



2025:PHHC:002828-DB



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

Reserved on : 13.12.2024

Pronounced on : 13.01.2025

<i>Sr. No.</i>	<i>Case Number</i>	<i>Title of the case</i>
1.	CWP-19011-2008	SWARAN SINGH Vs STATE OF PUNJAB ETC.
2.	CWP-7615-2010	KAMAL KUMAR SAWHNEY AND ORS. Vs STATE OF PUNJAB ETC.
3.	CWP-14486-2013	JASBIR SINGH GUJRAL Vs STATE OF PUNJAB AND OTHERS
4.	CWP-14091-2013	M/S PUNJAB COLD STORAGE AND GENERAL MILLS Vs STATE OF PUNJAB AND ORS.
5.	CWP-14197-2013	KAMAL KUMAR SAWHNEY Vs STATE OF PUNJAB ETC.
6.	CWP-17375-2013	KASHMIRI LAL Vs STATE OF PUNJAB & ORS.
7.	CWP-15877-2013	M/S JAY CEE WOOLEN TEXTILES Vs STATE OF PUNJAB & ORS
8.	CWP-17740-2013	KRISHAN CHAND Vs STATE OF PUNJAB AND OTHERS
9.	CWP-17776-2013	SRI KRISHAN UPPAL Vs STATE OF PUNJAB ETC
10.	CWP-17795-2013	HARVINDER SINGH Vs STATE OF PUNJAB AND OTHERS
11.	CWP-17847-2013	HARMINDER SINGH Vs STATE OF PUNJAB AND OTHERS
12.	CWP-17884-2013	GURDEEP SINGH Vs STATE OF PUNJAB AND ORS
13.	CWP-18090-2013	KRISHAN LAL Vs STATE OF PUNJAB AND ORS.
14.	CWP-19309-2013	TEJINDER SINGH Vs STATE OF PUNJAB & ORS
15.	CWP-19533-2013	JATINDER SINGH Vs STATE OF PUNJAB AND OTHERS
16.	CWP-20002-2013	M/S H M TYRES RESOLE PVT LTD Vs STATE OF PUNJAB & ORS
17.	CWP-2019-2014	M/S DEV PARTAP INTERNATIONAL Vs STATE OF PUNJAB & ORS



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18.	CWP-2036-2014	<i>M/S ZIPPO INDUSTRIES Vs STATE OF PUNJAB & ORS</i>
19.	CWP-2052-2014	<i>M/S AJA ENGINEERING WORKS Vs STATE OF PUNJAB & ORS</i>
20.	CWP-25100-2013	<i>M/S PUNJAB SPUN PIPES Vs STATE OF PUNJAB AND ORS</i>
21.	CWP-2815-2014	<i>SATWINDER SINGH Vs STATE OF PUNJAB & ORS</i>
22.	CWP-2896-2014	<i>INDERPREET SINGH & ANR Vs STATE OF PUNJAB & ORS</i>
23.	CWP-4172-2014	<i>M/S ORIENTAL CERAMICS & REFRACTORIES (P) LTD Vs STATE OF PUNJAB AND ORS</i>
24.	CWP-5972-2014	<i>M/S KALA MECHANICAL WORKS Vs STATE OF PUNJAB & ORS</i>
25.	CWP-9995-2014	<i>M/S AYODHYA PACKAGING & ORS. Vs STATE OF PUNJAB & ORS.</i>
26.	CWP-8977-2016	<i>M/S ORIENTAL CERAMICS & REFRACTORIES P LTD Vs STATE OF PUNJAB AND OTHERS</i>

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. Akshay Bhan, Sr. Advocate with
Mr. Rohit Nagpal, Advocate for the petitioners
in CWP-14091-2013.

Mr. Anil Saini, Advocate for
Mr. Munish Gupta, Advocate for the petitioner(s)
in CWP-2036-2014, CWP-2052-2014 and
CWP-2019-2014.

Mr. Harpreet K. Gill, Advocate and
Mr. Harmurad S. Gill, Advocate
for the petitioner(s) in CWP-5972-2014.

Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Shekhar Verma, Advocate for the respondent/GMADA
in CWP-19011-2008, CWP-7615-2010, CWPs No.14486,
14197, 17795, 17847, 17884, 18090, 17776, 17375, 25100,
17740 of 2013.

Mr. Rupinder Singh Khosla, Sr. Advocate with
Mr. Yogender Verma, Advocate for respondents No.2
and 3.



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Mr. Balwinder Singh, Advocate for respondents No.2
and 3 in CWP-19533-2013, CWP-2815-2014,
CWP-2896-2014, CWP-4172-2014, CWP-9995-2014.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. Since all the writ petition(s) involve common questions of facts and law, therefore, they are amenable to be decided through a common order.
2. However, the facts of each of the writ petition(s) are required to be separately delineated.

Facts of CWP-7615-2010

3. The petitioners herein seek the passing of a writ of mandamus for thereby making directions to the respondents to declare that the mixed land use, vis-a-vis the subject lands, which has now been changed by the respondents only for residential/commercial purposes, is illegal, unconstitutional and violative of Articles 14 and 19 of the Constitution of India.

4. Further, the vires of the Punjab Regional and Town Planning and Development Act, 1995, has also been challenged, thus on the ground that the same is violative of Articles 243 ZD and 243 ZF of the Constitution of India.

Facts of CWP-14486-2013

5. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 besides prays for a declaration that the Master Plan, rather is illegal, on the ground that the said has not been approved by the competent authority.



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6. The petitioner was running a small scale industry since 1990. In the year 2012 one Darshan Singh filed CWP No. 8710 of 2012 with allegations that owing to the work in the petitioner's factory, cracks have developed in his factory. This Court directed the respondent to take cognizance of the representation made by Darshan Singh and to take necessary action. Thereafter, Chief Administrator GMADA vide order dated 21.12.2012 ordered the closure of the industry run by the petitioner. The said order was challenged by the petitioner through the filing of CWP-26234-2012, before this Court. The said writ petition was disposed of vide order dated 30.04.2013 by a Division Bench of this Court, relevant part of the said order is extracted hereinafter.

“ (2) There is no denial to the fact that the entire area of village Balongi has been notified as 'Mixed Used Zone' wherein industrial activities are impermissible. The impugned order too directs the petitioner to shut down the industrial unit as he has not been given requisite approvals by various statutory authorities.

(3) Since the house of the private respondent appears to have been extensively damaged due to the industrial activities being run by the petitioner, various Authorities including GMADA were called upon by us.

(4) Mr. R.S.Khosla, learned counsel for GMADA on instructions informs that about 17 industrial units have been identified which are illegally operating in the 'Mixed Used Area' of village Balongi and all of them have been issued show cause notices calling upon them on 15.05.2013. No notice, however, has been issued to the petitioner presumably for the reason that the matter is sub judice before this Court.

(5) Since the statutory Authorities including GMADA have now come forward to take corrective measures, we dispose of this writ petition with a direction that let a show cause notice be issued to



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the petitioner also within two days who shall then appear before the Additional Chief Administrator GMADA on 15.05.2013 at 11.00 a.m.

7. On the basis of the afore order, the Addl. Chief Administrator, GMADA has passed the impugned order for closing the industry of the petitioner.

8. Further, in the said writ petition, various affidavits became filed by the authorities concerned, which become extracted hereinafter.

Relevant extractions of the affidavit of respondent No. 3 – Additional Chief Administrator, GMADA.

“3. That the industrial operations being carried out by the petitioner are in violation of “The Punjab New Capital (Periphery) Control Act, 1952 as well as the statutory master plan duly notified by the State Government, Punjab under the Punjab Regional and Town Planning and Development Act, 1995. As per the zoning regulations of the said master plan, the land of the petitioner has been notified for being used and developed as “Mixed Land Use” wherein only residential as well as commercial activities are permissible but not industrial activities. ...

4. That during the course of finalization of the master plan at Annexure R-2/2, despite due opportunities in law, the petitioner never raised any objection. Therefore, at this belated stage, his objection cannot be considered which if acceded, would adversely affect the entire planning and proposed development of the area and thus would run contrary to the objective of the planned development.

Relevant extractions of affidavit of Amandeep Nijjer, District Town Planner (Regulatory), GMADA.

2. That in the Civil Writ Petition No. 2019 of 2014 (M/s Dev Partap International V/s State of Punjab and Others) and other connected matters this Hon'ble Court vide order dated 04.02.2014 had passed directions to formulate a policy for rehabilitation of the industrial units, which are required to be shifted out of the Mixed Land



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Use Zone. The operative part of the said order dated 04.02.2014 is as under :

“The official respondents are meanwhile directed to consider and formulate a policy for rehabilitation of the industrial units which are required to be shifted out of the Mixed Land Use Zone.”

3. *That in compliance with the aforesaid directions of this Hon'ble Court, a policy for rehabilitation of industrial units has been formulated by the Government of Punjab, Department of Housing and Urban Development vide notification no. 4/3/2015-4HG1/6401081 dated 04.12.2015....”*

Relevant extractions of counter affidavit of Pankaj Bawa, District Town Planner, SAS Nagar, Department of Town and Country Planning on behalf of respondent No. 4.

5. *It is submitted that the petitioner's unit falls in the Mix land Use Zone of notified Master Plan, SAS Nagar. **As per the Zoning regulations of the notified Master Plan, industrial activity is not permissible in the mix land use zone and only residential and commercial activities are allowed in this zone.** Moreover the petitioner did not take any permission to run his industrial unit from this department. It is further submitted that there is residential development surrounding this area and residential projects have already been approved in this mix land use zone and **the petitioner's activity is not in conformity with the provisions of the Master Plan.** Hence petitioner's industrial unit is not permissible in this zone of Master plan.*

Inferences from the above.

9. The import of the above, is that, when vis-a-vis the disputed lands, the master plan made contemplations, qua theirs being put for commercial use/residential use, therebys, the said permissibility does not endow any privilege to the petitioner(s) to raise industrial units thereons. In other words, the connotation to be employed to the permissibility of raisings of commercial undertakings, on the disputed



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lands, is only that, commercial ventures other than the industrial activities becoming permitted to be raised thereovers. Moreover, unless the said signification becomes imparted to the permissibility of only raisings of commercial ventures, over the disputed lands, thereby, the effluent discharges from industrial activities, thus would cause a consequent ill polluting effect to the environment, besides thereby the said deleterious effects accruing to the inhabitants of the residential areas rather would remain not effectively curtailed. Necessarily also, when the curtailments of the ill effects of pollution to the environment, thus was in the mind of the policy makers, to thus permit only the carryings of commercial activities over the disputed lands, and, to prohibit the carrying of industrial activities over the disputed lands. Resultantly thereby, if industrial units became raised on the disputed lands, which becomes earmarked for mixed land use, inasmuch as, for residential/commercial activities, becoming made thereovers, thereby the establishment of industries over the disputed lands, but is impermissible.

Facts of CWP-14091-2013

10. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013, on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-14197-2013

11. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being



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violative of Articles 14 and 19 of the Constitution of India, whereby,
the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-17375-2013

12. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-15877-2013

13. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-17740-2013

14. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-17776-2013

15. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-17795-2013

16. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being



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violative of Articles 14 and 19 of the Constitution of India, whereby,
the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-17847-2013

17. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-17884-2013

18. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-18090-2013

19. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-19309-2013

20. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-19533-2013

21. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being



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violative of Articles 14 and 19 of the Constitution of India, whereby,
the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-20002-2013

22. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby,
the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-2019-2014

23. The petitioner herein prays for the quashing of the impugned order dated 28.01.2014 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby,
the industrial premises of the petitioner has been sealed.

Facts of CWP-2036-2014

24. The petitioner herein prays for the quashing of the impugned order dated 28.01.2014 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby,
the industrial premises of the petitioner has been sealed.

Facts of CWP-2052-2014

25. The petitioner herein prays for the quashing of the impugned order dated 28.01.2014 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby,
the industrial premises of the petitioner has been sealed.

Facts of CWP-25100-2013

26. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being



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violative of Articles 14 and 19 of the Constitution of India, whereby,
the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-2815-2014

27. The petitioner herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-2896-2014

28. The petitioners herein prays for the quashing of the impugned order dated 26.06.2013 on the ground of the same being violative of Articles 14 and 19 of the Constitution of India, whereby, the industrial unit of the petitioner has been ordered to be shut down.

Facts of CWP-4172-2014

29. The petitioner herein prays for a mandamus directing the the respondents to de-seal the industrial premises of the petitioner besides seek directions to the respondents to regularize his industrial unit.

Facts of CWP-5972-2014

30. The petitioner herein prays for a mandamus directing the the respondents to de-seal the industrial premises of the petitioner besides seek directions to the respondents to regularize his industrial unit.

Facts of CWP-9995-2014



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31. The petitioners herein pray for a mandamus directing the the respondents to de-seal their industrial premises besides seek directions to the respondents to regularize their industrial units.

Facts of CWP-8977-2016

32. The petitioner herein prays for the quashing of the notification dated 16.12.2008 issued by respondent No. 4 to the extent, that 63 kanals 18 marlas of land belonging to the petitioner at village Daun, S.A.S. Nagar, Mohali, has been reserved for housing and institutional purposes, despite the fact that in the minutes of the meeting dated 06.11.1996, it was decided that petitioner should be allowed to run, its industry. Further, he seeks quashing of the notification dated 04.12.2015 whereby thus the shiftings of the industrial units, hence becomes ordered.

33. Moreover, he prays for directing the respondents to allow the petitioner to run its industrial unit from its existing premises, as it is continuing since the year 1973.

Facts of lead writ petition CWP-19011-2008

34. Moreover, for the sake of brevity, the facts of the lead writ petition i.e. **CWP-19011-2008** are taken here for deciding the instant controversy.

35. Through, the instant writ petition (**CWP-19011-2008**), the petitioner herein prays for the hereinafter extracted reliefs.

“Civil Writ Petition under Article 226 of constitution of India, for issuance of a writ of Certiorari for quashing notification No.13/52/2006-1HG2/7443 dated 14th/17th August, 2006 issued under Section 29 of the Punjab Regional and Town Planning and Development Act 1995, constituting



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and establishing a special Authority under the name of Greater Mohali Area Development Authority GMADA (Annexure P-2) instead of electing District Planning Committees as provided under Article 243 ZD and 243 ZF of the Constitution in accordance with the Punjab District Planning Committees Act, 2005 (Annexure P-1).

AND

Also for quashing the proposed plan of development notified by GMADA as being unconstitutional, illegal, arbitrary and void (Annexure P-3).

AND

Also for issuance of directions to the respondents to constitute a Finance Commission in accordance with Article 243 I, 243 X and 243 Y of the Constitution of India to financially empower the local bodies to be able to carry on the work assigned to them in accordance with the Constitution and well settled principles of law.

AND

Also for issuance of writ of certiorari for quashing the provisions of Section 17 and 29 of Punjab Regional and Town Planning and Development Act, 1995, being ultravires to Article 243 ZD and 243 ZF read with Schedule 11 and 12 of the Constitution.

36. In the said regard, the relevant constitutional provisions are extracted hereinafter.

243 ZD. Committee for district planning -

(1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to —

(a) the composition of the District Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from



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amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

(c) the function relating to district planning which may be assigned to such Committees;

(d) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan, —

(a) have regard to —

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organizations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243 ZF. Continuance of existing laws and Municipalities.

Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the



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case of a State having a Legislative Council, by each House of the Legislature of that State.

37. Moreover, the provisions of Section 17 and 29 of the Punjab Regional and Town Planning and Development Act, 1995 (hereinafter for short called as the Act of 1995) are also extracted hereinafter.

17. Establishment and Constitution of the Authority

(1) With effect from such date as the State Government may, by notification, specify in this behalf, the State Government shall establish for the purposes of this Act, an Authority to be known as the Punjab Urban Planning and Development Authority with headquarters at such place as the State government may specify.

(2) The Authority established under sub-section (1) shall be a body corporate as well as a local authority, by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both moveable and immovable, and to contract; and shall, by the said name, sue and be sued.

(3) The Authority established under sub-section (1) shall consist of the following members to be appointed by the State Government, namely :

(i) a Chairman ;

(ii) a Vice – Chairman ;

(iii) a Chief Administrator who shall be appointed from amongst the officers of the Government of Punjab having such qualifications and experience as may be prescribed ; and

(iv) not more than twelve and not less than six official and non-official members including the Secretaries to Government of Punjab holding the charge of Local Government and Town and Country Planning:

Provided that the number of non-official members shall not, at any time exceed three.

(4) [The Minister-in-Charge of Housing and Urban Development and the Secretary to Government of Punjab, holding the charge of Housing and Urban Development shall, respectively, be the Chairman, Co-Chairman and the Vice Chairman of the Authority.]



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**29. Special Urban Planning and Development Authorities**

(1) Where the State Government is of opinion that the object of proper development of any area or group of areas together with such adjacent areas as may be considered necessary will be best served by entrusting the work of development or redevelopment thereof to a Special Authority, instead to the Punjab Urban Planning and Development Authority, the State Government may, by notification, constitute an Authority for such area to be called the Special Urban Planning and Development Authority for that area and thereupon, all the powers and functions of the Punjab Urban Planning and Development Authority relating to development and redevelopment of that area under this Act, shall be exercised and performed by the Special Urban Planning and Development Authority so constituted.

(2) Every notification issued under sub-section (1) shall define the limits of the area to which it relates.

(3) The Special Urban Planning and Development Authority constituted under sub-section (1) shall consist of the following members to be appointed by the State Government, namely:

- (i) a Chairman ;
- (ii) a Chief Administrator who shall be appointed from amongst the officers of the Government of Punjab having such qualifications and experience as may be prescribed ; and
- (iii) other members not exceeding ten to be appointed by the State Government :

[Provided that out of the aforesaid members, the State Government may appoint a co- Chairman and Vice- Chairman: Provided further that out of the said members, at least three members will be the members of the local authority or authorities functioning in the area of jurisdiction of the Special Urban Planning and Development Authority.]

(4) Every Special Urban Planning and Development Authority constituted under subsection (1) shall be a body corporate as well as a local authority, by the name aforesaid, having perpetual succession and a common seal , with power to acquire , hold and dispose of property both movable and immovable, and, to contract and by the said name sue and be sued.

(5) The provisions of this Act shall mutatis mutandis apply to Special Urban Planning and Development Authority constituted under sub-



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section (1) as they apply in relation to the Punjab Urban Planning and Development Authority with the modification that references to the Punjab Urban Planning and Development Authority, shall be construed as references to the Special Urban Planning and Development Authority.

Common Submissions of the learned counsel for the petitioner(s)

38. (i) The learned counsel for the petitioner(s) submit, that the Act of 1995 is ultravires the Constitution, particularly the provisions engrafted in Sections 17 and 29, whereby respectively, the authorities i.e. Punjab Urban Planning and Development Authority (PUDA) and Greater Mohali Area Development Authority (GMADA), thus have been created.

(ii) The development proposed to be undertaken by the Master Plan is illegal, arbitrary and void because no authority in the State of Punjab has jurisdiction to develop any area falling within the Districts of Punjab. Further, it is submitted that the afore planning and development rather can be done only by the District Planning Committees, as become created in terms of the 73rd and 74th Amendments to the Constitution.

(iii) Further, in a number of writ petitions, there has been a prayer for quashing of the order passed by the respondents whereby the respective industrial units of the petitioner(s) have been sealed on account of violation of the master plan, as the same were operating, in the 'Mixed Used Area' of the village concerned, wherein, industrial activities were impermissible, besides on the ground that the necessary approvals in terms of the 'Act of 1995' rather has not been obtained from the authorities concerned.



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(iv) The learned counsels for the petitioner(s) submit, that since the industrial units of the petitioner(s), were set up prior to the coming into force of the Act of 1995, thereby, the violations, if any, on account of breaches being made to the provisions of the Act of 1995, cannot be made applicable to the units of the petitioner(s). Moreover, no provision was made under the Act of 1995 to protect those units, which were set up prior to the coming into force of the Act of 1995.

Inferences of this Court.

39. For the reasons to be assigned hereinafter, the notification as issued under Sections 17 and 29 of the Act of 1995, wheretos, a challenge is raised, inasmuch as, its breaching the provisions as incorporated in Article 243 ZD and Article 243 ZF of the Constitution of India, thus is declared to be valid.

40. The hereinabove underlined constitutional provisions, as becomes respectively embodied in Article 243 ZD and Article 243 ZF of the Constitution of India, to the considered mind of this Court, are supplementary to the respective creations of PUDA and/or GMADA, authorities whereof, become created in terms of the hereinabove underlined Sections 17 and 29 of the Act of 1995.

41. The striking reason for so concluding emanates, from the fact that the constitutional purpose for the creation of a District Planning Committee, as enshrined in Article 243 ZD, ensues from their being transition of panchayat lands on to the territorial domains of the municipal committees or on to the territorial domains of the municipal corporations. Since in terms of the revenue records, especially in terms



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of the *wazib-ul-arz*, appertaining to the relevant Gram Panchayats concerned, which merge onto the municipal areas or onto the corporation areas, there are certain vested rights in the villagers. Therefore, irrespective of their occurring transition of panchayat lands onto the municipal areas or onto the corporation areas, thereby such vested rights as become embedded in the revenue records rather are to be preserved. Therefore, for the preservations of such rights of the villagers, rather whose lands become transferred on to the territorial domains of the local self bodies concerned, that sub clause (3), as carried in Article 243 ZD, thus with the profound wisdom of the constitutional makers, thus finds its occurrence therein.

42. The District Planning Committee(s), becomes created for reiteratedly ensuring that matters of common interest between the Panchayats and the Municipalities, including spatial planning, sharing of water and other physical and natural resources, besides the integrated development of infrastructure and environmental conservation, thus becomes furthered. The furtherance of the above constitutional purposes are well intended to maneuver towards their occurring sustainable development of the erstwhile panchayat areas, on theirs transiting on to the territorial domains of the local self governments, but yet without any rights vested in the villagers concerned, whose lands transit onto the municipal domains, rather suffering any derogation, as thereby, but naturally there would be disturbance towards the indefeasible rights, as become vested in the villagers concerned.



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43. Since in the instant case, there is neither any factual matrix laid nor there is any evidence placed on record, that after the creation of PUDA/GMADA in terms of Sections 17 and 29 of the Act of 1995, there has been any impigning of the rights of the villagers concerned, as are to be bestowed upon them in terms of the relevant revenue records, therebys, the challenge to the instant notification, wherebys PUDA/GMADA have been created, is but a faulted challenge.

44. Even if both the factual matrix and *prima facie* evidence to support the said erected factual matrix, did surge forth, yet the said would be a disputed contentious fact and which was required to be not determined in writ proceedings but was required to be determined by the aggrieved drawing civil proceedings, before the learned civil Court of competent jurisdiction, wherebefore a claim for the rendition of a decree of mandatory injunction, besides a claim for the rendition of a decree of prohibitory injunction, thus becomes espoused against the errant concerned.

45. Now, since a specially created statutory body(ies) respectively nomenclatured as PUDA/GMADA, came into existence in terms of Sections 17 and 29 of the Act of 1995. Moreover, when the creation of supra statutory bodies, but is for ensuring planned urbanization of the erstwhile Gram Sabha areas concerned, besides obviously is to ensure the makings of sustainable developments of the areas which fall onto the jurisdiction of the supra. Therefore and moreover, when the creation of PUDA/GMADA, is so done, thus in terms of the statutory empowerment vested in the State Government,



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through engraftment(s) therein of Sections 17 and 29 in the Act of 1995. Resultantly, when therebys there is a requirement for the creation of zoning regulations, thus under the appositely drawn interim development plan(s), as becomes prepared under the Act of 1995, wherebys but the rights of the erstwhile villagers rather do not become disturbed, inasmuch as, the PUDA/GMADA proceeding to create housing colonies in those locales which are not reserved for the creation of a housing colony thereons.

46. Since the supra fact is not either averred nor is supported by any *prima facie* evidence, therebys, the respective creation of PUDA/GMADA respectively in terms of Sections 17 and 29 of the Act of 1995, is deemed to be made, within the contours of the zoning regulations, as become prescribed in the interim developmental plan, as becomes drawn by the authority concerned, in terms of the relevant statutory provisions as borne in the Act of 1995.

47. Therefore, the allotment of the sites to the GMADA, for creation thereunders of housing colonies, wherein, the present industrial units are set up therein, are not contrary to the interim developmental plan as drawn in terms of the provisions (supra), as carried in the Act of 1995, but the said allotments are validly made allotments to the supra bodies. As such, the present petitioner(s) do not become entitled to become endowed with any right to seek any claim for regularization of their industrial units as exist over the relevant zone, as becomes assigned for the creation thereovers of a zoning colony nor



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also the vires of the provisions of Sections 17 and 29 as incorporated in the Act of 1995, are ultra vires the Constitution of India.

48. Though a challenge is made to the vires of Section 29 of the 1995 Act, wherethroughs, GMADA has been created through the impugned notification. However, the said challenge is unveiled on the ground, that the provisions supra are ultra vires Article 243 ZD and Article 243 ZF of the Constitution of India. Since for supra stated reasons, the workability of the supra constitutional provisions, are limited, to the extent detailed hereinabove besides when the said provisions have a purposeful intent, rather for preserving the indefeasible rights vested in the erstwhile villagers whose lands transit onto the Municipal Areas concerned.

49. Moreover, when as stated (supra) there is neither any factual matrix laid nor when any *prima facie* evidence has come to the fore front, to bring home any firm conclusion from this Court that there has been any ill intrusion, through the creation of PUDA/GMADA in terms of Sections 17 and 29 of the Act of 1995, onto the indefeasible rights as became vested in the villagers whose lands transit onto the municipal areas concerned. Therefore, in the wake of omission of raising of supra pleading nor when no evidence to support the same becomes adduced on record, therebys, when the supra constitutional provisions are complementary to the provisions as engrafted in Sections 17 and Section 29 of the Act of 1995, therebys the latter statutory provisions but cannot be declared to be unconstitutional, merely on the ground that they are in purported conflict with the constitutional



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provisions respectively borne in Article 243 ZD and in Article 243 ZF of the Constitution of India.

50. In addition, since this Court has made the hereinabove inference, that even if there was some material placed on record, before this Court, thus making speakings to the extent, that there has been through the makings of the impugned notification, thus any ill intrusion qua the indefeasible rights of the villagers, on their lands transiting on to the areas of municipalities or municipal corporations concerned, qua yet this Court becoming not empowered to decide the said but naturally contentious fact. Resultantly reiteratedly, when this Court has hereinabove declared that the remedy, if any, to the aggrieved from any ill intrusion being made on to his indefeasible right but naturally on his lands transiting onto the municipal areas concerned, or the corporation areas concerned, but would be redressable through his recouring civil remedy before the civil Court concerned.

51. Therefore also, reiteratedly, the arguments (supra) raised by the counsel for the petitioner(s) are negated.

52. Now the purpose of Article 243 ZF is also complementary besides is supportive to the provisions as embodied in clause (3), as carried in Article 243 ZD, provisions whereof are declared to be working with a well constitutional intent, to ensure the preservation of rights of villagers, even when their lands become transferred to the territories of local self Governments concerned. Therefore, when Article 243 ZF merely opens with a non obstante clause whereby, any provision of any law relating to municipalities, which is in consistent



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with the provisions of this Act, is further declared to be holding force until it is amended or repealed by a competent legislature or a competent authority. Therefore, the expressions ‘notwithstanding anything in this Part, any provision of any law relating to municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, and which is in consistent with the provisions of this Act, and, to which continuance of operation is bestowed, until amended or repealed, by a competent legislature or by any competent authority, thus are naturally connotative of the clear fact, that such laws are the ones which are respectively embodied in the Punjab Village Common Lands, 1961 (hereinafter for short called as the Act of 1961), and, in the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter for short called as the Consolidation Act of 1948).

53. Since in terms of the supra enactments, there is preservation of some rights in the villagers whose lands get transited onto the municipal areas, therebys, when the supra expressions confer continuity of force to the enactments supra, irrespective of the happening of transfers of lands of villagers concerned, onto the territories of either municipalities or municipal corporations concerned. Resultantly, the vires of the impugned notification, cannot be well challenged on the ground, that it purportedly militates both against the supra enactments i.e. the Act of 1961 and the Consolidation Act of 1948, especially when as stated supra the remedy to the aggrieved was



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to raise a civil suit besides when the vires of the supra enactments rather remains unsuccessfully challenged.

54. Now this Court, is not required to be further detained, for determining whether qua the enactments (supra), rather continuity of legislative clout, has been preserved, besides whether the supra underlined expressions are required to be invalidated. Therefore, when as stated (supra) both the provisions as carried in the Act of 1995 and the constitutional provisions as carried in sub clause (3) of Article 243 ZD and Article 243 ZF, rather are complementary to each other and but work towards preserving the rights of the villagers, even when their lands get transferred on to the municipalities or municipal corporations concerned. In sequel therebys, the supra reliefs for all above stated reasons are to be denied to the petitioner(s).

55. Having said so that though there is no conflict inter-se the provisions of the Act of 1995, whereunders GMADA has been created, with Article 243 ZD and Article 243 ZF, besides when the creation of GMADA, as has been done through the making of the impugned notification, through the exercise of jurisdiction vested in the competent authority, in terms of Section 29 of the Act of 1995, but is required to be declared to be not suffering from any illegality.

56. Lastly, the learned counsel for the petitioner(s) submits, that the instant impermissible conversion of the sites to industrial zones, but is required to be regularized. However, in the said regard an allusion is required to the previously made hereinabove extracted order as made by this Court in CWP-26234-2012, besides an allusion is also made to



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the statement made at the bar, by the counsels appearing for the GMADA, that compliance affidavits became filed respectively by the petitioner(s), in the respective cases before the GMADA, wherein, they echoed their acquiescence to the handing over of the industrial premises to the said authority.

57. Since in terms of the supra order, affidavits became filed in the respective writ petition(s), wherein, echoings have been made that as per the zoning regulations of the master plan, the land of the petitioner(s), have been yet notified for being used and developed as “Mixed Land Use”, wherein, only residential as well as commercial activities are permissible, but industrial activities are barred. Therebys the supra statement made at the bar, besides supra echoings made in the affidavits rather do magnify an acquiescence of the petitioner(s), that they have raised illegal industrial units over the disputed lands, wherebys, they are not entitled to claim any right of regularization thereof. Contrarily, the industrial units set up over the disputed lands are required to be forthwith handed over to the authorities.

58. Moreover, if over the subject lands, the said industrial units became set up prior to the creation of GMADA, but in terms of the Act of 1995, besides became established prior onto the coming into force of the interim development plan, yet the existence of the industrial units thereovers, but cannot endow any permissible leverage in the petitioner(s) concerned, that the said industrial units be considered to be regularized. The reason for stating so emanates from the factum, that since the holistic purpose behind the interim development plan, is to



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ensure, a friendly environment occurring in the vicinity of the housing colonies, which however would not occur in case the industries are permitted to be continue through regularizations thereof being made. Therefore, to ensure the cultivation of a friendly environment qua the inhabitants of the dwelling units, which become raised over the disputed lands, therebys, the petitioner(s) cannot claim regularization of the industrial units, even if they became raised prior to the coming into force of the Act of 1995. The right, if any, which may be endowed to the present petitioner(s), is only to claim determination of compensation in accordance with law, upon their respective industrial units rather becoming sealed.

59. Therefore, the possession of the said industrial units be forthwith handed over to the respondent, but on payment of compensation to the petitioner(s) concerned, to be so determined, yet in accordance with law.

60. In aftermath, there is no merit in the writ petition(s) (supra) and with the observations and directions aforesaid, the same are dismissed.

61. Since the main cases itself have been decided, thus, all pending applications, if any, are disposed of as such.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

13.01.2025

kavneet singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No