SITA RAM BHANDAR SOCIETY, NEW DELHI

v.

LT. GOVERNOR, GOVT. OF N.C.T. DELHI & ORS.

(Civil Appeal Nos. 4849-4850 of 2000)

SEPTEMBER 15, 2009

[DALVEER BHANDARI AND HARJIT SINGH BEDI, JJ.]

Land Acquisition Act, 1894 – ss. 4, 5A, 6, 18 and 48 – Land acquisition – Revenue official taking possession of 1933 bighas 2 biswas of land and handing over to beneficiary department – Case of land owner that land was extensive and surrounded by boundary wall and symbolic possession was meaningless and as such Government to withdraw from acquisition u/s. 48 – On appeal, held: While taking possession of a large area of land with a large number of owners, it is not possible for Collector or Revenue Official to enter each bigha or biswa and to take possession – Court is to adopt a pragmatic approach – On facts, appellant did not raise the question with regard to the presence of a wall, in the objections u/s. 5A– Collector adopted a proper procedure and possession was taken over as per law – Land once having vested in the Government by virtue of s.16, re-entry by land owner would not obliterate the consequences of vesting – More so, land owner always tried to frustrate the acquisition, thus, deterrent action called for.

The question which arose for consideration in these appeals is whether the procedure adopted by the Naib Tehsildar, Land Acquisition while taking possession of the land was correct.

Dismissing the appeals, the Court

HELD: 1.1. The Land Acquisition Act provides a machinery for the acquisition of the land. An acquisition

A is set in motion by a Notification u/s. 4 when it is proposed to acquire any land for public purpose and s. 5A envisages the filing of objections with regard to the proposed acquisition. After the objections u/s. 5A have been considered and been found without merit, a B declaration under Section 6 of the Act is published that the land is indeed required for a public purpose. Section 9 of the Act provides that after all the proceedings and certain other formalities have been completed the Collector shall give public notice that the Government C intends to take possession of the land and calling upon the persons interested to file their claims for compensation. The matter is then enquired into by the Collector who renders his award u/s. 11 of the Act and possession is taken by the Collector u/s. 16 on which the land vests absolutely in the Government free from all D encumbrances. [Para 7] [518-B-F]

1.2. While taking possession of a large area of land with a large number of owners, it would be impossible for the Collector or the Revenue Official to enter each bigha E or biswa and to take possession thereof and that a pragmatic approach has to be adopted by the Court. It is also clear that one of the methods of taking possession and handing it over to the beneficiary department is the recording of a Panchnama which can in itself constitute F evidence of the fact that possession had been taken and the land had vested absolutely in the Government. [Para 9] [521-E-F]

1.3. The Award was rendered on the 19th June 1980. G As per the possession proceedings (Panchnama) recorded by Naib Tehsildar dated the 20th June 1980, possession of 1933 bighas 2 biswas of land had been taken over and handed over to the Revenue Department on the 21st June 1980, 23rd June 1980 and 24th June

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1980. In the Panchnama it was also observed that the land had been demarcated and pillars had been affixed and that the physical possession had further been handed over to the Tehsildar, the representative of the beneficiary department. Khasra No.157 was covered by this document. It is recorded that the possession of the land under the built up area of 160 bighas 6 biswas could not be handed over and the details of this land have also been provided in the document. Khasra No.157 does not come in this category. Appellant, however, emphasized that some material documents which show the possession had not been taken on 20th June, as alleged, had been ignored by the Division Bench which he has referred to the Khasra Girdwaris for the years 1980-81 and 1981-82 showing the existence of a Char Diwari. He accordingly, submitted that the observations in the award that the appellant's land was "Rosli" was incorrect in the light of this record. There is absolutely no merit in this plea. A Khasra Girdwari which is a mere crop inspection report entered twice a year (Kharif and Rabi crops) has no presumption of truth attached to it. Even otherwise the state of the land as on the date of the Notification u/s. 4 of the Act (which is 13th November 1959) would be the relevant date as to the nature of the land and a crop inspection report 20 years later cannot be taken as proof of some facts said to exist in the year 1959. [Para 10] [521-G-H; 522-A-F]

1.4. A reading of the extract from the award reveals that wells and structures connected with wells, and irrigation facilities have been referred to therein and an independent wall is not even remotely the subject matter. Counsel for the appellant, however, seriously objected to this explanation by submitting that no plea doubting the accuracy of the document having been raised in the counter affidavit, the respondents were now precluded

A from making this submission. However, in the light of the context in which the entire matter has been dealt with in the Award, there can be no doubt that the entry 'wall' should be read as 'well' *vis-a-vis* Khasra No.157. No question had ever been raised by the appellant with B regard to the presence of a wall in the objections filed under section 5A or even in the responses filed to the notices under section 9 of the Act and the only prayer was that the land be exempted from acquisition. These omissions become more significant as several other C landowners had claimed compensation for the superstructures that were existing on the acquired land. It is also equally significant that no question had ever been raised by the appellant with regard to the existence of a wall or superstructure in any of the litigations prior D to the present set of writ petitions. Appellant referred to the objections dated 15th November 1966 showing the existence of a wall. These objections are meaningless as they had not been filed in response to the notification under section 4 which had been published in the year E 1959 and were filed after the declaration under section 6 had been made and are, therefore, an obvious after thought. Despite the claim under this document, no plea with regard to the existence of a wall had been raised at any stage till the filing of the present petitions in the year 1995. [Para 11] [525-A-H]

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1.5. Appellant pointed out that from the affidavit dated 30th July 1996 sworn by the Under Secretary, Land and Building Department, it was clear that the appellant continued to remain in possession on account of the G stay of dispossession granted by the High Court on 15th July 1981 in writ petition and the confirmation of the said order on 16th September 1982 and as such the stand of the appellants that possession had been taken was not correct. However, it is already observed that possession

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had been taken between 20th and 24th June 1980, and the acquired land thus stood vested in the State free from all encumbrances under section 16 of the Act. It is also relevant that the said writ petition was dismissed meaning thereby that the said order should automatically be vacated as well. Even assuming for a moment that the petitioner had re-possessed the acquired land at some stage would be of no consequence in view of the provisions of section 16. Therefore, even assuming that the appellant had re-entered the land on account of the various interim orders granted by the courts, or even otherwise, it would have no effect for two reasons, that the suits/petitions were ultimately dismissed and that the land once having vested in the Government by virtue of section 16 of the Act, re-entry by the land owner would not obliterate the consequences of vesting. [Paras 12] [526-A-D; G-H; 527-A-B]

1.6. The petitioner has been able to frustrate the acquisition and development of the land right from the year 1980 onwards by taking recourse to one litigation after the other. The record reveals that all the suits/writ petitions etc. that had been filed had failed. Undoubtedly, every citizen has a right to utilize all legal means which are open to him in a bid to vindicate and protect his rights, but if the court comes to the conclusion that the pleas raised are frivolous and meant to frustrate and delay an acquisition which is in public interest, deterrent action is called for. This is precisely the situation in the instant matter [Para 13] [527-B-D]

Balwant Narayan Bhagde vs. M.D. Bhagat & Ors. **(1976) 1 SCC 700;** *Om Prakash Anr. vs. State of U.P. & Ors.* **(1998) 6 SCC 1;** *P.K. Kalburqi vs. State of Karnataka & Ors.* **(2005) 12 SCC 489;** *Tamil Nadu Housing Board vs. Viswam (D) by Lrs.* **AIR 1996 SC 3377;** *Balmokand Khatri Educational and*

A *Industrial Trust, Amritsar vs. State of Punjab & Ors.* **AIR 1996 SC 1239, referred to.**

Case Law Reference:

(1976) 1 SCC 700	**Referred to**	**Para 5**
(1998) 6 SCC 1,	**Referred to**	**Para 5**
(2005) 12 SCC 489	**Referred to**	**Para 5**
AIR 1996 SC 3377	**Referred to**	**Para 8**
AIR 1996 SC 1239	**Referred to**	**Para 8**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4849-4850 of 2000.

From the Judgment & Order dated 2.9.1998 of the Division Bench of the High Court of Delhi in Civil Writ Petition No. 1628 and 1629 of 1995.

Sunil Gupta, Sanjay Grover, K.V. Mohan and Veena Bhatnagar for the Appellant.

Vishnu B. Saharya, (for Saharya & Co.), S. Wasim A. Qadri, Vivek Singh, Anil Katiyar, D.S. Mahra (NP) Binu Tamta (NP) for the Respondents.

The Judgment of the Court was delivered by

HARJIT SINGH BEDI, J. 1. These appeals are directed against the judgment of the Division Bench of the Delhi High Court dated 2nd September 1998 dismissing the writ petitions. The facts are as under:

2. On 13th November 1959, a Notification was issued by the Chief Commissioner of Delhi under 4 of the Land Acquisition Act (hereinafter called the "Act") notifying the Government's intention to acquire 34070 acres of land for the "Planned Development of Delhi". This notification had, within

its ambit, agricultural land belonging to the appellant society, bearing Khasra No. 157 in Village Lado Sarai, Tehsil Mehrauli, Delhi measuring 8 Bighas and 11 Biswas or 8620 sq. yards equivalent to 1.8 acres. The appellant filed objections under Section 5A of the Act on the 10th December 1959 submitting that the land be exempted from the proposed acquisition. It pointed out that the appellant body was a registered trust and a religious body managing three temples in Pilani, Rajasthan and several gardens, water tanks etc. having religious significance. The objections raised were apparently found without merit whereafter the Chief Commissioner issued a declaration under Section 6 of the Act which was published on 16th May 1966 pertaining to 2153 Bighas 2 Biswas corresponding to about 448 acres. The Collector, Land Acquisition also rendered his award on 19th June 1980 clarifying that it pertained only to 1996 Bighas 18 Biswas leaving out an area of 156 Bighas 4 Biswas for the time being as it was built up and that the award for this area would be given later. The appellant's property Khasra No.157 was, however, included in the award of 19th June, 1980. It appears that pursuant to the award possession of 1933 Bighas and 2 Biswas was taken by the Collector, Land Acquisition on the 20th June 1980 and further handed over to the beneficiary department. It was, however, observed in the proceedings of 20th June 1980 that the possession of the balance area of about 61 Bighas would be taken after the removal of the structures with the help of the demolition squad. On the 29th July 1980 a Notification under Section 22 (1) of the Delhi Development Act, 1957 was issued by the Central Government, placing the acquired land at the disposal of the Delhi Development Authority for the planned development of Delhi. At this stage, the appellant filed CWP No.1068 of 1980 in the Delhi High Court challenging the validity of the Notification under Section 4 and Declaration under Section 6 of the Act. This petition was dismissed in limine on the 18th August 1980. The appellant thereupon preferred Special Leave Petition in this Court and after leave was granted the appeal was registered

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A as C.A. No. 1738 of 1981. While the appeal was still pending, the appellant filed Writ Petition No.2220/1981 under Article 32 of the Constitution of India in the Supreme Court. It appears that an interim order was made by the Supreme Court in these proceedings on 15th of July 1981 staying dispossession of the B appellant from the property in dispute and the said order was confirmed on 16th September 1982. Both the Civil Appeal and the Writ Petition aforementioned were, however, dismissed by this Court on the 20th July 1993. It also appears from the record that while the aforementioned two matters were pending in this C Court, the appellant filed Suit No. 1226 of 1992 on the Original Side of the Delhi High Court praying for an injunction against the respondents, including the Delhi Development Authority, that no structure be demolished and that no interference be made with the plaintiff's possession and management of the Suit land. D An interim injunction was also sought and obtained in these proceedings. It is the appellant's case that though the aforesaid Suit was transferred to the District Court in Delhi on account of the revision of the pecuniary jurisdiction of the Delhi High Court, the said interim injunction still continued to operate, but E despite the interim orders the Delhi Development Authority continued to impinge on the appellant's property on which a Contempt Petition was filed in the High Court, which in its order dated 19th May 1992, directed the respondent authorities to ensure compliance with the High Court's order dated 2nd April 1992 made in the civil suit. It is further the case of the appellant F that some time later the Delhi Development Authority again tried to interfere with the appellant's property on which yet another Contempt Petition No.36 of 1993 was filed and the same is said to be pending. The appellant, however, continued to be persist in its efforts to save the acquired land and at this G stage filed C.W.P.No.700 of 1994 in the Delhi High Court on 28th January 1994 challenging, inter-alia, the constitutional validity of Section 22 of the Delhi Development Act, whereunder the acquired land had been handed over to the DDA, and also praying for the allotment of an alternative site H in lieu of the acquired land. This writ petition was dismissed

as withdrawn on September 8, 1995 the prayer of the counsel for the petitioner (the present appellant) in the following terms:

> "Mr. Anand says, in view of the order dated 29.11.94, he would not press this petition at this stage and would apply for allotment of alternative land in the institutional area.
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> Dismissed as withdrawn. However, we will make it clear that allotment of the alternative land be made to the petitioner as per policy."

3. Still dissatisfied, the appellant filed W.P. No. 623 of 1995 in the Delhi High Court challenging some facets of the alleged violation of the Master Plan of 2001 which had statedly made the entire proceedings for the planned development of Delhi incohate and which had rendered the acquisition without any authority of law . This matter came up before the Delhi High Court after notice on 20th February 1995 on which the High Court observed that the petitioner was seeking two distinct prayers in the Writ Petition, (1) that the land which had been acquired under the Land Acquisition Act should be released from acquisition and (2) that the DDA should not be permitted to use the aforesaid land for a purpose other than that postulated in the Master Plan and the Zonal Development Plan and as the two prayers were mutually distinct and pertained to different causes of action, one writ petition was not maintainable. On this, the learned senior counsel for the appellant, Mr. R.K. Anand stated that he would file two separate writ petitions for which liberty was granted and the papers of CWP No. 623 of 1995 were accordingly returned to the counsel. The appellant thereupon moved two writ petitions i.e. W. P. Nos. 1628/1995 praying that the respondent DDA be restrained from taking over possession of the land and Writ Petition No. 1629/1995 seeking to challenge the land acquisition proceedings which had been initiated by the Notification under Section 4 and Declaration under Section 6 of the Act in the year 1959 and 1966 respectively and also pleading that as the

A possession had not been taken, the land be released under Section 48 of the Act. The Division Bench while dealing with the question of possession held that the writ petitioner had only relied on two stray entries in two Khasra Girdawaris for the period 13th October 1980 to 11th March 1981 which had
B recorded the land to be "Gair Mumkin Kotha Pukhta and Char Diwari" and that this entry was meaningless in the light of the fact that the land had been described as "Rosli" (agricultural) and not a built up property in the award No.36/80-81 dated 19.6.1980 and that in any case the plea appeared to be an after
C thought as it had not been taken by the petitioner though it was available at the time when Writ Petition No. 1068/1980 (in the Delhi High Court) and Writ Petition No.2220/1981 had been directly filed in this Court. The Court further held that it was clear from the proceedings recorded by Shri Lal Singh Naib
D Tehsildar, Land Acquisition, on 20th June 1980 in the presence of a large number of Revenue Officials that possession had indeed been taken over on that day after demarcation had been made with respect to 1933 bighas 2 biswas, including the land belonging to the appellant, and that boundary pillars had been affixed round the demarcated land and that the
E possession had further been handed over to Shri N.N. Seth, Tehsildar on 20th, 21st, 23rd and 24th of June 1980. The Court also noted that the proceedings aforementioned were witnessed as to their authenticity by Shri N.N.Seth, and the two DDA Officials, Shri Raj Bahadur and Shri Gulab Singh. The
F Division Bench in this background observed that possession had, in fact, been taken over after appropriate proceedings. The two writ petitions were accordingly dismissed by the Division Bench of the Delhi High Court vide the impugned judgment leading to the present appeals as a consequence.

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4. At the very outset, Mr. Sunil Gupta, the learned senior counsel for the appellant has candidly stated at the Bar that the appellant was no longer challenging the acquisition and the relief claimed in W.P. 1629/1995 was, therefore, not being
H pursued in this appeal. He has, however, prayed with the

greatest emphasis, that in so far as the claim arising out of W.P. No.1628/1995 was concerned it was clear from the record that possession of the appellant's land i.e. 1 acre 8 Biswas continued to remain with the appellant despite the findings to the contrary recorded by the High Court, and as such it was open to the Government to withdraw from the acquisition if it so desired, under Section 48 of the Act.

5. In this background, Mr. Gupta, has raised three arguments before us during the course of hearing. He has first pointed out that it was the positive case of the appellant that the land in dispute was encircled by a boundary wall and as such possession thereof could be taken only after entering the land and not by any symbolic or paper possession. As a corollary, it has been submitted, that there was no material on record to show that the actual physical possession had been taken as would preclude the withdrawal of the acquisition under Section 48 of the Act. In this connection, the learned counsel has placed reliance on *Balwant Narayan Bhagde vs. M.D. Bhagat & Ors.* (1976) 1 SCC 700 and *Om Prakash & Anr. vs. State of U.P. & Ors.* (1998) 6 SCC 1 which had been subsequently followed in *P.K.Kalburqi vs. State of Karnataka & Ors.* (2005) 12 SCC 489. It has finally been submitted that there was ample evidence on record to show that the property in dispute was, in fact, surrounded by a wall and had some other structures as well, and in view of the positive stand taken by the Land Acquisition Collector in his award dated 19th June 1980 that the possession of the area covered by structures would be the subject matter of a supplementary award, the very basis of the judgment of the High Court that the possession had been taken on the 20th June 1980 was erroneous.

6. Mr. Saharya and Mr. Wasim Quadri, the learned counsel appearing for the DDA and the Delhi Government respectively have controverted the submissions and have pointed out that the appellant had, for almost 30 years, been able to scuttle the development of the area by taking piecemeal stands in the writ

A petitions and civil suits from the year 1980 onwards and though the aforesaid matters had been rejected with positive findings that possession had been taken, and that there was no wall or structure on the land in question. It has also been submitted that the proper procedure had been adopted by the Naib Tehsildar
B and that the possession had been taken over as per law on the 20th June 1980 and there was ample evidence to this effect which had been considered by the Division Bench.

7. We have heard the learned counsel for the parties very carefully. The Act provides a machinery for the acquisition of
C the land. An acquisition is set in motion by a Notification under Section 4 when it is proposed to acquire any land for public purpose and Section 5A envisages the filing of objections with regard to the proposed acquisition. After the objections under Section 5A have been considered and been found without
D merit, a declaration under Section 6 of the Act is published that the land is indeed required for a public purpose. Section 9 of the Act provides that after all the proceedings and certain other formalities have been completed the Collector shall give public notice that the Government intends to take possession of the
E land and calling upon the persons interested to file their claims for compensation. The matter is then enquired into by the Collector who renders his award under Section 11 of the Act and possession is taken by the Collector under Section 16 on which the land vests absolutely in the Government free from all
F encumbrances. It is the case of the respondent that all the procedures had been followed and that possession had been taken under Section 16 on the 20th June 1980, and as such, the question of its release under Section 48 of the Act did not arise, as this provision gives "liberty to withdraw from the
G acquisition of any land of which possession has not been taken". The question raised by Mr. Gupta is that as the area in question was very extensive i.e. about 1933 bigas and the land belonging to the appellant was surrounded by a boundary wall, symbolic possession was meaningless and some more positive action
H was called for. To support this view he has relied on the three

judgments cited earlier. We find, however, that the aforesaid judgments, in fact, help the case of the respondent rather than the other way around. In *Narayan Bhagde's* case, which was heard by three Hon'ble Judges of this Court one of the Hon'ble Judges (Untwalia,J.) held that the principles underlying Order 21, Rules 35, 36, 95 and 96 of the CPC prescribing the modes of delivery of possession including symbolic and actual could be applied to proceedings under the Act but the other two Hon'ble Judges (Bhagwati and Gupta,JJ.) held that the said provisions could not be applied to proceedings under the Act and that actual possession thereof was required to be taken. In this background, the two Hon'ble Judges observed as under:-

> "We think it is enough to state that when the Government proceeds to take possession of the land acquired by it under the Land Acquisition Act, 1894, it must take actual possession of the land, since all interests in the land are sought to acquired by it. *There can be no question of taking 'symbolical' possession in the sense understood by judicial decision under the Code of Civil Procedure. Nor would possession merely on paper be enough. What the Act contemplates as a necessary condition of vesting of the land in the Government is the taking of actual possession of the land. How such possession may be taken would depend on the nature of the land. Such possession would have to be taken as the nature of the land admits of. There can be no hard and fast rule laying down what act would be sufficient to constitute taking of possession of land.* There cannot be an absolute and inviolable rule that merely going on the spot and making a declaration by beat of drum or otherwise would be sufficient to constitute taking of possession of land in every case. But here, in our opinion, since the land was lying fallow and there was no crop on it at the material time, the act of the Tehsildar in going on the spot and inspecting the land for the purpose of

A determining what part was waste and arable and should, therefore, be taken possession of and determining its extent, was sufficient to constitute taking on possession."

8. In *Om Prakash's* case (supra) the basic issue was as to whether the land which was the subject matter of acquisition B could be acquired in view of the State policy that Abadi land was not to be acquired. It is in this connection, the Court observed that there appeared to be no conclusive evidence that possession had been taken from the land owner, and the matter was left open for the land owner to approach the State C Government under Section 48 of the Act to have land released. In *P.K.Kalburqi's* case (supra), a reference was made to the judgment in *Narayan Bhagde's* case (supra) and it was once again reiterated that the procedure for taking possession would depend upon the nature of the land and the extent thereof. A D cumulative reading of the aforesaid judgments would reveal that while taking possession symbolic and notional possession is perhaps not envisaged under the Act but the manner in which possession is taken must of necessity depend upon the facts of each case. Keeping this broad principal in mind, this Court E in *Tamil Nadu Housing Board vs. Viswam (D) by Lrs.* AIR 1996 SC 3377 after considering the judgment in *Narayan Bhagde's* case, observed that while taking possession of a large area of land (in this case 339 acres) a pragmatic and realistic approach had to be taken. This Court then examined the context under F which the judgment in *Narayan Bhagde's* case had been rendered and held as under:

"It is settled law by series of judgments of this Court that one of the accepted modes of taking possession of the acquired land is recording of a memorandum or G Panchanama by the LAO in the presence of witnesses signed by him/them and that would constitute taking possession of the land as it would be impossible to take physical possession of the acquired land. It is common knowledge that in some cases the owner/interested person

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may not cooperative in taking possession of the land." A

In *Balmokand Khatri Educational and Industrial Trust, Amritsar vs. State of Punjab & Ors.* AIR 1996 SC 1239 yet again the question was as to the taking over of the possession of agricultural land and it was observed thus: B

> "It is seen that the entire gamut of the acquisition proceedings stood completed by April 17, 1976 by which date possession of the land had been taken. No doubt, Shri Parekh has contended that the appellant still retained their possession. It is now well-settled legal position that C it is difficult to take physical possession of the land under compulsory acquisition. The normal mode of taking possession is drafting the Panchnama in the presence of Panchas and taking possession and giving delivery to the beneficiaries is the accepted mode of taking possession D of the land. Subsequent thereto, the retention of possession would tantamount only to illegal or un lawful possession."

9. It would, thus, be seen from a cumulative reading of the E aforesaid judgments, that while taking possession of a large area of land with a large number of owners, it would be impossible for the Collector or the Revenue Official to enter each bigha or biswas and to take possession thereof and that a pragmatic approach has to be adopted by the Court. It is also F clear that one of the methods of taking possession and handing it over to the beneficiary department is the recording of a Panchnama which can in itself constitute evidence of the fact that possession had been taken and the land had vested absolutely in the Government.

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10. The question arises as to whether in the face of the above observations, the procedure adopted by the Naib Tehsildar, Land Acquisition Shri Lal Singh was the correct one. The Award was rendered in the present matter on the 19th June 1980. As per the possession proceedings (Panchnama) H

A recorded by Shri Lal Singh dated the 20th June 1980, possession of 1933 bighas 2 biswas of land had been taken over and handed over to the Revenue Department on the 21st June 1980, 23rd June 1980 and 24th June 1980. In the Panchnama it was also observed that the land had been B demarcated and pillars had been affixed and that the physical possession had further been handed over to Shri N.N. Seth, Tehsildar, the representative of the beneficiary department. Admittedly, Khasra No.157 was covered by this document. It is recorded that the possession of the land under the built up C area of 160 bighas 6 biswas could not be handed over and the details of this land have also been provided in the aforesaid document. Khasra No.157 does not come in this category. Mr.Gupta has, however, emphasized that some material documents which show the possession had not been taken on D 20th June, as alleged, had been ignored by the Division Bench which he has referred us to the Khasra Girdwaris for the years 1980-81 and 1981-82 showing the existence of a Char Diwari. He has, accordingly, submitted that the observations in the award that the appellant's land was "Rosli" was incorrect in the E light of this record. We find absolutely no merit in this plea. A Khasra Girdwari which is a mere crop inspection report entered twice a year (Kharif and Rabi crops) has no presumption of truth attached to it. Even otherwise the state of the land as on the date of the Notification under Section 4 of the Act (which is 13th November 1959) would be the relevant date as to the nature F of the land and a crop inspection report 20 years later cannot be taken as proof of some facts said to exist in the year 1959. Mr. Gupta has also stressed that from the Award itself it was clear that the wall standing on Khasra No.157 had been assessed to a compensation of Rs.420/- and as such the G observations in the award that land was agricultural was erroneous. Mr. Saharya has, however, pointed out that the part of the Award to which reference has been made by Mr. Gupta is captioned as "Wells and Structures' and that a reference to a wall in the body is typographical error. We reproduce the H relevant portion of the award herein under:

Wells and Structures

"The land under acquisition has number of wells, water channel and structures. The Assistant Engineer (Valuation) has made the rate assessment of each of these items to which I agree and award accordingly subject to the verification at the time of possession as per details given as under: -

Kh.No.	Item	Value Assessed
555/2/2	Well, Drain, Water tank	Rs.6920/-
254	Well Structure	Rs.2490/-
577/430	-do-	Rs.2130/-
217	Well Structure	Rs.2730/-
100	Structure	Rs.260/-
670/27	-do-	Rs.3320/-
15	Well Structure/Room	Rs.4030/-
29	Well, Water tank, Room & Structures	Rs.3490/-
139	Well, Structures, Water tank, rooms & drains	4600/-
60	Well Structures, room & drain	Rs.2750/-
394	Well Structures	Rs.4690/-
399	-do-	Rs.2380/-
242	Structure	Rs.540/-
149	-do-	Rs.260/-
580/148	Wall	Rs.1264/-
157	-do-	Rs.420
172	Well, Water Tank, drain Structure	Rs.7960/-
298	-do-	Rs.4890/-

A	333	wells, Structure	Rs.5350/-
	20	Structure & Compound wall	Rs.3300/-
	195/2	Well, Water drains, Water tank & room	Rs.7530/-
B	321	-do-	Rs.7250/-
	478	Well, Water tank drains & rooms	Rs.6665/-
	321	Room, water tank, drain	Rs.1125/-
C	478	Drain	Rs.360/-
	92	Well, water tank, drain, Khurli, rooms	Rs.7260/-
D	155	Well, water tank, drain khurli, rooms, verandah	Rs.6720/-
	597/202/264	Well, Water tank, Room	Rs.2700/-
E	455	Well, Water tank, Water Channel room	Rs.2790/-
	86	Well, Water tank, drains, rooms	Rs.3320/-
	514	Well	Rs.1720/-
F	464	-do-	Rs.2850/-
	688/518/119/2	-do-	Rs.2290/-
	189	-do-	Rs.1820/-
	436	Well, structures	Rs.1020/-
	210	Well	Rs.2060/-
G	453	-do-	Rs.5650/-
		Total:	**Rs.1,21,189-00**

There are water channels running through Kh. Nos.
H 228, 635/251, 254, 253, 255, 250, 263, 597/262, 261, 269,

434, 435, 440, 442, 443, 444, 445 & 446. The Naib-Tehsildar has made a detailed valuation to which I agree and award Rs.2870/- as compensation as these channels."

11. A reading of the above extract reveals that wells, and structures connected with wells, and irrigation facilities have been referred to therein and an independent wall is not even remotely the subject matter. Mr. Gupta has, however, seriously objected to this explanation by submitting that no plea doubting the accuracy of the document having been raised in the counter affidavit, the respondents were now precluded from making this submission. We, however, feel that in the light of the context in which the entire matter has been dealt with in the Award, there can be no doubt that the entry 'wall' should be read as 'well' vis-à-vis Khasra No.157. There is yet another circumstance, perhaps even more relevant. We find that no question had ever been raised by the appellant with regard to the presence of a wall in the objections filed under Section 5A or even in the responses filed to the notices under Section 9 of the Act and the only prayer was that the land be exempted from acquisition (Item no.36). These omissions become more significant as several other landowners had claimed compensation for the superstructures that were existing on the acquired land. It is also equally significant, as pointed out by Mr. Saharya, that no question had ever been raised by the appellant with regard to the existence of a wall or superstructure in any of the litigations prior to the present set of Writ Petitions. Mr. Gupta has, however, referred us to the objections dated 15th November 1966 showing the existence of a wall. These objections are, to our mind, meaningless as they had not been filed in response to the notification under Section 4 which had been published in the year 1959 and were filed after the declaration under Section 6 had been made and are, therefore, an obvious after thought. It also bears notice that despite the claim under this document, no plea with regard to the existence of a wall had been raised at any stage till the filing of the present petitions in the year 1995.

A 12. Mr. Gupta has, with great emphasis, pointed out that from the affidavit dated 30th July 1996 sworn by Mr. G.S.Meena, Under Secretary, Land and Building Department, it was clear that the appellant continued to remain in possession on account of the stay of dispossession granted by the High Court on 15th B July 1981 in WP No. 2220/1981 and the confirmation of the said order on 16th September 1982 and as such the stand of the appellants that possession had been taken was not correct. We have, however, already observed that possession had been taken between 20th and 24th June 1980, and the acquired land C thus stood vested in the State free from all encumbrances under Section 16 of the Act. It is also relevant that the afore-referred writ petition was dismissed meaning thereby that the said order should automatically be vacated as well. Even assuming for a moment that the petitioner had re-possessed the acquired land D at some stage would be of no consequence in view of the provisions of section 16 ibidem. In *Narayan Bhagde's* case (supra) one of the arguments raised by the land owner was that as per the communication of the Commissioner the land was still with the land owner and possession thereof had not been taken. The Bench observed that the letter was based on a E misconception as the land owner had re-entered the acquired land immediately after its possession had been taken by the government ignoring the scenario that he stood divested of the possession, under Section 16 of the Act. This Court observed as under:

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> "This was plainly erroneous view, for the legal position is clear that even if the appellant entered upon the land and resumed possession of it the very next moment after the land was actually taken possession of and G became vested in the Government, such act on the part of the appellant did not have the effect of obliterating the consequences of vesting."

To our mind, therefore, even assuming that the appellant had re-entered the land on account of the various interim orders H

granted by the courts, or even otherwise, it would have no effect for two reasons, (1) that the suits/petitions were ultimately dismissed and (2) that the land once having vested in the Government by virtue of Section 16 of the Act, re-entry by the land owner would not obliterate the consequences of vesting.

13. We must also observe that the petitioner has been able to frustrate the acquisition and development of the land right from the year 1980 onwards by taking recourse to one litigation after the other. The record reveals that all the suits/writ petitions etc. that had been filed had failed. Undoubtedly, every citizen has a right to utilize all legal means which are open to him in a bid to vindicate and protect his rights, but if the court comes to the conclusion that the pleas raised are frivolous and meant to frustrate and delay an acquisition which is in public interest, deterrent action is called for. This is precisely the situation in the present matter. The appeals are, accordingly, dismissed with costs which are determined at Rupees two lacs. The respondents, shall, without further loss of time proceed against the appellant.

N.J. Appeals dismissed.