

post of President and Vice-President is not covered by the aforesaid decision, therefore, the writ petition filed by the petitioners-appellants herein was maintainable although this aspect has not been decided by the learned Single Judge as the main petition was dismissed on merits.

(18) In view of the discussion, the present appeal is hereby allowed and the order of the learned Single Judge dated 3rd April, 2007 is set aside. Consequently, resolution dated 5th August, 2005 whereby respondents No. 5 and 6 are elected as the President and the Vice-President respectively of the Municipal Committee. Pinjore and notification dated 8th August, 2005 whereby respondent No. 5 is notified as President of Municipal Committee, Pinjore are also quashed, being illegal and a direction is also being issued to respondents No. 1 to 4 to hold fresh elections to the office of the President and the Vice-President of the Municipal Committee. Pinjore within a period of one month in accordance with law from the date of receipt of copy of this order. No order as to costs.

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**R.N.R.**

*Before M.M. Kumar & T.P.S. Mann, J.J.*

**RAM CHAND AND OTHERS,—Petitioners**

*versus*

**STATE OF PUNJAB & OTHERS,—Respondents**

C.W.P. No. 8960 of 2006

30th January, 2008

*Constitution of India, 1950—Art. 226—Punjab Town Improvement Act, 1922—Ss. 36, 42 and 43—Trust preparing development scheme strictly in accordance with provisions of 1922 Act—Acquisition of land after complying with all provisions envisaged by S. 37—Petitioner failing to point out any application made asking for documents—Plea of non-supply of documents by respondent not sustainable—No alteration sought by trust in sanctioned scheme as per notification—All developments taken place before granting final sanction—Petitions liable to be dismissed.*

*Held*, that respondent—Trust has taken all mandatory and directory steps envisaged by the Act. It is evident from the record that before notifying the scheme under Section 36 of the Act the Trust has prepared the development scheme strictly in accordance with sections 24 and 26 read with Section 28 of the Act. Thereafter, a resolution as envisaged by Section 35 of the Act was passed by keeping in view the nature and condition of adjoining localities and that of the town as a whole the direction in which the town is likely to expand and the claim of any other part of the area which was likely to require for a scheme under the Act.

(Para 8)

*Further held*, that a perusal of provisions of Section 36 of the Act make it evident that copies of all documents referred in sub-section 1(iii) are required to be given to any applicant. According to sub-section (iii) of Section 36 (1) of the Act, the documents mentioned are the details of the scheme, statement of the land proposed to be acquired and general map of the locality comprised in the scheme. As the petitioner had failed to point out any application for obtaining any of the aforementioned documents, the contention raised is not sustainable and we have no hesitation to reject the same.

(Para 10)

*Further held*, that there is no alteration sought by the respondent-trust in the sanctioned scheme as per notification dated 10th/11th June, 2005. It is wholly unwarranted for the petitioner to argue that changes were incorporated in pursuance to the letter dated 21st January, 2005 addressed to the respondent—State to the respondent-Trust. All the developments have taken place before granting sanction which was finally granted much later on 10th/11th June, 2005.

(Para 12)

**Constitution of India, 1950—Art. 226—Punjab Town Improvement Act, 1922—Ss. 36, 38, 42 and 43—Trust preparing development scheme—Trust failing to give statement of land proposed to be acquired in respect of 3 Khasra numbers—Omission**

**on the part of Trust is fatal—Once Trust has not made its intention clear to acquire those khasra numbers then no sanction from Government could have been obtained nor petitioners were under any obligation to file objections under Section 38—Acquisition in respect of three Khasra numbers liable to be dismissed.**

*Held*, that Sub Clause (iii) of Sub Section 1 of Section 36 of the Act mandates that respondent—Trust shall prepare notice by giving the statement of the land proposed to be acquired. It is undisputed that three khasra numbers were not mentioned in the notification dated 18th June, 2004 whereas the mandatory provision is that the statement of land proposed to be acquired was required to be given. It is only khasra number which could be considered as statement of land especially when khasra numbers in respect of rest of land have been reflected under Section 36 of the Act. The omission on the part of the respondent—Trust is fatal because it could not be cured by mentioning those khasra numbers in the final notification under Section 42 of the Act. Once the respondent—Trust has not made its intention clear to acquire those khasra numbers then no sanction from the Government could have been obtained nor the petitioners were under any obligation to file objections under Section 38 of the Act in regard to those khasra numbers. Therefore, the acquisition in respect of three khasra numbers is liable to be set aside.

(Para 14)

M.L. Sharma, Advocate *for the petitioners*.

Arun Palli, Senior Advocate with Rajdeep S. Cheema, Advocate  
*for respondent Nos. 2 to 4*

Ms. Charu Tuli, Sr. DAG Punjab for the State.

**M.M. KUMAR, J.**

(1) This order shall dispose of CWP Nos. 8960, 9636 and 7523 of 2006 as the development scheme framed by respondent Nos. 2 to 4 i.e. Improvement Trust, Patiala (for brevity 'the Trust') and its officers has been challenged in all these petitions. All these writ petitions are directed against notification dated 18th June, 2004 (Annexure P-3)

issued under Section 36 and another notification dated 10th /11th June, 2005 (Annexure P.4) issued under Section 42 of the Punjab Town Improvement Act, 1922 (for brevity 'the Act'). The petitioner has also challenged the award dated 27th April, 2006 (annexure P-7) regarding acquisition of land situated in the revenue estate of village Tripri Sadian. Tehsil and District Patiala. There are other cognate prayers also made in the petition.

(2) Brief facts of the case are that Improvement Trust, Patiala,—*vide* resolution No. 2264, dated 26th March, 2004 prepared a development which is known as Improvement Scheme situated at Sirhind road in respect of land measuring 34 acres under Sections 24, 26, 28(2) of the Act for residential and commercial purposes. The total area of 270 kanals 7 marlas approximately 34 acres was sought to be acquired. After the preparation of the scheme and taking all necessary steps envisaged by the Act respondent—Trust issued a notification dated 18th June, 2004 under Section 36 of the Act expressing the intention to acquire land (Annexure P.3). The notification clearly pointed out the boundaries of land sought to be acquired alongwith details of land in the shape of khasra numbers with further stipulation that particulars of the scheme are clearly depicted in drawing No. PIT(P) 10/2004 dated 10th February, 2004 which could be inspected at the office of Improvement Trust, Patiala, Chhotti Baradari on any working day. It is further stated that if any person has any objection to the Scheme he would send the same writing to the Chairman of the Trust within a period of 30 days of the publication of the notice. The objection could have been filed by the land owner or any other person in the locality as per the provisions of Section 38 of the Act. The petitioners being owner of the land/plot/house filed objections claiming that they are owner in possession of the land and have constructed their houses. It is complained that no opportunity of hearing was given to the petitioners. Respondent No. 1 after examination of record, including the objections filed by the petitioners and others issued notification on 10th November, 2005 (Annexure P-4) under Section 42 of the Act and thereafter notices under Section 9(1) of the Land Acquisition Act, 1894 (for brevity 'the 1894 Act') were issued and the award was announced by the Collector Land Acquisition—Improvement Trust, respondent No. 4. The petitioners

have made unnecessary averments with regard to the Town and Planning Scheme framed in the year 1983. Those averments have been replied by respondent Nos. 2 to 4 by stating that the Town and Planning scheme could not be implemented on account of lack of financial resources. When the matter came up for consideration before a Division Bench of this Court on 31st May, 2006, the dispossession of the petitioners was stayed.

(3) In the written statement, the stand of the respondents is that the petitioners have not approached this Court with clean hands. The scheme in question was prepared by the Trust and notice under Section 36 of the Act was published after inspection made by the Site Selection Committee,—*vide* its report dated 10th December, 2003. Notice was issued under Section 36 on 18th June, 2004 which was published in two newspapers 'The Tribune' (English) on 18th June, 2004 and 'Jagbani' (Punjabi) on 26th May, 2006 and 'Dainik Bhaskar' (Hindi) on 2nd July, 2004 (Annexure R/2). By the aforementioned notifications, objections within a period of 30 days were invited from the general public. Copies of the notices were also sent to the Commissioner, Municipal Corporation, Patiala and other functionaries. The Improvement Trust in addition took caution by publishing notice under Section 38 of the Act in the newspaper Chardi Kalan (Punjabi) and Punjab Tribune on 17th July, 2004 inviting objections within a further period of 60 days (Annexure R/3). Even individual notices as envisaged under Section 38 of the Act were issued by the Trust on 30th May, 2004 upon the petitioners intimating the proposed acquisition giving details of the scheme framed and granted 60 days time to them (Annexure R/4). The petitioners who are brothers and co- shares have filed their objections and they were given notice of hearing of objections through the Press by giving public notice in the English Daily 'The Tribune' on 31st October, 2004. Punjabi Daily 'Jagbani' on 2nd November, 2004 which shows that the date of hearing of objections was 10th November, 2004 (Annexure R/5). It is further stated that petitioners Kaka Ram and Basakhi Ram had appeared before the Chairman of the Trust and objected to the acquisition by raising the plea that they were poor persons and their house was of medium quality. The Trust,—*vide* its resolution No. 2319 passed various proceedings to the Government,—

*vide* letter dated 18th November, 2004 for its consideration and decision (Annexure R/6). The Government,—*vide* its letter dated 21st January, 2005 asked the Trust to formulate the development scheme only for the area which is financially viable after considering all such factors like acquisition cost, solatium to be paid, interest and development costs etc. It was thereafter the Improvement Trust was to apply for the sanction of the scheme with such modifications as were deemed necessary (Annexure R/7). The Improvement Trust after considering the entire matter decided to acquire khasra numbers mentioned in the resolution No. 2351, dated 11th March, 2005 (Annexure R/8). The decision of the Trust was approved on 11th March, 2005 and its approval was communicated on 5th April, 2005. Thereafter lay out Plan No. PTI(P) 05/2005, dated 6th May, 2005 (Annexure R/9) was sent for technical sanction to the Chief Town Planner, Local Government Department, Punjab for necessary approval. The approval was granted on 10th May, 2005. The Trust has thus adopted the aforesaid lay out and decided to submit to the Government for its approval,—*vide* its resolution No. 2361, dated 17th May, 2005. Thereafter the Trust submitted the final scheme to the Government under Section 40 of the Act and published that factum in two newspapers namely 'Jagbani' and 'The Tribune' on 26th May, 2005. The Government had accorded sanction to the Scheme under Section 41(1) of the Act on 7th June, 2005 and it was published in the Government gazette,—*vide* notification No. 8/1168/04-2LG2/8317 dated 10th/11th June, 2005. It is considered to be conclusive evidence that the scheme has been duly framed and sanctioned as per sub section (2) of Section 42 of the Act (Annexure R/10). Thereafter the whole procedure leading to the passing of the award has been followed by the respondent Trust.

(4) Mr. M.L. Sharma, learned counsel for the petitioners has submitted that an application as contemplated by Section 38 of the Act was submitted to respondent Nos. 3 and 4 but the documents have not been supplied which has seriously prejudiced the rights of the petitioner. According to the learned counsel principles of natural justice as envisaged by Section 38 of the Act have been flagrantly violated and in the absence of documents/deposit of requisite fee no effective objection could be filed by the petitioners. Learned counsel has maintained that once there

is no hearing then the acquisition proceedings including notification dated 18th June, 2004 issued under Section 36 of the Act and declaration under Section 42 of the Act dated 10th/11th June, 2005 are liable to be set aside. His second submission is that the land of influential persons have been excluded whereas the land of persons like the petitioners who are not so influential has remained within acquisition. In that regard he has drawn our attention to the notification under Section 36 of the Act showing that it has acquired only 271 kanals and 7 marlas of land which is approximately 34 acres whereas eventually declaration has been issued under Section 42 of the Act in respect of 151 kanals of land excluding the land which have been released in favour of influential persons. According to the learned counsel under Section 43 of the Act release of land could have been possible only by alteration of scheme after due sanction from the State Government.

*Additional argument in CWP No. 7523 of 2006*

(5) In CWP No. 7523 of 2006 he has raised an additional submission that there are three khasra Nos. namely 18//18 Min (1 Kanal-13 Marlas), 18//19/1/2 Min (0 Kanal-16 Marlas), 18//20/1 Min (0 Kanal-12 Marlas). The total land comprised in the aforesaid khasra numbers is 3 kanal 12 marlas and these khasra numbers have not been notified under Section 36 of the Act. According to the learned counsel once the aforementioned land has not been notified under Section 36 of the Act, no declaration under Section 42 of the Act could have been made by including the aforementioned khasra numbers.

(6) Mr. Arun Palli and Ms. Charu Tuli, learned counsel for the respondents have, however, urged that there is nothing on record to show that the petitioners have ever applied for supply of a document in pursuance to the provisions of Section 36(3) of the Act and there is no question of refusing to supply those documents. It has been pointed out by the learned counsel that all documents including the scheme were available as per various notices issued in the gazette as well as newspapers for the inspection of general public as well as owners of the land including the petitioners. They have maintained that there is no basis for the petitioner to urge the lack of hearing on that account. In respect of the 2nd submission made by the counsel for the petitioner,

it has been urged that there is no alteration effected in the development scheme eventually framed by the Trust after the issuance of declaration under Section 42 of the Act. The land of certain land owners was excluded from acquisition on account of the fact that the Trust would have ended up disbursing heavy costs for the structure. In that regard our attention has been drawn to the advice of the State Government sent on 21st January, 2005 (Annexure R/7) by the Government. It was on account of the aforementioned opinion expressed by the Government that the amount of compensation would have been very heavy which was beyond the financial limitations of the Trust that the constructed area was excluded from acquisition. Learned counsel has maintained that no allegations of *mala fide* on that score has been levelled.

(7) Mr. Arun Palli learned counsel for respondent Nos. 2 to 4 has submitted that the whole area of acquired land has been demarcated on the site plan which includes 3 khasra numbers namely 18//18 Min (1 Kanal-13 Marlas), 18//19/1/2 Min (0 Kanal-16 Marlas), 18//20/1 Min (0 Kanal-12 Marlas). According to the learned counsel the mere omission of mentioning of khasra numbers would not constitute a valid ground to conclude that land acquisition proceedings under Section 36 and 42 of the Act have been vitiated. He has maintained that once the whole area has been described by boundary starting from points A to V in the site plan (Annexure R/9) and the petitioners were well aware of the inclusion of that area then it cannot be urged that the acquisition even in respect of those khasra numbers is liable to be set aside. In support of his submission, learned counsel has placed reliance on a Full Bench judgement of the Madhya Pradesh High Court in the case of **Hajari versus The State of M.P. Bhopal and others (1)**. He has further submitted that the land comprised in the aforementioned three khasra numbers infact is a private street and the same has to be dealt with under the provisions of Section 46 of the Act. According to the learned counsel no acquisition of the aforementioned khasra numbers is necessary by issuance of notifications under Sections 36 and 42 of the Act nor any objections were required to be invited.

(8) We have thoughtfully considered the respective submissions made by the learned counsel and with their assistance have perused

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(1) AIR 1976 M.P. 76

the record in minute details. We find that respondent-Trust has taken all mandatory and directory steps envisaged by the Act. It is evident from the record that before notifying the scheme under Section 36 of the Act the Trust has prepared the development scheme strictly in accordance with sections 24 and 26 read with Section 28 of the Act. Thereafter a resolution as envisaged by Section 35 of the Act was passed by keeping in view the nature and condition of adjoining localities and that of the town as a whole the direction in which the town is likely to expand and the claim of any other part of the area which was likely to require for a scheme under the Act. It is appropriate to mention that Section 36 of the Act is parallel to Section 4 of the 1894 Act. Accordingly notification was issued under Section 36 of the Act. It is appropriate to mention that there is one vital difference between the notifications under Section 36 of the Act and Section 4 of the 1894 Act. Under the Act, the objections are invited from the general public and does not confine only to the individuals whereas under Section 4 read with Section 5A of the 1894 Act, objections could be raised only by the persons interested in any land. It is for this reason that under Section 37 of the Act all the representations made by the Municipal Committee or the Medical Officer of Health are to be transmitted to the Chairman of the Trust. It is further clear from Section 38 of the Act that personal notices to the owners of the land proposed to be acquired for the Scheme are also required to be served. All these steps have been taken by the respondent-Trust meticulously. It is evident that scheme was prepared keeping in view the provisions of Sections 24 and 26 read with Section 28 of the Act and by virtue of provisions of Section 35 of the Act it was resolved,—*vide* resolution No. 2264 dated 26th March, 2004 to notify the Scheme framed,—*vide* Survey Plan Drawing No. PIT(P) 10 of 2004 dated 10th February, 2004 (Annexure R.1). Thereafter notices were duly published under Section 36 for consecutive three weeks in the official gazette as well as in three different language newspapers namely 'The Tribune' (English), 'Jagbani'(Punjabi) and 'Dainik Bhaskar' (Hindi) on 18th June, 2004, 25th June, 2004 and 2nd July, 2007. Through notices, objections were invited within a period of 30 days from the date of publication thereof. All other provisions envisaged by Section 37 of the Act were complied with and all notices filed by various persons were heard. Some part

of the land which was comprised in the original scheme notified under Section 36 of the Act was excluded by keeping in view the financial resources available with the respondent-Trust. It was on the basis of the suggestion sent by the Government,—*vide* letter dated 21st January, 2005 (Annexure R/5). The decision taken by the Trust was duly approved by the Government,—*vide* letter dated 5th April, 2005 and all these details are available in the written statement. Suffice it to say that the respondent-Trust has taken all necessary steps as envisaged by the Act except the small lapse in respect of three khasra numbers. The question of aforementioned three khasra numbers having not been notified under Section 36 of the Act (which is parallel to Section 4 of the 1894 Act) has been raised in CWP No. 7523 of 2006 and shall be dealt with in the following paras.

(9) The argument of the counsel for the petitioner that no document as envisaged by Section 36 of the Act was supplied to the petitioner has remained unsubstantiated because on repeated queries, learned counsel has not been able to point out any application showing the demand of any document nor any receipt depositing the requisite fee for obtaining such document. At this stage, it may be appropriate to notice the provisions of Section 36 of the Act which reads as under :

“36. *Preparation, publication and transmission of notice, as to Improvement Schemes and supply of documents to applicants.*—(1) when a scheme under the Act has been framed, the trust shall prepare a notice stating—

- (i) the fact that the scheme has been framed;
- (ii) the boundaries of the locality comprised in the scheme;  
and
- (iii) the place at which details of the scheme including a statement of the land proposed to be acquired and a general map of the locality comprised in the scheme may be inspected at reasonable hours.”

(10) A perusal of the aforementioned provisions make it evident that copies of all documents referred in sub-section 1 (iii) are required

to be given to any applicant. According to sub section (iii) of Section 36(1) of the Act, the documents mentioned are the details of the scheme, statement of the land proposed to be acquired and general map of the locality comprised in the scheme. As the petitioner had failed to point out any application for obtaining any of the aforementioned documents, the contention raised is not sustainable and we have no hesitation to reject the same.

(11) The other contention raised on behalf of the petitioners is that changes have been incorporated in the scheme as notified finally under Section 42 and sanction from the Government was required as per the provisions of Section 43 of the Act. Again, the argument is without any substance. We may first notice the provisions of Section 43 of the Act which reads as under :—

**“Alteration of scheme after sanction.—**A scheme under this Act may be altered by the trust at any time with the prior approval of the Government between its sanction by the State Government and its execution.”

(12) A plain reading of Section 43 of the Act shows that any scheme sanctioned by the Government could be altered by the Trust before its execution with the prior approval of the Government. The section envisages the existence of sanctioned scheme whereas in the present case there is no alteration sought by the respondent-Trust in the sanctioned scheme as per notification dated 10th/11th June, 2005 (Annexure P.7). It is wholly unwarranted for the petitioner to argue that changes were incorporated in pursuance to the letter dated 21st January, 2005 addressed by the respondent-State to the respondent—Trust. It is pertinent to mention that the Government has advised the respondent-Trust when it sent its Resolution No. 2319 dated 10th November, 2004 for the approval of the Scheme by the Government. It was advised that the development scheme only for the area was to be finalised which is financially viable after considering all the factors such as acquisition cost, solatium to be paid, interest and development cost etc. and the respondent-Trust was advised to apply to the Government for sanction of the scheme with such modifications as the respondent-Trust might have considered necessary. However, all these developments have

taken place before granting sanction which was finally granted much later on 10th/11th June, 2005 (Annexure P.7 and R. 8). There is thus no foundation for the aforementioned argument and we have no hesitation to reject the same.

***Additional arguments raised in CWP No. 7523 of 2006***

(13) The additional argument in this connected petition, however, deserves to succeed. According to Section 36 of the Act which has been reproduced in the preceding paras, the respondent-Trust is required to prepare a notice in which following things are required to be stated :

- (i) the fact that the scheme has been framed;
- (ii) the boundaries of the locality comprised in the scheme;  
and
- (iii) the place at which details of the scheme including a statement of the land proposed to be acquired and a general map of the locality comprised in the scheme may be inspected at reasonable hours.”

(14) Sub-clause (iii) of sub-section 1 of Section 36 of the Act mandates that respondent-Trust shall prepare notice by giving the statement of the land proposed to be acquired. It is undisputed that three khasra numbers namely 18//18 Min (1 Kanal-13 Marlas), 18//19/1/2 Min (0 Kanal-16 Marlas), 18//20/1 Min (0 Kanal-12 Marlas) were not mentioned in the notification dated 18th June, 2004 (Annexure P.4) whereas the mandatory provision is that the statement of land proposed to be acquired was required to be given. It is only khasra number which could be considered as statement of land especially when khasra numbers in respect of rest of land have been reflected under Section 36 of the Act. The omission on the part of the respondent-Trust is fatal because it could not be cured by mentioning those khasra numbers in the final notification under Section 42 of the Act. Once the respondent-Trust has not made its intention clear to acquire those khasra numbers then no sanction from the Government could have been obtained nor the petitioners were under any obligation to file objections under Section 38 of the Act in regard to those khasra numbers. Therefore, the acquisition in respect of the aforementioned three khasra numbers namely 18//18 Min (1 Kanal-13 Marlas), 18//19/1/2 Min (0 Kanal-16 Marlas), 18//20/1 Min (0 Kanal-12 Marlas) is liable to be set aside.

(15) The argument of Mr. Arun Palli that the land has been reflected in the acquired area if the boundaries from A to V are seen on the site plan (Annexure R/7). The argument is wholly mis-conceived and does not deserve to be accepted because the mandatory provisions of Section 36(1) (iii) of the Act stand flagrantly violated. In order to acquire any land being part of development scheme not only the land is to be included in the scheme, the respondent-Trust is further under an obligation to prepare a notice with detailed statement of land proposed to be acquired has not been done in respect of three khasra numbers. We are further of the view that in such situation no presumption of conclusive nature under Section 42(2) of the Act would arise. In that regard, we place reliance on a Full Bench judgement of this Court in the case of **Prof. Jodh Singh versus Jullundur Improvement Trust and others, (2)**. The Full Bench in para 54 has observed that these provisions are mandatory in character. The para reads as under :

*“.....An example of total non compliance would be a case where say there is no publication whatever as required by section 36, or no notice is issued as required by section 38, or no consideration of the objections in terms of sub section (1) of Section 40, and even no publication of the factum that the scheme was being submitted for sanction to the State Government and the State Government sanctions the scheme. Would in a case like this, provisions of sub section (2) of Section 42 save the scheme from being quashed? In our opinion, the legislature had not intended the provisions of sub section (2) of Section 42 to cover non compliance with the relevant provisions of the Act and shield the colourable exercise of the power by the concerned authorities from scrutiny of the Court.....(emphasis supplied)”*

(16) The aforementioned enunciation of law by the Full Bench by taking illustration makes it absolutely clear that if no notification in respect of three khasra numbers has been issued and no notice under Section 38 of the Act was given then in respect of those three khasra numbers the conclusive presumption in favour of compliance of all the requirements of Sections 36, 38 and 40 cannot be raised. It has been

authoritatively held by their Lordships that Section 42(2) of the Act does not envisage the condonation of lapse of the nature committed in the present case. Therefore, acquisition in respect of those three khasra numbers is quashed.

(17) The other argument raised by Mr. Arun Palli based on Section 46 of the Act does not require any detailed consideration because had the respondent-Trust considered the land under the aforementioned three khasra numbers as public street envisaged by Section 46 of the Act then they would not have included the same in the notification under Section 42 of the Act. Moreover, they would have incorporated the aforesaid khasra numbers in their communication to the Municipal Corporation. The record shows otherwise. Therefore, the argument is an after thought and cannot be sustained to justify the acquisition of land without issuing notification under Section 36 of the Act. Therefore, we have no hesitation to reject the argument.

(18) The argument based on a Full Bench judgement of Madhya Pradesh High Court in the case of **Hajari** (*supra*) does not impress us because the statutory language used in Section 36 *vis-a-vis* Section 42 of the Act is not *pari materia* to the language in Section 4 of the 1894 Act which was considered by their Lordships in **Hajari's case** (*supra*). The Full Bench in **Prof. Jodh Singh's case** (*supra*) has considered at length such like argument and para 54 quoted above would fully apply to the facts of the present case.

(19) For the reasons recorded above Civil Writ Petition Nos. 9636 and 8960 of 2006 are dismissed. However, Civil Writ Petition No. 7523 of 2006 is partially allowed and acquisition in respect of three khasra numbers 18//18 Min (1 Kanal-13 Marlas), 18//19/1/2 Min (0 Kanal-16 Marlas), 18//20/1 Min (0 Kanal-12 Marlas) situated in the revenue estate of village Tripri Saidan, Tehsil and District Patiala is hereby set aside and the notification dated 10th/11th June, 2005 and award dated 27th April, 2006 (Annexure P.5) to that extent are also set aside.

(20) A copy of this order be placed on the file of connected cases.

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**R.N.R.**