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MEERA SAHNI

v.

LT. GOVERNOR OF DELHI & ORS.

(Civil Appeal Nos. 3413-3414 of 2001)

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JULY 15, 2008

[ALTAMAS KABIR AND DR. MUKUNDAKAM SHARMA,
JJ.]

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Land Acquisition Act, 1894: ss.4 and 6 – Notification under – Transfer of land after issuance of the said notifications – Validity of: – Held: Would be deemed to be invalid and not binding on government.

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Delhi Lands (Restrictions and Transfer) Act, 1972: ss.2(b), 5 and 8 – Transfer of acquired land – Validity of – Held: Not valid without permission in writing from competent authority – Under the Act, competent authority is Additional District Magistrate – Permission granted by person, other than the competent authority or on behalf of the competent authority not valid – Land Acquisition Act, 1894 – ss.4 and 6.

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Interpretation of statutes: Strict construction – Held: Action to be taken in particular manner as provided by statute must be taken or done or performed in manner prescribed and in no other manner – Delhi Lands (Restrictions and Transfer) Act, 1972 – ss.5, 6 and 8.

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On 24.10.1961, Notification was issued under s.4 of the Land Acquisition Act for acquisition of certain lands for public purpose. These lands included lands belonging to predecessors-in-interest of appellants. On 4.1.1969, declaration under s.6 of the Act was issued. In the year 1980, two of the appellants purchased the said acquired land from the original land owners. The various land-owners, appellants and predecessor-in-interest of appellants filed appeal before High Court challenging the legality of

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these notifications before the High Court, which was dismissed. On appeal, this Court upheld the acquisition proceedings. Thereafter the Land Acquisition Officer passed the award. Aggrieved by the said award, appellants filed review petition before the High Court and thereafter filed second substantive writ petition for declaring the acquisition proceedings as illegal and void on the ground that the lands in dispute were purchased only after obtaining due permission under s.5 of the Delhi Lands (Restrictions and Transfer) Act, 1972 and that the sale deeds executed in their favour were duly registered with the sub-registrar with the endorsement that No Objection Certificate (NOC) was obtained. High Court dismissed the review and writ petitions. Hence these appeals.

Dismissing the appeals, the Court

HELD: 1.1 When a piece of land is sought to be acquired, a notification under s.4 of Land Acquisition Act is required to be issued by the State Government strictly in accordance with law. The said notification is also required to be followed by a declaration to be made under s.6 of the Land Acquisition Act and with the issuance of such a notification any encumbrance created by the owner, or any transfer made after the issuance of such a notification would be deemed to be void and would not be binding on the Government. [Para 12] [1022-F & G]

U.P. Jal Nigam, Lucknow through its Chairman and Anr. v. Kalra Properties (P) Ltd., Lucknow and Ors. (1996) 3 SCC 124 ; Sneh Prabha (Smt) and Ors. v. State of U.P. and Anr. (1996) 7 SCC 426; Ajay Kishan Shinghal & Ors. v. Union of India (1996) 10 SCC 721; Star Wire (India) Ltd. v. State of Haryana and Ors. (1996) 11 SCC 698 – relied on.

Roshanara Begum v. Union of India 61(1996) DLT 206; Murari and Ors. v. Union of India and Ors. (1997) 1 SCC 15 – referred to.

A 1.2. Under the Land Acquisition Act, the subsequent purchaser cannot challenge the acquisition proceedings and that he would be only entitled to get the compensation. [Para 13] [1024-A]

B 2. In order to meet the increasing demand of accommodation for the large population in Delhi, it was necessary for the Central Government and the State Government to take appropriate steps for acquiring large tracts of land. The Delhi Lands (Restrictions on Transfer) Act, 1972 prohibits any transfer by way of sale, mortgage, gift, C lease or otherwise, of any land which is the subject matter of acquisition or in respect of which acquisition proceeding is initiated or proposed to be initiated except by way of seeking and obtaining previous permission in writing from the competent authority. It is true that the said D special Act dealing with restrictions on transfer of land in Delhi envisages certain parameters which if satisfied would permit a land holder to transfer his land to a third party but such transfer is possible only when prior permission in writing is sought for and obtained from the E competent authority. [Paras 14, 15] [1024-B,C,E,F,G & H]

3.1 The appellants have placed copies of their respective sale deeds through which they have allegedly acquired the title of the land in question from the original land holders. Copies of the orders passed by the Tehsildar F (Notification) on behalf of Additional District Magistrate (Land Acquisition) Delhi allegedly granting permission for transfer and alleged NOC obtained by the predecessors in-interest of the appellants are also placed on record by the appellants to fortify their arguments that the orders G were passed by the competent authority under the provisions of the Act and also to support their claim that the transaction of sale was performed validly and that the land stood transferred in their favour with mutations granted. [Para 16] [1028-A,B & C]

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3.2. The appellants, in support of their claim had placed two non statutory formats. One of the formats was under the caption "Statement to be furnished to the Registering Officer for ensuring non contravention of s.8 of the Delhi Lands Registration of Transfer Act, 1972" and the other format, allegedly an order to be passed by the Tehsildar or an Additional District Magistrate. Permission to transfer any such land is to be given by the competent authority and such permission is to be obtained prior to the transaction entered into, which must be in writing. The competent authority as envisaged under s.2(b) of the 1972 Act is the Additional District Magistrate (Revenue), Delhi Administration and he is the only authorized competent person to exercise the powers vested under ss. 5, 6 and 8 of the 1972 Act. No other authority or anyone else, subordinate to him was ever authorized to exercise the aforesaid power. [Para 17] [1028-D,E; 1029-F,G; 1030-D & E]

3.3. On perusal of the documents placed on record, the permission/NOC which is relied on by all the appellants appears to have been issued not by the Additional District Magistrate, who is the competent authority in the present case. The same appears to have been issued by some person signing for Tehsildar and for Additional District Magistrate. In any case Tehsildar is also not authorized to act as a competent authority as envisaged under ss.5, 6 and 8 of the 1972 Act. No evidence is placed on record identifying the authority or the person on whose instructions the aforesaid two documents were prepared. Therefore, these documents cannot be said to be valid and legal permission granted by the competent authority under the provisions of the 1972 Act permitting transfer of land by way of sale to the appellants. [Para 18] [1030-E,F,G & H]

3.4. Neither an application, as envisaged under s.5(1) of 1972 Act is filed on record, nor has any documentary proof been placed on record to indicate that any enquiry was made which is required to be done in the manner

A provided under s.5(2) of the 1972 Act. A bare perusal of
the contents of the applications filed by appellants shows
that they are not the applications which are required to be
filed under s.5 of the Delhi Lands Act. Those applications
were not submitted in the form as is prescribed in Form I.
B There is nothing on record to show that the said applica-
tions were produced and presented before the competent
authority in terms of s.2(b) of the 1972 Act. None of the afore-
said applications also indicate that the land in respect of
which permission/NOC sought for is the subject matter of
C acquisition proceeding. [Para 19] [1031-A,B,C & D]

4.1. It is by now a certain law that an action to be
taken in a particular manner as provided by a statute, must
be taken, done or performed in the manner prescribed
and in no other manner. [Para 20] [1031-D & E]

D *Babu Verghese v. Bar Council of Kerala* (1999) 3 SCC
422 – relied on.

4.2. The Registering Officer who is required to regis-
ter a document whereby the land is purported to be trans-
ferred was statutorily under an obligation not to register
any such document unless the person seeking to trans-
fer the land produces before such registering officer a
legal, valid and statutory permission in writing of the com-
petent authority for such transfer. The aforesaid excep-
tion should be construed strictly in the light of provisions
of ss.5 and 8 of the Delhi Lands Act. In the sale deeds
relied upon by the appellants, it was stipulated that no
notifications under ss.4 and 6 of the Land Acquisition Act
have been issued in relation to the land in question prior
to the said alleged transfer. The said transfer is on a wrong
representation of material facts and infact on a misrepresen-
tation. None of the pre-requisite conditions laid down
under ss.4, 5 and 8 of the 1972 Act, which are required to
be strictly complied with for obtaining permission to sell
or transfer and also for registering the said documents
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was complied with. The transfers made in favour of the appellants by the original land holders by execution of the sale deed, therefore are illegal and without jurisdiction. No title could be conveyed or could pass to the appellants on the basis of such transfer and also that consequential mutation in favour of the appellants for the above reasons is found and held to be without jurisdiction. [Paras 21, 22] [1032-B,C,D,E & F; 1033-A & B]

5. The facts explicitly prove and establish that all the statutory requirements were totally ignored and overlooked by the appellants and also by the registering authority. Therefore, it cannot be a case for remand under any circumstances. The responsibility, if any, was on the appellants to prove and establish that necessary permission/NOC was granted by the competent authority. They have also failed to prove that the certificate, which is annexed and signed on behalf of the Additional Magistrate/ Tehsildar, could be considered as a permission/NOC, as envisaged under the Act. There was no valid transfer in favour of the appellants and, therefore, there is no question of issuing any direction to the respondents to allot any alternative land to the appellants. [Para 23] [1033-C,D & E]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3413-3414 of 2001

From the final Judgment and Order dated 21.12.2000 of the High Court of Delhi at New Delhi in Civil Petition No. 5918 of 1999 and Review Petition No. 104 of 1999 in Civil Writ Petition No. 1003 of 1983

WITH

S.L.P. (C) Nos. 11233-11234 of 2001 and C.A. Nos. 6493, 6494 and 6496 of 2002.

Abhishek M. Singhvi, Vijay Hansaria, Anoop G. Choudhary, Sanjay Sarin, Sameena Sheikh and Ashok Mathur for the Appellant.

A Parag Tripathi, A.S.G. Dr. R.G. Padia, Sanjay Poddar, Vismai Rao, Arti Gupta, Kiran Bhardwaj, Savitri Pandey, D.S. Mahra and V.B. Saharya (for M/s. Saharya & Co.) for the Respondents.

B The Judgment of the Court was delivered by

Dr. MUKUNDAKAM SHARMA, J. 1. Leave granted in Special Leave Petition Nos.11233-11234 of 2001.

C 2. All these appeals involving identical issues were heard together and are being disposed of by this common Judgment and order.

D 3. The prime issue that falls for our consideration in these appeals is whether in view of the provisions of Delhi Lands (Restrictions and Transfer) Act, 1972 (for short "Delhi Lands Act"), read with the provisions of the Land Acquisition Act, 1894 (for short "Land Acquisition Act") transfer of land made by the original owner by registering a sale deed on the basis of which mutation was also granted would and could be accepted as legal and valid transfer despite the fact that such land was acquired by the State Government under the provisions of the Land Acquisition Act for the public purpose.

E 4. Learned counsel appearing for the parties advanced elaborate and in-depth arguments on the aforesaid issue. But before we deal with and discuss the same, it would be necessary for us to mention a few facts leading to filing of the present appeals.

F 5. On 24.10.1961, a Notification was issued under Section 4 of the Land Acquisition Act under the orders of the Lieutenant Governor of Delhi intending acquisition of land for the public purpose, namely for the planned development of Delhi. Under the aforesaid Notification the land allegedly belonging to the predecessors in-interest of the present appellants which constitute the subject matter of the present appeals was also sought to be acquired. Declaration under Section 6 of the Land Acquisition Act through a Notification dated 4.1.1969 was also

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issued stating that the said land is required for the public purpose, namely, for the planned development of Delhi. In the year 1980, two of the appellants viz. Mrs. Meera Sahni and Mrs. Padma Mahant purchased the said acquired land from one Shri Chand which was transferred through Mr. Nand Kishore, power of attorney holder. Subsequently, on 26.4.1983 Notification under section 9 of the Land Acquisition Act was issued. It is pertinent to mention here that no Notification under Section 48 of the Land Acquisition Act, which empowers the government to withdraw from acquisition of any land on which possession has not been taken, was issued in respect of land in question.

6. The legality of the aforesaid Notifications and declarations, which were issued under Sections 4 and 6 of the Land Acquisition Act and subsequent Notification under Section 9, were challenged by various land holders whose lands were proposed to be acquired by the aforesaid notifications. The appellants/predecessor in-interest of the appellants also filed similar writ petitions in the High Court of Delhi challenging the legality and validity of the notification and declaration under which their land was proposed to be acquired. Smt. Meera Sahni filed a Civil Writ Petition No.1003 of 1983, Smt. Padma Mahant filed Civil Writ Petition No.1002 of 1983 and whereas Writ Petition No.1086 of 1983 was filed by Shri Khyali Ram, the predecessor in-interest of other three appellants, namely, (1) Sapphire Sales (P) Ltd. (2) Zircon Trading (P) Ltd. and (3) Eternal Agencies Pvt. Ltd. The said writ petitions were finally heard along with few other letters patent appeals, and all the writ petitions and the letters patent appeals were dismissed. The said decision was rendered By the Delhi High Court on 01.12.1995 under the title *Roshanara Begum v. Union of India* reported in 61(1996) DLT 206. Being aggrieved by the said judgment and order the writ petitioners preferred appeals in this Court. Some of the cases which were pending in the High Court and pertained to the identical issue were also transferred to this Court. A number of contentions were raised before this Court challenging the legality of the orders passed by the High Court and

A also challenging the acquisition proceedings of lands of the appellants which were proposed to be acquired for the purpose of planned development of Delhi. After considering in-depth all the submissions made, this Court by the judgment and order dated 01.11.1996, under the title *Murari and others v. Union of India and others* reported in (1997) 1 SCC 15 dismissed the said appeals and upheld the acquisition proceedings.

C 7. After the abovementioned decision of this Court on 01.11.1996 in *Murari's case* (supra) upholding the acquisition proceedings the Land Acquisition Officer in terms of the order passed by this court, on 12.12.1997 award was made and the same was published in respect of the aforementioned acquired land.

D 8. Being aggrieved by the said award Mrs. Meera Sahni and Padma Mahant filed Review Petition Nos.103/99 and 104/99 respectively before the High Court and thereafter filed second substantive Writ Petition being No.5918/1999 on the ground that the lands in dispute were purchased only after obtaining due permission under Section 5 of the Delhi Lands Act and that the sale deeds were executed in their favour were duly registered with the sub registrar on 05.06.1980 with the endorsement that No Objection Certificate (for short "NOC") has been obtained. Issue of an order or direction declaring the award and the further proceedings under section 16 of the Land Acquisition Act as invalid, illegal and void was prayed for in the said proceedings. Seeking similar relief, Writ Petition No.1076 of 2000 was filed by Sapphire Sales (P) Ltd., Writ Petition No.1074 of 2000 was filed by Zircon Trading (P) Ltd and Writ Petition No.1075/2000 was filed by Eternal Agencies Pvt. Ltd., enclosing therewith the possession proceedings dated 27.1.2000. The said three companies purchased the land from the legal representatives of Shri Khyali Ram under the registered sale deed dated 23.06.1992. At this point it is worth mentioning that no application for substitution was filed by the said appellants for substitution of their names in writ petition filed by Shri Khyali Ram although the same was pending at the time when such

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transfer was made and was finally decided in the case of Roshanara Begum (Supra) in the year 1995. A

9. The Full Bench of the High Court considered the said review and writ petitions filed by Mrs. Meera Sahni and Mrs. Padma Mahant and dismissed the same with costs under Order dated 21.12.2000. Three writ petitions filed by the aforementioned companies were taken up for consideration by the learned Single Judge of the High Court and same were dismissed by an order dated 27.2.2002. Appeals filed by them were heard by the Division Bench of the High Court and same were also dismissed on 22.3.2002. Being aggrieved by the said orders the present special leave petitions were filed. B
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10. The appellants were represented before us by Dr. Abhishek M. Singhvi, Mr. Vijay Hansaria and Mr. Anoop G. Choudhary, learned senior counsel, who took great pains in placing before us the various relevant documents. It was submitted by them that in terms of the provisions of the Delhi Lands Act read with the provisions of the Land Acquisition Act, requisite permission was granted by the competent authority to all the appellants herein to purchase the aforesaid land from the original land owners or predecessors in-interest of the appellants and that consequential actions having been taken on the basis thereof by executing sale deeds and granting mutation thereon, the actions of the respondents in taking up the stand that transfer of land was illegal are untenable. It was also submitted that possession of the land was not taken over by the respondents and, therefore, the aforesaid land could have been released from acquisition by giving requisite permission under the provisions of the Delhi Lands Act particularly when the sale deeds have been executed and mutation has been granted. It was also submitted that all the actions were taken by the appellants and their predecessors-in-interest in terms of the provisions of the Act and also in accordance with law and the aforesaid transfer having been accepted by the competent authority as legal and valid transfer, no title of the land could pass to the respondents only because notification and declaration were issued in D
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A respect of the said land. It was also contended that there was
no bar in transferring the said land although the said land is the
subject matter of notifications under section 4 and declaration
under section 6 of the Land Acquisition Act and once the afore-
said land becomes free from acquisition by operation of law, it
B could be transferred as was done in the present case. It was
also submitted that if the aforesaid contentions of the appel-
lants are not upheld, the appellants could be given an opportu-
nity to file their objections under Section 5 of the Land Acquisi-
tion Act or this Court should give a direction to the Land Acqui-
C sition Branch for allotment of alternative land to the appellants
as they were sought to be deprived of the fruits of their bona
fide purchase after a long gap of eight years.

11. The said contentions of the appellants were refuted by
Shri Parag P. Tripathi, the learned Additional Solicitor General,
D appearing for the respondents drawing our attention to the vari-
ous records including the contents of the notifications. It was
submitted that the possession of the land in question has al-
ready been taken over by the Land Acquisition Officer on
27.01.2000, although the said fact is refuted by the appellants.
E On appreciation of the records placed before us and also the
aforesaid contentions which are raised we now proceed to dis-
pose of these appeals by recording our findings and conclu-
sions.

12. When a piece of land is sought to be acquired, a noti-
F fication under Section 4 of Land Acquisition Act is required to
be issued by the State Government strictly in accordance with
law. The said notification is also required to be followed by a
declaration to be made under Section 6 of the Land Acquisition
Act and with the issuance of such a notification any encumbrance
G created by the owner, or any transfer made after the issuance
of such a notification would be deemed to be void and would
not be binding on the government. A number of decisions of
this Court have recognized the aforesaid proposition of law
wherein it was held that subsequent purchaser cannot challenge
H acquisition proceedings and also the validity of the notification

or the irregularity in taking possession of the land after the declaration under Section 6 of the Act. In *U.P. Jal Nigam, Lucknow through its Chairman and another vs. Kalra Properties (P) Ltd., Lucknow and others* reported in (1996) 3 SCC 124 it was stated by this Court that:

“3.Having regard to the facts of this case, we were not inclined to further adjourn the case nor to remit the case for fresh consideration by the High Court. It is well settled law that after the notification under Section 4(1) is published in the Gazette any encumbrance created by the owner does not bind the Government and the purchaser does not acquire any title to the property.....”

In *Sneh Prabha (Smt) and others vs. State of U.P. and another* reported in (1996) 7 SCC 426 at 430 it is stated as under:

“5.It is settled law that any person who purchases land after publication of the notification under Section 4(1), does so at his/her own peril. The object of publication of the notification under Section 4(1) is notice to everyone that the land is needed or is likely to be needed for public purpose and the acquisition proceedings point out and an implement to anyone to encumber the land acquired thereunder. It authorizes the designated officer to enter upon the land to do preliminaries etc. Therefore, any alienation of the land after the publication of the notification under Section 4(1) does not bind the government or the beneficiary under the acquisition. On taking possession of the land, all rights, title and interests in land stand vested in the State, under Section 16 of the Act, free from all encumbrances and thereby absolute title in the land is acquired thereunder.....”

The said proposition of law was also reiterated in the cases of *Ajay Kishan Shinghal & Ors. vs. Union of India* reported in (1996) 10 SCC 721 and *Star Wire (India) Ltd. vs. State of Haryana and others* reported in (1996) 11 SCC 698.

A 13. In view of the aforesaid decisions it is by now well settled law that under the Land Acquisition Act the subsequent purchaser cannot challenge the acquisition proceedings and that he would be only entitled to get the compensation.

B 14. Delhi being the capital city of India, there was a tremendous increase in population in Delhi with a consequential demand for land from various quarters. In order to meet the increasing demand of accommodation for the large population in Delhi it was necessary for the Central Government and the State Government to take appropriate steps for acquiring large tracts of land. When such effort for acquisition of land is initiated, it is but natural and inevitable that some of the property dealers try to take advantage of the situation by resorting to various unscrupulous means so as to take advantage of the high and ever increasing demand of the land. Some of these unscrupulous property dealers would sometime go to the extent of encouraging transfer by way of sale, mortgage, gift or lease of the land which is already acquired or for which acquisition proceedings are initiated by the government. The Central Government being conscious of such situation and position and in order to impose restrictions and to prevent such large scale transactions or purported transactions brought in a special legislation called the Delhi Lands (Restrictions on Transfer) Act, 1972.

F 15. The aforesaid Delhi Lands Act was brought in as stated, in the body of the Act, to prohibit any transfer by way of sale, mortgage, gift, lease or otherwise, of any land which is the subject matter of acquisition or in respect of which acquisition proceeding is initiated or proposed to be initiated except by way of seeking and obtaining previous permission in writing from the competent authority. It is true that the said special act dealing with restrictions on transfer of land in Delhi envisages certain parameters which if satisfied would permit a land holder to transfer his land to a third party but such transfer is possible only when prior permission in writing is sought for and obtained from the competent authority. Section 2(b) of the said Act de-

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fines the word "competent authority", whereas Section 2(e) of the said Act defines the word "scheme". Both the definitions, as found in the Act, are extracted hereinbelow: A

2(b). "*competent authority*" means any person or authority authorized by the Administrator, by notification in the Official gazette, to perform the functions of the competent authority under this Act for such areas as may be specified in the notification. B

2(e) "*Scheme*" means the scheme of acquisition of land for the planned development of Delhi and includes any scheme, project or work to be implemented in pursuance of the provisions of the Delhi Master Plan as approved by the Central Government under sub-section (2) of section 9 of the Development Act." C

Relevant for our purpose are the provisions of Sections 4 and 5 which read as under: D

"4. *Regulation on transfer of lands in relation to which acquisition proceedings have been initiated* – No person shall, except with the previous permission in writing of the competent authority, transfer or purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union territory of Delhi, which is proposed to be acquired in connection with the Scheme and in relation to which a declaration to the effect that such land or part thereof is needed for a public purpose having been made by the Central Government under Section 6 of the Land Acquisition Act, 1894, the Central Government has not withdrawn from the acquisition under Section 48 of the Act. E F

5. *Application for grant of permission for transfer under section 4* – (1) Any person desiring to transfer any land referred to in section 4 by sale, mortgage, gift, lease or otherwise may make an application in writing to the competent authority containing such particulars as may be prescribed. G H

- A (2) On receipt of an application under sub-section (1), the competent authority shall, after making such inquiries as it deems fit, may, by order in writing, grant or refuse to grant the permission applied for.
- B (3) The competent authority shall not refuse to grant the permission applied for under this section except on one or more of the following grounds, namely:-
- C (i) that the land is needed or is likely to be needed for the effective implementation of the Scheme.
- D (ii) that the land is needed or is likely to be needed for securing the objects of the Delhi Development Authority referred to in section 6 of the Development Act.
- E (iii) that the land is needed or is likely to be needed for any development within the meaning of clause (d) of section 2 of the Development Act or for such things as public buildings and other public works and utilities, roads, housing, recreation, industry, business, markets, schools and other educational institutions, hospitals and public open spaces and other categories of public uses.
- F (4) Where the competent authority refuses to grant the permission applied for, it shall record in writing the reasons for doing so and a copy of the same shall be communicated to the applicant.
- G (5) Where within a period of thirty days of the date of receipt of an application under this section the competent authority does not refuse to grant the permission applied for or does not communicate the refusal to the application, the competent authority shall be deemed to have granted permission applied for."
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Section 6 of the said Act, on the other hand, envisages filing of an appeal by any aggrieved person against any order passed by the competent authority. On receipt of an appeal of the aforesaid nature, if any, filed by any aggrieved person, the prescribed authority has to give a hearing to the applicant and thereafter the said appeal is required to be disposed of as expeditiously as possible. It is also provided in the said section that every order made by the prescribed authority would be final. Section 8 deals with the restrictions on registration of transfer of land. The said section reads as under:

"8. Restrictions on registration of transfers of land – Notwithstanding any thing contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (a) to clause (e) of sub-section (1) of Section 17 of the Registration Act, 1908, purports to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof referred to in section 4, no registering officer appointed under that Act shall register any such document unless the transferor produces before such registering officer a permission in writing of the competent authority for such transfer."

Section 11 of the Delhi Lands Act deals with the rule making power. It provides that the Administrator may, by notification in the Official Gazette, make rules for carrying out the purposes of the said Act. Rule 3 of the Delhi Lands (Restriction on Transfer) Rules, 1972 envisages that an application under Section 5 of the Delhi Lands Act is to be made by every person seeking permission of the competent authority. The said application has to be made in duplicate in Form I. It is also provided that on receipt of such an application the competent authority may make such enquiries as may be deemed necessary before passing final orders. Form II provides the format in which an appeal under section 6 of the Delhi Lands Act could be filed.

16. In the backdrop of the aforementioned provisions of law it would, therefore, be necessary to ascertain and deter-

A mine now as to whether the appellants have been given such requisite permission to transfer land by the competent authority, as provided under the Act and the Rules framed thereunder. The appellants have placed copies of their respective sale deeds through which they have allegedly acquired the title of the land

B in question from the original land holders. Copies of the orders passed by the Tehsildar (Notification) on behalf of Additional District Magistrate (Land Acquisition) Delhi allegedly granting permission for transfer and alleged NOC obtained by the predecessors in-interest of the appellants are also placed on record

C by the appellants to fortify their arguments that the orders were passed by the competent authority under the provisions of the Act and also to support their claim that the transaction of sale was performed validly and that the land stood transferred in their favour with mutations granted.

D 17. What was placed by the appellants before us in support of their claim were two non statutory formats. One of the formats was under the caption "Statement to be furnished to the Registering Officer for Ensuring non contravention of Section 8 of the Delhi Lands Registration of Transfer Act, 1972" and the

E other format, allegedly an order to be passed by the Tehsildar or an Additional District Magistrate. In order to properly appreciate, one of the letter/permission is extracted herein below:

"OFFICE OF

F THE ADDITIONAL DISTRICT MAGISTRATE(LA) DELHI
No 4173 (The Notification) Dated 27/5/92

To

G The Sub Registrar,
Sub District No III
Delhi/New Delhi

WARNING

The Report is being sent from acquisition point of view and this office has got no responsibility for any defective title of the land/ownership etc. in the (sic)

H (i) As per records available in the office the property/land

the details of which are given in the statement has been acquired under the provisions of the Land Acquisition Act, 1894.

OR

- (ii) The property/land the details of which are given in the statement stands notified under Section 6 of the Land Acquisition Act, 1894 vide Notification No. _____ Dated _____.

OR

- (iii) The property/land bearing Mpl No. Khasra No. _____ (Sic) _____ the details of which are given in the statement has not been notified so far under Section of the Land Acquisition Act, 1894 this information is valid for a period of 30 days from the date of issue.

Sd/-

27/5/92

For Tehsildar Notification

For Additional District Magistrate

(LA) Delhi

(Clauses not applicable should be deleted)”

The requirement of the statute is that such permission for transfer of land by way of sale, mortgage, lease, gift or otherwise of the aforesaid nature could be so registered by the registering authority only when permission is granted by the competent authority in terms of the requirement of the statute. Permission to transfer or refusing to grant transfer any such land is to be given by the competent authority and such permission is to be obtained prior to the transaction entered into, which must be in writing. At this stage we may refer to the copy of the notification issued by the Delhi Administration: Delhi (Land & Building Department) Vikas Bhavan; New Delhi of NCT, Delhi dated 11th August, 1972 which reads as under:

A "No.F1(1)/72- L&B

NOTIFICATION

B In super cession of this Administration Notification of even number dated the 10th August, 1972 the Administration of Union Territory of Delhi in exercise of the power conferred under Section 2(b) of the Delhi Lands (Restriction on Transfer) Act, 1972, is pleased to authorize the Additional District Magistrate (Revenue), Delhi Administration, Delhi to perform the function of the competent authority under the aforesaid Act for the whole of the Union Territory of Delhi.

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(R.N. Puri)

Deputy Secretary (L & B)

Delhi Administration"

D The competent authority as envisaged under Section 2(b) of the aforesaid Act is, therefore, the Additional District Magistrate (Revenue), Delhi Administration and he is the only authorized competent person to exercise the powers vested under sections 5, 6 and 8 of the Delhi lands Act. No other authority or anyone else, subordinate to him was ever authorized to exercise the aforesaid power.

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F 18. On perusal of the documents placed on record we find that the permission/NOC which is referred to and relied on by all the appellants herein appears to have been issued not by the Additional District Magistrate, who is the competent authority in the present case. The same appears to have been issued by some person signing for Tehsildar and for Additional District Magistrate. In any case Tehsildar is also not authorized to act as a competent authority as envisaged under Section 5, 6 and 8 of the Delhi Lands Act. Neither were we informed nor was any evidence placed on record identifying the authority or the person on whose instructions the aforesaid two documents were prepared. Therefore, the aforesaid documents which are relied on cannot be said to be valid and legal permission granted by the competent authority under the provisions of the Act permitting transfer of land by way of sale to the present appellants.

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19. It may be also pointed that neither an application, as envisaged under Section 5(1) is filed on record, nor has any documentary proof been placed on record to indicate that any enquiry was made which is required to be done in the manner provided under Section 5(2) of the Act. Three applications were placed by the three companies, namely, M/s Sapphire Sales (P) Ltd., M/s Zircon Trading Pvt. Ltd. and M/s Eternal Agency (P) Ltd. A bare perusal of the contents of the said applications shows that they are not the applications which are required to be filed under Section 5 of the Delhi Lands Act. Those applications were not submitted in the form as is prescribed in Form I. Mrs. Meera Sahni and Mrs. Padma Mahant have not filed copies of any such application before us. There is nothing on record to show that the said applications were produced and presented before the competent authority as pointed out in terms of Section 2(b) of the Delhi Lands Act. None of the aforesaid applications also indicate that the land in respect of which permission/NOC sought for is the subject matter of acquisition proceeding.

20. It is by now a certain law that an action to be taken in a particular manner as provided by a statute, must be taken, done or performed in the manner prescribed and in no other manner. In this connection we may appropriately refer to the decision of this Court in *Babu Verghese v. Bar Council of Kerala*, (1999) 3 SCC 422, wherein it was held as under:

31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in *Taylor v. Taylor* (1875) 1 Ch D 426 which was followed by Lord Roche in *Nazir Ahmad v. King Emperor* AIR 1936 PC 253 who stated as under:

"[W]here a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all."

32. This rule has since been approved by this Court in *Rao Shiv Bahadur Singh v. State of V.P.* AIR 1954 SC 322

A and again in *Deep Chand v. State of Rajasthan* AIR 1961
SC 1527. These cases were considered by a three-Judge
Bench of this Court in *State of U.P. v. Singhara Singh* AIR
1964 SC 358 and the rule laid down in *Nazir Ahmad* case
(supra) was again upheld. This rule has since been applied
B to the exercise of jurisdiction by courts and has also been
recognised as a salutary principle of administrative law.

21. The Registering Officer who is required to register a
document whereby the land is purported to be transferred by
sale, mortgage, gift, lease or otherwise was statutorily under an
C obligation not to register any such document unless the person
seeking to transfer the land produces before such registering
officer a legal, valid and statutory permission in writing of the
competent authority for such transfer. The aforesaid exception
provided in the *Delhi Lands Act* for grant of permission despite
D acquisition is a statutory exception and should be construed strictly
in the light of the said provisions, namely, in the light of provisions
of Sections 5 and 8 of the *Delhi Lands Act*. In the sale deeds
referred to and relied upon by the appellants it was stipulated
and mentioned that no notifications under Sections 4 and 6 of
E the *Land Acquisition Act* have been issued in relation to the land
in question prior to the said alleged transfer. The said transfer is
on a wrong representation of material facts and infact on a mis-
representation. In the present case the registering officer appears
to have registered the sale deeds illegally and without jurisdic-
F tion, as in our considered opinion, none of the pre-requisite con-
ditions laid down under Sections 4, 5 and 8 of the Act, which are
required to be strictly complied with for obtaining permission to
sell or transfer and also for registering the said documents was
complied with, as is required to be done.

G 22. It is, thus, established from the record placed before
us that neither any proper application was made either by the
predecessors in-interest of the appellants or by the appellants
themselves, as envisaged under Sections 4 and 5 of the *Delhi*
Lands Act, nor any valid and legal permission was granted to
H the appellants by the competent authority under the provisions

of the aforesaid Act. The transfers made in favour of the appellants by the original land holders by execution of the sale deed, therefor are illegal and without jurisdiction. We have no hesitation in our mind in holding that no title could be conveyed or could pass to the appellants on the basis of such transfer and also that consequential mutation in favour of the appellants for the above reasons is found and held to be without jurisdiction. A B

23. We have also given our consideration to the contention of learned senior counsel Dr. A.M. Singhvi that it is a case of remand to the High Court so as to enable the High Court to enquire into factual aspect as to whether or not there was a proper application and that whether or not, permission as required, was granted by the competent authority. The facts delineated hereinabove clearly and explicitly prove and establish that the same did not happen and all the statutory requirements were totally ignored and overlooked by the appellants and also by the registering authority. Therefore, it cannot be a case for remand under any circumstances. The responsibility, if any, was on the appellants to prove and establish that necessary permission/NOC was granted by the competent authority. They have also failed to prove that the certificate, which is annexed and signed on behalf of the Additional Magistrate/Tehsildar, could be considered as a permission/NOC, as envisaged under the Act. There was no valid transfer in favour of the appellants and, therefore, there is no question of issuing any direction to the respondents to allot any alternative land to the appellants. So far as the prayer for granting liberty to the appellants to make an application under Sections 4 and 5 of the Delhi Lands Act is concerned, we do not make any observation thereto except for saying that if a statutory remedy is provided for to a person, he is always entitled to take recourse to such remedy in accordance with law. C D E F

24. We, therefore, dismiss all these appeals and uphold the order passed by the learned Single Judge and also by the Full Bench which dismissed the writ petitions and the letters Patent Appeal. The appeals are dismissed with costs. G

D.G. Appeals dismissed. H