disregarded or lightly deviated from. It is plain that as a normal rule the Legislature requires the testimony of the party to be recorded first and the rationale thereof is not far to seek. Apparently in order to prevent an easy deviation from the rule, it has been laid down that the Court shall record its reasons for doing so. It is to be hoped that the trial Courts, in whom primarily the discretion has been vested, would keep both the letter and the spirit of the rule in mind before according permission thereunder in exceptional circumstances, and not whittle the same down by allowing too easy and indiscriminate deviation therefrom.

(10) Keeping the aforesaid principles in mind, I am unable, on merits, to find anything in the order under revision which can possibly call for interference under section 115 of the Code of Civil Procedure. The revision petition is without merit and is hereby dismissed with costs.

Prem Chand Jain, J.—I agree.

Kulwant Singh Tiwana, J.—I agree.

N.K.S.

FULL BENCH

Before S. S. Sandhawalia C.J., R. N. Mittal and A. S. Bains, JJ.

RAJENDER PARSHAD and others,—*Petitioners.*

versus

STATE OF HARYANA and others,—*Respondents.*

Civil Writ No. 2010 *of* 1974.

March 28, 1979.

Haryana Municipal Common Lands Regulation Act (15 *of* 1974) —*Sections* 2(*g*), 4 *to* 7 *and* 10—*Constitution of India* 1950—*Articles* 19, 31 *and* 31*A* (1) (*a*)—*Act vesting agricultural estates in Municipal Committees without payment of compensation—Whether violates Article* 31—*The Act—Whether a measure of agrarian reform—Protection of Article* 31*A* (1) (*a*)—*Whether available—Act* labelled as

an agrarian measure in the statement of objects and reasons—Such statement—Whether enough to protect the Act from challenge of unconstitutionality.

Held, that the very name of the Haryana Municipal Common Lands Regulation Act 1974 makes it manifest that it pertains to Municipal Common Lands. The urban, as opposed to the rural nature of this legislation, is therefore, manifest at the very threshold. The very definition of the word 'municipality' and the nature of the municipal common lands indicate that it bears relations to agricultural land situated in municipalities or small towns which are, therefore, primarily of urban nature and in sharp contra-distinction to agricultural lands of primarily rural character. Section 4 then vests all right, title and interest whatever in the *Shamilat Deh* of any municipality in the Municipal Committee on the appointed day. That the Municipal Committees or municipalities are urban bodies does not admit of any serious dispute. These vested lands are then utilized or disposed of for the benefit of the inhabitants of the municipality. To crown it all, section 6 of the Act in no uncertain terms says that all income accruing from the land vested in a Municipal Committee shall be credited to the Municipal fund. It is, thus, plain that both the title and the income of the *Shamilat Deh* are completely canalised in an urban body and paid over to its coffers. To characterise a measure of this kind as one for the development of the rural economy would be rather farcical. The overall effect of the provisions is, that it takes away agricultural land or property and its income wholly for the benefit and uses of a primarily urban body like the municipality or its Municipal Committee. Therefore, the provisions of the Act cannot be possibly co-related either directly or even remotely to the development of rural economy. The Act, is therefore, not a measure of agrarian reform and cannot enjoy the protection envisaged by Article 31A(1) (a) of the Constitution of India 1950. Once that is so, it in terms provides for the acquisition of land without payment of compensation which directly infringes the fundamental right enshrined in Article 31 of the Constitution. In the absence of the vital and the basic provisions regarding the vesting of the property in the municipality without compensation, the remaining provisions cannot stand independently thereof. The whole of the statute, therefore, suffers from the vice of unconstitutionality. (Paras 14, 15 and 20)

Held, that it is well settled that the Court is not to construe a provision of the statute on the basis of the statement of objects and reasons and it can only be used for the limited purpose of ascertaining the conditions prevalent at the time the bill was introduced in the legislature and the purpose for which the enactment was made. Merely labelling an Act as one of agrarian reform in the statement of

objects and reasons would not make it in fact so. It must, therefore, be held that mere reference to agrarian reform in the statement of objects and reasons appended to the bill does not in any way protect the Act from the challenge of unconstitutionality. (Para 18).

Case referred by Division Bench consisting of Hon'ble Mr. Justice D. S. Tewatia and Hon'ble Mr. Justice A. S. Bains on October 25, 1978 to a Larger Bench for decision of an important question of law involved in the case. The Larger Bench consisting of Hon'ble the Chief Justice Mr. S. S. Sandhawalia, Hon'ble Mr. Justice R. N. Mittal and Hon'ble Mr. Justice A. S. Bains finally decided the case on 28th March, 1979.

Petition under Articles 226 *and* 227 *of the Constitution of India praying that a writ of Mandamus or any order suitable writ, order or direction be issued against Respondents Nos.* 1 *to* 3 *to the following effect* :—

(a) *The Act* 15 *of* 1974 *passed by the Haryana Legislature be declared to be null and void* ;

(b) *That the provisions of the Act which affect the rights of the petitioners' property by vesting the property in the Municipal Committee, Kaithal be declared null and void* ;

(c) *It also be declared that the petitioners' rights as owners and persons in lawful possession are not affected adversely by passing of the Act in dispute* ;

(d) *That the Respondents be restrained from interfering with the rights of ownership and enjoyment of the possession of the land with the petitioners* ;

(e) *That the costs of the petition be also awarded to the petitioners.*

It is further prayed that during the pendency of this Writ petition, the Respondents be restrained from interfering with the possession of the petitioners.

Anand Swarup Sr. Advocate, N. C. Jain, M. L. Bansal and Sunil Parti, Advocates with him, *for the Petitioners.*

C. D. Dewan, Advocate, *for respondent No.* 2.

Mr. Naubat Singh, Sr. D.A.G. Haryana, *for Respondents Nos.* 1 *and* 3.

JUDGMENT

S. S. Sandhawalia, C.J.

(1) Whether Article 31-A(1)(a) provides an impenetrable protective shield around the provisions of the Haryana Municipal Common Lands (Regulation) Act, 1974 against the constitutional attack launched on the basis of Articles 19 and 31 of the Constitution, is the solitary though substantial question arising in this petition.

2. The facts are neither in dispute nor of any great relevance in a matter so patently legal. Nevertheless a passing reference to them is inevitable, though hardly any was made by the learned counsel for the parties. The petitioners claim to have purchased agricultural land, now within the municipal limits of Kaithal,—*vide* thirteen registered sale-deeds executed during the months of September and October, 1971 for a consideration of Rs 15,520. It is averred that the purchased land was in the actual possession of the different shareholders of the village Shamilat Deh who were, therefore, entitled to transfer the same. The petitioners claim that thereafter they were put in and continued to be in actual peaceful possession of the land purchased by them.

3. The Haryana legislature enacted the Haryana Municipal Common Lands (Regulation) Act, 1974 (hereinafter called the Act) with effect from the 26th of January, 1973. By virtue of its provisions the land purchased by the petitioners, being part of the Shamilat Deh, are sought to be vested in the Municipal Committee of Kaithal without payment of any compensation whatsoever. It is alleged that the respondent-Municipal Committee and respondent No. 3 the Sub-Divisional Officer (Civil), Kaithal, are threatening to interfere with the title and peaceful possession of the petitioners on the ground that the land purchased by them has passed into the ownership of respondent No 2. Apprehensive of further hostile action against them, the petitioners have preferred this writ petition to assail the very constitutionality of the Act.

4. Now for a true appreciation of the contentions raised on either side, some reference to the legislative history and precedent in connection therewith is both inevitable and in fact necessary. The constitutional validity of an analogous statute, namely, the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act,

1948, as amended, was assailed before a Full Bench of this Court in Kishan Singh v. State of Punjab and others (1), and was upheld. The correctness of that view was again sought to be put to test following the decision of their Lordships in the well-known case of Kavalappara Kottarathil Kochuni etc. *v.* The States of Madras and Kerala and others (2). A Full Bench of five judges in Jagat Singh Didar Singh and others *v.* The State of Punjab and others (3), reiterated the validity of the statute.

5. The Punjab Village Common Lands (Regulation) Act was enacted in the year 1961 and on the formation of the State of Haryana on the 1st of November, 1966, it continued to hold way over the territories of the newly created State. The validity of this statute had earlier also been the subject-matter of challenge in a number of cases and the same was upheld primarily on the basis of the aforementioned Full Bench decision which had repelled the attack against the constitutionality of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948. The issue was carried before the final Court with regard to the vires of the Consolidation Act, Punjab Gram Panchayat Act, Punjab Village Common Lands (Regulation) Act, and the Security of Land Tenures Act and in Ranjit Singh and others *v.* The State of Punjab (4) their Lordships held that all these provisions were part of a general scheme of agrarian reforms and were consequently protected by Article 31-A of the Constitution. The constitutional validity of these statutes and the correctness of the earlier Full Bench decisions of this Court were consequently upheld.

6. Following by and large, the provisions of the Punjab Village Common Lands (Regulation) Act, 1961, the impugned provisions of the Haryana Municipal Common Lands (Regulation) Act, 1974, were promulgated on the 26th of January, 1973. The sharp distinction, however, is that whereas by the earlier statute the agricultural estates vested in the Gram Panchayats without compensation for purposes of agrarian reform, by the present statute the same or similar vesting of agricultural land without any compensation is sought to be extended to the urban field as well.

(1) A.I.R. 1961 Pb. 1.
(2) A.I.R. 1960 S.C. 1080.
(3) A.I.R. 1962 Pb. 221.
(4) A.I.R. 1965 S.C. 632.

7. Inevitably the statutory provisions of the Act which have been subject to the constitutional challenge have to be referred to and it is, therefore, necessary to read some of them at the outset. Section 2(g) of the Haryana Municipal Common Lands (Regulation) Act, 1974 defines 'Shamilat Deh' and is closely analogous to section 2(g) of the Punjab Village Common Lands (Regulation) Act, 1961. Sections 4, 5, 6, 7 and 10 of the impugned Act are in the following terms :—

"S. 4. *Vesting of rights in Municipal Committees.*—Notwithstanding anything to the contrary contained in any other law for the time being in force or in any agreement, instrument, custom or usage or any decree or order of any Court or other authority, all rights, titles, and interests whatever in the Shamilat Deh in any municipality shall on the appointed day, vest in the municipal committee of that municipality.

5. *Regulation of use and occupation, etc., of lands vested in municipal committee.* All lands vested in a municipal committee by virtue of the provisions of this Act shall be utilised or disposed of by the municipal committee for the benefit of the inhabitants of the municipality, in the manner prescribed.

6. *Utilization of income.*—All income accruing from the lands vested in a municipal committee under this Act shall be credited to the municipal funds.

7. *Bar of compensation.*—No person shall be entitled to any compensation for any loss suffered or alleged to have been suffered of any land in coming into force of this Act.

10. *Power to make rules.*—(1) The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers such rules may provide for—

(a) the principles on which and the extent and manner in which the inhabitants of the municipality shall make use of the land vested in a municipal committee.

(b) the maximum and minimum area to be leased to any single person ;

(c) prescribing of forms or such books, entries, statistics and accounts as may be considered necessary to be kept, made or compiled in any office or submitted to any authority ;

(d) the terms and conditions on which the use and occupation of any land vested in a municipal committee is permitted ;

(e) the manner and circumstances in which any land may be utilised, transferred, sold or otherwise disposed of;

(f) any other matter which has to be or may be prescribed."

8. Now it is evident from even a plain reading of the aforesaid provisions and in particular those of sections 4, 6 and 7 that these in terms provide for the acquisition or vesting of the agricultural estate in the municipal committee and a specific bar is raised against the payment of any compensation therefor. This would on the face of it and plainly attract the application and protection of Article 31 of the Constitution. The learned counsel for the parties are agreed that thus far there is no dispute about the legal position.

9. The arena of controversy is, therefore, narrowed down to this — whether this acquisition or vesting of the agricultural estates in the municipal committees without compensation by the impugned provisions of the Act is protected by the Constitution itself? In other words, the acid test that the impugned provisions have to pass is whether they are completely and totally protected by Article 31A(1)(a) of the Constitution. Perhaps at this very stage it is best to recall the relevant part of this provision :—

"31A (1) *Saving of laws providing for acquisition of estates etc.*—

(1) Notwithstanding anything contained in Article 13, no law providing for—

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(b) to (e) * * * * * *

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights, conferred by Article 14, Article 19 or Article 31,

Provided that * * * * * *."

Now so large a field of law relevant to the points is covered by authoritative precedent that it would perhaps be wasteful to launch any deliberate dissertation on principle. It suffices to refer in this context to a trilogy of cases which sets the legal position at rest so far as this Court is concerned. In *Kochuni's case* (supra) and innumerable other precedents which followed and to which reference is unnecessary it was authoritatively held that the afore-quoted Article 31A(1)(a) though couched in apparently wide language had necessarily to be confined to a law primarily directed to agrarian reform. After referring to Articles 14, 19 and 31 in the context of which Article 31A is set it was observed by Subba Rao, J., speaking for the majority—

> " * * *, The definition of 'estate' refers to as existing law relating to land tenures in a particular area indicating thereby that the Article is concerned only with the land tenure described as an 'estate'. The inclusive definition of the rights of such an estate also enumerates the rights vested in the proprietor and his subordinate tenure-holders. The last clause in that definition viz., that those rights also include the rights or privileges in respect of land revenue, emphasizes the fact that the Article is concerned with land-tenure. It is, therefore, manifest that the said Article deals with a tenure called 'estate' and provides for its acquisition or the extinguishment or modification of the rights of the land-holder or the various subordinate tenure-holders in respect of their rights in relation to the estate. The contrary view would enable the State to divest a proprietor of his estate and vest it in another without reference to any agrarian reform. It would also enable the State to compel a proprietor to divide his properties, though self-acquired, between himself and other members of his family or create interest therein in favour of persons other than tenants who had none before. Such acts have no relation to land-tenures and they are purely acts of expropriation of a citizen's property without any reference to agrarian reform. Article 31A deprives citizens of their fundamental rights and such an Article cannot be extended by interpretation to overreach the object implicit in the Article. The unsoundness of the wider interpretation will be made clear if the Article is construed with reference to the janmam right."

What has been forcefully highlighted *in Kochuni's case* was that any extended connotation of Article 31A(1) (a) would render the provisions of Article 31(2) virtually nugatory with regard to all agricultural lands within the country because any and every estate could then be acquired without payment of any compensation. It would, therefore, be not wrong to say that *Kochuni's case* (supra) placed a limited and restricted interpretation on the scope of Article 31A(1)(a) confining it to legislation directed only and strictly to agrarian reform.

10. In the case of *Ranjit Singh* v. *The State of Punjab* (supra), *Kochuni's case* again came up for pointed notice. Whilst upholding the vires of the Consolidation Act, the Punjab Gram Panchayat Act, Punjab Village Common Lands (Regulation) Act and the Punjab Security of Land Tenures Act, Hidayatullah, J., speaking for the Bench observed as follows :—

> "* * * No doubt *Kochuni's case* (AIR 1960 S.C. 1080), considered a bare transfer of the rights of sthanee to the tarwad without alteration of the tenure and without any pretence of agrarian reform, as not one contemplated by Art. 31-A, however, liberally construed. But that was a special case and we cannot apply it to cases where the general scheme of legislation is definitely agrarian reform and under its provisions something ancillary thereto in the interests of rural economy, has to be undertaken to give full effect to the reforms. In our judgment the High Court was right in not applying the strict rule in *Kochuni's case* (AIR 1960 S.C. 1080) to the facts here."

Following closely on the heels of this judgment came the decision of the Constitution Bench in *I. P. Vairavelu Mudaliar* v. *The Special Deputy Collector for Land Acquisition, West Madras and another* (5). Therein Suba Rao, J., speaking for the Court extensively referred to the observations in *Ranjit Singh's case* (supra) and concluded as follows :—

> "That judgment, therefore, accepts the view that Article 31-A was enacted only to implement agrarian reform, but has given a comprehensive meaning to the expression 'agrarian reform' so as to include provisions made for the development of rural economy."

(5) A.I.R. 1965 S.C. 1017.

11. On the solid premises of the legal position as enunciated by the final Court in the afore-quoted three decisions, it is plain that the crucial question now is whether the main provisions of the Haryana Municipal Common Lands (Regulation) Act, 1974 are definitely directed to agrarian reforms simpliciter or at best have been made for the ancillary purpose of the development of rural economy. It appears to be plain to me that this could satisfy neither of the two tests.

12. A bare reading of Sections 1 to 10 would leave no manner of doubt that these provisions cannot even remotely be related directly to the question of land tenures or with the redistribution of agricultural holdings and consequently to agrarian reforms in its pristine connotation. Indeed even the learned counsel for the respondents were not able to urge seriously that the Act could possibly be brought within the ambit of agrarian legislation simpliciter as authoritatively laid down in *Kochuni's case* (supra).

13. In view of the aforesaid position the question gets further narrowed down to the solitary issue whether the impugned provisions of the Act can possibly be held as primarily directed to the development of rural economy and, therefore, closely linked with agrarian reform.

14. Now examining the matter in this focus, what first catches the eye is the very name of the Act itself. This by itself makes it manifest that it pertains to municipal common lands. The urban as opposed to the rural nature of this legislation, is therefore, manifest at the very threshold. Proceeding further, section 2(d) of the Act whilst defining the word 'municipality' lays down that it would either be a local area which was declared or was deemed to have been declared a municipality under the Punjab Municipal Act, 1911, or was declared under the Haryana Municipal Act, 1974, as also the notified area Committees constituted thereunder and further includes within its ambit the Faridabad Urban Complex. The very definition, therefore, of the municipality and consequently the nature of municipal common lands would indicate that it bears relations to agricultural land situated in municipalities of small towns which are, therefore, primarily of urban nature and in sharp contra-distinction to agricultural lands of primarily rural character.

15. Proceeding further the provisions of section 4 then call for pointed notice. Thereby in language of wide amplitude all right, title and interest whatever in the Shamilat Deh of any municipality would vest in the Municipal Committee thereof on the appointed day. That the Municipal Committees or municipalities are urban bodies does not admit of any serious dispute. Therefore an aggregation to a body primarily urban can hardly be labelled as one for the development of rural economy. This aspect is further highlighted by the succeeding section 5 which then provides that these vested lands would be utilised or disposed of for the benefit of the inhabitants of the municipality. To crown it all section 6 of the Act in no uncertain terms says that all income accruing from the land vested in a Municipal Committee shall then be credited to the municipal fund. It is thus plain that both the title and the income of the Shamilat Deh are completely canalised in an urban body and paid over to its coffers. To characterise a measure of this kind as one for the development of rural economy would, to my mind appear rather farcical. In fact the overall effect of the provision is that it takes away agricultural land or property and its income wholly for the benefit and uses of a primarily urban body like the municipality or its Municipal Committee. Therefore, far from being directed to the development of the rural economy, it only provides for a further aggregation to the municipal or urban economy. To conclude, therefore, it appears to be plain that even on the most charitable construction the impugned Act cannot be possibly co-related either directly or even remotely to the development of rural economy.

15A. In fairness to the learned counsel for the respondents, it must be noticed that their star argument was not rested on the provisions of the impugned Act at all but only on some of the rules framed thereunder, namely, the Haryana Municipal Common Lands (Regulation) Rules, 1976. It calls for notice that these rules were framed two years after the statute itself and the learned counsel for the petitioners was vehement in his stand that at least for the limited purpose of the constitutionality of a statute, the primary and the sole provisions are those of the Act itself and the results of subordinate legislation thereunder. Without going into the slightly ticklish and vexed question whether *strictu sensu* the rules framed under an Act can sustain its constitutionality it appears to me that even assuming it to be so in favour of the respondents, their case is in no way advanced.

16. Primary reliance on behalf of the respondents was on rule 3 framed with regard to section 5 of the Act. Sub-rule (2) thereof lays down as many as 26 uses to which the *Shamilat Deh* vested in the Municipal Committee may be put to. This provides that the Committee may make use of the land vested in it either itself or through another for the purposes aforesaid. Included therein are the purposes of mining of minor minerals and leasing the land for industrial projects approved by the Government or to a family having insufficient housing accommodation in the urban area. Item (21) then refers to utilising the land for parking vehicles and a general power remains of putting it to any other common purpose with the approval of the Deputy Commissioner. Once the *Shamilat Deh* is itself vested in the municipality and all income therefrom is to be utilised by the Municipal Committee through its municipal funds for the benefits of its inhabitants then it is hardly of any relevance as to the mode or manner through which this income is to be derived. This apart, as I have shown above, the rules themselves envisage the uses of the vested land for purposes which are far from being in any way related to either agrarian reform simpliciter or to rural economy in the alternative. It is further significant to recall that rule 6 framed under the Act even provides for the gifting away of the vested land by the municipality apart from the specified purposes for any such other purposes which may be approved by the Government. This again can hardly be related to the development of rural economy and the power of disposal of the *Shamilat Deh* vested in the municipality by section 5 or its further elaboration by rule 6 to gift it away indeed appears to run counter to any advancement or development of rural economy as such.

17. The learned counsel for the respondents had then faintly contended that in *Ranjit Singh's case* (supra), the vesting of agricultural land in the Panchayat etc. was held to be within the ambit of the ancillary purposes of agricultural reform and for the development of the rural economy and the same principle may well be extended to the vesting of the same in a Municipal Committee or a Corporation. I am unable to agree. There is an obviously basic and fundamental difference in this context betwixt a Panchayat of a village on one hand and a Municipal Committee or a Corporation on the other. Whilst the Panchayat is essentially and primarily a rural body, the strengthening or endowing of which may well be construed as a measure of the development of rural economy, the same cannot

possibly be said of a Corporation or a municipal body which essentially partakes an urban character.

18. In a last ditch attempt, reliance was sought to be placed on the statement of objects and reasons appended to the bill which led to the enactment of the Act. The relevant part is in the following terms:—

> "In order to complete the chain of the agrarian reforms, which were undertaken with the enactment of the aforesaid Act, Government have decided that such *Shamilat Leh* lands within municipal limits should be vested in Municipal Committees for the purpose of planning and proper use and beneficial utilisation of urban and rural lands and the clearance of slum areas for the good of the community.

The Bill seeks to achieve the object in view," Firstly, it is well-settled that the Court is not to construe a provision of the statute on the basis of the statement of objects and reasons and it can be only used for the limited purpose of ascertaining the conditions prevalent at the time the bill was introduced in the legislature and the purpose for which the enactment was made. Merely labelling an Act as one of the agrarian reforms in the statement of objects and reasons would not make it in fact so. I have already independently analysed all the provisions of the Act to come to a contrary conclusion that it can neither be held as agrarian reform simpliciter nor come within the extension of the same as being directed to the development of rural economy. It is further significant to recall that in the afore-quoted statement of objects and reasons the clearance of slum areas of a town appears to have again been wrongly assumed to be within the ambit of agrarian reforms as this has been authoritatively held otherwise in *Vapravelu Mudaliar's case* (supra). Therein the acquisition of land expressly for the purpose of slum clearance which had become the urgent problem for the city of Madras was held to be not related to agrarian reform either in its limited or wider sense, however, laudable otherwise such an object may be. It must, therefore, be held that mere reference to agrarian reform in the statement of objects and reasons appended to the bill does not in any way protect the Act from the challenge of unconstitutionality.

19. Before parting with the judgment, it is perhaps fair to notice the reliance of the learned counsel for the respondents on

S. P. Watel v. *State of U.P.* (6). This case however, is wholly distinguishable. What was under consideration therein were the provisions of U.P. Urban Area Zamindari Abolition and Land Reforms Act. The very name would itself indicate that the impugned Act was a measure of agrarian reform and in fact by and large extended the provisions of Zamindari Abolition to urban areas. The Court therein after an examination of its provisions came to the clear finding that the Act as a whole was protected by Article 31-A of the Constitution because of the same being directed to agrarian reforms simpliciter. On a closer examination it further held that section 2(1)(d) was equally related and connected to the primary object of agrarian reform which the statute was meant to serve. The observations in this case, therefore, bear little analogy to the present case and in no way advance the stand of the respondent-State.

20. I would, therefore, conclude that the Haryana Municipal Common Lands (Regulations) Act, 1974 is not a measure of agrarian reform and, therefore, cannot enjoy the protection envisaged by Article 31-A (1) (a) of the Constitution. Once that is so, it in terms provides for the acquisition of land without payment of compensation which directly infringes the fundamental right enshrined in Article 31 of the Constitution. It was conceded before us that in the absence of the vital and the basic provisions regarding the vesting of the property in the municipality without compensation, the remaining provisions cannot stand independently thereof. The whole of the statute, therefore, suffers from the vice of unconstitutionality and is hereby struck down. The writ petition is consequently allowed. Because of the difficult and ticklish constitutional points arising herein the parties are left to bear their own costs.

R. N. Mittal, J.—I agree.

A. S. Bains, J.—I also agree.

N.K.S.

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(6) A.I.R. 1973 S.C. 1293.