

SATISH KUMAR GUPTA ETC. ETC.

A

v.

STATE OF HARYANA & ORS. ETC.

(Civil Appeal Nos. 1587-1636 of 2017)

FEBRUARY 21, 2017

B

[ADARSH KUMAR GOEL AND UDAY UMESH LALIT, JJ.]

*Land Acquisition Act, 1894 – Post-acquisition allottee of land – If necessary or proper party or has any locus to be heard in the matter of determination of compensation – Held: Mere fact that Government chooses to determine the allotment price with reference to compensation price determined by the court, does not provide any locus to allottee to contest the claim for enhancement of compensation – Further, the lack of sincerity on the part of the State Authority for whose benefit the acquisition was made, not a valid ground to permit post-acquisition allottee to be treated as a necessary or property authority u/Or. I, r. 10 to such proceedings – Code of Civil Procedure, 1908 – Or. I, r. 10 .*

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Allowing the appeals, the Court

**HELD:1.1** The post-acquisition allottee has no locus to be heard in the matter and is neither a necessary nor a proper party. [Para 18] [777-H; 778-A]

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**1.2** The acquisition may either be for a “public purpose” as defined u/s. 3(f) or for a company under Part-VII of the Land Acquisition Act. If the acquisition is for a public purpose, as the instant case, the land vests in the State after the Collector makes an award and the possession is taken. Till the award is made, no person other than State comes into the picture. Once the land vests in the State, the acquisition is complete. Any transferee from the State is not concerned with the process of acquisition. The State may transfer the land by public auction or by allotment at any price with which the person whose land is acquired has no concern. Mere fact that the Government chooses to determine the allotment price with reference to compensation determined by the court does not provide any locus to an allottee to contest the claim for enhanced compensation. [Para 9][773-F-G; 774-A-B]

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A           **1.3 The only other justification in the impugned judgment**  
 which was relied upon by the respondents is lack of sincerity on  
 the part of the State authority for whose benefit the acquisition  
 was made viz. HSIDC, which by itself cannot be a valid ground to  
 permit post-acquisition allottee to be treated as a necessary or  
 proper authority under Order I Rule 10 CPC to proceedings for  
 B           determination of compensation. The view taken in the impugned  
 judgment cannot be sustained on any principle or precedent. [Para  
 16] [777-F]

C           **1.4 There is no consideration of the principle of law and**  
 thus, the order dated 15<sup>th</sup> July, 2004 without there being contest  
 on the principle of law could not be treated as a precedent for  
 deciding the legal issue at hand. [Para 17] [777-G-H]

D           **1.5 No case was made out for permitting additional evidence**  
 on settled principles under Order XLI Rule 27 of CPC. It is clear  
 that neither the trial court refused to receive the evidence nor it  
 could be said that the evidence sought to be adduced was not  
 available despite the exercise of due diligence nor it could be  
 held necessary to pronounce the judgment. Additional evidence  
 cannot be permitted to fill-in the lacunae or to patch-up the weak  
 points in the case. There was no ground for remand in these  
 E           circumstances. While remanding the matter in the earlier round,  
 liberty was given to the MSIL to file an application for  
 impleadment or to act as an intervenor which implied that such  
 application was to be accepted. There is no merit in this contention  
 also. It cannot be held that any right was crystallised by the said  
 observation and such prayer had to be considered according to  
 F           law. [Para 19-21] [778-A-B, E-G]

*N. Kamalām v. Ayyaswami* (2001) 7 SCC 503 : 2001  
 (1) Suppl. SCR 272 – referred to.

G           **1.6 The impugned order is set aside and matter is remanded**  
 to the High Court. [Para 22] [778-G-H]

*Hindu Kanya Maha Vidyalaya, Jind and anr. v. Municipal Committee, Jind and ors.* 1988 (Supp) SCC 719 – relied on.

H           *Peerappa Hanmantha Harijan (Dead) by legal representatives and ors. v. State of Karnataka and anr.* 2015 (9) SCR 498 : (2015) 10 SCC 469; *U.P. Awas*

*Evam Vikas Parishad v. Gyan Devi (Dead) by Lrs. and Ors.* 1994 (4) Suppl. SCR 646 : (1995) 2 SCC 326; *P. Narayanappa and anr. v. State of Karnataka and ors.* 2006 (4) Suppl. SCR 716 : (2006) 7 SCC 578 – distinguished. A

*HSIDC v. Pran Sukh* (2010) 11 SCC 175; *HSIDC v. Mawasi* 2012 (6) SCR 237 : (2012) 7 SCC 200; *HSIDC v. Pran Sukh* (2012) 7 SCC 721; *HSIDC v. Udai* (2013) 14 SCC 506; *ONGC v. Rameshbhai Jivanbhai Patel* 2008 (11) SCR 927 : (2008) 14 SCC 745; *Valliyammal v. Special Tehsildar (LA)* 2011 (11) SCR 293 : (2011) 8 SCC 91; *Himalayan Tiles and Marble (P) Ltd. v. Francis Victor Coutinho (Dead) by Lrs.* 1980 (3) SCR 235 : (1980) 3 SCC 223; *Santosh Kumar and ors. v. Central Warehousing Corporation and anr.* 1986 (1) SCR 603 : (1986) 2 SCC 343; *Neyvely Lignite Corporation Ltd. v. Special Tahsildar (Land Acquisition) Neyvely and Ors.* 1994 (4) Suppl. SCR 567 : (1995) 1 SCC 221; *Delhi Development Authority v. Bhola Nath Sharma (dead) by Lrs. and ors.* (2011) 2 SCC 54 – referred to. B

*HSIDC v. Pran Sukh* (2010) 11 SCC 175; *HSIDC v. Mawasi* 2012 (6) SCR 237 : (2012) 7 SCC 200; *HSIDC v. Pran Sukh* (2012) 7 SCC 721; *HSIDC v. Udai* (2013) 14 SCC 506; *ONGC v. Rameshbhai Jivanbhai Patel* 2008 (11) SCR 927 : (2008) 14 SCC 745; *Valliyammal v. Special Tehsildar (LA)* 2011 (11) SCR 293 : (2011) 8 SCC 91; *Himalayan Tiles and Marble (P) Ltd. v. Francis Victor Coutinho (Dead) by Lrs.* 1980 (3) SCR 235 : (1980) 3 SCC 223; *Santosh Kumar and ors. v. Central Warehousing Corporation and anr.* 1986 (1) SCR 603 : (1986) 2 SCC 343; *Neyvely Lignite Corporation Ltd. v. Special Tahsildar (Land Acquisition) Neyvely and Ors.* 1994 (4) Suppl. SCR 567 : (1995) 1 SCC 221; *Delhi Development Authority v. Bhola Nath Sharma (dead) by Lrs. and ors.* (2011) 2 SCC 54 – referred to. C

*HSIDC v. Pran Sukh* (2010) 11 SCC 175; *HSIDC v. Mawasi* 2012 (6) SCR 237 : (2012) 7 SCC 200; *HSIDC v. Pran Sukh* (2012) 7 SCC 721; *HSIDC v. Udai* (2013) 14 SCC 506; *ONGC v. Rameshbhai Jivanbhai Patel* 2008 (11) SCR 927 : (2008) 14 SCC 745; *Valliyammal v. Special Tehsildar (LA)* 2011 (11) SCR 293 : (2011) 8 SCC 91; *Himalayan Tiles and Marble (P) Ltd. v. Francis Victor Coutinho (Dead) by Lrs.* 1980 (3) SCR 235 : (1980) 3 SCC 223; *Santosh Kumar and ors. v. Central Warehousing Corporation and anr.* 1986 (1) SCR 603 : (1986) 2 SCC 343; *Neyvely Lignite Corporation Ltd. v. Special Tahsildar (Land Acquisition) Neyvely and Ors.* 1994 (4) Suppl. SCR 567 : (1995) 1 SCC 221; *Delhi Development Authority v. Bhola Nath Sharma (dead) by Lrs. and ors.* (2011) 2 SCC 54 – referred to. D

Case Law Reference

(2010) 11 SCC 175	referred to	Para 3	E
2012 (6) SCR 237	referred to	Para 3	
(2012) 7 SCC 721	referred to	Para 3	
(2013) 14 SCC 506	referred to	Para 3	
2008 (11) SCR 927	referred to	Para 3	
2011 (11) SCR 293	referred to	Para 3	F
1980 (3) SCR 235	referred to	Para 7	
1986 (1) SCR 603	referred to	Para 7	
1994 (4) Suppl. SCR 567	referred to	Para 7	
1994 (4) Suppl. SCR 646	distinguished	Para 13	G
2006 (4) Suppl. SCR 716	distinguished	Para 13	
2015 (9) SCR 498	distinguished	Para 13	
1988 (Supp) SCC 719	relied on	Para 14	
(2011) 2 SCC 54	referred to	Para 15	
2001 (1) Suppl. SCR 272	referred to	Para 17	H

A CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1587-1636 of 2017.

From the Judgment and Order dated 06.10.2015 of the High Court of Punjab & Haryana at Chandigarh in RFA Nos. 4316, 3127, 4057, 3401, 4052, 3179, 4368, 4312, 4599, 4343, 3743, 3209, 4597, 4624, 4600, 4625, 4838 and 4337 of 2010, RFA Nos. 4607, 6255, 2407, 4712, 2413, 4716, 2439, 4714, 4601, 6292, 2419, 4326, 4605, 6317, 2440, 4830, 3385, 4315, 5943, 6324, 2416, 4118, 4119, 2442, 2451, 623, 622, 4334, 3106, 3359 and 625 of 2011 and RFA No. 4736 of 2012

WITH

C A. Nos. 1637, 1638-1653, 1655-1658, 1659-1663, 1664, 1665-1669, 1670-1675, 1677-1691, 1692, 1693, 1694, 1695, 1696, 1699-1701, 1702, 1703-1780, 1783-1852, 1853-1927, 1930-2003, 2004-2058, 2059-2111, 2112-2114, 2117-2118, 2123-2126, 2127-2128, 2129-2132, 2133-2138, 2139-2143, 2144-2145, 2146-2200, 2201-2203, 2204, 2205-2206, 2207-2214, 2215-2219, 2220, 2221-2223, 2224, 2226-2227, 2228, 2232-2246 AND 2249-2279 of 2017.

D Dhruv Mehta, R. S. Suri, Ms. Kiran Suri, Sr. Advs., Siddharth Mittal, Surender Singh, Jasbir Singh Malik, Ms. Usha Nandini, V. Rohit K. Aggarwal, Ms. Rekha Dwivedi, L. Hasan, Avinash Kumar, Anil Mittal, Ms. Vibhuti Sushant Gupta, Satish Kumar Gupta, Dr. Kailash Chand, E Siddharth Batra, Ravinder Kumar, Ajit Sharma, S. K. Sinha, Gagan Gupta, Saurabh Gupta, Naresh Kaushik, Manoj Joshi, Mrs. Lalita Kaushik, Annam D. N. Rao, Abhishek Agarwal, Sudipto Sircar, Kushank Sindhu, Annam Venkatesh, Rahul Mishra, Pankaj Kumar Singh, Ms. Varsha Rana, Satpal Singh, Ankit Swarup, Ms. Tanya Swarup, Mrs. Amita Gupta, Ms. Neha Tyagi, Tarun Gupta, S. Jhanwar, M. S. Varma, Ram Naresh F Yadav, Advs. for the Appellants.

Mr. Mukul Rohatgi, AG, P. S. Patwalia, Sr. Adv., Alok Sangwan, Amit Kumar, AAGs, Dr. Monika Gusain, A. K. Thakur, Ashish Chauhan, Shekhar Kumar, Ms. Priya Watwani, Sanjay Kumar Visen, Karanvir Singh Khehar, Parveen, Vipin Kumar Jai, Advs. for the Respondents.

G The Judgment of the Court was delivered by

**ADARSH KUMAR GOEL, J.** 1. These appeals have been preferred against judgment and order dated 06<sup>th</sup> October, 2015 passed by the High Court of Punjab and Haryana at Chandigarh in R.F. A. Nos. 4316 of 2010 etc. etc.

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2. Question for consideration is whether a post-acquisition allottee of land is necessary or proper party or has any locus to be heard in the matter of determination of compensation under the scheme of the Land Acquisition Act, 1894 (the Act). If not, whether the impugned order permitting additional evidence and directing remand is sustainable. A

3. Facts giving rise to the question may be briefly noted. Huge chunks of land were acquired by the State of Haryana in different phases for the public purpose of setting-up Industrial Model Township by the Haryana State Industrial Development Corporation (HSIDC) in Gurgaon District in Haryana. Substantial part of the acquired land was allotted by the HSIDC to Maruti Suzuki India Limited (MSIL). One of the clauses in the Conveyance Deed executed in favour of the allottee provided that if compensation was enhanced, the allottee shall be liable to pay additional price on that basis. In *HSIDC v. Pran Sukh*<sup>1</sup>, issue of compensation for land acquired in Phase I was decided by this Court. Review Petitions against the said judgment were dealt with in *HSIDC v. Mawasi*<sup>2</sup> and *HSIDC v. Pran Sukh*<sup>3</sup>. Matter of determining compensation in respect of Phase II and Phase III came-up for consideration in *HSIDC v. Udal*<sup>4</sup>. As noticed in judgment of this Court in *Udal* (supra), the Reference Court awarded compensation in the light of compensation determined in the judgment of this Court in *Pran Sukh* (supra) and other awards relating to land acquired for Phase III. Against the decision of the Reference Court, the land owners as well as the HSIDC filed appeals under Section 54 of the Act. The High Court assessed the compensation based on judgment of this Court in *Pran Sukh* (supra). Reference to paras 29 to 33 of the judgment of this Court *Udal* (supra) shows that after referring to the plea of the HSIDC that the annual increase of 12% for the time gap was erroneous in view of *ONGC v. Rameshbhai Jivanbhai Patel*<sup>5</sup> and *Valliyammal v. Special Tehsildar (LA)*<sup>6</sup>, this Court found merit in the arguments of the land owners that an important piece of evidence was not taken into account which necessitated remand. The matter was remanded to the High Court for fresh disposal and it was also observed that MSIL was free to file an appropriate application for its impleadment or for leave to act as intervenor. B C D E F G

<sup>1</sup> (2010) 11 SCC 175

<sup>2</sup> (2012) 7 SCC 200

<sup>3</sup> (2012) 7 SCC 721

<sup>4</sup> (2013) 14 SCC 506

<sup>5</sup> (2008) 14 SCC 745

<sup>6</sup> (2011) 8 SCC 91 H

A 4. Thereafter, the matter was dealt with by the High Court in the impugned judgment. The High Court held that the allottee had a right to be impleaded as a party for the following reasons:

a) The State or the local authority for whose benefit the land is acquired may not lead proper evidence or advance effective arguments.

B b) A clause in the deed of allotment in favour of the allottee provides for payment of additional price as a consequence of enhancement of compensation.

c) As a result of enhancement of compensation by the Reference Court, the company in question was required to pay about Rs.900 crores.

C d) Under Order, 1 Rule 10(2) CPC the Court can add or delete a party at any stage.

e) Section 50 of the Act provides a right to a local authority or a company for whose benefit the land is acquired to be represented before the Collector or the Court in the process of determination of compensation.

D f) The principle behind giving the right of representation to a local authority or a company for whose benefit the land is acquired can also be applied to any person who is liable to pay the enhanced compensation treating such person to be the "person interested" under Section 3(b) of the Act.

E 5. After permitting the allottee to be impleaded as a party, the High Court also allowed application to lead additional evidence on the ground that the acquiring authority did not defend the case properly. Similar application filed by the HSIDC to lead additional evidence was also allowed and, thereafter, on considering the additional evidence it was observed that it was not possible for the High Court to assess the compensation as there was no site plan showing the location of the transactions relied. It was also considered necessary to give an opportunity to MSIL, who was impleaded for the first time. On that basis the matter was remanded to the Reference Court for fresh decision.

F 6. Aggrieved by the order of the High Court these appeals have been preferred. Contentions of the appellants are as follows:

G i) The post-acquisition allottee had no right to be heard in the matter of compensation. Reliance has been placed on *Hindu Kanya Maha Vidyalaya, Jind and anr. v. Municipal Committee, Jind and ors.*<sup>7</sup>; *Haryana State Industrial Development Corporation*

H <sup>7</sup> 1988 (Supp) SCC 719

v. *Pran Sukh and ors.* (supra)-and; *Peerappa Hanmantha Harijan (Dead) by legal representatives and ors. v. State of Karnataka and anr.*<sup>8</sup> A

ii) Applications for impleadment have been filed by MSIL 12 years after the acquisition and applications for additional evidence were also filed after a long delay and for the first time after remand by this Court, which could not be considered within the scope of Order XLI Rule 27 of CPC. B

(iii) Application for additional evidence was rejected by this Court in the earlier round. The remand by this Court was limited to the question whether there was a need for further enhancement in the light of evidence which was not earlier considered. C

7. On the other hand, learned counsel for the MSIL as well as the HSIDC and other allottees have supported the impugned judgment. They submit that since allottees have to pay the enhanced compensation, they ought to be treated as "person interested" under Section 3 (o) of the Act. Reliance has been placed on judgments of this Court in *Himalayan Tiles and Marble (P) Ltd. v. Francis Victor Coutinho (Dead) by Lrs.*<sup>9</sup>; *Santosh Kumar and ors. v. Central Warehousing Corporation and anr.*<sup>10</sup>; *Neyveli Lignite Corporation Ltd. v. Special Tahsildar (Land Acquisition) Neyveli and Ors.*<sup>11</sup> and; *U.P. Awaz Evam Vikas Parishad v. Gyan Devi (Dead) by Lrs. and Ors.*<sup>12</sup>. D E

8. We have given our due consideration to the rival submissions.

9. To determine the question whether the post-acquisition allottee of land is necessary or proper party or has any locus to be heard in the matter of determination of compensation, we may refer to the scheme of the Act. The acquisition may either be for a "public purpose" as defined under Section 3(f) or for a company under Part-VII of the Act. If the acquisition is for a public purpose (as the present case), the land vests in the State after the Collector makes an award and the possession is taken. Till the award is made, no person other than State comes into the picture. Once the land vests in the State, the acquisition is complete. Any transferee from the State is not concerned with the process of acquisition. The State may transfer the land by public auction or by F G

<sup>8</sup> (2015) 10 SCC 469

<sup>9</sup> (1980) 3 SCC 223

<sup>10</sup> (1986) 2 SCC 343

<sup>11</sup> (1995) 1 SCC 221

<sup>12</sup> (1995) 2 SCC 326 H

A allotment at any price with which the person whose land is acquired has no concern. The mere fact that the Government chooses to determine the allotment price with reference to compensation price determined by the Court does not provide any *locus* to an allottee to contest the claim for enhancement of compensation.

B 10. This legal position is well settled on principle as well as the precedent. In *Hindu Kanya Maha Vidyalaya (supra)* it was observed:

C "3. ... .. Indisputably the land in dispute was not acquired for the purpose of appellants instead the land was acquired for the Municipal Committee for the purpose of developing its Scheme No. 5. After the declaration of award Municipal Committee took possession of the land and thereafter transferred a portion of the same to the appellants under an agreement. In these circumstances the ratio laid down by this Court in *Himalayan Tiles & Marble (P) Ltd. v. Francis Victor Countinho [(1980) 3 SCC 223]* does not apply as the appellants are not interested persons and they have no right to question the award. ... .."

D 11. Again, in *Peerappa Hanmāntha (supra)* *inter alia* the following questions were framed for consideration.

E "30.1. (i) Whether the allottee Company (M/s. Ultra Tech Cement Ltd.) is either a beneficiary or interested person entitled for hearing before determination of the market value to award just and reasonable compensation in respect of the acquired land of the appellants either before the Deputy Commissioner or Reference Court?

F (ii) Whether the writ petition filed by the allottee Company before the High Court is maintainable in law?

(iii) Whether the order of remand allowing the writ petition of the allottee Company to the Reference Court is legal and valid?"

G 12. The above questions were answered as follows:

H "63. In view of the foregoing reasons recorded by us on the basis of the acquisition notifications issued by the State Government under the statutory provisions of the KIAD Act and therefore, we have to answer Points (i), (ii) and (iii) in favour of the landowners holding that the Company is neither the beneficiary nor interested person of the acquired land,

hence, it has no right to participate in the award proceedings for determination of the market value and award the compensation amount of the acquired land of the appellants. Hence, the writ petition filed by the Company questioning the correctness of the award passed by the Reference Court which is affirmed by the High Court is not at all maintainable in law. On this ground itself, the writ petition filed by the Company should have been rejected by the High Court, instead it has allowed and remanded the case to the Reference Court for reconsideration of the claims after affording opportunity to the Company, which order suffers from error in law and therefore, the same is liable to be set aside.”

13. Judgments in *U.P. Awam Vikas Parishad (supra)*, *Himalayan Tiles (supra)* and *P. Narayanappa and anr. v. State of Karnataka and ors.*<sup>13</sup> as mentioned in para 61 of the judgment in *Peerappa Hanmantha (supra)* were held to be not applicable as the same applied only when the acquisition is for a company or for the beneficiary of the acquisition as mentioned in the notification for acquisition itself. This is clear from the following:

“61. Further, both the learned Senior Counsel on behalf of KIADB and the Company have placed reliance on various decisions rendered by this Court in support of their above respective legal submissions that the Company is an interested person and, therefore, it has got right to participate in the proceedings before the Reference Court for determination of compensation before passing the award either by the Land Acquisition Officer or the Deputy Commissioner or the Reference Court at the instance of the owner or any other interested person. These include judgments rendered by this Court in *U.P. Awam Vikas Parishad v. Gyan Devi, Himalayan Tiles and Marble (P) Ltd. v. Francis Victor Coutinho and P. Narayanappa v. State of Karnataka* and other decisions which are not required to be mentioned in this judgment as they are all reiteration of the law laid down in the above cases.

62. The reliance placed on the various decisions of this Court by both the learned Senior Counsel on behalf of KIADB and the Company, is misplaced as none of the said judgments relied

<sup>13</sup> (2006) 7 SCC 578

A upon are applicable to the fact situation in the present case  
 for the reason that those cases dealt with reference to the  
 acquisition of land under the provisions of the LA Act, either  
 in favour of the company or development authorities, whereas  
 in the case on hand, the acquisition proceedings have been  
 B initiated under the KIAD Act for industrial development by  
 KIADB. Further, the original acquisition record in respect of  
 the acquired land involved in the proceedings by the learned  
 Standing Counsel on behalf of the State of Karnataka as per  
 our directions issued vide our orders dated 17-11-2014<sup>14</sup> and  
 C 24-3-2015<sup>15</sup>, do not disclose the fact that the acquisition of  
 lands covered in the acquisition notifications are in favour  
 of the Company. Thus, the acquisition of land in favour of  
 KIADB is abundantly clear from the preliminary and final  
 notifications issued by the State Government and thereafter  
 following the procedure under sub-sections (6) and (7) of  
 D Section 28 of the KIAD Act, it took possession of the acquired  
 land from the owners who were in possession of the same and  
 was transferred in favour of KIADB for its disposal for the  
 purpose for which lands were acquired as provided under  
 Section 32(2) of the KIAD Act read with the Regulations  
 referred to supra framed by KIADB under Section 41(2)(b)

E <sup>14</sup> Peerappa Hanmantha Harijan v. State of Karnataka, SLP(C)No. 19819 of 2013, order  
 dated 17-11-2014 (SC), wherein it was directed: "Issue notice to the State Government.  
 The learned counsel for the petitioners to take out notice to the learned Standing Counsel  
 appearing for the State Government. Dasti, in addition, is also permitted. Mr. V.N.  
 Raghupathy, learned counsel accepts notice for the State of Karnataka and Mr. Nishanth  
 Patil, learned counsel accepts notice for Karnataka Industrial Area Development Board  
 (for short 'KIADB'). The learned counsel appearing for the State Government and the  
 F learned counsel appearing for KIADB are directed to produce the relevant records in  
 respect of the proceedings relating to land acquisition involved in these matters. There  
 shall be stay of the effect and operation of the impugned order during the pendency of  
 these petitions. List the matters after four weeks. In the meanwhile, all the respondents are  
 at liberty to file written statements, if any."

G <sup>15</sup> Peerappa Hanmantha Harijan v. State of Karnataka, SLP(C)No. 19819 of 2013, order  
 dated 24-3-2015(SC), wherein it was directed: "Heard Ms. Kiran Suri, learned Senior  
 Counsel for the petitioners in SLP(C)Nos. 31624-25 of 2014 in part. List all the matters  
 as part for further hearing. Vide order dated 17-11-2014, learned counsel for the State as  
 well as the learned counsel for KIADB were directed to produce the relevant records in  
 respect of the proceedings relating to land acquisition involved in these matters, record as  
 well as the records relating to allotment of land. However, as per office records, nothing  
 has been produced so far. In this view of the matter, the learned counsel for the State as  
 well as the learned counsel for KIADB are directed to comply with the order dated 17-11-  
 2014 and produce the relevant records in respect of the proceedings relating to land  
 H acquisition and the allotment of land involved in these matters before the next date of  
 hearing. List the matters on 15-4-2015."

of the KIAD Act. Therefore, the reliance placed upon the judgments of this Court by the learned Senior Counsel on behalf of the Company and KIADB, are wholly inapplicable to the fact situation and do not support the case of the Company.” A

14. We are in respectful agreement with the above view in *Hindu Kanya Maha Vidyalaya* (supra) and *Peerappa Hanmantha* (supra). No contrary view of this Court has been brought to our notice. The judgments relied upon by the respondents are distinguishable as already held by this Court. B

15. In *Himalaydn Tiles* (supra) the acquisition was under Part-VII of the Act. In *Santosh Kumar* (supra) the question was whether award of the Collector could be challenged, to which this Court answered in the negative except on the ground of fraud, corruption or collusion. In *Neyvely Lignite* (supra) again the acquisition was under Part-VII of the Act and in that context this Court held that the expression “person interested” could include a company or local authority for whose benefit the land was acquired. The post-acquisition allottee cannot by any stretch of imagination be treated at par with beneficiary for whom the land was acquired. In *U.P. Awas Evam Vikas Parishad* (supra), the matter dealt with was in the context of statutory authority for whom the land was acquired. *Delhi Development Authority v. Bhola Nath Sharma (dead) by Lrs. and ors.*<sup>16</sup> was a case in the context of beneficiary for whom the land was acquired. C D E

16. The only other justification in the impugned judgment which has been relied upon by the respondents is lack of sincerity on the part of the State authority for whose benefit the acquisition has been made viz. HSIDC, which by itself cannot be a valid ground to permit post-acquisition allottee to be treated as a necessary or proper authority under Order I Rule 10 of CPC to proceedings for determination of compensation. The view taken in the impugned judgment cannot be sustained on any principle or precedent. F

17. We may now refer to an order of this Court dated 15<sup>th</sup> July, 2004 which has been relied upon in the impugned judgment in para 31. There is no consideration of the principle of law and thus, the said order without there being contest on the principle of law could not be treated as a precedent for deciding the legal issue at hand. G

18. Accordingly, we hold that the post-acquisition allottee has no *locus* H  
<sup>16</sup> (2011) 2 SCC 54

A to be heard in the matter and is neither a necessary nor a proper party.

19. The other part of the impugned order permitting additional evidence and remanding the case for fresh decision is uncalled for. No case was made out for permitting additional evidence on settled principles under Order XLI Rule 27 of CPC. The provision is reproduced below:-

B *"27. Production of additional evidence in Appellate Court.- (1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if*

*(a) the court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or*

C *(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or*

D *(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause,*

*The Appellate Court may allow such evidence or document to be produced, or witness to be examined.*

*(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission."*

E 20. It is clear that neither the Trial Court has refused to receive the evidence nor it could be said that the evidence sought to be adduced was not available despite the exercise of due diligence nor it could be held to necessary to pronounce the judgment. Additional evidence cannot be permitted to fill-in the lacunae or to patch-up the weak points in the case<sup>17</sup>. There was no ground for remand in these circumstances.

F 21. We may also refer to the argument that this Court, while remanding the matter in the earlier round, had given liberty to the MSIL to file an application for impleadment or to act as an intervenor which implied that such application was to be accepted. We do not find any merit in this contention also. It cannot be held that any right was crystallised by the said observation and such prayer had to be considered according to law. We have already held that the post-acquisition allottee had no right in the matter.

G 22. For the above reasons, we allow these appeals and set aside the impugned order and remand the matter to the High Court once again for fresh decision in accordance with law. The parties are directed to appear before the High Court on 27<sup>th</sup> March, 2017.

Nidhi Jain

Appeals allowed.

H <sup>17</sup> N. Kamalam v. Ayyaswami (2001) 7 SCC 503: para 19