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Judgment Sheet
IN THE LAHORE HIGH COURT, LAHORE.
JUDICIAL DEPARTMENT

Writ Petition No.24493/2012

M/s Eden Developers (Pvt.) Limited
Versus
Government of the Punjab etc.

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JUDGMENT

Date of Hearing:-	12.01.2017.
Petitioner by:-	Mr. Muhammad Shahzad Shaukat, Advocate.
Respondents by:-	Mr. Muhammad Hammad Khan Rai, A.A.G.

CH. MUHAMMAD IQBAL, J:- Through this writ petition, the petitioner has challenged the legality of order dated 10.05.2012 passed by learned Senior Member/Member (Revenue), Board of Revenue, Punjab, Lahore whereby the application of the petitioner was rejected and also sought direction against the respondents to proceed with the process of acquisition initiated vide notifications dated 05.04.2004 and 26.04.2007 respectively.

2. Brief facts of the case are that the petitioner submitted an application to the District Collector, Lahore for the acquisition of land measuring 2187-Kanals 09-Marlas situated in Mauza Malikpur, Sehjpai and Jhugian Alfa enabling the petitioner to establish a Housing Scheme. On 05.04.2004 a Notification

under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred as “the Act”) was published in the Official Gazette. On 26.04.2007, a corrigendum Notification was issued on the request of the petitioner whereby land measuring about 393-Kanals 09-Marlas (Mauza Malikpur 334-Kanals 06-Marlas & Mauza Sehjpai 59-Kanals 03-Marlas) was intended to be acquired instead of the area mentioned in the preliminary Notification under Section 4 of the Act dated 05.04.2004. On 28.09.2007 another Notification under Section 4 of the Act was issued for rectification of area as 21-Kanals 12-Marlas in place of 29-Kanals 06-Marlas 114-Sq.Ft. for construction of approach road and thereafter no further proceedings were carried out in matter for a period of more than two years.

The District Officer (Revenue) / Collector, Lahore withdrew / de-notified the initial Notification issued under Section 4 of the Act dated 05.04.2004 and corrigendum Notification dated 26.04.2007 through Official Gazette Notification dated 28.01.2009 published on 31.10.2009. The petitioner challenged the impugned withdrawal Notification before learned Senior Member, Board of Revenue through an application which was allowed vide order dated 20.04.2011 and consequently the Notifications under Section 4 of the Act in favour of the petitioner were restored. The petitioner filed Writ Petition No.25126/2010 seeking direction for expeditious/early

completion of land acquisition proceedings, which was disposed of with the direction to the DOR, Lahore vide order dated 01.12.2010 to decide the representation of the petitioner. The petitioner filed second Writ Petition No.12476/2011 with the same prayer which was disposed of vide order dated 06.06.2011 by this Court with the direction to the District Collector, Lahore to treat the writ petition as a representation and decide the same in accordance with law expeditiously. Meanwhile, one of the affectee of land acquisition proceedings filed application to the Chief Minister, Punjab / Chief Executive of the Province regarding the alleged acquisition notification under Section 4 of the Act. The Chief Executive of the Province obtained report with regard to matter in issue from the District Collector, Lahore alongwith a list of all such land acquisition proceedings made for the companies since 2002. The Commissioner Lahore Division made his report accordingly. The Board of Revenue through Memorandums dated 26.10.2011 and 11.11.2011 decided that all acquisition proceedings / notifications issued under Section 4 of the Act to acquire the land for private / commercial / profitable or cooperative housing societies which had not been completed within more than one year be immediately withdrawn and no further compulsory proceedings for acquisition of the land under the Act be initiated for the private / commercial housing

schemes or for the housing schemes launched by the cooperative housing societies. The petitioner challenged the aforementioned Memorandums dated 26.10.2011 and 11.11.2011 through Writ Petition No.25634/2011 and vide order dated 18.11.2011 this Court directed to the learned Senior Member, Board of Revenue to treat the writ petition as an application of the petitioner and decide the same after hearing the petitioner and concerned parties in accordance with law. Learned Senior Member / Member (Revenue), Board of Revenue, Punjab in compliance of order dated 18.11.2011 after affording an opportunity of hearing the concerned parties rejected the said application vide order dated 10.05.2012. Hence, this writ petition.

3. Learned counsel for the petitioner submits that the impugned order is against the law; that learned Senior Member, Board of Revenue lacks jurisdiction under Section 48 of the Act to pass such order; that the Government can withdraw acquisition of any land before obtaining its possession whereas the Chief Minister of Punjab is not a government; that impugned order is clearly violation of acquisition laws, as such, same is liable to be set aside.

4. Learned Law Officer appearing on behalf of the respondents submits that the Notification under Section 4 of the Act and corrigendum Notification issued by the District Officer

(Revenue), City Government, Lahore were not in consonance with the Land Acquisition Act, 1894; that land under Section 4 of the Act was not acquired for public purpose which is mandatory requirement under the law whereas the petitioner is doing a business of real estate under the garb of a company and there is no provision available in the acquisition laws which provides that land may be acquired for private housing schemes or commercial purpose, as such, learned Senior Member, Board of Revenue rightly passed the order dated 10.05.2012 and turned down the request of the petitioner; that the Notifications under Section 4 of the Act were issued in violation of the Articles 23 and 24 of the Constitution of Islamic Republic of Pakistan, 1973, as such, subsequent Notification dated 28.01.2009 for withdrawal of earlier Notifications was rightly issued; further submits that this Court has no jurisdiction to direct the respondents for the compulsory acquisition of land for establishment of a private housing schemes which legally vests in the exclusive domain of the acquiring agency / authority, as such, learned Senior Member, Board of Revenue, Punjab rightly passed the order and has committed no illegality.

5. I have heard the arguments and gone through the record with the able assistance of learned counsel for the parties.

6. Admittedly, the petitioner is a real estate business concern dealing in the sale and purchase of land in the name

and style of M/s Eden Developers (Pvt.) Limited. In para No.2 of the instant writ petition, the petitioner admitted that they purchased an area of land from different owners for establishing housing scheme, however, some owners have refused to sell their land to the petitioner through private negotiation whereafter the petitioner approached the government for the acquisition of suit land for the purpose of establishing housing scheme. On the request of the petitioner a Notification for acquisition of the land of the private individual was issued which was subsequently withdrawn by the government vide Gazette Notification dated 28.01.2009. The core issue before this Court is whether the land of private individuals can be acquired under Section 4 of the Land Acquisition Act in favour of a Real Estate Company and after issuance of the Notification for compulsory acquisition of private land for a real estate private company the same can be de-notified by the government. It would be appropriate to firstly take up the point of acquisition of the land for public purpose of the state. There is no cavil or cudgel that the Provincial Government is fully vested with the power to issue a preliminary Notification expressing its intention for the acquisition of land likely to be needed for any **public purpose**. Section 4 of the Land Acquisition Act, 1894 is as under:-

“4. Publication of Preliminary notification and powers of officers thereupon. (I) Whenever it appears to the [Provincial Government] that land in any locality [is

needed or] is likely to be needed for **any public purpose**, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,--

to enter upon and survey and take levels of any land in such locality;
to dig or bore into the sub-soil;
to do all other acts necessary to ascertain whether the land is adapted for such purpose;
to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;
to mark such levels, boundaries and the line by placing marks and cutting trenches; and
where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle

Provided that no person shall enter into any building or upon any enclosed Court or garden attached to a dwelling-house unless with the consent of the occupier thereof without previously giving such occupier at least seven days' notice in writing of his intention to do so."

Undoubtedly, the sanctity of the public purpose gathers supremacy over the individual interest. Public purpose varies with the time, place and need of the society which furthers the general interest of the community as opposed to the particular interest of the individual. Though the exact meaning of public purposes conclusively is not available in the statute and it is most pertinent to demonstrate the probable, alike, synonymous literal meaning of the same which would be quite beneficial to understand the issue. The term 'Public Purpose' has been defined in Black's Law Dictionary (5th Edition) as under:-

"A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity and contentment of all the

inhabitants or residents within a given political division, as, for example, a State, the sovereign powers of which are exercised to promote such public purpose or public business.”

The Land Acquisition Act, 1894 is a special law which had been enacted for the acquisition of land for public purposes. This Act is based upon the doctrine of “Salus populi suprema lex” that the interests of the public are supreme and that the private interests are subordinate to the interest of the state. Further, the public purpose has already received different approach of meaning according to the time, place and need of the society which can only be ascertained and defined by the government and if a government reaches conclusion and declares an object as a public purpose than it obtains the status of a part of the state services and its benefit would be extendable, un-discriminately to a community or public at large and such determination of public purpose would be treated as final.

The acquisition of land other than for public purposes will be ultra vires of provision of Article 24 of the Constitution of the Islamic Republic of Pakistan as well as the Land Acquisition Act, 1894 and under the law there is no scope for acquisition of land other than for public purpose. The object of Notification under Section 4 of the Act discloses only the intention and need of the Govt. which is issued to give notice to public at large that land subject matter of Notification is

required for public purposes, such Notification is merely an introductory measure, tentative in nature and furnishes the foundation of subsequent proceedings for acquisition. Further, it is a caution to the public that any transaction/alienation made subsequently would be at the risk and cost of the respective parties. Purpose of such Notification is to carry on preliminary investigation to find out whether said land is required for that very public purpose or otherwise. The government through such Notification expresses its tentative primary intention to acquire land for public purposes which could not be considered as conclusive and ultimate decision of the government rather it is a precautionary notice/warning to the public at large. The Hon'ble Supreme Court of Pakistan resolved this issue in a case reported as Muhammad Ashiq & Another Vs. Water and Manpower Development Authority, Lahore through Chairman, WAPDA House & Another (PLD 2008 SC 335) and held as under:-

“It may be explained here that notification issued under Section 4 of the Land Acquisition Act, in fact, empowers the Provincial Government and its officers specially or generally to enter upon the lands, to take its survey and to perform other acts as contained in the above noted section. In other words, the notification issued and published under this section 4 of Land Acquisition Act, 1894 is a preliminary step which facilitates the Government and its officers not only to perform survey of the land but to decide and determine as to which piece of land was finally required to be acquired and the land to be left ultimately for the purpose of acquisition, keeping in view the aim and purpose for which the land was being acquired. Therefore, the notification which was got published under section 4 of the Land Acquisition Act, could not be termed as an ultimate and final decision of the Government to acquire the land notified in the aforementioned Notification.”

7. The meaning of public purpose, its assessment, aim, object and determination would be bit literal, stringent, strick and different with regard to compulsory acquisition of land for other than the state (other private). Undoubtedly the acquisition of land in favour of a company for welfare of public at large is permissible but the determining factor of public purpose falls exclusively within the domain of government which is the adjudicating and arbitral forum of the same and it has to define the public purpose scrutinizing scrupulously the request for the acquisition of land by the requiring company and government has to evaluate public purpose objectively on basis of reasonable material as sacred fundamental right of individual duly safeguarded under provision of Article 24 of the Constitution of Pakistan are likely to be affected. Furthermore, such determination of public purpose would also be justiciable and amenable to judicial review by the Courts.

8. So far the arguments of learned counsel for the petitioner that under Section 5 (West Pakistan Amendment) of the Act, a particular chunk of land needed for a company can be acquired suffice it to say that there is no denial to it but that is subject to the public purpose and to the satisfaction of the Provincial Government. The provision of Section 5 (West Pakistan Amendment) of the Land Acquisition Act, 1894 is as under:-

“5. Notification that particular land is needed for a public purpose or for a company. – Where land is to be

acquired for a public purpose, if the Commissioner, and where land is to be acquired, for a Company, the Provincial Government, is satisfied, after considering the result of the survey, if any, made under sub-section (2) of Section 4, or if no survey is necessary at any time, that any particular land included in a locality notified under sub-section (1) of Section 4 is needed for a public purpose of Company, as the case may be, a notification to that effect shall be published in the official Gazette, stating the District or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area and situation and where plan has been made of the land, the place where such plan may be inspected, and the Collector shall cause public notice to be given of the substance of the notification at convenient places on or near the land to be acquired.”

Furthermore, Section 40 of the Land Acquisition Act, 1894 is mandatory in nature which envisages the holding of bonafide investigation regarding the genuineness of the request for acquisition of private land which necessarily be conducted before issuance of the preliminary notification and any non-compliance of the provision of Section 40 of the Act is incurable defect debarring the authority to accede the above request. Section 40 of the Act is reproduced as under:-

“40. Previous enquiry.--(1) Such consent shall not be given unless the [Provincial Government] be satisfied, either on the report of the Collector under Section 5-A, sub-section (2), or] by an enquiry held as hereinafter provided,-

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[(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or

“(aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, or”

(b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public].

(2) Such enquiry shall be held by such officer and at such time and place as the [Provincial Government] shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court.

The public purpose means proposed aiming a promotion of general welfare. The petitioner requested for the acquisition of land for establishing a private housing scheme which furthers /promotes the purpose of life style and its private business which cannot be equated with public purpose and such like acquisition is not available in the Land Acquisition Act, 1894.

From the conjunctive reading of Sections 4, 5 and 40 of the Act, it is clear that land can be acquired only for public purpose and not for establishing a private housing scheme or for the business of real estate. There is no provision available in the Act for the acquisition of the public land for establishing a private housing scheme or for the further flourishing of real estate business. It is admitted fact that the petitioner's company is doing a business on commercial basis aiming to earn a lot of profit for enrichment of a few individuals only which cannot be termed/treated as public purpose, as such, the case of the petitioner does not fall within the ambit of public purpose.

In a similar case, land of the private individuals was being acquired for exclusive welfare of army personnel named

as Army Welfare Housing Scheme which was a scheme of Army Welfare Trust company but in relevant documents, Army Welfare Trust (a company) did not figure anywhere nor any document was produced before Court to show if Army Welfare Housing Scheme had any authority to acquire land directly. The above acquisition proceedings were challenged before this Court by the land owners on the ground that the acquisition was not for public purpose. The Notifications for acquisition of land themselves speak that the land required for a private real estate company which is adverse to the spirit of public purpose. This Court while exercising the constitutional jurisdiction declared the Notification as ultra vires in a case titled as Muhammad Saqib Abbasi Vs. Province of Punjab through Secretary Local Government, Lahore & 2 Others (2013 CLC 158) and held as under:-

“13. So far as acquisition of land for public purpose is concerned, the notifications themselves deny the “public purpose” as these clearly state that the land is being acquired for welfare of army personnel only and not for general public. It has been argued by learned counsel for DHA/AWHS that AWHS is a scheme of Army Welfare Trust which is a company but in the relevant documents, Army Welfare Trust does not figure anywhere nor any document has been produced before the Court to show if AWHS has any authority to acquire land from the province directly, therefore, the contention of learned counsel seems to be an afterthought. Furthermore, housing schemes being launched under the banner of Defence Housing Authority are on commercial basis earning a lot of profit therefrom, therefore, these cannot be said a “public purpose”.

From the perusal of aforementioned provision i.e. Section 5 of the Act, it is very much clear that the satisfaction of the Provincial Government is sine qua non for the acquisition of

land. In this case, it is admitted fact that the petitioner is establishing a private housing scheme for business purpose and doing sale and purchase business i.e. real estate business private purpose which cannot be termed as public purpose. The government after having investigated the spirit of object / claims of the petitioner and reached the conclusion that the case of the petitioner does not come within scope of the public purpose and in this regard the Govt. is manifestly vested with the authority to refuse the acquisition process. Reliance is placed on the case of Federal Government Employees' Housing Foundation through Director-General, Islamabad & Another Vs. Muhammad Akram Alizai, Deputy Controller, PBC, Islamabad (2002 PLC (CS) 1655), relevant portion whereof is reproduced as under:-

“We may observe that there can be no cavil to the proposition that the acquisition of the private land for a purpose other than the public purpose is not legal and such acquisition for the personal benefit of a particular class of employees would not be in the public interest. We are therefore, of the view that there can be no exception to the view taken in the judgment of the High Court (2000 YLR 1711)(supra)”

Furthermore, the Provincial Government has a jurisdiction under Section 48 (1) of the Act to withdraw the process of acquisition at any time before taking possession, except in the case covered by Section 36 of the Act. Section 48 (1) of the Act is as under:-

“48. Completion of acquisition not compulsory, but compensation to be awarded when not completed.-- (1)
Except in the case provided for in Section 36, the

Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.”

In this case, admittedly mere a Notification under Section 4 of the Act was issued on 05.04.2004 and no further acquisition proceedings were ever initiated thereafter which reflects an intention of the government to abandon the proceedings. Furthermore, the land intended to be acquired is still in the possession of the original owner and government has neither taken the physical possession nor announced any compensation / award etc. to land owners. The government while exercising power under Section 48 (1) of the Act through the District Officer (Revenue) / Collector, Lahore on 28.10.2009 (gazette on 31.10.2009) de-notified the acquisition proceedings in respect of land measuring 393-Kanals 09-Marlas situated in Mauza Malikpur (334-Kanals 06-Marlas) and Mauza Sehjpai (59-Kanals 03-Marlas), Tehsil Cantt., District Lahore. Reliance is placed on the case of Messrs Dewan Salman Fiber Limited & Others Vs. Government of NWFP, through Secretary, Revenue Department, Peshawar & Others (PLD 2004 SC 441) wherein it is held that Section 48 of the Act empowers the Government to withdraw from the acquisition of any land. This power is, however, not absolute, but subject to the condition that possession of the land has not been taken.

Furthermore, the requisition for compulsory acquisition of the property for the benefit of one or more private individuals has no backing of law. The Notifications under Section 4 of the Land Acquisition Act issued on 05.04.2004 and 26.04.2007 and thereafter no further proceedings were initiated by the government and under Section 5 of the Act, the satisfaction of the government is necessary whereas the preliminary inquiries / probe with regard to genuineness of the public purpose is imperative requirement of law and under Section 40 of the Act, the provincial government has to be satisfied through a bonafide inquiry. In this case, no material has been placed on the record showing that the provincial government had ever shown its satisfaction, as such, the intention / Notifications under Section 4 were withdrawn by the competent authority.

9. So far as the arguments of learned counsel for the petitioner that the Member, Board of Revenue is not a government suffice it to say that this Court has already held that the Member Board of Revenue is ex-official Secretary to the government of Punjab Revenue Department in a case titled as National Police Foundation Corporation Housing Society Limited, Islamabad Vs. Board of Revenue, Government of Punjab & 2 Others (PLJ 1984 Lahore 158) which is reproduced as under:-

“It is not denied that Mr. S. M. Nasim learned Senior Member Board of Revenue is ex-officio Secretary to the Government of the Punjab, Revenue Department, therefore, the mere fact that in the impugned memorandum the Member Board of Revenue was not described as Secretary to the Government of the Punjab, Revenue Department, would not in any way affect the validity of the impugned proceedings. My view is fortified by the dictum of the Supreme Court in *Pio Gul v. The State* (PLD 1960 SC 307).”

As such, the Member, Board of revenue was fully competent to pass the impugned order whereas the argument of learned counsel for the petitioner is misconceived and same is repelled.

10. From the perusal of the contents of the instant writ petition, it transpires that learned counsel for the petitioner has not raised any plea of malafide on the part of the government or could not establish any personal malafide against the Member, Board of Revenue who passed the impugned orders. It is an admitted position that the petitioner is intending to set up a private housing scheme under the garb of the acquisition which purpose cannot be equated in any manner with the public purpose. Reliance is placed on the case of *Radba Kanta Banik Vs. The Province of East Pakistan & 2 Others* (PLD 1969 SC 545), relevant portion whereof is reproduced as under:-

“The fact remains that the impugned requisition and acquisition were made for the business purpose of a private party. By the impugned orders, the appellant’s business of running a petrol pump was requisitioned and thereafter acquired for Messrs Ashish Corporation. As an agent of Caltex Oil (Pak.) Limited, Messrs Ashish Corporation will sell petrol and petroleum products from the requisitioned and acquired petrol pump and earn commission on such sales. Whoever may be the agent in respect of this petrol pump, the consumers will get supply of petrol of petroleum

products as usual, and the person holding the petrol pump as an agent will earn commission on the sales thereof. Thus the impugned requisition and acquisition will directly benefit Messrs Ashish Corporation, but the facility for supply to the consumers will continue to remain the same. In this view of the matter, it is plainly clear that the impugned requisition and acquisition for the business purpose of a private party like Messrs Ashish Corporation were not for a public purpose, nor were these made in the public interest.

In similar case, namely, *Jogesh Chandra Ledh v. Province of East Pakistan (1)*, a Division of the High Court of that Province held that the requisition of certain premises for Molla Baling Agency of which one Moslem Ali Molla was the proprietor, was bad in law as the requisition was not for a public purpose or in the public interest, but for the benefit of a private individual. On appeal from the said decision, the view taken by the High Court was upheld by this Court—See 11 DLR 411 (SC)”

Similarly, learned Division Bench of this Court in a case reported as *Muhammad Ishaq & Another Vs. Collector, Lahore District Lahore & Others* (2000 YLR 1074) declared that land cannot be acquired under Acquisition Laws for private housing scheme.

“In view of the said observation of the Supreme Court which somewhat confirms the observation of this Court in the case of Dr. Muhammad Nasim Javed (supra), the argument that the setting up of a private housing scheme is not a public purpose by itself does not hold water. However, we have to see as to whether the machinery of law, which but for the Constitutional protection provided to it under proviso to Article 24 of the Constitution, is a process for depriving a citizen of his property compulsorily, can be allowed to be invoked by a group by whatever name called, for personal benefit. The answer is certainly no and we seek support from the observations of Mr. Justice Irshad Hassan Khan (as his lordship then was) in para. 14 of the said report at page 562, which is to the following effect: ---

In view of the ratio laid down in the aforementioned cases, the legal position which emerges is that the acquisition for Cooperative Housing Building Society may serve a public purpose. It, however, depends upon circumstances of each case whether or not such an acquisition is for a public purpose.”

Under Article 24 of the Constitution of Islamic Republic of Pakistan, 1973, the respectable citizens cannot be deprived of their property through a compulsory process of acquisition of land for private housing schemes. Article 24 of the Constitution is as under:-

“24. Protection of property rights. (1) No person shall be compulsory deprived of his property save in accordance with law.

(2) No property shall be compulsorily acquired or taken possession of save for a public purpose, and save by the authority of law which provides for compensation therefore and either fixes the amount of compensation or specifies the principles on and the manner in which compensation is to be determined and given.

(3) Nothing in this Article shall affect the validity of —

(a) any law permitting the compulsory acquisition or taking possession of any property for preventing danger to life, property or public health; or

(b) any law permitting the taking over of any property which has been acquired by, or come into the possession of, any person by any unfair means, or in any manner, contrary to law; or

(c) any law relating to the acquisition, administration or disposal of any property which is or is deemed to be enemy property or evacuee property under any law (not being property which has ceased to be evacuee property under any law); or

(d) any law providing for the taking over of the management of any property by the State for a limited period, either in the public interest or in order to secure the proper management of the property, or for the benefit of its owner; or

(e) any law providing for the acquisition of any class of property for the purpose of —

(i) providing education and medical aid to all or any specified class of citizens; or

(ii) providing housing and public facilities and services such as roads, water supply, sewerage, gas and electric power to all or any specified class of citizens; or

(iii) providing maintenance to those who, on account of unemployment, sickness, infirmity or old age, are unable to maintain themselves, or

(f) any existing law or any law made in pursuance of Article 253.

(4) The adequacy or otherwise of any compensation provided for by any such law as is referred to in this

Article, or determined in pursuance thereof, shall not be called in question in any Court.”

It is the eminent domain of every government to appropriate the property of any citizen for necessities of the State, however, it entails to the constitutional requirement that the acquisition or dispossession must be for public purpose, authorized by law and obligation of the State to pay compensation to the oustee (land owner). Right to acquire, hold, use and dispose of the property is one of the fundamental rights enshrined under Article 23 of the Constitution of Islamic Republic of Pakistan, which provides protection to the citizens and such protection has also been provided under Article 24(1) of the Constitution. Acquisition process employed to deprive someone of his property is an exception visualized by the Constitution and the process has to be in consonance with the conditions, parameters and manners laid down under Article 24 (2) and (3) of the Constitution. But in this case neither the land was acquired for public purpose nor the government was satisfied, which is mandatory under the acquisition laws, as such, the impugned order passed by learned Senior Member, Board of Revenue is quite in consonance with the Land Acquisition Act, 1894 as well as policy decision of the Government..

11. Admittedly, the de-acquisition proceedings were initiated on the application of the landowners who are necessary parties as their rights / interest are directly involved in this matter and

despite having the knowledge the petitioner has not impleaded them as party in the writ petition whose land is going to be acquired compulsorily. It is settled law that the non-impleadment of necessary parties in the writ petition extremely minimize the maintainability of petition. Reliance is placed on the cases of Mst. Maqbool Begum etc. Vs. Gullan & Others (PLD 1982 SC 46), Akhtar Ali Khan & Another Vs. Settlement Commissioner, Peshawar & 4 Others (1989 SCMR 506) and Muhammad Suleman Vs. Abdul Rashid & 13 Others (PLD 1987 Lahore 387).

12. Learned counsel for the petitioner has failed to point out any illegality or material irregularity or any violation of acquisition laws in the impugned order passed by learned Senior Member, Board of Revenue, Punjab and also has not identified any jurisdictional defect.

13. What has been discussed above, this writ petition being devoid of any merits is hereby **dismissed**.

(CH. MUHAMMAD IQBAL)
JUDGE

Approved for Reporting

JUDGE