

Kunwar Pal Singh (Dead) By L.Rs vs State Of U. P. & Ors on 26 March, 2007

Equivalent citations: AIR 2007 SUPREME COURT 1675, 2007 (5) SCC 85, 2007 AIR SCW 2571, 2007 (3) ALL LJ 770, 2007 (5) SCALE 122, (2007) 5 MAH LJ 389, (2007) 3 MPLJ 439, (2007) 3 PUN LR 511, (2007) 5 SCALE 122, (2007) 2 UC 1135, (2007) 3 ALL WC 2529, (2007) 3 RECCIVR 121

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Bench: C. K. Thakker, Lokeshwar Singh Panta

CASE NO.:

Appeal (civil) 6099 of 2001

PETITIONER:

Kunwar Pal Singh (Dead) by L.Rs

RESPONDENT:

State of U. P. & Ors

DATE OF JUDGMENT: 26/03/2007

BENCH:

C. K. Thakker & Lokeshwar Singh Panta

JUDGMENT:

J U D G M E N T W I T H CIVIL APPEAL NO. 6100 OF 2001 Somendra Singh & Anr. Appellants Versus State of U. P. & Ors. Respondents W I T H CIVIL APPEAL NO. 6101 OF 2001 Jagdish Pal Singh Appellant Versus State of U. P. & Ors. Respondents WITH CONTEMPT PETITION (C) No. 480 of 2004 IN CIVIL APPEAL No. 6099 of 2001 Lokeshwar Singh Panta, J.

These appeals (being Civil Appeal Nos. 6099, 6100 and 6101 of 2001) are directed against a common judgment and order dated 28th February, 2000 passed by the Division Bench of the High Court of Judicature at Allahabad. By the impugned order, the High Court dismissed Civil Miscellaneous Petition Nos. 31681/1998, 32856/1998 and 32857/1998 filed by the petitioners-appellants herein challenging the correctness and validity of the Award passed by the Collector under the Land Acquisition Act, 1894 [for short "the Act"].

These appeals are taken up and heard together and are decided by this common judgment.

Facts necessary to understand and comprehend the controversy involved in these cases are briefly stated as under:-

The appellants are the owners/bhoomidars of different parcels of lands in village Dantal, District Meerut, Uttar Pradesh [for short "U.P."]. As per the Zonal Development Plan, the lands of the appellants fall under Zone-IV. On 11.06.1985, the State of U.P. issued a Notification under Section 4 of the Act proposing to acquire 168 bighas of land including the land of the appellants for construction of residential/commercial buildings by the Meerut Development Authority (MDA) respondent No.3 herein under a Planned Development Scheme. Declaration under Section 6 of the Act was published in the Official Gazette on 13.6.1985. On 19.7.1985, Notification under Section 4 of the Act was published in the local newspapers and Declaration under Section 6 of the Act was published in the newspapers on 25.07.1985. The substance of both the Notifications was published in the local newspapers on 25.07.1985. The provisions of Section 17(1) of the Act were also invoked and enquiry under Section 5-A has been dispensed with.

The appellants and some more owners of the lands filed separate writ petitions in the High Court of Judicature at Allahabad in the year 1985 challenging the validity of the Notifications under Sections 4 and 6 of the Act inter alia on the grounds that the lands of the owners had not been acquired for public purpose and that the action of the State Government in taking recourse to the provisions of Section 17 of the Act was arbitrary and discriminatory. The Division Bench allowed the writ petitions in part vide order dated 14.01.1988 by holding that the substance of the two Notifications contemplated by Section 4 and Section 6 of the Act was given on the same day, i.e. on 25.07.1985 in the locality, therefore, the Notification under Section 6 of the Act would be invalid in terms of the amended provisions of Section 17(4) of the Act. Consequently, declaration under Section 6 of the Act was quashed.

Feeling aggrieved, the appellants and the MDA both had challenged the order of the High Court by special leave petitions in this Court in the year 1988.

This Court granted leave in all the special leave petitions. Civil Appeal No. 1828 of 1988 filed by the MDA was allowed by the Court vide judgment dated 19.09.1996. The appeals of the claimants including the appellants were dismissed. The Land Acquisition Officer was directed to pass the Awards within a period of six months from the date of receipt of the order of this Court [see Meerut Development Authority v. Satbir Singh & Ors. (1996) 11 SCC 462].

It appears from the record that thereafter the respondents herein had conducted a fresh survey of the lands and prepared a site plan marking the lands in different colours as per the nature and extent of the areas. On 20.10.1997, the Land Acquisition Officer passed an Award in respect of 22 bighas 16 biswas and 12 biswansi of land and an area of 54 bighas 11 biswas and 16 biswansi was excluded from the acquisition including some portions of the lands of the appellants because some constructions were found having been raised over that extent of land by the people residing near and around the area and the MDA had declined to take possession of the constructed area. It is the case of the appellants that the Land Acquisition Officer made an Award on 18.09.1998 in respect of their acquired land without giving any notice or hearing to the appellants and also beyond the period of two years. The respondents notified the making of the Award by the Land Acquisition

Officer in "Dainik Jagran"

(a Hindi daily newspaper).

The appellants filed Civil Writ Petitions in the year 1998 in the High Court of Judicature at Allahabad challenging the Award inter alia on the grounds that the Award was made by the Land Acquisition Officer after the statutory period as contemplated under Section 11A of the Act. The High Court granted stay of the declaration under Section 6 of the Act. Finally, the Division Bench dismissed the writ petitions by holding that the Award marked as Annexure-4, specifically referred to 13.08.1985, the date of publication of declaration under Section 6 of the Act and accepting the said date as the last date of publication and the fact that stay was operating since 02.08.1985 till 19.09.1996, the Award dated 18.09.1998 was held having been made within the period of limitation as envisaged by Section 11A of the Act and as such the proceedings initiated for acquisition would not lapse. The appellants were directed to handover the possession of the acquired land within three months from the date of the order. The order of the High Court would reveal that subsequently at the request of the counsel, six months' time was granted to the appellants and other persons who were parties before the High Court for handing over the possession of the lands to the respondents. Now, the appellants are before this Court in these appeals.

Shri Anil Raj Kumar, Officer on Special Duty, MDA, respondent No.4 herein, in his counter affidavit states that the High Court has taken into consideration the Award passed by the Collector specifically referring to 13.08.1985, the date of publication of Notification under Section 6 of the Act and the fact that the stay order was in operation w.e.f. 02.08.1985 till 19.09.1996. It is also stated that the High Court has upheld the Award having been passed on 18.09.1998 within the period of limitation as prescribed by Section 11A of the Act and as such the land acquisition proceedings would not lapse as contended by the appellants. He reasserted that declaration under Section 6 of the Act was issued on 13.08.1985 and not on 25.07.1985 as alleged by the appellants.

Smt. Nisha Goel, Additional District Magistrate (Joint Organisation), Meerut, in joint counter affidavit, filed on behalf of State of U.P.-respondent No.1, District Magistrate/Collector, Meerut respondent no.2 and Additional District Magistrate (Joint Organisation), Meerut - respondent no. 3 in paragraph 4(d) has stated the details of the dates on which the respective publications came to be made. She has specifically stated that the gist of the Notification under Section 4(1) and declaration under Section 6(2) was made in the locality on 13.08.1985 by beat of drums. She stated that out of the total area of 168 bighas 7 biswas and 4.15 biswansi notified for acquisition, possession to the extent of 85 bighas 12 biswas and 12 biswansi was taken over on 16.08.1985 and an Award with respect to the said land was also given on 24.07.1987. Out of the remaining land measuring 77 bighas 8 biswas and 8.15

biswansi, an area of 46 bighas 12 biswas and 17.5 biswansi is covered by unauthorised construction, therefore, it was left out of acquisition. She stated that the Award dated 18.09.1998 made by the Land Acquisition Collector pertains only to land admeasuring 7 bighas 19 biswas and 9 biswansi.

We have heard learned counsel for the parties and with their assistance perused the entire material on record. The learned counsel for the appellants vehemently contended that in terms of Section 11A of the Act, it is mandatory to make an Award within two years from 25.07.1985, the date of the publication of the declaration under Section 6 of the Act. Admittedly, the Award was made on 18.09.1998 and as such, according to the learned counsel, the acquisition proceedings have become null and void. He urged that the High Court has failed to appreciate the import of the mandatory provisions of Section 6 of the Act in proper perspective and therefore, the order impugned in these appeals deserves to be set aside.

Per contra, the learned counsel appearing on behalf of the State of U. P. and MDA contended that the High Court was right in holding that the substance of the declaration under Section 6(2) was published in the locality on 13.08.1985 and after excluding the period between 02.08.1985 till 19.09.1996 in terms of Explanation to Section 11A of the Act, when the land acquisition proceedings remained pending in the High Court of Allahabad and later on till Civil Appeal No.1828 of 1988 and connected matters came to be finally decided by this Court on 19.09.1996.

In order to appreciate the rival contentions of the parties, a few provisions of the Act need to be noted. They are Section 6(1) and (2) and Section 11A of the Act.

"Section 6. Declaration that land is required for a public purpose. (1) Subject to the provisions of Part VII of this Act, when the Appropriate Government is satisfied after considering the report, if any, made under section 5A, sub-section (2), that any particular land is needed for a public purpose, or for a company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1), irrespective of whether one report or different reports has or have been made (wherever required) under section 5-A, sub-section (2):

[Provided

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Provided further

] [Explanation 1.

..

Explanation 2.

.....] (2) Every declaration shall be published in the

Official Gazette, [and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the

Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the date of such publication and the giving of such public notice, being hereinafter referred to as the date of publication of the declaration), and such declaration shall state] the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and where a plan shall have been made of the land, the place where such plan may be inspected.

(3) Section 11A of the Act and Explanation thereto (omitting the proviso which is not material in this case) are as under:

"11A. Period within which an award shall be made. (1) The Collector shall make an award under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided .

Explanation. In computing the period of two years referred to in this section the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.

Section 6(2), on a plain reading, deals with the various modes of publication and they are: (a) publication in the Official Gazette, (b) publication in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language and (c) causing public notice of the substance of such declaration to be given at convenient places in the said locality. There is no option left with anyone to give up or waive any mode and all such modes have to be strictly resorted to. The principle is well settled that where any statutory provision provides a particular manner for doing a particular act, then, that thing or act must be done in accordance with the manner prescribed therefor in the Act.

The provisions of Section 11A are intended to benefit the land owner and ensure that the Award is made within a period of two years from the date of the declaration under Section 6. In ordinary course, therefore, when the Government fails to make an Award within two years of the declaration under Section 6, the land has still not vested in the Government and its title remains with the owner, the acquisition proceedings are still pending and, by virtue of the provisions of Section 11A, the proceedings will elapse. The period of two years referred to in Section 11A shall be computed by counting from the last of the publication dates, as per the prescribed modes of publication.

In the present cases, as noted above, the appellants and other landholders filed Civil Miscellaneous Writ Petition in the High Court of Judicature at Allahabad in the year

1985 whereby and whereunder they have challenged combined Notification under Sections 4 and 6 of the Act issued by the State Government. The High Court vide order dated 14.01.1988 partly allowed the writ petitions. It appears from the record that MDA and some claimants feeling aggrieved, filed separate sets of appeals against the judgment dated 14.01.1988 in this Court. This Court allowed Civil Appeal No.1828 of 1985 filed by MDA and dismissed the appeals of the claimants. By judgment dated 19.09.1996, this Court set aside the order of the High Court and directed the Collector to make Awards within a period of six months from the date of the receipt of the order of this Court. Finally, the Collector made an Award on 18.09.1998 which came to be challenged by the appellants before the High Court of Judicature at Allahabad inter alia on the ground that the Award was made beyond the period as envisaged under Section 11A of the Act.

The High Court, as noted above, has held: "the Collector in the Award (Annexure P-4) specifically refers 13.08.1985 as the date of publication of Notification under Section 6. Accepting this as the last date of publication and the fact that stay was operating since 02.08.1985 till 19.09.1996, we hold the Award passed on 18.09.1998 was within the limitation as envisaged by Section 11A of the Act and as such the proceedings initiated for acquisition does not lapse." In our view, the order of the High Court is not legal and justified. The Division Bench seems to have committed a patent error, despite the decisions of this Court in *Eugenio Misquita & Ors. v. State of Goa & Ors.* [(1997) 8 SCC 47] (which does not appear to have been brought to its notice). While applying the ratio in *Krishi Utpadan Mandi Samiti v. Markant Singh* [(1995) 2 SCC 497], this Court in *Eugenio Misquita & Ors.* (supra), observed at SCC p. 52, Para 9 as under:

" .The publication under Section 6 (2) of the Act is for a different purpose, inter alia, for reckoning the limitation prescribed under Section 11A of the Act. This construction is supported by the language employed in Section 6(2) of the Act. In particular, the word "hereinafter"

used in Section 6(2) will amply prove that the last of the series of the publication referred to under Section 6(2) is relevant for the purposes coming thereafter, namely, for making award under Section 11A. The language employed in second proviso to Section 6(1) also supports this construction."

That apart, the words "the last of the dates of such publication and the giving of such public notice being hereinafter referred to as the date of the publication of the declaration" leave no room for any assumptions to the contrary. Thus, the view taken by the High Court in these cases not only runs counter to the mandate of law enacted by Parliament, but is opposed to the dicta of this Court. We have gone through the judgment of the High Court of Allahabad dated 14.01.1988 passed in Civil Miscellaneous Writ Petition No.10551 of 1985 and other connected petitions earlier filed by the appellants and other owners of the land. In those cases, the High Court has observed that joint Notification under Section 4 and Declaration under Section 6 of the Act was issued by the State Government on 25.07.1985. The MDA in paragraph 13 of the grounds of appeal being Civil Appeal No.1828 of 1988 on the record of this Court filed against the order of the High Court dated 14.01.1998 has specifically stated that the substance of the two notifications contemplated by the

provisions of Sections 4 and 6 of the Act was given on 25.07.1985 in the locality. Again, it was reasserted and stressed that publication of substance in the locality on the same day, i.e. on 25.07.1985, would not affect the appellants' rights adversely particularly when the provisions of Section 5A, i.e. inviting objections against the acquisition of the appellants' lands, have been dispensed with. The MDA has admitted in its grounds of appeal that substance of last publication of the declaration under Section 6 of the Act was given in the locality on 25.07.1985. Now, Shri Anil Raj Kumar, Officer on Special Duty of MDA, in his counter affidavit filed before this Court in SLP (C) No.8331 of 2000 has taken inconsistent stand when he states in para 2(II) thus: 'the High Court has taken into conspectus the Award marked as Annexure IV, specifically refers 13.08.1985 as a date of publication of Notification under Section 6 of the Land Acquisition Act, accepting this as a last date of publication and the fact that stay order was in operation w.e.f. 2.8.1985 till 19.9.1996'.

The statement of Smt. Nisha Goel made in the counter affidavit filed by her on behalf of respondent Nos.1, 2 and 3 that the declaration of public notice by last mode under Section 6(2) of the Act by beat of drums in the locality on 13.08.1985 manifestly is wrong and on the face of it contrary to the contents of the Notice (Annexure R-2) filed by her with the affidavit. This notice dated 13.08.1985 was issued by the Land Record Inspector, Block Rohta, Tehsil Meerut, in response to the letter of MDA dated 09.08.1985 and that of the District Land Acquisition Officer, Meerut, dated 01.08.1985. The relevant substance of the notice reads as under:-

"the land described in the enclosed list situate in village Danta, Block Rohta, Tehsil Meerut has been acquired by the Meerut Development Authority for its residential scheme and letter for obtaining its possession has been received on 12.8.85 at 3 p.m. and intimation of which has been given today 13.8.85 in village Dantal to all concerned farmer and residents of village by beat of drums and in loud voice that notification had been published on 19.7.85, 25.7.1985 in daily newspapers, "Meerut Samachar", Janta Express" and "Hamara Yug" and Government Gazette. Since the land has been acquired for the residential scheme of the Meerut Development Authority, no farmer should change the nature of rights in the land and the possession of acquired land will be taken on 16.3.85."

This notice appears to have been signed by marginal witnesses Har Pal Singh, Sudhir Kumar and Yash Vir Singh and thumb mark by Chhote on 13.08.1985. The language employed in this notice would not prove that it was the last mode of publication referred to in Section 6(2) of the Act. In substance, this notice appears to have been issued in purporting exercise of power under Section 9 of the Act for taking possession of the acquired land on 16.08.1985. Thus, this Notification, in no circumstances, would prove that it was the last mode of publication referred to in Section 6(2) of the Act.

This Court in General Manager, Department of Telecommunications, Thiruvananthapuram v. Jacob s/o Kochuvarkey Kalliath (dead) by LR. & Ors. [(2003) 9 SCC 662] has held that period of two years from the date of publication of the declaration prescribed under Section 11A for passing the Award, must be calculated from the last of the series of the publications referred to under Section 6(2) of the Act. Again, in Bihar State Housing Board v. State of Bihar & Ors. [(2003) 10 SCC 1], this

Court reiterating the proposition of law has held that modes of publication of declaration prescribed under Section 6(2) are conjoint and cumulative and all of them must be resorted to and completed. Sub-section (2) of Section 6 of the Act necessarily makes it abundantly clear that the last of the dates of the publication and giving of such public notice shall "hereinafter" be referred to as the date of publication of the declaration and limitation period of two years for making Award under Section 11A has to be counted as the last of the dates out of the three modes of publication specified in Section 6 of the Act.

It is not in dispute that the land acquisition proceedings remained stayed vide order of the High Court of Allahabad in the earlier writ petitions filed by the appellants as also during the pendency of the SLPs filed by the MDA and the appellants and other persons against the order dated 14.01.1988 of the High Court of Allahabad, which were decided on 19.09.1996. The Land Acquisition Collector has even failed to make the Award within stipulated period of six months as directed by this Court vide order dated 19.09.1996.

The ratio of the judgment in *State of Haryana & Anr. v. Raghubir Dayal* [(1995) 1 SCC 133], relied upon by the respondents, is of no assistance or help to them. In that case, while dealing with the provisions of Sections 4(1), 5A and 6(2) of the Act, this Court held: "since there is an opportunity already given to the owner of the land or persons having interest in the land to raise their objections during the inquiry under Section 5A, or otherwise in case of dispensing with inquiry under Section 5A unless they show any grave prejudice caused to them in non-publication of the substance of the declaration under Section 6(1), the omission to publish the substance of the declaration under Section 6(1) in the locality would not render the declaration of Section 6 invalid. However, this does not mean that the officers should not comply with the requirement of law. It is their duty to do it." In the light of the settled principles of law in *Eugenio Misquita & Ors.* (supra), *General Manager, Department of Telecommunications, Thiruvananthapuram* (supra) and *Bihar State Housing Board* (supra), the entire acquisition proceedings for acquiring the land of the appellants culminating in the Award made on 19.09.1998 after the period contemplated in Section 11A of the Act shall elapse completely.

The High Court was not correct and justified in holding that the last date of publication of the declaration under Section 6 was 13.8.1985 and not 25.07.1985. In the earlier civil writ petitions, the same High Court has accepted 25.07.1985 as the date of declaration under Section 6 of the Act.

No other point was urged by the parties.

For all the reasons stated above, the impugned judgment of the Division Bench of the High Court of Judicature at Allahabad cannot be sustained. The Civil Miscellaneous Writ Petition Nos. 31681, 32856 and 32857 of 1998 filed by the appellants before the High Court shall stand allowed. These appeals are allowed with costs.

However, we make it clear that if the respondents are still interested to acquire the land of the appellants, they are not precluded from initiating fresh proceedings in accordance with law.

CONTEMPT PETITION (C) NO. 480 OF 2004 IN CIVIL APPEAL NO. 6099 OF 2001 Kunwar Pal Singh, the original petitioner, filed Special Leave Petition No. 8331 of 2000 in this Court against the final judgment and order dated 28.02.2000 passed by the High Court of Judicature at Allahabad in Civil Miscellaneous Writ Petition No. 3168/1988. The said special leave petition came up for hearing on 10.07.2000 when this Court passed the following order:-

"Issue notice.

Until further orders status quo as regards the possession so far as the petitioner is concerned to be maintained."

The matter came up for hearing on 28.08.2001 when this Court granted special leave to the petitioner and directed the interim order to continue in the meantime. Kunwar Pal Singh died during the pendency of C.A. No. 6099 of 2001 and now his legal representatives are pursuing these proceedings. The controversy in these proceedings pertains to the acquisition of the lands of the appellants by the State Government for the benefit of Meerut Development Authority [for short "the MDA"]. The State Government in the year 1985 issued joint notification under Sections 4 and 6 of the Land Acquisition Act [hereinafter referred to as "the Act"] proposing to acquire 168 bighas of land including the land of the appellants. The Land Acquisition Officer made an Award on 20.10.1997 in respect of 2 biswas of land out of Plot No. 94. An area of 3-16-5 bigha of land out of Plot No. 84 was left out from acquisition. The appellants stated that later on, after a period of about 2 years without giving any notice to them, the Land Acquisition Officer made an Award dated 18.09.1998 in respect of 12 biswas of land out of Plot No. 94 and 3-16-5 bigha land out of Plot No. 84. The Award of the Land Acquisition Collector was challenged by the appellants and other land owners before the High Court of Judicature at Allahabad inter alia on the ground that the Award came to be passed after the statutory period contemplated under Section 11A of the Act. Therefore, the entire acquisition proceedings had lapsed. The High Court dismissed the writ petitions of the appellants and other claimants. The appellants have filed special leave petitions in this Court against the impugned common order of the High Court. In the special leave petition out of which Civil Appeal No. 6099 of 2001 arises, the above- said interim order was passed by this Court. The grievance of the appellants in this contempt petition is that the MDA has encroached upon 10 biswas of land in Plot No. 84, therefore, the original appellant submitted representation dated 05.11.2003 requesting the MDA to get Plot No. 84 demarcated on the spot. The lower staff of MDA, for obvious reasons, wanted to encroach upon another Plot No. 94 owned by the appellants. The appellants submitted that second representation was made on 9.02.2004 to the Commissioner, MDA, requesting the MDA to remove its encroachment on 10 biswas of land of Plot No. 84 and no further encroachment should be made by the Authority on Plot No. 94. In response to the representations of the appellants, Officer on Special Duty, MDA, vide letter dated 21.05.2004 informed the original appellant that because of the operation of the status quo order passed by this Court in S.L.P. (C) No. 8331/2000, it was not possible for the party to get the demarcation done on Plot No. 84 measuring 3-16-5 bighas. The appellants alleged that the District Magistrate/Collector, Meerut respondent No. 2 and the Additional District Magistrate (Joint Organisation), Meerut respondent No. 3 herein came to Plot No. 94 accompanied by police force at about 18.45 hours with bull dozers. One son of the original appellant went to the site and informed respondent Nos. 2 and 3 and the other police

officials not to take law into their hands in demolishing the boundary wall of their farm house, but despite the order of status quo passed by this Court they had demolished the boundary wall and the cattle sheds constructed by the original appellant in the middle of the plot. The appellants further alleged that respondents - contemnor nos. 2 and 3 threatened to hand over the possession of Plot No. 94 to some other persons and once the construction work would be completed on that plot, no Court would be able to get the possession restored to the original appellant. On these premises, the appellants have prayed to deal with the contemnors for wilful and intentional violation of the order of this Court dated 28.08.2001 and punish them in accordance with law.

Shri Shantanu Kumar Trivedi, Additional Commissioner, Meerut Division, (former Vice-Chairman), MDA, in his counter affidavit has stated that the lands forming part of Khasra Nos. 84 and 94 (plots) were acquired for and on behalf of MDA for construction of residential houses. The Land Acquisition Collector made an Award 18.09.1998 in respect of 12 biswas land forming part of Plot No. 94 and 3 bighas 16 biswas and 5 biswani land out of Khasra No. 84. He stated that MDA has full respect to the orders of the Courts and the status quo order passed by the Court was never disturbed by the MDA on the spot. It is his plea that after receiving the Report of Tehsil Lekpal as well as of the Engineer, the MDA demolished the existing unauthorized construction on Plot No. 88. The construction on Plot No. 94 after receipt of the Survey Report was left undisturbed. The deponent denied allegations of the appellants regarding encroachment by the MDA over Khasra No./Plot No.84. He stated that because of the operation of the status quo orders of this Court, the MDA could not oblige the original appellant to get the area demarcated. It is contended by the deponent that the allegations made in the contempt application by the appellants against the respondents are wholly false and baseless. However, the deponent submitted that he has not committed any contempt of the orders of this Court, still he has tendered unqualified apology for any inconvenience caused to this Court.

Shri Anoop Sharma, Assistant Engineer and Shri Girija Shankar Mall, Junior Engineer of MDA, have filed their separate counter affidavits. They have stated that the MDA has not at all disturbed the status quo order passed by this Court in regard to the Plot Nos./Khasra Nos. 84 and 94 as alleged by the appellants. Their stand is that it was only in respect of Plot No. 88 where development works were carried on as the said area was out of the purview of the orders of any court. The allegations of wilful disobedience of the status quo order passed by this Court are categorically denied by them. However, both the officials have tendered an unconditional apology.

Having heard the learned counsel for the parties and having scrutinized in detail the counter affidavits of the respondents, we are of the view that there is nothing before us to show that the respondents have wilfully flouted or intentionally violated the status quo order dated 10.07.2000 and 28.08.2001 passed by this Court. Therefore, it is not a fit case for initiating any proceedings for contempt against the respondents.

Consequently, the Contempt Petition stands disposed of. Notice discharged.