FULL BENCH
CIVIL MISCELLANEOUS

Before S. S. Sandhawalia, P. C. Jain and M. S. Gujral, JJ.

M/S. DAULAT RAM TRILOK NATH, ETC.,—*Petitioners.*

versus

THE STATE OF PUNJAB, ETC.,— *Respondents.*

Civil Writ No. 1377 of 1975.

April 15, 1976.

Constitution of India 1950—*Article* 226—*The Punjab Agricultural Produce Markets Act* (*XXIII of* 1961) *as amended by Act* 13 *of* 1974—*Section* 23—*Levy of enhanced fee under the amending Act declared unconstitutional—Claim for refund of such fee—Writ of* Mandamus—*Whether can or should issue.*

Held, that the *sine qua non* for the issuance of a writ of *mandamus* is the existence of a statutory or a public duty devolving upon the person or the body against whom the said writ is directed. Alongwith this must co-exist a corresponding right in the claimant which would entitle him to claim the enforcement of the said statutory or public duty. Unless these two pre-conditions are satisfied, the requisite foundation for the issuance of a writ of *mandamus* can hardly be said to exist. There is no statutory provision in the Punjab Agricultural Produce Markets Act 1961 or in the Rules framed thereunder, which impose upon the authorities any statutory public duty to refund unquantified sums of money. Similarly there is no provision which would inhere in the claimant a fundamental right to claim the refund. Indeed, in a contentious claim of money regarding which the parties are at issue, it cannot be said that there devolves on one a statutory or a public duty to pay money or a fundamental or unequivocal right to receive the same in the other. The necessary conditions precedent therefore, for the issuance of a writ of *mandamus* are thus non-existent. The high prerogative writ of *mandamus* would issue only to compel performance of constitutional, fundamental or public duties but every legal right would not entitle its claimant to a writ of *mandamus*. A writ of *mandamus* is issued to command and execute and not to enquire and adjudicate, not to establish a legal right but to enforce one. It is only where the legal public duty is clear, unqualified and specific that a writ of *mandamus* can be truly claimed. It has not to be granted where the claim has to be first established and adjudicated upon before it can be enforced. Thus a writ of *mandamus* is not maintainable exclusively for the recovery of a sum of money simpliciter.

(Paras 6, 7, 8 and 11)

Held, that the writ jurisdiction generally is discretionary but even stricter considerations apply as regards *mandamus*. It cannot

be said with any degree of plausibility that for a mere money claim the usual forms of the civil courts are powerless to afford relief or that they do not provide an adequate remedy to recover plain sums of money. The doors of the ordinary courts of civil jurisdiction are wide open for deciding contentious money suits and they are the true and correct forums for determining the plain issues of fact and law which might inevitably arise therein. The vast net work of the ordinary civil courts functioning for this purpose should not be denuded of their jurisdiction to adjudicate such claims and the superior courts should not take on an unnecessary and onerous burden which can be adequately and completely discharged by the lower courts and nor should the persons against whom such writs are claimed, be denied their ordinary right to defend the claim by ordinary process of evidence and trial and their consequential rights of appeal. Thus it is not a sound and proper exercise of judicial discretion to grant a writ of *mandamus* in a case of exclusive money claim.

(Paras 16 and 17)

Petition under Articles 226/227 *of the Constitution of India praying that*:—

(i) *A writ in the nature of* Mandamus *be issued thereby directing the respondents to refund the market fee amount received in excess, to the petitioners without any further delay.*

(ii) *A writ in the nature of* Certiorari *be issued thereby declaring Section* 31(2) *of the Punjab Agricultural Produce Markets Act,* 1961, *and further declaring Rule* 33 *subclause (e) of the Punjab Agricultural Marketing Rules (General)* 1962, *as illegal,* ultra-vires, *discriminatory and unconstitutional.*

(iii) *Any other suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case be issued, thereby quashing the impugned circular Memo No. Development* 1/11810 *to* 915, *dated 26th February,* 1975, *Annexure P.* 2.

(iv) *Costs of the petition be also awarded to the petitioner.*

(v) *Production of certified copies of Annexures P-*1 *and P-*2 *be dispensed with.*

*It is further prayed that pending decision of the Writ Petition the operation of the impugned order Annexure P-*2 *be stayed* ad-interim.

Kuldip Singh, Advocate with M/s. Rajeshwar Kumar Gupta, J. P. Singh Sandhu and R. L. Batta, Advocates,

H. L. Sibal, Advocate, with M/s. J. L. Gupta, N. K. Sodhi, and G. C. Garg, Advocates, *for the Respondent Nos. 2 and 3.*

D. N. Rampal, Assistant Advocate-General, *for the Respondent No. 1.*

JUDGMENT

S. S. SANDHAWALIA, J.—(1) Whether a writ of mandamus can or should issue for a claim of money simpliciter—is the significant issue which arises at the very threshold of this case admitted directly to a hearing by a Full Bench.

The facts are not in serious dispute. Thirty-one partnership business firms of Tarn Taran, District Amritsar, have jointly moved this writ petition to claim a writ of mandamus for the refund of unspecified sums of money which are alleged to have been paid by them under a mistake of fact or law to the Market Committee, Tarn Taran. It is the common case that under the earlier unamended section 23 of the Punjab Agricultural Produce Markets Act (hereinafter called the Act) the Market Committees were entitled to levy fee ad-valorem at the rate of Rs. 1.50 P. on the purchase or sale of agricultural produce worth Rs. 100 only. By the Ordinance No. 40 of 1974, the aforesaid section 23 was amended and the market fee was raised from Rs. 1.50 P. to Rs. 2.25 P. ad-valorem. This ordinance was later replaced by the Punjab Agricultural Produce Markets (Amendment) Act No. 13 of 1974 and was given retrospective effect from the date of the issue of the earlier Ordinance. The vires of the amending Act were challenged by a spate of writ petitions filed by business firms all over the State and it is not denied that some of the present petitioners were also parties to the said writ petitions. Two hundred and eleven such writ petitions came up together before a Division Bench consisting of Tuli and Pattar JJ., and were disposed of by a common judgment in *M/s. Hanuman Dall and General Mills, Hissar* v. *The State of Haryana and others* (1). Therein the amending Act enhancing the rate of the levy of market fee was struck down as unconstitutional. It is significant to note that in that set of writ petitions express prayers for the refund of the excess tax had been made but in the concluding and the operative part of the order, the Bench in terms observed that the impugned statute was being struck down but in

(1) A.I.R. 1976 Pb. and Hary. 1.

all other respects the writ petitions were being dismissed with no order as to costs. It was also noticed in the said judgment that no other point of substance apart from that challenging the vires of the statute had been urged before it and indeed it was the common case before us also that the matter regarding the refund of unquantified sums alleged to have been paid in excess was not pressed or argued before the Division Bench.

After the aforesaid decision had been rendered there arose a spate of writ petitions of the present nature claiming in effect that unquantified sums of excess tax alleged to have been paid under mistake of law or fact be directed to be refunded to the petitioners. On behalf of the respondents, a four-fold preliminary objection to the very competency of the writ petitions was raised. It was first alleged that a joint writ petition was not maintainable. Apart from this, it was highlighted that the remedy was misconceived and no writ petition under Article 226 of the Constitution for the mere recovery of money could lie and the petitioners must be relegated to filing regular civil suits therefor. Objection was also raised that the direction to refund could be given only by way of consequential relief in the petitions earlier filed but no refund having been granted therein a fresh writ for recovery of money alone was barred. The bar of limitation was pleaded on the ground that under the statutory provisions applicable the claim for refund was being made beyond a period of six months from the 8th of November, 1974, when the decision in *M/s. Hanuman Dal and General Mills' case* (supra) was rendered. Lastly it was claimed that the writ petitions be dismissed for having suppressed material facts on the point whether the sums claimed to be refunded had not been actually recovered by the petitioners from the buyers under the provisions of the Act and the Rules.

(2) As the very maintainability of the writs of this nature was put in serious doubt, the Motion Bench thought it expedient to place the matter even for admission before a Full Bench. On the 22nd of August, 1975, the Full Bench admitted this petition as a representative one of the nearly a hundred others of this nature, for a regular hearing.

To clear the ground I may at the very outset point out that on behalf of the thirty-one petitioner-firms here, the primary and indeed the sole relevant claim is the refund of unspecified sums of money

alleged to have been paid by them in excess of the lawful fee imposable upon them under the unamended Section 23 of the Act. This claim at once raises the issue whether the scope and nature of the writ of mandamus warrants its issuance for the purpose of recovery of money and money alone.

(3) There is no dispute (and indeed it was conceded to be so on behalf of the respondents) that the Courts under Article 226 of the Constitution whilst quashing a taxing statute or setting aside an illegal order can grant as a consequential relief the refund of illegally collected taxes or direct the payment of a specific amount of money. The particular issue, therefore, is whether in the absence of any challenge to a statutory provision or order, the relief for the payment of a sum of money simpliciter can be claimed.

(4) As will appear hereafter the issue is concluded against the petitioners by binding and authoritative precedent. Nevertheless the point is of adequate significance to merit a brief examination on principle as well.

(5) In Halsbury's Laws of England, the scope and the nature of a writ of mandamus has been pithily described as follows:—

> "The order of mandamus is an order of a most extensive remedial nature, and is, in form, a command issuing from the High Court of Justice, directed to any person, corporation, or inferior tribunal, requiring him or them to do some particular thing therein specified *which appertains to his or their office and is in the nature of a public duty.*"

The statement of the law on the scope of mandamus in Corpus Juris Secundum is—

> "* * as a writ commanding the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station. It is a proceeding to compel someone to perform some duty which the law imposes on him, and the writ may prohibit the doing of a thing, as well as command it to be done."

(6) It is evident from the aforementioned authoritative exposition of the law that the *sine qua non* for the issuance of a writ of *mandamus* is the existence of a statutory or a public duty devolving upon

the person or the body against whom the said writ is directed. Enquiry settled is that along with this must co-exist a corresponding right in the petitioner which would entitle him to claim the enforcement of the said statutory or public duty. Unless these two pre-conditions are satisfied, the requisite foundation for the issuance of a writ of *mandamus* can hardly be said to exist. Applying this twin test in the present case, I am of the view that neither one stands satisfied. The array of learned counsel for the petitioners were wholly unable to pin-point even a single statutory provision in the Agricultural Produce Market Act or the Rules framed thereunder, which imposed upon the respondent any statutory public duty to pay unquantified sums of money claimed on behalf of the numerous petitioners. Equally no provision in the same set of laws could be pointed out which would inhere in the petitioners a fundamental right to the relief which they seek to claim. Indeed on the face of it, (as in the present case) in a contentious claim of money regarding which the parties are at issue, it can hardly be ever said that there devolves on one a statutory or a public duty to pay money or a fundamental or unequivocal right to receive the same in the other. The necessary conditions precedent, therefore, for the issuance of a writ of *mandamus* are thus non-existent.

(7) Authoritative legal opinion has repeatedly highlighted the fact that the high prerogative writ of *mandamus* would issue only to compel performance of constitutional, fundamental or public duties. It needs no great erudition to say that every legal right would not entitle its claimant to a writ of *mandamus*. Can a mere claim of money be raised to the pedestal of a statutory or fundamental right ? I believe that the answer to such a query must necessarily be in the negative. As in the present case, the petitioners rest their claim either in contract or in tort. Is a contractual right to money or a tortious claim of damages competent to be treated as a statutory or a fundamental right ? I believe that it can possibly be termed neither one nor the other. It has to be borne in mind that not all claims of legal right stand on the exalted footing of statutory and fundamental rights or their corresponding duties for which alone the writ of *mandamus* is a competent remedy.

(8) The primary scope and the function of a writ of *mandamus* has been pithily expressed in the phrase that this writ is issued to command and execute and not to enquire and adjudicate; not to establish a legal right but to enforce one. It is only where the legal

public duty is clear, unqualified and specific that a writ of *mandamus* can be truly claimed. It has not to be granted where the claim of the petitioner has, in fact, to be first established and adjudicated upon before it can be enforced. As in the present case, a variety of financial claims on behalf of the petitioners have been contested on a number of grounds by the respondents which would make it patent that these have first to be established That obviously is not the scope of a writ of *mandamus*. Ferris in his authoritative work on the Law of Extraordinary Legal Remedies has this to say on the point—

> "The office of *mandamus* is to execute, not adjudicate. It does not ascertain or adjust mutual claims or rights between the parties. If the right be doubtful, it must be first established in some other form of action, *mandamus* will not lie to establish as well as enforce a claim of uncertain merit. It follows, therefore, that *mandamus* will not be granted where the right is doubtful."

(9) I refrain from enlarging the examination of the issue on principle, because, as already observed, the matter seems to be well covered by precedent. On the scope and nature of the jurisdiction in a writ of mandamus, it suffices to recall the following observations of their Lordships in *Lekhraj Sathramdas Lalvani* v. *N. M. Shah, Deputy Custodian-cum-Managing Officer, Bombay and others*, (2)—

> "But even on the assumption that the order of the Deputy Custodian terminating the management of the appellant is illegal, the appellant is not entitled to move the High Court for grant of a writ in the nature of mandamus under Article 226 of the Constitution. *The reason is that a writ of mandamus may be granted only in a case where there is a statutory duty imposed upon the officer concerned and there is a failure on the part of that officer to discharge that statutory obligation. The chief function of the writ is to compel the performance of public duties prescribed by statute and to keep the subordinate tribunals and officers exercising public functions within the limits of their jurisdictions.* In the present case, the appointment of the appellant as a Manager by the Custodian by virtue of his power under section 10(2)(b) of the 1950 Act is contractual in its

(2) A.I.R. 1966 S.C. 334.

nature and there is no statutory obligation as between him and the appellant. In our opinion, any duty or obligation falling upon a public servant out of a contract entered into by him as such public servant cannot be enforced by the machinery of a writ under Article 226 of the Constitution."

(10) However, the case which directly and conclusively covers the matter against the petitioners is *Suganmal* v. *State of Madhya Pradesh and others,* (3). Therein also the petitioner had exclusively claimed the refund of tax alleged to have been illegally collected from him by the respondent-State of Madhya Pradesh. The High Court dismissed the petition and on appeal, their Lordships of the Supreme Court concretely formulated and considered the proposition whether the petition under Article 226 of the Constitution praying solely for the refund of money alleged to have been illegally collected as tax by the State was maintainable. They answered the same in unequivocal terms as follows :—

"We have not been referred to any case in which the Courts were moved by a petition under Article 226 simply for the purpose of obtaining refund of money due from the State on account of its having made illegal exactions. We do not consider it proper to extend the principle justifying the consequential order directing the refund of amounts illegally realised, when the order under which the amounts had been collected has been set aside, to cases in which only orders for the refund of money are sought. The parties had the right to question the illegal assessment orders on the ground of their illegality or unconstitutionality and, therefore, could take action under Article 226 for the protection of their fundamental right and the Courts, on setting aside the assessment orders, exercised their jurisdiction in proper circumstances to order the consequential relief for the refund of the tax illegally realised. We do not find any good reason to extend this principle and, therefore, hold that no petition for the issue of a writ of mandamus will be normally entertained for the purpose of merely ordering a refund of money to the return of which the petitioner claims a right."

(3) A.I.R. 1965 S.C. 1740.

Following the abovesaid decision, a Full Bench presided over by Chief Justice T.V.R. Tetachari in *Messrs Mohan Meakin Breweries Ltd.* v. *Union of India and others,* (4), has categorically opined that a writ of mandamus is not competent in respect of a mere money claim. In coming to the aforesaid conclusion, the Full Bench approved the identical view by an earlier Division Bench in *Messrs Air Foam Industries* (P) *Ltd. New Delhi and another* v. Union of India and *others,* (5). Therein the Bench in a very exhaustive and considered judgment dismissed the writ petition *in limine* (after notice of motion to the respondents) and concluded as follows :—

> "In substance the present petition amounts to invoking the jurisdiction of the High Court under Article 226 to decide a money suit. The jurisdiction conferred by Article 226 is not meant for this purpose. If money is due to the petitioners their remedy is in the ordinary Courts of law by a civil action."

(11) In the light of the afore-mentioned discussion I conclude that both on principle and precedent, a writ of mandamus is not maintainable exclusively for the recovery of a sum of money simpliciter.

(12) Before parting with this aspect of the case, I feel bound to refer to *M. Abdul Hassan and others* v. *State of Orissa and others* (6) and *Satya Bhushan Ray and others,* v. *State of Orissa and others* (7) upon which strong reliance was placed on behalf of the petitioners. Undoubtedly these judgments lend support to the proposition canvassed by the learned counsel. However with respect, I must regret my inability to follow the view delineated therein for the reasons which appear hereafter.

(13) It may first be noticed that in *Satya Bhushan's case* the same Division Bench merely followed its own earlier precedent in *M. Abdul Hassan's case* without any independent or additional reasoning. The two judgments, therefore, are in effect one. The fatal

(4) A.I.R. 1975 Delhi 248.
(5) 1974 D.L.T. 120.
(6) A.I.R. 1969 Orissa 180.
(7) A.I.R. 1969 Orissa 182.

fallacy from which the aforementioned cases seem to suffer is their failure to notice *Sugganmal* v. *State of Madhya Pradesh and others,* (8) which directly covers the issue of all fours, as I have already noticed. It is apparent from a close perusal of these judgments that this binding precedent was not brought to the notice of the learned Judges of the Division Bench at all. Secondly it has to be borne in mind that in the Orissa cases the learned Judges relied primarily on *State of Madhya Pradesh* v. *Bhailal Bhai,* (9) for arriving at their conclusion. Now it is significant to remember that in *Sugganmal's case* (supra), their Lordships had themselves considered and extensively quoted from their earlier precedent *in Bhailal Bhai's case* and it was thereafter that they concluded that no writ of mandamus exclusively for refund of tax was maintainable. The construction which the Supreme Court itself places on an earlier precedent is obviously binding and authoritative and it may, therefore, be aptly said the Orissa Bench did not correctly appreciate the ratio in *Bhailal Bhai's case.* Indeed a close reference to that judgment does not at all evidence any such fact that the claim therein was exclusively and only for money.

(14) Again a close perusal of the judgment in *M. Abdul Hassan's case* would reveal that the issue was apparently not adequately canvassed before their Lordships either on principle or on the basis of the relevant case law. There is no adequate discussion of the point on first impression, and as I have already mentioned, the Bench came to the conclusion primarily upon its construction of some earlier Supreme Court authorities. Their reliance on *Bhailal Bhai's case* was not well merited. Equally the other judgments to which a reference has been made do not appear to me as directly covering the issue. Consequently I feel compelled to hold that the view expressed in the Orissa cases runs directly contrary to the *ratio deci dendi* laid down by their Lordships of the Supreme Court *in Sugganmal's* case. I would, therefore, respectfully dissent from the Orissa cases.

(15) I may also briefly brush aside the reliance on behalf of the petitioners on *Caltex (India) Ltd. Indore* v. *Assistant Commissioner of Sales Tax, Indore Region, Indore and another,* (10). This judgment clearly reveals that the claim therein was for the quashing

(8) A.I.R. 1965 S.C. 1740.
(9) A.I.R. 1964 S.C. 1006.
(10) A.I.R. 1971 Madhya Pradesh 162.

of the order of the Assistant Commissioner of Sales Tax and a consequent refund resulting therefrom. The Bench set aside the relevant part of the impugned order and as an additional relief directed the refund of the tax which had been deposited in pursuance of the same. This case obviously is not one of an exclusive claim of money and as noticed earlier, there is no quarrel with the legal proposition that refund of tax or a payment of money may certainly be ordered as a matter of consequential relief.

(16) I may now proceed to examine the second facet of the issue. Assuming entirely for the sake of argument that a writ of *mandamus* is competent (as an abstruse legal proposition), the question still remains whether it is a sound and proper exercise of judicial discretion to grant the same in a case of exclusive money claim. It is axiomatic that the writ jurisdiction generally is discretionary but it appears to me that even stricter considerations apply as regards *mandamus*. In the Corpus Juris Secundum, this is highlighted by the following statement of law :—

> "*Mandamus* is very generally described as an extraordinary remedy in the sense, as discussed infra 17—29, that it can be used only in cases of necessity where the usual forms of procedure are powerless to afford relief; where there is no other clear, adequate, efficient, and speedy remedy."

It is unnecessary to quote extensively from Halsbury's Laws of England, and it suffices to say that therein also an identical view of the law finds mention.

(17) Applying the aforesaid dictum here, can it be said with any degree of plausibility that for a mere money claim the usual forms of the civil Courts are powerless to afford relief or that they do not provide an adequate remedy to recover plain sums of money? The doors of the ordinary Courts of Civil jurisdiction are wide open for deciding contentious money suits. Indeed they appear to my mind as the true and correct forums for determining the plain issues of fact and of law which might inevitably arise therein. Why should the vast net-work of the ordinary civil Courts functioning for this very specified purpose be denuded of their jurisdiction to adjudicate such claims? Why should the superior Courts take on an unnecessary and onerous burden which can be adequately and

competently discharged by the lower Courts? Why should the respondents be denied their ordinary right to defend the claim by the ordinary process of evidence and trial and their consequential rights of appeals ? All these are matters which deserve a cogent answer but when posed to the learned counsel for the petitioners they could hardly advance any adequate reply.

(18) In the exercise of their power of judicial review, it is not exceptional for the High Courts to strike down the provisions of taxing statutes or mandatory rules framed thereunder. This would inevitably raise innumerable claims of money both by those who had challenged these provisions as also by others who had not been equally vigilant. If it were to be held that all such claims can become directly matters for a *mandamus* by the High Court, it would inevitably open a pandora's box of ills for the superior Courts, flooding them with varied, diverse, and contentious claims of money alone. I believe judicial notice can well be taken of the fact as to how overburdened the writ jurisdiction of High Courts has become in the last two decades. I, therefore, think that on such empirical considerations also it is hardly a sound discretion for the High Court to entertain a mere money claim in its extraordinary writ jurisdiction when the same can be adequately dealt with in other forums.

(19) Apart from first impression, binding precedent also seems to me to lean heavily against the exercise of such discretion for recovery of money claims alone. The only judgment of this Court brought to our notice is categorical. In 10(A) *Messrs Ram Chand Syam Dass* v. *The State of Haryana and another* decided on 11th October, 1972, Tuli, J., rejected a similar claim for a *mandamus* to refund the tax as wholly misconceived within the writ jurisdiction. Even in *Bhailal Bhai's case* (supra) on which some misplaced reliance was made on behalf of the petitioners, it has been observed as follows :—

> "At the same time we cannot lose sight of the fact that the special remedy provided in Article 226 is not intended to supersede completely the modes of obtaining relief by an action in a civil court or to deny defences legitimately open in such actions. It has been made clear more than once that the power to give relief under Article 226 is a discretionary power. This is specially true in the case of power to issue writs in the nature of *mandamus*."

10 A C.W. 1317 of 1972, decided on 11th October, 1972.

Lastly it is fair to recall that in *Suganmal's case* (supra), their Lordships concluded as follows on this issue:—

> "We, therefore, hold that normally petitions solely praying for the refund of money against the State by a writ of *mandamus* are not to be entertained. The aggrieved party has the right of going to the civil Court for claiming the amount and it is open to the State to raise all possible defences to the claim, defences which cannot, in most cases, be appropriately raised and considered in the exercise of writ jurisdiction."

Following the above-quoted binding observations, I would decline to exercise the judicial discretion in favour of the petitioners and relegate them to their ordinary remedy by way of civil action which can easily provide them with full and adequate relief.

(20) In fairness to the respondents, it must be noticed that it was strenuously submitted on their behalf that the claims of some of the petitioners for refund were clearly barred on the principles of constructive *res-judicata*. This was primarily on the ground that these petitioners were parties to the earlier set of writ petitions challenging the vires of the amending statute and the Division Bench in that case bad not granted them the relief of refund, though the claim therefor had been duly made in those writ petitions. An argument was also advanced on behalf of the respondents that consequently in the present writ petition there was a patent misjoinder of parties and causes of action. Again the bar of limitation was raised on the provisions of section 31 of the Punjab Agriculture Produce Market Act, 1961, and Rule 33 of the Punjab Agricultural Produce Markets (General) Rules, 1962. Ancillary issues as to the *terminus a quo* for the commencement of the period of limitation were also raised claiming that the time should run against the petitioners from the 30th of April, 1974, and not from the 8th of November, 1974, when the judgment in the previous set of writ petitions was pronounced. In face of all these defences raised on behalf of the respondents it was claimed that in any case triable issues of fact and law had arisen which would further negate the right of the petitioners to claim any relief within the writ jurisdiction.

(21) In view of the fact that I have declined relief to the petitioners on the preliminary ground, I do not propose to examine these

collateral matters. The writ petition is consequently dismissed leaving the petitioners to seek their ordinary remedies at law, and without any order as to costs.

April 15, 1976.

Prem Chand Jain, Judge—I agree.

Man Mohan Singh Gujral, Judge.—I agree.

N.K.S.

FULL BENCH

CIVIL MISCELLANEOUS

Before Prem Chand Jain, Bhopinder Singh Dhillon and A. S. Bains, JJ.

RATTAN SINGH AND ANOTHER,—*Petitioner.*

versus

THE STATE OF PUNJAB, ETC.,—*Respondents.*

Civil Writ No. 6535 of 1975.

April 23, 1976.

Land Acquisition Act (I of 1894)—Section 4—Notification under—Publicity of the substance of such notification in the concerned locality—Whether to be simultaneous with or atleast immediately after its publication in the official gazette.

Held, that the object of giving publicity of the substance of the notification in the concerned locality is to make known to the affected persons the intention of the Government to acquire land so as to give opportunity to the land owners to file objections under section 5A(1) of the Land Acquisition Act 1894 against the proposed acquisition. In our country the illiterate people cannot be expected to have the knowledge of the intended acquisition merely from the publication made in the official gazette. The Legislature purposely made the provision of giving public notice of the substance of such notification at convenient places in the concerned locality with a view to give direct information of the proposed acquisition to the affected persons. If the publication in the concerned locality is not