

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 18273 OF 2017

(Arising out of SLP (C) No.11308/2017)

GHAZIABAD DEVELOPMENT AUTHORITY

APPELLANT(S)

VERSUS

RATTAN SINGH & ORS.

RESPONDENT(S)

WITH

CIVIL APPEAL NO.17781 OF 2017

(Arising out of SLP (C) No.14149/2017)

CIVIL APPEAL NO.17774 OF 2017

(Arising out of SLP (C) No.13234/2017)

CIVIL APPEAL NO.17767 OF 2017

(Arising out of SLP (C) No.12750/2017)

CIVIL APPEAL NO.17775 OF 2017

(Arising out of SLP (C) No.13105/2017)

CIVIL APPEAL NO.17763 OF 2017

(Arising out of SLP (C) No.12620/2017)

CIVIL APPEAL NO.17772 OF 2017

(Arising out of SLP (C) No.13103/2017)

CIVIL APPEAL NO.17778 OF 2017

(Arising out of SLP (C) No.14270/2017)

CIVIL APPEAL NO.17770 OF 2017

(Arising out of SLP (C) No.12631/2017)

CIVIL APPEAL NO.17766 OF 2017

(Arising out of SLP (C) No.13060/2017)

CIVIL APPEAL NO.17785 OF 2017

(Arising out of SLP (C) No.28203/2017)

CIVIL APPEAL NO.17769 OF 2017

(Arising out of SLP (C) No.13102/2017)

CIVIL APPEAL NO.17783 OF 2017

(Arising out of SLP (C) No.14241/2017)

CIVIL APPEAL NO.17768 OF 2017

(Arising out of SLP (C) No.12627/2017)

CIVIL APPEAL NO.17786 OF 2017

(Arising out of SLP (C) No.28204/2017)

CIVIL APPEAL NO.17758 OF 2017

(Arising out of SLP (C) No.12071/2017)

CIVIL APPEAL NO.17765 OF 2017

(Arising out of SLP (C) No.12726/2017)

CIVIL APPEAL NO.17773 OF 2017

(Arising out of SLP (C) No.13428/2017)

CIVIL APPEAL NO.17757 OF 2017

(Arising out of SLP (C) No.11299/2017)

CIVIL APPEAL NO.17761 OF 2017

(Arising out of SLP (C) No.12621/2017)

CIVIL APPEAL NO.17782 OF 2017

(Arising out of SLP (C) No.14743/2017)

CIVIL APPEAL NO.17787 OF 2017

(Arising out of SLP (C) No.28207/2017)

CIVIL APPEAL NO.17776 OF 2017

(Arising out of SLP (C) No.13575/2017)

CIVIL APPEAL NO.17762 OF 2017

(Arising out of SLP (C) No.12636/2017)

CIVIL APPEAL NO.17759 OF 2017

(Arising out of SLP (C) No.12410/2017)

CIVIL APPEAL NO.17779 OF 2017

(Arising out of SLP (C) No.14153/2017)

CIVIL APPEAL NO.17771 OF 2017

(Arising out of SLP (C) No.13251/2017)

CIVIL APPEAL NO.17764 OF 2017

(Arising out of SLP (C) No.12723/2017)

CIVIL APPEAL NO.17760 OF 2017

(Arising out of SLP (C) No.12377/2017)

CIVIL APPEAL NO.17780 OF 2017

(Arising out of SLP (C) No.14162/2017)

CIVIL APPEAL NO.17788 OF 2017

(Arising out of SLP (C) No.28208/2017)

CIVIL APPEAL NO.17784 OF 2017

(Arising out of SLP (C) No.15578/2017)

(Arising out of SLP (C) CC No.9027/2017)

CIVIL APPEAL NO.17777 OF 2017

(Arising out of SLP (C) No.14708/2017)

O R D E R

Leave granted.

Heard finally.

The Ghaziabad Development Authority has come up in appeals, aggrieved by the judgment and order dated 9<sup>th</sup> September, 2016 passed by the High Court of Judicature at Allahabad in a batch of writ petitions. The High Court has quashed the notification for acquisition mainly on the that ground that the provisions contained in National Capital Regional Planning Board Act, 1985 (hereinafter referred to as "1985 Act") had not been complied with. The High Court has found, that no Sub-Regional Plan was prepared by the Ghaziabad Development Authority, neither was it submitted for approval to the Board under the 1985 Act; the Master Plan was also not submitted for approval to the Board under the 1985 Act. Apart from that, High Court has observed, that inquiry under Section 5A of the Land Acquisition Act, 1894 was also not held; it was illegally dispensed with. At the same time, the High Court observed that it would not have quashed entire proceedings but only declaration issued under Section 6

but due to the non compliance of the provisions of the 1985 Act it had quashed the entire proceedings.

The Ghaziabad Development Authority is in appeals in these matters on the ground that Regional Plan was prepared way back in the year 1989, and the same had been approved by the Board under the 1985 Act. Sub-Regional Plan had also been prepared by the State of Uttar Pradesh. The Master Plan was prepared by the Ghaziabad Development Authority, it was not required to be approved by the Board under the 1985 Act. In the Regional Plan, as well as the Sub-Regional Plan, use provided was urbanizable, and in the Master Plan, initially, the area was reserved for purpose of recreation but, later on, this was changed to residential purpose. Both purposes in the Master Plan were related to urbanization. The Regional as well as Sub-Regional Plan had been approved by the Board under the 1985 Act. Thus, there had not been any non compliance of the provisions of 1985 Act. With respect to Sub-Regional Plan, no averment was made by the Ghaziabad Development Authority in its reply in the High Court. However, the Regional Plan, the Sub-Regional Plan, the Master Plans, as well as the approval granted under the 1985 Act, are placed before us, and it was submitted, that judicial notice can be taken by this Court, as the notifications

have a statutory force. It was also submitted that most of the writ petitions were filed after more than two years, and there had been a delay of two to nine years in the filing of the writ petitions. The writ petitions filed belatedly could not have been entertained; at the most, writ petitions could have been filed within six months; the petitions were not worthy of being entertained by the High Court. Most of the writ petitions should have been, accordingly, dismissed only on the ground of delay and laches in questioning the notification. It was also submitted that some of the petitioners had received compensation consequently they were not entitled for agitating the matter. Some of the petitioners had purchased property after Section 4 Notification; their writs were not maintainable to question the proceedings as per the law settled by this Court. There was urgency, as defect was there as to district in the notifications and removal of the same, some time was consumed; the delay has been properly explained in this case and, as such, inquiry under Section 5-A was rightly dispensed with. Even otherwise, on the ground of not holding inquiry under Section 5A of the Land Acquisition Act, 1894, the declaration under Section 6 could have been quashed. It was submitted, that planned development is also an urgent requirement. Thus, the decision of the High Court on both

issues deserves to be set aside.

Learned counsel appearing for respondents, contended that no interference was required to be made in appeals filed on behalf of Ghaziabad Development Authority. It was submitted, that the provisions contained in the 1985 Act were not complied with in the instant case; Sub-Regional Plan as well as the Master Plan were not approved; and nothing had been disclosed, in the reply filed before the High Court, by the Ghaziabad Development Authority. Thus, it would not be proper to consider the notification and other documents produced in this Court by Ghaziabad Development Authority in the form of Regional Plan, Sub-Regional Plan and Master Plan etc. There was no urgency, as has rightly been determined by the High Court. The subsequent conduct indicated that it was possible to conduct inquiry under Section 5A of the Land Acquisition Act; inquiry had been illegally dispensed with. The case of Gajraj Singh and Others vs. State of U.P. and others [(2011) 11 ADJ 1] has been rightly relied upon by the High Court to quash the notification.

After hearing learned counsel for the parties, in our opinion, it would be just and appropriate to permit the Ghaziabad Development Authority to place on record, the

notifications, as well as the Regional Plan, the Sub-Regional Plan and also sanctions granted by the Board, as also the Master Plan, along with proper pleadings and affidavit. The land owners be permitted to file a rejoinder affidavit and thereafter, the matter be heard afresh and decided on aforesaid aspects. The observation made by the High Court, that Sub-regional Plan was not prepared by the Ghaziabad Development Authority, is not in accordance with law. Sub-Regional Plan is required to be prepared by participating States. The Master Plan only was to be prepared by the Ghaziabad Development Authority and that did not require approval of Board under 1985 Act. All these aspects are required to be taken care of by the High Court in proper perspective. The decision of the High Court, for want of proper pleadings, as to non-compliance of 1985 Act, is found to be untenable. Both the appellants as well as the respondent have not pleaded, with exhaustive details, the actual factual situation that has been urged before us for the first time.

The other objection raised is with respect to the finding as to the non-holding of an inquiry under Section 5A of the Act is also required to be gone into afresh. After duly considering the submissions of the rival parties.

We remit the case back to the High Court to decide the matter afresh on aforesaid aspects in accordance with law. The High Court is further requested to decide the matters as far as possible within six months.

The appeals are disposed of in terms of the above.

.....J.  
(ARUN MISHRA)

.....J.  
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI,  
OCTOBER 31, 2017.

ITEM NO.2

COURT NO.10

SECTION XI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 11308/2017  
(Arising out of impugned final judgment and order dated 09-09-2016  
in WC No. 21565/2013 passed by the High Court Of Judicature at  
Allahabad)

GHAZIABAD DEVELOPMENT AUTHORITY

Petitioner(s)

VERSUS

RATTAN SINGH &amp; ORS.

Respondent(s)

([ALONGWITH PAPERS OF SLP(C)NO.3426/2017 AND OTHER CONNECTED  
MATTERS])

WITH

SLP (C) No.14149/2017 (XI)  
(and IA No.100705/2017-EXEMPTION FROM FILING O.T.)

SLP ( C ) No.13234/2017 (XI)

SLP (C) No.12750/2017 (XI)

SLP (C) No.13105/2017 (XI)

SLP (C) No.12620/2017 (XI)

SLP (C) No.13103/2017 (XI)

SLP (C) No.14270/2017 (XI)

SLP (C) No.12631/2017 (XI)

SLP (C) No.13060/2017 (XI)

(and IA No.106133/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and  
IA No.106137/2017-EXEMPTION FROM FILING O.T.)

SLP (C) No.28203/2017 (XI)  
(FOR CONDONATION OF DELAY IN REFILING ON IA 1/2017)

SLP (C) No.13102/2017 (XI)

SLP (C) No.14241/2017 (XI)

SLP (C) No.12627/2017 (XI)

SLP (C) No.28204/2017 (XI)  
(FOR CONDONATION OF DELAY IN REFILING ON IA 1/2017)

SLP (C) No.12071/2017 (XI)

SLP (C) No.12726/2017 (XI)

SLP (C) No.13428/2017 (XI)

SLP (C) No.11299/2017 (XI)

SLP (C) No.12621/2017 (XI)  
(and IA No.106160/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and  
IA No.106163/2017-EXEMPTION FROM FILING O.T.)

SLP (C) No.14743/2017 (XI)

SLP (C) No.28207/2017 (XI)  
(FOR CONDONATION OF DELAY IN REFILING ON IA 1/2017)

SLP (C) No.13575/2017 (XI)

SLP (C) No.12636/2017 (XI)

SLP (C) No.12410/2017 (XI)

SLP (C) No.14153/2017 (XI)

SLP (C) No.13251/2017 (XI)

SLP (C) No.12723/2017 (XI)

(and IA No.106144/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and  
IA No.106148/2017-EXEMPTION FROM FILING O.T.)

SLP (C) No.12377/2017 (XI)

SLP (C) No.28208/2017 (XI)  
(FOR CONDONATION OF DELAY IN REFILING ON IA 1/2017)

SLP (C) No.14708/2017 (XI)

SLP (C) No.14162/2017 (XI)

S.L.P. (C) ...CC No.9027/2017 (XI)

Date : 31-10-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA  
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s)

Mr.Rakesh Uttamchandra Upadhyay, AOR

For Respondent(s)

Mr.V.Shekhar, Sr.Adv.

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Mr.Brajesh Kumar Singh, Adv.

Ms.Rekha Pandey, Adv.

Mr.Amit Pratap Shaunak, Adv.

Mr.Saurabh Agarwal, Adv.

Mr.Pawan Shree Agarwal, Adv.

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Mr.D.V.Singh, Adv.

Mr.Arijeet Singh, Adv.

Mr.Ajit Singh Pundir, Adv.

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Ms.Apporva Garg, Adv.  
Mr.Amar Deep Sharma, Adv.

Dr.Rajeev Sharma, Adv.  
Mr.Raghuvir Sharma, Adv.  
Mr.Vipin Kumar Sharma, Adv.  
Mr.Dharmendra Sharma, Adv.  
Mr.Haji Salimuddin, Adv.  
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Ms.Aarohi Bhalla, Adv.  
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Mr.Manish Vashishtha, AOR

Mr.M.P. Shorawala, AOR

M/s. Anuradha & Associates

Dr.Rajeev Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Delay condoned.

Leave granted.

The civil appeals are disposed of in terms of the  
signed order.

(Ashok Raj Singh)

Court Master

(Signed Order is placed in the file)

(Jagdish Chander)

Court Master