contained in section 3(1) (c) of the Act, the respondent-municipality would have had an opportunity of swearing an affidavit as to the facts relevant for that purpose and this Court could then possibly have gone into that matter. As already stated, no such thing has been done in this case. We are, therefore, unable to entertain this new plea sought to be raised by the appellants during the hearing of this appeal for the first time.

(9) No other point having been argued by Mr. Mittal before us, we uphold the judgment of the learned single judge, though on different grounds than those which appealed to him. This appeal, therefore, fails and is accordingly dismissed, though without any order as to costs.

S. B. CAPOOR, J.—I agree.

R.N.M.

FULL BENCH

Before Daya Krishan Mahajan, Shamsher Bahadur and R. S. Narula, JJ.

THE PRINTERS HOUSE PRIVATE LTD., *Appellants.*

versus

MISRI LAL AND OTHERS,—*Respondents.*

Letters Patent Appeal No. 20 of 1966

April 18, 1969.

Land Acquisition Act (I of 1894)—Section 17 (as amended by Punjab Act II of 1954, Punjab Act XVII of 1956 and Punjab Act XLVII of 1956)—Ground of urgency of a public purpose—Whether justiciable—S. 17(2)(c)—Whether to be read ejusdem generis for the purposes enumerated in section 17(2)(a) and 17(2)(b)—Doctrine of ejusdem generis—Meaning and scope of-stated.

Held, that the ground of urgency of a public purpose as envisaged in section 17 of Land Acquisition Act, 1894 is not a matter purely for the subjective satisfaction of the Government. It is possible to envision cases where the Government may act under section 17 of the Act, without there being any real urgency in the matter. The Court, may therefore determine

the question whether the decision reached about the subjective satisfaction of the Government on the question of urgency is the one which could have been so reached reasonably. If the question of urgency has been decided on grounds which are non-existent or irrelevant, or on material on which it would be an impossible conclusion to reach, it can legtimately be inferred that the mind has not been applied at all. The question must be examined by the Court before it can be found that the decision is reasonable. The question is not such which can be declared non-justiciable outright.

(Paras 11, 12 and 13).

Held, that clause (c) of section 17(2) of the Act deals with a single class of cases where land is required for a public purpose which in the opinion of the appropriate Government is of urgent importance. This clause mentions only one situation and one alone, there obviously cannot be any category to which the doctrine of *ejusdem generis* may apply. The essential pre-requisite of the doctrine is that there must be coupling of words together to show that they are to be understood in the same sense. Clause (b) of section 17(2) of the Act deals with six situations which in the opinion of the Collector require immediate possession. Caluse (c) deals with the acquisition of land which in the opinion of the appropriate Government, and not of the Collector, is of urgent importance. From whatever perspective the contents of clauses (a), (b) and (c) of section 17(2) of the Act are viewed, they deal not only with separate and distinct matters and situations but in fact each of the clauses constitutes a different category altogether. They cannot therefore be read *ejusdem generis*. (Paras 16, 18 and 20).

Held, that *ejusdem generis*, as a maximum of construction, as opposed to a rule of law, literly means "of the same kind or species". The doctrine is hardly applicable where the intention of the Act is otherwise clear. If a general word is added to specific words, the general word will take its colour from the specific words, and when there are no specific words, the rule of *ejusdem generis* will not be applicable. (Para 18).

Case referred by Hon'ble the Chief Justice Mr. Mehar Singh and the Hon'ble Mr. Justice Harbans Singh on 25th April, 1967 to a Full Bench for decision of an important questions of law involved in the case. The Full Bench consisting of the Hon'ble Mr. Justice D. K. Mahajan, the Hon'ble Mr. Justice Shamsher Bahadur and the Hon'ble Mr. Justice R. S. Narula after deciding the law point referred to them, returned the case back to the Division Bench for final decision on 18th April, 1969.

Letters Patent Appeal under Clause 10 of the Letters Patent against the judgment and decree of the Hon'ble Mr. Justice A. N. Grover, on 28th October, 1965, passed in RSA. 1536 of 64.

J. N. KAUSHAL, SENIOR ADVOCATE, WITH ASHOK BHAN, ADVOCATE, for the Appellant.

H. L. SARIN, SENIOR ADVOCATE, WITH H. S. AWASTHY AND A. L. BAHL, ADVOCATES, for the Respondents 1 and 3.

D. S. TEWATIA, ADVOCATE, FOR ADVOCATE-GENERAL, (HARYANA), for Respondent No. 2.

ORDER OF THE FULL BENCH.

SHAMSHER BAHADUR, J.—Two letters patent appeals, *The Printers House (Private) Limited* v. *Misri Lal, etc.*, (L.P.A. No. 20 of 1966) and *State of Punjab* v. *Misri Lal, etc.* (L.P.A. No. 29 of 1966) arising out of the same judgment of Grover, J., of 28th October, 1965 in *Misri Lal* v. *Punjab State*, (R.S.A. No. 1536 of 1964) referred to a Full Bench by the order of the Division Bench of Chief Justice Mehar Singh and Harbans Singh J., of 25th April, 1967, would be disposed of by this judgment. The question of law which has arisen in these appeals is common to Civil Writ No. 917 of 1967, which in consequence of the referring order of Mahajan J., of 28th November, 1967, is also before us. Mahajan J., directed this writ petition to be heard along with the letters patent appeals, the question of law being the same. As this writ petition will have to be decided on its own facts, it would go before a learned Single Judge for disposal in accordance with the decision of this Full Bench on the legal questions. The direction which is being given towards the close of this judgment with regard to this writ petition is that it should be listed for hearing next week before a learned Single Judge.

(2) It would be necessary to reiterate the facts set out in detail both by the learned Single Judge in the judgment under appeal and Harbans Singh, J., in the referring order as it is eventually on these that the decision would turn after the Full Bench has formulated its opinion on the questions of law referred to it.

(3) Land measuring 113 Kanals and 17 Marlas in village Ranhera in Ballabgarh tehsil, out of which an area of 12 Kanals and 1 Marla is in possession of the respondent Misri Lal, for carrying on the business of running an electric wooden saw mill and chaff-cutting machine, came to be acquired by two notifications issued by the State of Punjab on 28th March, 1961, the first under section 4 of the Land Acquisition Act, 1894 (hereinafter called the Act) and the second under the provisions of section 17. It is interesting to observe in retrospect that the object of urgency has been frustrated altogether by a resort to the

special provisions of section 17, the validity of which has been the primary concern of the litigation giving rise to these letters patent appeals. The case is not a solitary illustration of its kind and might usefully provide the State Government with an object lesson that acquisition of land for public purposes can be effectuated more speedily by taking the ordinary recourse of notification under section 4, instead of coupling it with a simultaneous notification under section 17—a procedure which not infrequently generates discussion and controversy. The only advantage to be gained by invoking the urgency provisions of section 17 of the Act is to get over the time-consuming process of hearing objections to acquisition under section 5-A and in many cases one is left to wonder whether out of the two choices the hearing of objections would not in the long run have been a process involving a shorter period which elapses between the issue of intention notification under section 4 and the actual possession of the land to be acquired.

(4) In the second notification it was mentioned that in view of the urgency of the acquisition, the Governor of the Punjab in exercise of the powers vested in him under section 17(2)(c) of the Act directed the Land Acquisition Officer, Palwal, to proceed to take possession at once. The threat of immediate possession stirred Misri Lal, the occupier of a portion of the acquired land, to come first to this Court in writ proceedings. While Grover J., declined to interfere in view of the disputed questions of fact raised in the petition, it was mentioned in his order of 16th August, 1962, in Civil Writ No. 709 of 1961, that the matters agitated could more appropriately be decided in a suit. The suit giving rise to these appeals was then field by Misri Lal, under section 54 of the Specific Relief Act on 13th November, 1962, in the Court of the Senior Subordinate Judge, Gurgaon. The relevant issues which arose from the pleadings are these:—

> "5. Whether the notifications under sections 4 and 6, read with section 17, of the Land Acquisition Act were illegal and *ultra vires* ?
>
> (6) Could not the Government take possession of the land in suit under section 17 of the Land Acquisition Act?"

It would be rightly observed that the real issue in the case related to the validity of the power exercised by the Governor under section 17

of the Act. The suit was dismissed by the trial Judge on 28th November, 1963 and the appeal of the plaintiff was dismissed on 7th November, 1964. The second appeal to the High Court met with success and Grover, J., relying on the Division Bench judgment of Mahajan, J. and myself in *Murari Lal Gupta* v. The State of Punjab (1), quashed the impugned notification under section 17 and allowed the appeal on 28th October, 1965. As the whole legal controversy revolves on the scope and content of section 17, more particularly clause (c) of its sub-section (2), the entire section, as amended in its application to the State of Punjab by Punjab Act 2 of 1954, Punjab Act 17 of 1956 and Punjab Act 47 of 1956, may be reproduced:—

"17(1) In cases of urgency whenever, the appropriate Government so directs, the *Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1) take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

Explanation.—* * * *

(2) In the following cases, that is to say,,—

(a) Whenever owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat, station or of providing convenient connection with or access to any such station;

(b) Whenever in the opinion of the Collector it becomes necessary to acquire the immediate possession of any land for the purpose of any library or educational institution or for the construction, extension or improvement of any building or other structure in any village for the common use of the inhabitants of such village or any godown for any society registered under the Co-operative Societies Act, 1912 (Act II of 1912), or any dwelling-house for the poor, or the construction of

(1) I.L.R. (1964) 2 Punj: 405:

labour colonies or houses for any other class of people under a Government-sponsored Housing Scheme, or any irrigation tank, irrigation or drainage channel, or any well, or any public road;

(c) whenever land is required for a public purpose which in the opinion of the appropriate Government is of urgent importance;

the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the appropriate Government enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances :

Provided, that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do .. .. ..

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crop and trees (if any) on such land and for any other damage sustained by them caused by sudden dispossession. . .

(4) In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1) or sub-section (2) are applicable, the appropriate Government may direct that the provisions of section 5-A shall not apply....."

(5) The pith and substance of the urgency provisions reproduced above is that waste or arable land needed for a public purpose or a Company may be taken possession of after 15 days of the publication of the notice under sub-section (1) of section 9 in case of emergency, while under sub-section (2) the Railway Administration under clause (a), the Collector under clause (b) in specified cases and the State Government under clause (c) wherever it considers the public purpose to be of urgent importance may through a Collector acquire immediate possession of the land without resort to the provisions of section 5-A of the Act.

(6) In *Murari Lal Gupta's case* (1), the acquisition of petitioner's land in village Bohar was notified under section 4 for the construction of 'Text Books Sales Depot' at Rohtak and under the urgency provisions of section 17 without resort to the intervening processes of sections 5-A and 6 of the Act. It was stated by the counsel for the State that the action had been taken under clause (c) as the appropriate Government considered the purpose to be of urgent importance. It was said by the Division Bench that in certain emergent situation the Government is empowered to take possession of the land on the ground of its urgent requirement. If the land is waste or arable, it may be acquired under sub-section (1). Even if the land is neither waste nor arable, it can still be acquired under clauses (a) and (b) of sub-section (2) for certain specified purposes. Clause (a) of sub-section (2) deals with a situation which does not brook of any delay and manifestly the purpose of acquisition would be defeated altogether if the usual formalities prescribed in the various sections of the Act are not dispensed with. Clause (b) of sub-section (2) sets out further special purposes for which acquisition under section 17 may be resorted to. Being of the opinion that the construction of a Text Books Sales Depot did not fall under any of the purposes mentioned in clauses (a) and (b), it was observed by the Bench that :—

> "Clause (c) of sub-section (2) introduced by the Punjab Amending Act no doubt enlarges the scope of acqusition but it has to be read *ejusdem generis* with clauses (a) and (b) where specific purposes for which acquisition can be made under section 17, are definitely set out. Clearly, the construction of a depot for sale of text books is not in line with the purposes specified in clauses (a) and (b) of sub-section (2) of section 17 and it cannot be defended on the specious ground that the Government considers the purpose to be of urgent importance."

In other words, the purpose does not become of urgent importance by the Government merely calling it so.

(7) Two distinct propositions of law can be spelled out from the decision in *Murari Lal Gupta's* case. First, that the Court is entitled to examine the question whether there is *prima facie* ground for urgency, and secondly, that clause (c) has to be read *ejusdem generis* for the purposes enumerated in clauses (a) and (b).

(8) The notification issued under clause (c) of sub-section (2) of section 17 having been set aside by the Bench in *Murari Lal's* case (1) a fresh notification was issued on 11th June, 1964 under section 4 of the Act, and this time it was made clear that the acquisition was made under the provisions of sub-section (1) of section 17 of the Act and that the Text Books Sales Depot at Rohtak was required to be set up urgently. Again, it was mentioned that the provisions of setcion 5-A would not apply in regard to this acquisition. Murari Lal Gupta again chalienged this notification and the case was eventually heard by a Full Bench of Capoor, Dua, and Pandit, JJ. in *Murari Lal Gupta* v. *The State of Punjab and others* (2). The petition, which was dismissed by the Full Bench, also considered the earlier judgment of Mahajan, J. and myself in *Murari Lal Gupta* v. *The State of Punab* (1) and as observed by Grover, J. in the judgment under appeal, the learned Judges of the Full Bench did not differ from the conclusions reached by Mahajan, J. and myself. Grover, J. after considering the impact of the Full Bench decision on the earlier decision in Murari Lal *Gupta* v. *The State of Punjab* (1) allowed the appeal and quashed the notification in question. Two letters patent appeals were preferred, one by the Printers House (Private) Limited, at whose instance and for whom the acquisition had been made by the State Government, and the second by the State of Punjab (now the successor State of Haryana), these being L.P.As Nos. 20 and 29 of 1966.

(9) Before the Letters Patent Bench, a point was taken that the observations made by the Division Bench in *Murari Lal Gupta's* case (1) regarding the applicability of the doctrine of *ejusdem generis* were open to question and being of the opinion that the matter required reconsideration on this score reference has been made for decision by a Full Bench.

(10) Besides the two propositions of law, decided by the Division Bench in ILR (1964) 2 Punjab 405, to which reference has just been made, there is yet a third question which arises for determination, that being whether on the facts established in this case there is ground for the opinion of the appropriate Government that the acquisition is of urgent importance under clause (c) of sub-section 2 of section 17 of the Act?

(2) I.L.R. (1966) 1 Punj. 411 (F.B.) =1966 P.L.R, 1 (F.B.):

(11) The first question, to which we must now turn, is concerned with the question whether at all the ground of urgency of a public purpose is justiciable? It has been very vehemently urged by Mr. Jagan Nath Kaushal, the learned counsel for the appellant, that the Full Bench of this Court in *Murari Lal Gupta* v. *State of Punjab* (2), has taken the view that the existence of urgency is a matter purely for the subjective satisfaction of the Government and is not debatable in a Court of law. There is no doubt that some of the observations made in the Full Bench case support this contention. The question is dealt with at page 7 in these words:—

> "The question now arises as to whether this Court can go into the matter at all or is it solely for the Government to decide whether in a particular case an urgency exists or not. This question came up for consideration before a Bench of the Madras High Court consisting of Rajamannar, C.J. and Venkatarama Aiyar, J. in *A. Natesa Asari* v. *State of Madras and another* (3), where it was held that whether an urgency existed or not was a matter solely for the determination of the Government and it was not a matter for judicial review. This decision was followed by the Andhra Pradesh High Court in *V. Harihara Prasad* v. *K. Jagannadham* (4)."

The Full Bench, however, noted that it is possible to envision cases where the Government may act under section 17 without there being any real urgency in the matter and such a notification would be open to the criticism that it has been issued without the authority of law. The Full Bench also noted the following observation in the Mysore case of *Kashappa Shivappa* v. *Chief Secretary to the Government of Mysore and others* (5):—

> "The opinion formed by the Government in their mind of the existence of urgency may be above judicial review; but there may be a case in which High Court may yet find it possible to say that that opinion is an impossible opinion either by reason of the fact that it rests upon no ground at all or rests on grounds which are demonstrated to be thoroughly irrelevant."

(3) A.I.R. 1954 Mad. 481.
(4) A.I.R. 1955 Andhra 184.
(5) A.I.R. 1963 Mysore 318.

The conclusion of the Full Bench in *Murari Lal Gupta's* case (2) is as follows:—

> "Thus, it would be seen that all the authorities, referred to above, have taken the view that the question whether an urgency exists or not is a matter solely for the determination of the Government and it is not a matter for judicial review. The learned Judges of the Mysore High Court, however, have put a rider to this broad proposition, when they stated that there might be a case in which High Court might yet find it possible to say that the opinion formed by the government was an impossible opinion either by reason of the fact that it rested upon no ground at all or rested on grounds which were demonstrated to be thoroughly irrelevant. They are, however, of the view that the opinion clearly formed by the Government in their mind of the existence of urgency was above judicial review and the High Court could not substitute its own opinion for the opinion of the Government that the case was, undoubtely, one of urgency."

The learned Judges of the Full Bench seem to have recognised the cogency of the argument of the Mysore Court in the observation made by Pandit, J., speaking for the Court, at page 10:—

> "Thus, the opinion about the urgency formed by the Government in the present case was not an unreasonable one."

(12) The language in which this conclusion is clothed makes it clear to us that the Court may determine the question whether the decision reached about the subjective satisfaction of the Government on the question of urgency is the one which could have been so reached reasonably. It is unnecessary to discuss the authorities to which reference has been made in the Full Bench of this Court in view of the latest pronouncement of the Supreme Court in *Raja Anand Brahma Shah* v. *The State of Uttar Pradesh and others* (6) Emphasising that the declaration made by the State Government in a notification that the land is required for a public purpose is conclusive on the point regarding the existence of the public purpose, as was also decided in an earlier Supreme Court judgment in *Somawanti* v. *State of Punjab* (7), it was further held that a notification under section 17 of the Act

(6) A.I.R. 1967 S.C. 1981.
(7) A.I.R. 1967 S.C. 151.

directing that the provisions of section 5A shall not apply may in certain cases be declared *ultra vires*. Speaking for the Court, Mr. Justice Ramaswami observed at page 1086:—

> "If therefore in a case the land under acquisition is not actually waste or arable land but the State Government has formed the opinion that the provisions of sub-section (1) of section 17 are applicable, the Court may legitimately draw an inference that the State Government did not honestly form that opinion or that in forming that opinion the State Government did not apply its mind to the relevant facts bearing on the question at issue. It follows, therefore, that the notification of the State Government under section 17(4) of the Act directing that the provisions of section 5A shall not apply to the land is *ultra vires*."

What is said of sub-section (4) of section 17 applies with full force to sub-section (2) with which we are concerned in these appeals. In reaching this conclusion the Supreme Court was influenced by the following observation made by the Judicial Committee of the Privy Council in *Ross Clunis* v. *Papadopoullos* (8):—

> "Their Lordships feel the force of this argument, but they think that if it could be shown that there were no grounds upon which the Commissioner could be so satisfied, a Court might infer either that he did not honestly from that view or that in forming it he could not have applied his mind to the relevant facts."

(13) We think, therefore, that if the question of urgency has been decided on grounds which are non-existent or irrelevant, or on material on which it would be an impossible conclusion to reach, it could legitimately be inferred that the mind has not been applied at all. Even Mr. Kaushal conceded that the proved *mala fides* would alter the complexion of the conclusion reached on subjective satisfaction on the question about the existence of urgent importance or urgency. It seems manifest to us that the question must be examined by Court before it could be found that the decision was reasonable. In other words, the question is not such which could be declared non-justiciable outright.

(8) 1958—1 W.L.R. 546.

(14) Turning now to the second question about the reasoning employed by the Division Bench in *Murari Lal Gupta's case* (1), regarding the rule of *ejusdem generis*, it may first be observed that clauses (a), (b) and (c) of sub-section (2) of section 17 provides for three separate and distinct situations. Clause (a) deals with an emergency which requires an immediate solution without any possible delay. A sudden change in the channel of any nevigable river or other unforeseen situation may compel the Railway Administration to acquire immedate possession of any land for the maintenance of any railway traffic or for the purpose of making thereon a river-side or ghat, or a station. Manifestly, the sole judge of the situation in such a case is the Railway Administration and as was observed by the Division Bench, the problem posed before the concerned authority does not brook of any delay in its solution.

(15) Clause (b) is concerned with six purposes for which in the opinion of the Collector, land is urgently required, such enumerated purposes being for—

(i) any library or educational institution,

(ii) construction, extension or improvement of any building or other structure in any village for the common use of the inhabitants of such village,

(iii) any godown for any society registered under the Co-operative Societies Act, 1912;

(iv) any dwelling-house for the poor, or the construction of labour colonies or houses for any other class of people under a Government-sponsored Housing Scheme;

(v) irrigation tank, irrigation or drainage channel, or any well, and

(vi) any public road.

The purposes differ in their range and variety and it may be possible to categories them under the head of 'public utility'.

(16) Clause (c), in the construction of which the rule of *ejusdem generis* has been invoked, deals with a single class of cases where land is required for a public purpose which in the opinion of the appropriate Government is of urgent importance. Now, *'ejusdem generis'* as a maxim of construction, as opposed to a rule of law,

literally means "of the same kind or species". The rule of *ejusdem generis*, in Halsbury's Law of England (Simonds edition) Volume 36, at page 397, has been described thus:—

> "As a rule, where in a statute there are general words following particular and specific words, the general words must be confined to things of the same kind as those specified, although this, as a rule of construction, must be applied with caution, and subject to the primary rule that statues are to be construed in accordance with the intention of Parliament. For the *ejusdem generis* rule to apply, the specific words must constitute a category, class or genus; if they do constitute such a category, class or genus, then only thing swhich belong to that category, class or genus fall within the general words . . ".

A simple exposition of the rule extracted from an old judgment of Lord Campbell in *R.* v. *Edmundson,* is thus worded at (9):—

> "I accede to the principle laid down in all the cases which have been cited, that where there are general words following particular and specific words, the general words must be confined to things of the same kind as those specified."

At page 181 of the same treatise, there is a quotation of Lord Justice Farwell that 'unless you can find a category, there is no room for the application of the *ejusdem generis doctrine*". (*Till-mans & Co. v. SS. Knutsford* (10).

(17) In Sutherland Statutory Construction (third edition), Volume 2, at page 395, is a further elaboration of the doctrine :—

> "A variation of the doctrine of *noscitur a sociis* is that of *ejusdem generis.* Where general words follow specific words in an enumeration describing the legal subject, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words"

and at page 400, it is said that "the doctrine applies when the following conditions exist:—

(1) the statute contains an enumeration by specific words;

(2) the members of the enumeration constitute a class;

(9) Crates on Statute Law page 179 (sixth edition).

(10) (1908) 2 K.B. 385.

(3) the class is not exhausted by the enumeration;

(4) a general term follows the enumeration; and

(5) there is not clearly manifested an intent that the general term be given a broader meaning than the doctrine requires."

This statement of the law is incorporated in the judgment of Dua, J. in *Gurbachan Singh* v. *Ichhar Singh* (11), of which mention has been made by Harbans Singh, J., in the referring order.

(18) Applying these principles to the instant case, it will be seen that as clause (c) mentions only one situation and one alone, there obviously cannot be any category to which the doctrine of *ejusdem generis* may apply. The phrase '*ejusdem generis*' is merely a rule of construction and not a rule of substantive law and is hardly applicable where the intention of the Act is otherwise clear. If a general word, in other words, is added to specific words, the general word would take its colour from the specific words, and obviously when there are no specific words in clause (c) the rule of *ejusdem generis* will not be applicable.

(19) Can it be said that the six situations mentioned in clause (b) even if they constitute a category, can be pressed into service for invoking the aid of the rule of *ejusdem generis*? The answer is not left in any doubt when we find that clause (c) like clause (a) deals with a single independent situation where the general or specific terms do not occur. It would hardly be reasonable to tack clause (c) with the specific words of clause (b) and not with clause (a) which deals with a situation which is not at all comparable to the contents of the subsequent clauses.

(20) Moreover, the essential prerequisite of the doctrine is that there must be coupling of words together to show that they are to be understood in the same sense. Now, clause (b), to repeat, deals with six situations which in the opinion of the Collector require immediate possession. Clause (c) deals with the acquisition of land which in the opinion of the appropriate Government, and not

(11) I.L.R. 1965 (1) Pb. 532.

of the Collector, is of urgent importance. It seems to us that from whatever perspective the contents of clauses (a), (b) and (c) are viewed, they deal not only with separate and distinct matters and situations but in fact each of the clauses constitutes a different category altogether. It may be that clause (b) can be grouped in a single category of public utility, but the appropriate Government is not bound to see under clause (c) that the acquisition which in its opinion is of urgent importance, fulfils also the prerequisite of being required for a public utility.

(21) It is necessary only to refer to give Supreme Court decisions on this aspect of the case. In *State of Bombay* v. *Ali Gulshan* (12), it was observed by Mr. Justice Chandrasekhara Aiyar at page 812 that the *ejusdem generis* rule must be confined within narrow limits, and general or comprehensive words should receive their full and natural meaning unless they are clearly restrictive in their intendment. It is requisite that there must be a distinct genus, which must comprise more than one species before the rule can apply. In *Lila Vati Bai* v. *State of Bombay* (13), the words 'or otherwise' had to be construed with other specified words, and Mr. Justice Sinha at page 529 said:—

> "The rule of *ejusdem generis* is intended to be applied where general words have been used following particular and specific words of the same nature on the established rule of construction that the Legislature presumed to use the general words in a restricted sense; that is to say, as belonging to the same genus as the particular and specific words."

(22) In *Kavalappara Kottarathil Kochuni* v. *States of Madras and Kerala* (14), it was observed by their Lordships at page 1,103 with regard to the word "otherwise" used in the statute. "The word 'otherwise' in the context, it is contended, must be construed by applying the rule of *ejusdem generis*. The rule is that when general words follow particular and specific words of the same nature, the general words must be confined to the things of the same kind as those specified. But it is clearly laid down by decided cases that

(12) A.I.R. 1955 S.C. 810.
(13) A.I.R. 1957 S.C. 521.
(14) A.I.R. 1960 S.C. 1080.

the specific words must form a distinct genus or category. It is not an invoilable rule of law, but is only permissible inference in the absence of an indication to the contrary."

(23) In *Dr. Indramani Parelal Gupta* v. *W. R. Nathu* (15), the words 'such other duties' came to be discussed regarding the functions of the Commission on Forward Markets. In the earlier clauses the functions of the Commission were so described and in clause (f) it was said that the Commission was to perform "such other duties and exercise such other powers as may be assigned to the Commission by or under this Act, or as may be prescribed". It was held in this case that the other duties or other powers which were to be assigned to the Commission were either to be *ejusdem generis* with advisory or recommendatory powers or of a nature similar to those enumerated in the previous sub-clauses. According to the Supreme Court, if there is no common positive thread running through previous clauses, the doctrine would not be attracted.

(24) That there must be a distinct genus or category before the rule of *ejusdem generis* is applied was affirmed by the Supreme Court in *Rajasthan State Electricity Board, Jaipur* v. *Mohan Lal and others* (16).

(25) To conclude, clause (c) of sub-section (2) of section 17 of the Act deals with an independent situation and is a category by itself. There is no common thread running between clause (c) and the previous clauses (a) and (b) and there are no specified categories or clauses in clauses (a) or (b) which might be coupled with what is required in clause (c). We are of the opinion, therefore, that the observation made in the Division Bench judgment in *Murari Lal Gupta's* case at page 413 that "clause (c) of sub-section (2) introduced by the Punjab Amending Act no doubt enlarges the scope of acquisition but it has to be read *ejusdem generis* with clauses (a) and (b) where specific purposes for which acquisition can be made under section 17 are definitely set out" is to widely worded for acceptance. Indeed, there is no room or scope for the application of the doctrine of *ejusdem generis* in the construction of clause (c) of section 17(2) of the Act. The validity and integrity of the judgment on the main

(15) 1963 (I) S.C.R. 721.
(16) A.I.R. 1967 S.C. 1857.

question that the construction of a depot for sale of text books did not fall within the mischief of clause (c) of sub-section (2) of section 17 of the Act is not, however, affected in any way.

(26) We now finally come to the question of fact concerning the existence of urgency for the acquisition. While we are in agreement with the opinion of Grover, J., about the defective pleadings in this case, there is in our view sufficient material to hold that the State Government reached a reasonable conclusion regarding the existence of urgency. What was actually brought in the limelight by the plaintiff in his plaint was that the saw mill factory was working since January, 1956, and a large amount had been spent on building, machinery and material. At best, the plaintiff had set up a plea that his own saw mill was of importance both from his personal and public point of view and this is all that Mr. Sarin, his learned counsel, has been able to urge before us. In the written statement it was pleaded that the Punjab Government had acquired a considerable factory site for a venture which is "the first of its type in the country. Printing machinery and accessories have to be imported from abroad. The factory will not only supply national requirements of the said machinery but will also provide work for thousands of workers. It will also help to save foreign exchange." It was pleaded that the State Government had agreed to acquire 113 Kanals and 17 Marlas of land for public purpose at public expense. There can be no manner of doubt that the establishment of the factory for the manufacture of printing machinery which hitherto has been imported from abroad is a public purpose of undoubted national importance. There is the unrebutted statement of Bishan Dass Kohli, D.W. 2 who is the Director of the appellant company. According to this evidence, the foreign exchange position had become unsatisfactory in 1957-58 and the company was advised by the Government of India to stop importing the machines from abroad and to manufacture the same within the country. In face of these pleadings and testimony, we feel not the slightest doubt on the question that the Government had reached its conclusion in a reasonable and *bona fide* manner. The matter was undoubtedly of urgent importance and the invocation of the provisions of section 17 of the Act was clearly justifiable.

(27) In this view of the matter, the appeals must be allowed, the order of the learned Single Judge set aside and the suit of the

plaintiff dismissed. In the circumstances, we would make no order as to costs of this litigation.

(28) So far as Civil Writ No. 917 of 1967 is concerned, it will now be sent back to the learned Single Judge for decision in accordance with the views expressed aforesaid on the legal questions referred to us. We further direct that this petition be listed for hearing before a learned Single Judge next week.

D. K. MAHAJAN, J.—I agree.

NARULA, J.—In view of the reasons recorded in the judgment of the Full Bench prepared by my Lord Shamsher Bahadur, J., it is clear that clause (c) of sub-section (2) of section 17 of the Act is not required to be read *ejusdem genetris* with clauses (a) and (b) of that sub-section. Observations to the contrary in the Division Bench judgment in *Murari Lal's case* do not, therefore, lay down correct law. Each of the three clauses of sub-section (2) of section 17 of the Act forms a separate class by itself and the different classes of urgency named in clauses (a), (b) and (c) of section 17(2) form an independent genus by themselves and are not mere species of one common genus.

(30) Regarding the scope of the jurisdiction of the civil Courts to adjudicate upon the correctness or validity of a declaration of urgency made by the Collector under section 17(4) of the Act, I am of the opinion that the said issue is not justiciable in view of the fact that the requisite declaration has to be made on the basis of the subjective satisfaction of the appropriate authority. This Court cannot in any circumstances, substitute its own opinion for that of the appropriate authority regarding the question of urgency. At the same time I wish to make it abundantly clear that when the Court finds:—

(i) that the appropriate authority was in fact never satisfied about the urgency either because it had no opportunity of being so satisfied or because there can be no possible two opinions on the admitted or proved facts of a given case and on the material placed before the Court, about there being no urgency whatever; or

(ii) that the basic facts on which the opinion as to urgency is stated to have been formed were admittedly non-existing; or

(iii) that the declaration in question has been made *mala fide* or for wholly extraneous reasons;

the Court does not substitute its own opinion for that of the statutory authority, but merely holds, in effect, that in the eyes of law no declaration of urgency has ever been made. Whenever the Court comes to a finding of this type. it never hesitates in striking down the impugned notification, whereby the citizen is sought to be deprived of his valuable statutory right under section 5-A of the Act. Whether the declaration has been made without any basis or *mala fide* or without the authority concerned applying its mind to the facts of the case or not must, in the nature of things, depend on the facts and circumstances of each case and also depend on the material which the State chooses to place before the Court in which the legality of the declaration is questioned.

(31) With these observations I concur in the order proposed by my learned brother Shamsher Bahadur, J.

K.S.K.

FULL BENCH

Before Daya Krishan Mahajan, Shamsher Bahadur and R. S. Narula, JJ.

THE KANIANWALI CO-OPERATIVE FARMING SOCIETY AT KANIANWALI AND OTHERS,—*Petitioners.*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents.*

Civil Writ No. 621 of 1968

April 30, 1969.

Punjab Security of Land Tenures Act (X of 1953 as amended by XIV of 1962)—S. 10-A(c)—Provision of utilization under—When to take effect—S. 19-B—Whether can operate independently of section 10-A—Amendment of section 19-B being operative from 30th July, 1958 and section 10-A operative from 15th April, 1953—Effect of—S. 10-A—Whether applies to all transfers after 15th April, 1953—Surplus land with an owner—Such land