Supreme Court were correctly followed and the competent authority after a finding of fact and after considering the feasibility of releasing the lands from acquisition under Section 48(1) rejected the representations; and that the High Court was right and justified in not interfering with the finding of fact recorded by the competent authority. G

Dismissing the appeals and contempt petitions, the Court

HELD: 1.1. Taking an overall view of the matter having regard to H

A the facts of the case, in the light of law applicable to them and keeping in view the parameters of direction passed in judgment in *Om Prakash* case, the authority rightly rejected the representations made by the appellants and the High Court rightly affirmed the same. [1027-D]

1.2. It is no doubt true that the Court in *Om Prakash* case concluded B against the State that the State authorities were not justified in invoking Section 17(4) of Land Acquisition Act for dispensing with inquiry under Section 5-A of the Act, but ultimately effective and operative order is to be seen in the direction given in that judgment. The ultimate direction was to consider the representations of the appellants for releasing the lands C from acquisition under Section 48(1) of the Acquisition Act on being satisfied of the aspects mentioned in the directions in that judgment. [1023-E, F]

1.3. It was open to the State authorities to consider regarding the feasibility of releasing such lands from acquisition under Section 48(1) of D the Act after taking into consideration the observations made and directions given in *Om Prakash* case. The Competent Authority of the State gave hearing to the appellants, considered the evidence and material placed on record and examined the contentions raised on behalf of the parties in compliance with the directions given and observations made in *Om Prakash* case. The State authority came to the conclusion that having regard to E various aspects including development scheme, it was found not feasible to release the lands of the appellants under Section 48(1) of the Acquisition Act. High Court did not find any good ground to disagree with the findings of fact recorded by the State authority and also found that the State authorities duly considered the directions given and observations made F by this Court. [1024-C-F]

1.4. There is no material to show that the constructions and structures said to be existing in the Abadi area were existing prior to the Notification issued under Uttar Pradesh Industrial Area Development Act, 1976 declaring the area comprising the villages mentioned in the Schedule G called "New Okhla Industrial Development Area". No village map or other documents show the same in the large area of Abadi claimed by the appellants. In view of Sections 28, 32, 33, 52 and 54 of U.P. Land Revenue Act, 1901 it is clear that field books, maps, record of rights and annual register had to be maintained. Similarly, it is not shown that such H structures or constructions were put up with the permission as required

under the provisions of the 1976 Act and the Regulations. The State authority having elaborately considered the evidence available on record found that the claims of the appellants as to Abadi is spread over in a large area apart from being whether that was an Abadi or not and whether it was existing prior to the issue of Notification in 1976. Having regard to all aspects, the authority found that it was not feasible to release the lands of the appellants from acquisition under Section 48(1) of the Acquisition Act. As is evident even from the survey report that boongas, bitooras, thatched huts, thatched sheds etc. occupied a small area but were spread over to a long distance. Appellants' claim for large area covering few acres of land as abadi, is untenable. All the more so, when it could not be legitimately claimed or asserted that they were regularly living in those structure of very kachcha type. The nature of the construction, their age from its appearance, etc., give an impression that they were hurriedly planted at later dates only to circumvent the land acquisition proceedings. [1025-D-F; 1026-A-D]

Om Prakash and Anr. v. *State of U.P. and Ors.*, [1998] 6 SCC 1, referred to.

2. In examining the validity of an administrative or executive order the test is to see whether there is any infirmity in the decision making process and not the decision itself. When choices are open to the authority it is for that authority to decide upon the choice and not for the Court to substitute its view. On finding that the authority passed the impugned order on proper consideration of the evidence placed before it and after hearing the parties in the light of the directions given and observations made by this Court in the case of *Om Prakash,* High Court did not consider it appropriate to interfere with the impugned order. There is no good or valid reason to interfere with the impugned judgment of the High Court affirming the order passed by the authority. [1026-H; 1027-A-C]

Commissioner of Income Tax, Bombay and Ors. v. *Mahindra and Mahindra Limited and Ors.*, [1983] 4 SCC 392, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 999 of 2001.

From the Judgment and Order dated 25.2.2000 of the Allahabad High Court C.M.W.P. No. 8235 of 2000.

WITH

A C.A. Nos. 1000, 1001, 1002, 1003, 1004/2001, C.P.(C) No. 303/2000 in C.A. No. 999/2001, C.P. (C) No. 304/2000 in C.A. No. 1000/2001, C.P. (C) No. 305/2000 in C.A. No. 1001/2001, C.P. (C) No. 306/2000 in C.A. No. 1002/2001, C.P. (C) No. 307/2000 in C.A. No. 1003/2001, C.P. (C) No. 274/99 in SLP (C) No. 6036/99 and C.P. (C) No. 281/99 in SLP (C) No. 6036/99.

B Shanti Bhushan, Rakesh Dwivdi, Salman Khurshid, H.V.P. Sharma for Shiv Sagar Tiwari, Gopal Balwant Sathe, A.N. Bardiya, R.C. Verma, Irshad Ahmed, Dr. I.P. Singh, Abhishek Choudhary and Ms. Vimla Sinha for the appearing parties.

C The Judgment of the Court was delivered by

SHIVARAJ V. PATIL J. About 496 acres of land including that of the appellants were acquired under the provisions of the Land Acquisition Act, 1894 (for short 'the Act'). Notifications under Sections 4 and 6 were issued for the purpose of planned *development of district Ghaziabad (now* D *district Gautam Budh Nagar) through NOIDA* on 5.1.1991 and 7.1.1992 respectively. The appellants challenged those notifications by filing writ petitions in the High Court which were dismissed. They filed appeals by Special Leave to this Court challenging the order of the High Court dismissing the writ petitions. This Court in *Om Prakash and Anr.* v. *State of U.P. and Ors.*, [1998] 6 SCC 1 disposed of those appeals giving certain directions. E Although several contentions were raised before this Court challenging the acquisition proceedings, finally this Court has made observations and gave certain directions in paras 31 and 32, which read as under:-

> "31. Now remains the moot question as to what proper orders can be passed in the present proceedings in the light of our findings on the F aforesaid points. We have already noted that the *real and the only contention of the appellants for effectively challenging the acquisition proceedings is that because their lands are having abadi, they are covered by the existing State policy for not acquiring such lands under the Act. Whether these lands are having abadi or not, is a* G *vexed question of fact which we have kept open for consideration of appropriate authorities instead of relegating the appellants to the remedy under Section 5-A of the Act. We deem it fit to relegate the appellants to the remedy by way of suitable representation before the appropriate State authorities under Section 48 of the Act. It reads as under:-*

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"48. Completion of acquisition not compulsory, but compensation to be awarded when not completed (1) 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.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this Section."

As laid down by sub-section (1) of Section 48, the Government is at liberty to withdraw from the acquisition of any land of which possession has not been taken. *Leaned Senior Counsel for the contesting respondents submitted that possession of these lands has already been taken.* Our attention was invited to a possession receipt annexed to the counter-affidavit filed on behalf of Respondent 4, Secretary, New Okhla Industrial Development Authority. It is stated in the counter that NOIDA has been put in possession of the acquired lands from 30-3-1992 and the lands under acquisition now form a part of Sectors 43 and 44 of NOIDA. The Secretary of New Okhla Industrial Development Authority, Shri Rama Shankar has also earlier filed counter-affidavit to that effect. In para 6 thereof, it is averred as under:-

"6. I further say and submit that the Hon'ble High Court of Judicature at Allahabad on 31.2.1992 passed an interim order to the effect that there would be status quo and/or that the petitioner would not be dispossessed from the land in dispute unless he has already been dispossessed. I say and submit that a day prior to the date on which the interim order was passed, the petitioner had already lost possession and the 4th respondent was put in actual physical possession of the land which is the subject-matter of this petition."

Our attention was also invited to Possession Certificate at p. 202 which mentions that for the lands detailed in the certificate, possession should be given to the Tehsildar/Administrative Officer, NOIDA on 30-3-1992. The number of lands are listed totaling to 492.91 acres wherein the appellants' khasra numbers are also mentioned. It is difficult to appreciate as to how the Possession Certificate for all these number of lands would necessarily include actual taking over of all the number of lands on which there were constructions on the spot at the relevant time. It is also pertinent to note that the Possession Certificate is dated 30-3-1992 and the High Court of Allahabad granted status quo order on the next day, i.e., 31.3.1992. It, therefore, appears to us that so far as the appellants' lands are concerned, only an effort was made to take paper possession on 30.3.1992 and actual possession does not seem to have been taken. No possession receipt signed by any of the appellants could be produced to substantiate that contention. Not only that, as noted earlier, the evidence on record showed that even pending the writ petition, the site inspection report of 11.3.1996 showed that some of the lands in question were actually occupied by residents and the lands were constructed upon and a factory was being run. Consequently, it is not possible to agree with the submission of learned Senior Counsel for the respondents that the possession of the acquired lands belonging to the appellants was actually taken on the spot on 30.3.1992. It is not in dispute that status quo order granted by the High Court continued all throughout till the dismissal of the writ petition. It was then contended that before this Court could grant any interim relief, possession appeared to have been taken of these lands at least on 18.11.1995. Our attention was invited to the authority letter written by one Shri Chandra Pal Singh, Additional District Magistrate, Land Acquisition, NOIDA, Ghaziabad that possession should be given on 18.11.1995. It is obviously after the decision of the High Court dated 24.8.1995. However, it must be noted that this Court by order dated 29.9.1995 had already granted ad interim stay limited to the extent that any existing construction should not be demolished without leave of the Court and that order has continued all throughout till the hearing of the present appeals. It is, therefore, difficult to appreciate as to how despite the order of this Court, possession of the present appellants' lands could have been taken on 18.11.1995. However, Shri Mohta, learned Senior Counsel for NOIDA, submitted that this Court order was only not to demolish the

construction and has nothing to do with taking possession. It is difficult to appreciate this submission. If the constructions on the disputed lands under acquisition were not to be disturbed, how could it be contended that still the possession of the constructions was with NOIDA and that they would not demolish the construction having taken their possession? Even that apart, the authority letter dated 18.11.1995 itself shows the details of lands possession of which was given to NOIDA and the land of Survey No. 488 is not one of them. *For all these reasons, therefore, it must be held that possession of the lands under acquisition belonging to the present appellants has remained with the appellants till date. Once that conclusion is reached, Section 48 sub-section (1) can be legitimately invoked by the appellants for consideration of the State authorities. It is, of course, true that the said provision gives liberty to the State to withdraw from acquisition of any land but if the appellants are in a position to convince the State authorities that their lands were having abadi on the date on which Section 4 notification was issued on 5.1.1991 and it was that abadi which had continued without any additional construction thereon till the date of Section 6 notification and thereafter and such abadi was squarely covered by the State policy of not acquiring lands having abadi, then it will be open to the State authorities to pass appropriate orders for withdrawing such lands from acquisition and give appropriate relief to the applicants concerned. We, therefore, grant liberty to the appellants, if so advised to file written representations before appropriate authorities of the State of Uttar Pradesh invoking the State Government's powers under Section 48 sub-section (1) of the Act. It is made clear that we express no opinion on the question whether the appellants' lands had such abadi on the date of Section 4 notification which would attract the State policy of not acquiring such lands and whether such policy had continued thereafter at the stage of Section 6 notification of 7.1.1992 and whether such policy is still current and operative at the time when the appellants' representations come up for consideration of appropriate authorities of the State Government. It will be for the State authorities to take their informed decision in this connection. We may not be understood to have stated anything on this aspect nor are we suggesting that the State must release these lands from acquisition if the State authorities are not satisfied about the merits of the representations.* The State authorities will have to be satisfied on the following aspects in this connection:-

A (i) Whether there was any abadi on the acquired lands at the time of Section 4(1) notification;

(ii) Whether such abadi was a legally permissible abadi;

(iii) Whether such abadi has continued to exist till the date of representation;

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(iv) Whether such abadi was covered by any government policy in force at the time of issuance of Section 4(1) notification and/or Section 6 notification for not acquiring lands having such abadi;

(v) Whether such government policy has continued to be in force till C the date of representation.

32. *In short, the entire matter is left at large for the consideration of the State authorities in the appellants' representations. We also make it clear that if the appellants file their written representations to the aforesaid effect on or before 31.8.1998, then the appropriate* D *authorities of the State Government shall consider their representations regarding the feasibility of releasing such lands from acquisition under Section 48(1) of the Act on the ground that there were "abadis" on these lands at the relevant time and are governed by any existing State policy for releasing such lands from acquisition on that score as indicated hereinabove and for that purpose they may give a hearing* E *to the appellants, either personally or through their counsel, and permit them to lead whatever evidence they want to lead in this connection. The State authorities shall consider these written representations within a period of two months from the date such representations are received, i.e., latest by 31.10.1998 and will take* F *appropriate decisions on these representations and will inform the representationists concerned in writing about the decision of the State Government in this connection."*

[emphasis supplied]

Pursuant to the said directions, the appellants made representations G before the State Government. The Authority, after considering their representations, rejected the same by order dated 3.12.1999. Hence, the appellants approached the High Court for the second time by filing the writ petitions challenging the order of authorities dated 3.12.1999. The Division Bench of the High Court, after considering the contentions raised, dismissed H the writ petitions on 25.2.2000. Hence, the appellants have approached this

Court by filing these appeals questioning the validity and correctness of the order dated 25.2.2000 made by the High Court in the writ petitions upholding the order dated 3.12.1999 passed by the Authority.

It is appropriate to recapitulate the substance of the directions given and the observations made as can be gathered from paragraphs 31 and 32 extracted above. This Court noticed that the real and only contention of the appellants for effectively challenging the acquisition proceedings was that their lands having abadi could not be acquired as per the existing policy for not acquiring such lands; whether those lands are having abadi or not is a vexed question of facts, which is left open for consideration of appropriate authorities; instead of relegating the appellants to the remedy under Section 5-A of the Act it was deemed fit to relegate the appellants to the remedy by way of suitable representation before the appropriate State authorities under Section 48 of the Act. There was some dispute as to taking of possession of the lands by the authorities in the context that under Section 48(1) the Government is at liberty to withdraw from the acquisition of any land of which possession has not been taken. On examination of rival contentions on this point this Court held that the possession of the lands under acquisition belonging to the appellants had remained with them. Hence Section 48(1) of the Act could be legitimately invoked by the appellants for consideration of the State authorities; it is true that the said provision gives liberty to the State to withdraw from acquisition of any land but if the appellants are in a position to convince the State authorities that their lands were having abadi on the date on which Section 4 notification was issued on 5.1.1991 and it was that abadi which had continued without any additional construction thereon till the date of second notification and that such abadi was squarely covered by the State policy of not acquiring lands having abadi, then it will be open to the State authorities to pass appropriate orders for withdrawing such lands from acquisition and give appropriate relief to the applicants concerned; liberty was given to the appellants to file representations before the appropriate authorities under Section 48(1) of the Act; it is made clear that this Court did express no opinion on the question whether the appellants' lands had such abadi on the date of Section 4 notification, which was attracted the State policy of not acquiring such lands and whether such policy had continued thereafter at the stage of Section 6 notification on 7.1.1992 and whether such policy was still current and operative at the time when appellants' representations came up for consideration. It would be for the State authorities to take their informed decision in that connection. This Court also made it clear that *it may not be understood that anything stated on this aspect nor*

A *any suggestion was made that the State must release these lands from acquisition if the State authorities are not satisfied about the merits of the representations.* The State authorities will have to be satisfied in that regard on five aspects stated in paragraph 31 above. In paragraph 32 *it is further stated that the entire matter is left at large for the consideration of the State authorities on the appellants' representations.* It is made clear that the State B Government shall consider the representations as to feasibility of releasing such lands from acquisition under Section 48(1) of the Act on the ground that there were abadis on these lands at the relevant time and are governed by any existing State policy for releasing such lands from acquisition on that score. In para 11 of the judgment, the following points were raised for determination:-

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"1. Whether the State authorities were justified in invoking Section 17(4) of the Act for dispensing with inquiry under Section 5-A of the Act.

2. In any case, whether the appellants' lands have to be treated as immune from acquisition proceedings on the ground that they D were having abadi thereon and were, therefore, governed by the policy decision of the State of U.P. not to acquire such lands.

3. Whether this Court should refuse to exercise its discretionary jurisdiction under Article 136 of the Constitution of India in the facts and circumstances of the case.

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4. What final orders."

The first point was answered in the negative, in favour of the appellants and against the contesting respondents. Point No. 2 was kept open for consideration of the proper State authorities, as indicated while considering F points 3 and 4. Point No. 3 was answered in the affirmative against the appellants and in favour of the respondents refusing to exercise discretionary jurisdiction under Article 136 of the Constitution of India for interfering in the proceedings with the impugned notifications. Dealing with point No. 4 directions were given and observations were made as stated in paragraphs 31 and 32 of the judgment.

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Shri Shanti Bhushan, learned Senior Counsel appearing for the appellants in Civil Appeal Nos. 999-1001/2001 and 1004/2001 and Contempt Petition Nos. 274/1991 and 281/1991, specifically drew our attention to the discussion and conclusion of point no. 1. To emphasize that acquisition proceedings H were otherwise bad, but only in order not to disturb the scheme for the

purpose of which large area was acquired, the directions as contained in para 31 were given. He further urged that the High Court committed an error in upholding the order dated 3.12.1999, issued by the Secretary, Ministry of Industries, Government of Uttar Pradesh, who did not follow the specific directions of this Court; the High Court committed an error in passing the common judgment in number of writ petitions without discussing the individual cases on merits as the Secretary, Ministry of Industries had also committed the similar mistake in not deciding the cases individually on their own merits in spite of specific directions given by this Court in *Om Prakash* case (supra), and the order dated 6.9.1999 in Contempt Petition filed by I.M. Dawar and connected special leave petitions. The impugned judgment cannot be sustained in view of the fact that when there was a specific Government policy as is evident from the letter dated 8.8.1997 that at the time of acquisition of any area the village abadi be left out from acquisition and if acquisition is very urgent, in that case equal development area of the acquired land shall be given to the owners of the land, whose land was sought to be acquired. He added that the order dated 3.12.1999, passed by the Authority, was violative of Article 14 of the Constitution of India being arbitrary and discriminatory in view of policy of the Government of U.P. that no abadi land will be acquired. The High Court also failed to correct the said order. The spot inspection report made by the team of the officers of the Revenue Board clearly established that abadi existed at the lands of the appellants. He took us through the relevant documents placed on record in support of his submissions. The other learned counsel, appearing in other appeals, while adopting the arguments made by Shri Shanti Bhushan, made few more submissions in relation to facts of their respective cases. On the other hand, Shri Rakesh Dwivedi, learned counsel representing Respondent No. 2 (NOIDA Authority) made submissions in support and justification of the impugned order. He urged that the Secretary, Ministry of Industries scrupulously and correctly followed the directions given by this Court in considering the representations made by the appellants and after recording finding of fact and after considering the feasibility of releasing the lands from acquisition under Section 48(1) rejected the representations. There has been a detailed consideration of every one of the contentions urged on behalf of the appellants in the light of the material that was available on record. According to the learned senior counsel the High Court was right and perfectly justified in not interfering with the finding of fact recorded by the Authority in dealing with their representations; the High Court on consideration of the contentions, urged on behalf of the appellants, by a considered order, upheld the order of the Authority and rightly so.

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A We have carefully considered the respective contentions. In the impugned judgment, the High Court at the outset before taking up the rival contentions for consideration held that the administrative authority passing the impugned order dated 3.12.1999 could not be expected to discuss each and every piece of evidence threadbare as is required in a trial before the judicial court; what is to be ascertained is as to whether in passing the impugned order, the B material and evidence on record had been considered to arrive at the conclusion while complying with the directions of this Court. Keeping this in view, the High Court found that the authority had recorded a finding on each and every aspect required to be considered as per the directions given by this Court. Dealing with the contention of non-consideration of decrees of the civil suits C in respect of certain lands as being abadi earlier to passing of the notifications under Sections 4 and 6 of the Act, the High Court noticed that this Court itself in the aforementioned judgment observed that civil court litigation could not bind the State authority as the State of U.P. was not a party to those proceedings. The High Court found that there was no force in the conclusion that the appellants were not given opportunity of hearing on the ground that D the perusal of the order passed by the authority shows that the opportunity of hearing was given and hearing took place on 4.11.1999 when the appellants were represented through their counsel and the evidence placed on record was also considered. The High Court also took the view that consideration of all the representations of the appellants by the authority and passing of common E order did not suffer from any defect or infirmity because the entire material and evidence placed before it had been considered before passing the impugned order. The High Court also rejected the contention that the spot inspection was made ex-parte by the party concerned observing that it was clear from paragraph 9 of the impugned order dated 3.12.1999 that the spot inspection was made after due notice to the appellants; two of them namely Veer Singh F and Jai Singh were present also at the time of spot inspection while others abstained for the reasons best known to them. Touching the question relating to existence of abadi, and the Govt. policy regarding acquisition of such land, the High Court observed thus:

G "Accepting the case of the petitioners that even before the Notifications under Sections 4 and 6 of the Land Acquisition Act there was some stray Abadi in the plots of the petitioners at scattered points in the vast area of acquired land, it could not inhere in them a right to get their land released from acquisition. It may be pointed out that as per Section 3(a) of the Land Acquisition Act, the term 'land' even includes H building and super structures. Needless to say, 'building' is a thing

permanently attached to the earth. A

Therefore, the State Government has right to acquire the land of the petitioners in spite of there being Abadi at some points. Actually it was for the reason that their land had been found to be in their possession that Section 48 of the Land Acquisition Act was held to be applicable and the Supreme Court gave them opportunity to make B representations to the State Government for releasing their land from acquisition. But the apex Court made it clear that the entire matter was left at large for consideration of the State Authority. It was directed that in case of the appellants (petitioners) filed written representations, the appropriate authorities of the State Government C were to consider the same regarding feasibility of releasing such land from acquisition under Section 48(1) of the Land Acquisition Act on the ground that there were Abadis on these lands at the relevant time and were governed by any State policy in force at the time of issuance of notifications under Sections 4 and 6 for not acquiring the lands having such Abadi and the same had continued to be in force till the D date of the representation. It should be pointed out that large area of land including the land of the petitioners had been acquired for the public purpose of planned development of District Ghaziabad (now District Gautam Buddha Nagar). Obviously, such public purpose was to be frustrated if the stray and scattered land of the petitioners E comprised in the acquired huge area was to be released from acquisition.

As for the Government policy to release such Abadi land from acquisition, reliance has been placed from the side of petitioners on a letter dated 08.08.1997 issued by the Board of Revenue to all the F Commissioners and District Magistrates of the State (Part of the representation Annexure-2 to the writ petition No. 7561 of 2000). The said letter dated 08.08.1997 directs that at the time of acquisition of any area, the village Abadi be left out from acquisition. Obviously, it is of much recent origin having nothing to do at the time when the notifications under Sections 4 and 6 of the Land Acquisition Act G were issued in respect of the land in question on 05.01.1991 and 07.01.1992 respectively.

The crux flowing from the impugned order dated 03.12.1999 is that the representations of the petitioners did not command themselves to the State Government for acceptance as there was no Government H

A policy at the time of issuance of notifications under Sections 4 and 6 of the Land Acquisition Act on 05.01.1991 and 07.01.1992 respectively in respect of the disputed land, not to acquire land comprising some Abadi which might have continued till the time of the making of representations by the petitioners."

B The High Court also observed that the other ground for rejection of representation by the Authority was that the release from the acquisition the lands of the appellants would frustrate the very public purpose for which the acquisition was made; in other words, it was not feasible to release lands from acquisition and that there was substantial compliance of the directions C given by this Court. After discussion and in the light of observation made in the impugned judgment, the High Court found that the impugned order dated 3.12.1999 passed by the competent authority rejecting representations of the appellant on a detailed consideration and supported by sustainable reasons was right and justified. It is further stated in the impugned order that when the State Government after giving full opportunity of hearing to the appellants D and after consideration of the entire material and evidence has chosen not to release their lands from acquisition under Section 48(1) of the Act, no fault can be found with the same.

In the light of the comments made on the order dated 3.12.1999, passed by the competent officer rejecting the representations of the appellants that E the competent authority did not follow the directions given by this Court; the order passed was arbitrary and unfair and that the material placed before the authority was not properly considered; proper opportunity was not given and relied on the spot inspection report made ex-parte, we think it is appropriate to look to the very order to find out whether the comments and criticism F made on the said order is justified or not. In the said order it is clearly stated that pursuant to the orders dated 15.7.1998 and 6.9.1999, made by this Court, the appellants were heard on 4.11.1999 in the meeting hall of Noida; the appellants were represented by their counsel; at the hearing officers of Noida and officers of District Administration were also present; reference is made in the matter to the directions given by this Court in the judgment dated G 15.7.1998, as contained in paragraph 31 of the judgment. The order also shows reference to and consideration of evidence placed before the authority. It is also noticed in the order that the SDM, Dadri informed that according to Revenue records that among the disputed plots of land many plots such as 261(min), 262(min), 256, 260, 263 and 293 were purchased by persons from H outside (not original villagers) during the crop years 1391 to 1393 (1984-

1986) and afterwards and demand to release the lands from acquisition has been made by them. Among them most of the persons not being villagers are residents of other cities such as Meerut, Ludhiana, Jammu, New Delhi, Chandigarh, Nasik, Amritsar and other cities. The above-mentioned survey numbers have been purchased by these persons as agricultural land on the basis of addresses in the other cities. These very addresses are recorded in the Revenue records also. It is also stated in the impugned order that after hearing the arguments and perusing the evidence the parties were asked by the Authority to be present at the spot and explain the position. The Authority inspected the spot along with persons from the District Administration and officers of Noida. Among the appellants Veer Singh and Jai Singh were present. No other landowner came to the spot. On the spot only small 5-7 years old constructions were found. Seeing the constructions it was felt that the constructions were scattered on plots of land and no abadi of village was present there. It is also noticed that even the constructions found in the scattered position appear to have been made after issuing Sections 4 and 6 notifications. It is also observed that the constructions were made without permission of the Competent Authority. There is a detailed discussion in respect of each one of the five aspects mentioned in paragraph 31 of the judgment of this Court in *Om Prakash* case, with reference to the material placed on record. It is noticed that the disputed plot numbers are situated up to far away places on the lands attached with the village, leaving which the acquisition proposal could not have been prepared by the authority because these khasras numbers are in between other numbers in the sector plan. Dealing with these aspects it is stated thus: -

> "The policy of U.P. administration in only not to unnecessarily acquire the abadis of the village. The original abadi land of the village has not been acquired by the authority. This inference has been put up that out of the disputed khasra Nos. in many Khasra Nos. i.e. 262 Min, 256 min, 260, 263 and 293 the land has been purchased by many persons from out side during crop year 1391 to 1393 and are demanding for denotification of land before the Honourable Court. Among them most persons are not original residents of the village. They are residents of Meerut, Ludhiana, Jammu-Kashmir, New Delhi, Chandigarh, Nasik and Amritsar, etc.
>
> Above mentioned khasra Nos. have been purchased as agricultural land. Those people by whom the land has been purchased are not original residents of Noida and are outsiders such persons have

A purchased the lands on the very basis of their outside addresses and the same basis the entries in the land records (khatoni) exist. The entry made in the land record and on 17-9-88 sale for khasra No. 290, between Shri Sukhbir Singh S/o Shri Bhikan Singh Resident of Village and Smt. Sudarshan Kathuria W/o Shri Prem Lal Kathuria resident of 6/133 Geeta Palli, New Delhi has been executed and it is B clear from this that this was agriculture land there was no construction on it and possession of vacant plot was transferred to the purchaser and it has also been shown in this sale deed that there is no construction in it and whenever the purchaser is to construct any building on it the same would be done under the rules made by Competent Officer.

C This argument has been put forward by the petitioners that no arrangement (consolidation) of abadi land has been done after the year 1930 and abadi on the land, room, boundary is since 1973, and this has also been said that by leaving out the land no plan of Noida is effected. This argument was put up by Noida that all these khasra D Nos. have been sold and purchased afterwards and all constructions are after sending proposal for Section 4/17. This was also said by Noida that the land in question is pent of sector 44 and that development work has been done on all sides of it, so by leaving out such land will adversely effect planned development of Noida."

E In para 11 of the order the Competent Authority has concluded thus:-

"11. The contending parties were heard. All records concerned with this matter were studied. The information given by District Magistrate Gautam Budh Nagar and after spot inspection, I have arrived at the conclusion that at present abadi has not been found on the disputed F land and so question of existence of abadi at time of sections 4/17 and 6/17 on the disputed land does not arise. The constructions that have been found in scattered position has been done after issuance of sections 4/17 and 6/17 notifications and for this purpose no permission has been obtained from Noida and the construction is not legal. G Denotification of land from acquisition will adversely effect the planned development of Noida, the disputed khasra Nos. full in sector-44 and the land near these has been developed by Noida. The internal development plans of this area such as sewer, drainage, roads, park, community spot will be adversely effected on leaving out these khasra Nos. So in this condition denotification of these plots under section

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48(1) of Land Acquisition Act is not possible." A

Pursuant to the order dated 20th September, 1999 passed by this Court in Contempt Petition (C) No.274 and 281 of 1999 (in S.L.P.(C) No. 6036/99), an Officer of this Court went to the spot on 30th September, 1999 after issuing notice to the parties and conducted survey in Khasra No. 242 situated at village Chalera Bangar and made a detailed report along with the map and B photographs. It was submitted on behalf of the petitioners in Contempt Petition (C) No. 274/1999 that 1/4th of the land in Khasra No. 242 does not belong to them and the same is not in dispute and as such the existing structures on this 1/4th of the land may not be required to be identified. The land in Khasra No. 242 has been divided into two parts for the purpose of survey of existing C structures i.e. 3/4th of the land (L shapped) marked as Portion A and 1/4th of the land not in dispute is marked as Portion B on the map. The structures found in 3/4th of the land marked as Portion A on the map are shown in details and the corresponding photographs also are annexed to the survey report. As can be seen from this survey report, boongas (for storing fodder), bitooras (for storing dung cakes), thatched huts with wooden pillars and D some with side walls of bricks are existing in Portion A of the map occupying small areas and are scattered. There were also broken boundary walls of bricks without foundation and there were broken walls perhaps of rooms of small measurements. The conclusion of the survey report reads:-

"Existing structures on the entire land of Khasra No. 242, village E Chalera Bangar, NOIDA, District Gautam Budh Nagar, U.P. as on 30.9.1999:-

	3/4th land (Portion A)	1/4th land (Portion B)
Boongas	5	3
Bitooras	27	9
Thatched Huts	3	106/32
Devasthan	3	-
Thatched Cattle-sheds	-	3
Khor in cattle-sheds	-	2
Well	1	-
Handpump with Electric motor	1	-

F G H

Fenced Area	At 4 places	
Broken boundaries/ Walls with scattered Bricks. No complete Structure exists there	At 8 places	-
Heap of stone-dust	At 1 place	-
Heap of stones	At 2 places	-
Stacks of New bricks	At 2 places	-

The survey of the existing structures entrusted to me had been completed with the cooperation of all concerned around 2.30 p.m. on 30th September, 1999.

As directed, the above survey report alongwith map and photographs of Khasra No. 242 is submitted for kind perusal of the Hon'ble Court."

Now we notice the relevant provisions of statutes in the light of the submissions made on either side. The relevant portions in the Uttar Pradesh Industrial Area Development Act, 1976 (for short 'the 1976 Act') read as under:-

"An Act to provide for the constitution of an Authority for the development of certain areas in the State into industrial and urban township and for matters connected therewith."

"2 Definitions

(a) to (c).....

(d) "Industrial development area" means an area declared as such by the State Government by notification;

(e) "Occupier" means a person (including a firm or body of individuals whether incorporated or not) who occupies a site or building within the industrial development area and includes his successors and assigns;

(f) "transferee" means a person (including a firm or other body of individuals, whether incorporated or not) to whom any land or building is transferred in any manner whatsoever, under this Act and includes his successors and assigns;"

"6. *Functions of the Authority* (1) The object of the Authority shall be to secure the planned development of the industrial development areas. A

(2) Without prejudice to the generality of the objects of the Authority, the Authority shall perform the following functions:-

(a) to acquire land in the industrial development area, by agreement or through proceedings under the Land Acquisition Act, 1894 for the purposes of this Act; B

(b) to prepare a plan for the development of the industrial development area;

(c) to demarcate and develop sites for industrial, commercial and residential purposes according to the plan; C

(d) to provide infrastructure for industrial, commercial and residential purposes;

(e) to provide amenities; D

(f) to allocate and transfer either by way of sale or lease or otherwise plots of land for industrial, commercial or residential purposes;

(g) to regulate the erection of buildings and setting up of industries; and E

(h) to lay down the purpose for which a particular site or plot of land shall be used, namely for industrial or commercial or residential purpose or any other specified purpose in such area."

"8. Power of issue directions in respect of erection of building (1) For the purposes of proper planning and development of the industrial development area, the Authority may issue such direction as it may consider necessary, regarding - F

(a) .....

(b) the alignment of buildings on any site, G

(c) the restrictions and conditions in regard to open spaces to be maintained in and around buildings and height and character of buildings;

(d) the number of residential buildings that may be erected on any site" H

A "9. Ban on erection of buildings in contravention of regulations (1) No person shall erect or occupy any building in the industrial development area in contravention of any building regulation made under sub-section (2).

(2) The Authority may by notification and with the prior approval of
B the State Government make regulations to regulate the erection of buildings and such regulations may provide for all or any of the following matters, namely

(a) .....

C (b) lay out plan of the building whether industrial, commercial or residential;

(c) the height and slope of the roofs and floors of any building which is intended to be used for residential or cooking purposes;"

"10. *Power to require proper maintenance of site or building* - If it
D appears to the Authority that the condition or use of any site or building is prejudicially affecting or is likely to affect the proper planning of, or the amenities in any part of the industrial development area or the interests of the general public there, it may serve on the transferee or occupier of that site or building a notice requiring him to take such steps and within such period as
E may be specified in the notice and thereafter to maintain it in such manner as may be specified therein and in case such transferee or occupier fails to take such steps or to maintain it thereafter the Authority may itself take such steps or maintain it, and realize the cost incurred on it from such transferee or occupier."

F "17. *Overriding effect of the Act* - Upon any area being declared an industrial development area under the provisions of this Act, such are, if included in the master plan or the zonal development plan under the Uttar Pradesh Urban Planning and Development Act, 1973, or any other development plan under any other Uttar Pradesh Act,
G with effect from the date of such declaration be deemed to be excluded from any such plan."

"19. *Power to make regulations* - (1) The authority may with the previous approval of the State Government, make regulation not inconsistent with the provisions of this Act or the rules made thereunder
H for the administration of the affairs of the Authority.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulation may provide for all or any of the following matters namely, -

(a) the summoning and holding of meetings of the Authority the time and place where such meetings are to be held, the conduct of business at such meetings, and the number of members necessary to form a quorum thereat;

(b) the powers and duties of the Chief Executive Officer;

(c) the form of register of application for permission to erect a building;

(d) the management of properties of the Authority;

(e) fees to be levied in the discharge of its functions;

(f) such other matters as are to be provided for in regulation."

Regulation (4) of Building Regulations reads:-

"4. Building permit required - No person shall erect any building without obtaining a prior building permit thereof, from the Chief Executive Officer in the manner hereinafter provided."

A Notification was published in the Gazette No. 4157HI/XVIII-11 dated 17th April, 1976 in exercise of powers in clause (d) of Section 2 read with Section 3 of the 1976 Act declaring the area comprising the villages mentioned in the Schedule annexed as an industrial area to be called the "New Okhla Industrial Development Area". In the Schedule, the village Chalera Bangar is found at Sr. no. 16 included in the said industrial area.

The relevant provisions contained in the United Provinces Village Abadi Act, 1948 (for short 'the 1948 Act')read:-

"Preamble :- Whereas it is expedient to regulate in certain respects the relations between landlords and house-owners in village abadis in the United Provinces;

It is hereby enacted as follows:

(1) .....

(2) *Interpretation and definitions* - In this Act, unless there is something repugnant in the subject or context-

A (1) "village abadi" means any land in a village which is or, but for an error or omission, would have been recorded as such in the revenue records.

(2) "Landlord" means the proprietor of the land constituting the village abadi and includes a sub-proprietor or under-proprietor thereof.

B (3) "House owner" means a person, not being the landlord, who owns a house in a village abadi.

(3) *Presumption regarding existing houses* - All houses built in a village abadi and existing on the 15th day of August, 1947, shall unless the contrary is proved, be presumed to have been built with
C the consent of the landlord.

(4) House owner's right of user Notwithstanding any custom or usage to the contrary in any village, a house owner may

(a) convert his kachcha house into pucca, and

D (b) make such construction in the sahan darwaza, or land appurtenant to such house as may be necessary for agricultural or domestic purposes,

(c) rebuild or renovate his house whether kachcha or pucca or both, subject to any other law for the time being in force."

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The relevant provisions of the U.P. Land Revenue Act, 1901, (for short 'the 1901 Act') read:-

"28. *Maintenance of map and field-book* - The Collector shall, in accordance with rules made under Section 234, maintain a map and
F field-book of each village in his district, and shall cause annually, or at such longer intervals as the State Government may prescribe, to be recorded therein all changes in the boundaries of each village of field and shall correct any errors which are shown to have been made in such map or field-book.

G 32. Record-of-rights - There shall be a record-of-rights for each village subject to such exception as may be prescribed by rules made under the provisions of Section 234. The record-of-rights shall consist of a register of all persons cultivating or otherwise occupying land specifying the particulars required by Section 35.

H 33. The annual register - (1) The Collector shall maintain the record-

of-rights and for that purpose shall annually, or at such longer intervals as the State Government may prescribe, cause to be prepared an amendment register mentioned in Section 32. A

(2) to (8) ....."

"52. Record to be prepared in re-survey - When any local area is under survey operations, the Record Officer shall prepare for each village therein a map and field-book; which shall thereafter be maintained by the Collector as provided by Section 28 instead of the map and field-book previously existing." B

"54. Revision of map and records - (1) For revising the map and records under this Chapter, the Record Officer shall subject provisions hereinafter contained, cause to be carried out survey, map correction, field to field Partal and test and verification of current annual register in accordance with the procedure prescribed. C

(2) After the test and verification of the current annual register in accordance with sub-section (1), the Naib-Tahsildar shall correct clerical mistakes and errors, if any in such register, and shall cause to be issued to the concerned tenure-holder and other person interested, notices containing relevant extracts from the current annual register and such other records as may be prescribed, showing their rights and liabilities in relation to land and mistakes and disputes discovered during the operations mentioned in the said sub-section." D E

It is no doubt true that conclusion on point no. 1 raised in paragraph 11 of the judgment in the case of *Om Prakash* (supra) was recorded against the State but ultimately effective and operative order is to be seen in paras 31 and 32 of the said judgment. The ultimate direction was to consider the representations of the appellants for releasing the lands from acquisition under Section 48(1) of the Act on being satisfied of the five aspects mentioned in para 31 of the judgment. It is also made clear in the said paragraph that this Court did not express any opinion on the question whether the appellants' lands had such Abadi on the date of Section 4 of Notification which would attract the State policy of not acquiring such lands and whether such policy had continued thereafter at the stage of Section 6 notification of 7.1.1992 and whether such policy was still current and operative at the time when the appellants' representations came up for consideration of appropriate authorities of the State Government. It is further stated that it will be for the State authorities to take the informed decision in this connection. In the same F G H

A paragraph, it is stated that "we may not be understood to have stated anything on this aspect nor are we suggesting that the State must release these lands from acquisition if the State authorities are not satisfied about the merits of the representations". This Court went on to say in paragraph 32 that the entire matter is left at large for the consideration of the State authorities on the appellants' representations. It is further stated that if the representations B were made within the given time, then the appropriate authority of the State Government shall consider their representations regarding the feasibility of releasing of such lands from acquisition under Section 48(1) of the Act on the ground that there were "abadis" on these lands at the relevant time and are governed by any existing State policy for releasing such lands from C acquisition.

Thus, it is clear that it was open to the State authorities to consider regarding the feasibility of releasing such lands from acquisition under Section 48(1) of the Act after taking into consideration the observations made and directions given in paras 31 and 32 as aforementioned. We have already D noticed above that the Competent Authority of the State gave hearing to the appellants, considered the evidence and material placed on record and examined the contentions raised on behalf of the parties in compliance with the directions given and observations made in paras 31 and 32 of the judgment of this Court. The State Authority came to the conclusion for the reasons E already stated above that having regard to various aspects including development scheme, it was found not feasible to release the lands of the appellants under Section 48(1) of the Act. The High Court did not find any good ground to disagree with the findings of fact recorded by the State Authority and also found that the State authorities duly considered the directions given and observations made by this Court as contained in paras F 31 and 32 of the judgment.

The 1976 Act provides for the constitution of an authority for the development of certain areas in the State. A notification was published in the Gazette dated 17.4.1976 under the Act declaring the area comprising the villages mentioned in the Schedule called the "New Okhla Industrial G Development Area". The village Chalera Bangar is one of the villages included in the Schedule and the lands in question are in the same village. The function of the authority under Section 6 of the Act is to acquire the land in the notified area by the agreement or through the proceedings under the Land Acquisition Act, to prepare a plan for the development of the industrial area, H to provide infrastructure for industrial, commercial and residential purposes,

to regulate the erection of buildings and setting up of the industries and to lay down the purpose for which a particular site or plot of land shall be used namely, for industrial, commercial or residential or for any other specified purpose in such area. Section 8 authorises the authority to issue directions such as the alignment of buildings on any site, the restrictions and conditions in regard to open spaces to be maintained in and around buildings and height and character of buildings and the number of residential buildings that may be erected on any site. Section 9 imposes a ban on erection of buildings in contravention of regulations. As is evident from this Section, no person could erect or occupy any building in the industrial development area in contravention of any building regulation made under the Act. Regulation 4 of Building Regulations shows that no person shall erect any building without obtaining a prior building permit thereof from the Chief Executive Officer in the manner provided.

There is no material to show that the constructions and structures said to be existing in the Abadi area were existing prior to the Notification issued on 17.4.1976 as no village map or other documents show the same in the large area of Abadi claimed by the appellants. Certain provisions of the U.P. Land Revenue Act are already extracted above. Looking to the said provisions, it is clear that field books, maps, record of rights and annual register had to be maintained. There could be resurvey and revision of map and records. The argument was advanced on behalf of the appellants that Abadi existing long back could not continue to be the same; over the years when families grew, population increased, necessarily corresponding abadi area also increased; new constructions and structures came up. If that be so then the same thing could have been reflected in the records and the map maintained under the 1901 Act. Similarly, it is not shown that such structures or constructions were put up with the permission as required under the provisions of the Act and the Regulations. Section 10 of the Act even provides for ordering proper maintenance of site or building if it appears to the authority that the condition or use of any site or building is prejudicially affecting or is likely to affect the proper planning or the maintenance in any part of the industrial development area or the interest of the general public thereto requires that the Authority could direct the transferee or occupier of the site or building to take steps within the period specified to maintain a site or building in such manner as may be specified. When the large area of about 496 acres of land was acquired for planned development of industrial area called New Okhla Industrial Development Area and the object and purpose of the Act is sought to be achieved as provided in the Act, the authority has power to acquire the

A lands and to give necessary direction or take steps to maintain and regulate the sites and buildings in the area. The State Authority having elaborately considered the evidence available on record found that the claims of the appellants as to Abadi is spread over in a scattered manner in a large area apart from being whether that was an Abadi or not and whether it was existing prior to the issue of Notification in 1976. Having regard to all aspects, B the authority found that it was not feasible to release the lands of the appellants from acquisition under Section 48(1) of the Act. As is evident even from the survey report that boongas, bitooras, thatched huts, thatched sheds etc. occupied a small area but were spread over to a long distance. The photographs show that large area is open land even in the so-called Abadi area, so an individual C assuming could claim some area as abadi that could be a small area appurtenant to his residential house or a farm house or any cattle shed etc. but the appellants claim for large area covering few acres of land as abadi, is untenable. All the more so, when it could not be legitimately claimed or asserted that they were regularly living in those structures of very kachcha type. The nature of the construction, their age from its appearance, etc., give an impression that they D were hurriedly planted at later dates only to circumvent the land acquisition proceedings.

As already stated above, the Competent Authority in compliance with the directions given by this Court in *Om Prakash* case, in the light of E observations made therein having considered the evidence placed on record and after hearing the parties, recorded findings and held that it was not feasible to release the lands of the appellants from acquisition. From the impugned judgment of the High Court it is clear that the High Court kept in view the scope and judicial review in dealing with the impugned order dated 3.12.1999, passed by the Competent Authority. In *Commissioner of Income* F *Tax, Bombay and Ors.* v. *Mahindra and Mahindra Limited and Ors.*, [1983] 4 SCC 392, this Court, while stating that by now, the parameters of the Court's power of judicial review of administrative or executive action or decision and the grounds on which the court can interfere with the same or well settled, proceeded to say further in para 11, thus: -

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> "11. .....Indisputably, it is a settled position that if the action or decision is perverse or is such that no reasonable body of persons, properly informed, could come to or has been arrived at by the authority misdirecting itself by adopting a wrong approach or has been influenced by irrelevant or extraneous matters the Court would

H be justified in interfering with the same."

In the same decision it is also stated that in examining the validity of an order in such matters the test is to see whether there is any infirmity in the decision making process and not the decision itself. From this decision it is also clear that when choices are open to the authority it is for that authority to decide upon the choice and not for the court to substitute its view. The High Court keeping in view the scope of judicial review in such matters considered the respective contentions raised before it. On finding that the Authority passed the impugned order dated 3.12.1999 on proper consideration of the evidence placed before it and after hearing the parties in the light of the directions given and observations made by this Court in the case of *Om Prakash*, did not consider it appropriate to interfere with the impugned order. We do not find any good or valid reason so as to interfere with the impugned judgment of the High Court affirming the order passed by the Authority.

Thus, taking an overall view of the matter having regard to the facts of the case, in the light of law applicable to them and keeping in view the parameters stated by this Court in paras 31 and 32 of the judgment in *Om Prakash* case, the authority rejected the representations made by the appellants and the High Court affirmed the same and rightly so in our opinion. Under these circumstances, we decline to interfere with the impugned judgment. Consequently these appeals are dismissed with no order as to costs. In view of dismissal of appeals, contempt petitions also stand dismissed.

K.K.T. Appeals/Petitions dismissed.