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INDORE DEVELOPMENT AUTHORITY

v.

SHRIKRISHNA OIL MILLS AND ORS.

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APRIL 12, 2005

[RUMA PAL AND C.K. THAKKER, JJ.]

Urban Development :

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Madhya Pradesh Town Improvement Trust Act, 1960—Madhya Pradesh Nagar Tatha Gram Nivesh Adhinyam, 1973—Section 50—Development Scheme—Proposal to frame—Under the Act—Objections against the Scheme filed before Improvement Trust—Constitution of Development Authority and dissolution of the Trust on coming into force of the Adhinyam—Fresh objections invited by Authority—Objections submitted—After hearing the objectors Scheme approved—Approval also by Revisional Authority—Scheme challenged by objectors—Set aside by High Court—On appeal, held: Scheme not illegal or unlawful as the same was approved by the Development Authority after following the procedure as provided under the Adhinyam and observing principles of natural justice.

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A resolution was passed by Improvement Trust for framing Town Development Scheme under Madhya Pradesh Town Improvement Trust Act, 1960. Notification and individual notices were issued inviting objections to the Scheme. Objections were filed by the respondents. In the meantime Madhya Pradesh Nagar Thatha Gram Nivesh Adhinyam, 1973 came into force under which Development Authority was established and Improvement Trust was dissolved. The Development Authority issued notice to the objector with regard to the objections against the Scheme. Objectors filed objections afresh with the Authority. The Authority after hearing the objectors and considering the objections, approved the Scheme in accordance with Section 50 of the Adhinyam. Thereafter notifications u/s. 4 and 6 of Land Acquisition Act, 1894, were issued as also a notice u/s. 9 to the respondents asking them to handover possession of the property. Respondents filed Writ Petitions challenging the notifications. Single Judge of High Court disposed of the petitions by permitting the

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respondent-objectors to approach revisional authority u/s.51 of the Adhiniyam. Appellant-Authority filed Writ appeal, which was dismissed by Division Bench of High Court, upholding the order of Single Judge. The Revisional Authority dismissed the revision filed by the respondents observing that the Scheme had been notified by the Authority as per rules and following the requisite procedure.

Challenging the order of Development Authority and the Revisional Authority, respondents filed Writ Petition. High Court relying on *Indore Development Authority v. Madan Lal and Ors.*, [1990] 2 SCC 334, allowed the petition and also other petitions.

In appeal to this Court, appellant-Authority contended that since the Authority had finalized the scheme after taking all the actions required under the Adhiniyam, such Scheme could not be held illegal, unlawful or against provisions of Adhiniyam; and that the case of *Madan Lal* was not applicable to the present case.

Respondent-objectors contended that the Authority should have started the proceeding under the Adhiniyam afresh, since there was no 'draft Scheme' as envisaged by the Trust Act, the proceedings could not have continued under the Adhiniyam by the Authority.

Allowing the appeals, the Court

HELD : 1. In the present case, procedure under Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 was followed by the Authorities. Notices were issued, objections were submitted and hearing was afforded to the affected persons and thereafter the decision was taken. Since in this case, the said procedure was followed, the provisions of the Adhiniyam had been complied with; so also the principles of nature justice were observed. In these circumstances, it cannot be said that the action taken by the appellants was illegal or unlawful. As the Revisional Authority did not think it fit to interfere with the decision of the Development Authority, it approved the action of the Authority and dismissed the revision. Consequently, notifications under Sections 4 and 6 of the Land Acquisition Act were issued and published in accordance with law. Those actions also cannot be termed illegal. The Scheme was not illegal or unlawful. [494-H; 495-A-D]

Indore Development Authority v. Madan Lal and Ors., [1990] 2 SCC 334, distinguished.

A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2547 of 2005.

From the Judgment and Order dated 15.2.2002 of the Madhya Pradesh High Court in W.P. No. 1356 of 1998.

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B C.A. Nos. 2548, 2549, 2550, 2551, 2552 and 2553 of 2005.

S.K. Gambhir, B.K. Sharma, Awanish Sinha and Sanjay Kapur with him for the Appellant.

C M.N. Krishnamani, Jaspal Singh, B.S. Banthia, R.N. Keshwani, Ram Lal Roy, K.V. Vishwanathan, Anand, Abhith Kumar, D. Bharat Kumar, Abhijit Sengupta, Satish K. Agnihotri, Rohit K. Singh and Amit Mishra with them for the Respondents.

The Judgment of the Court was delivered by

D **C.K. THAKKER, J.** Leave granted.

E In all these appeals, common judgment and order passed by the High Court of Madhya Pradesh in several writ petitions is questioned by the Indore Development Authority. By the impugned order, the High Court allowed the writ petitions filed by the petitioners - contesting respondents herein - and quashed and set aside the notification dated April 5, 1983 issued under Section 4 of the Land Acquisition Act, 1894, notification dated January 23, 1984 issued under Section 6 of the said Act as also an order dated August 10, 1998 passed by the Director, Town and Country Planning, Bhopal.

F To appreciate the controversy raised in the present batch of appeals, relevant facts may be stated.

G The petitioners challenged before the High Court of Madhya Pradesh Town Development Scheme No. 78 prepared in accordance with the provisions of the Madhya Pradesh Town Improvement Trust Act, 1960 (hereinafter referred to as "the Trust Act") in accordance with the Master Plan of Indore. The case of the petitioners, before the High Court was that a resolution was passed on November 9, 1976 being Resolution No. 196 for framing Scheme No. 78 by the Improvement Trust. A notification under Section 46 of the Trust Act was issued on January 7, 1977 inviting objections against the
H scheme within sixty days of the publication of the notice. Individual notices

to the affected persons as required under sub-section (1) of Section 48 of the Trust Act were also issued. The petitioners and others filed objections on July 1, 1977. It may, however, be stated here at this stage that on March 16, 1973, Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (hereinafter referred to as "the Adhiniyam") was brought into force. Under the Trust Act, it was the Improvement Trust which was to consider such objections. Under the Adhiniyam, however, the Development Authority was to consider objections. Though the Adhiniyam came into force in 1973, the Indore Development Authority was established under the Adhiniyam only on July 13, 1977 and the Improvement Trust was dissolved. In view of the establishment of Indore Development Authority, a notice was issued on August 22, 1977 to the objectors with regard to the objections raised by them against Scheme No. 78. It was stated that hearing would be held on August 31, 1977. Pursuant to the said notice, objections were once again filed by the petitioners and other objectors on September 3, 1977. All those objections were then considered by the Development Authority on that day, i.e. September 3, 1977. On January 20, 1978, the Scheme was approved vide notification No. 64 in accordance with the provisions of Section 50 of the Adhiniyam. The Scheme was published in two local newspapers, "Nai Duniya" on February 2, 1978 and in "Dainik Jagran" on February 3, 1978. It was also published in the Official Gazette on February 10, 1978. A notification under Section 4 of the Land Acquisition Act was issued on April 5, 1983 and was published in the Official Gazette on April 29, 1983. A notification under Section 6 of the Land Acquisition Act was issued on January 23, 1984 and was published in the Official Gazette on March 9, 1984. A notice was issued under Section 9 of the Land Acquisition Act to the petitioners asking them to hand over possession of property. A petition was, therefore, filed in the High Court of Madhya Pradesh being W.P.No. 552 of 1986 challenging the notifications. After hearing the parties, the learned Single Judge disposed of the petition by permitting the petitioners to approach revisional authority, viz. Director, Town and Country Planning under Section 51 of the Adhiniyam. It appears that the Indore Development Authority was of the view that there was gross delay and laches on the part of the petitioners in invoking writ jurisdiction of the High Court under Section 226 of the Constitution inasmuch as though the scheme was approved in January 1978, the petition was filed in 1986. It, therefore, filed an appeal against the order passed by the learned Single Judge. The Division Bench of the High Court, however, upheld the order of the learned Single Judge observing that the learned Single Judge had not committed any error of law or of jurisdiction in entertaining the petition and in allowing the petitioners to invoke alternative remedy of revision.

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A The petitioners thereafter approached the Director, Town and Country Planning (Revisional Authority) who by his order dated August 10, 1998 dismissed the revision observing that the scheme had been notified by the Indore Development Authority as per rules and the requisite procedure had been followed. The action, therefore, could not be said to be illegal or contrary to law.

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D Before the High Court, it was contended on behalf of the petitioners that the points raised by the petitioners were no longer *res integra* and were finally concluded by a decision of this Court (Supreme Court) in *Indore Development Authority v. Madan Lal and Ors.*, [1990] 2 SCC 334. It was urged that almost in similar circumstances, this Court ruled that the action taken by the Indore Development Authority of approving the draft scheme could not be held legal and valid and it was set aside. The Court also observed that there was no draft scheme under the Trust Act which could be saved by the Adhinyam and no action could have been taken by the Indore Development Authority. In the light of the said decision, the petition deserved to be allowed, submitted the petitioners.

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H The contention of the respondents-appellants herein -, on the other hand, was that *Madan Lal* was distinguishable and the ratio laid down therein would not apply. It was submitted that in *Madan Lal*, no objections were invited by the Indore Development Authority nor they were considered by that authority. The objections were invited by the Improvement Trust, but before the draft scheme was framed and was approved by the State Government, the Improvement Trust was abolished in view of establishment of Indore Development Authority under the Adhinyam. Thereafter no action could have been taken under the Trust Act. Actions which were required to be taken under the Adhinyam were not taken. It was, therefore, submitted that *Madan Lal* had no application to the facts of the case. It was stated that in the instant case, objections were invited by the Improvement Trust under the Trust Act in January, 1977 by issuing a notification under Section 46 of the Trust Act. Notices to the affected persons were also issued under Section 48(1) of the Trust Act by the Improvement Act on May 5, 1977 and objections were filed by the affected persons on July 1, 1977. On July 13, 1977, the Indore Development Authority was established under the Adhinyam and the Improvement trust was dissolved. But thereafter on August 22, 1977, objections were invited by the Indore Development Authority and hearing was fixed on August 31, 1977. In pursuance of the said notice, objections were filed on September 3, 1977 by the petitioners. Those objections were

considered and the Scheme was approved. It was, therefore, submitted that the action taken by the Indore Development Authority of approving the scheme could not be said to be illegal. A

The High Court, upholding the contention of the petitioners and observing that the facts in the present case and in the case of *Madan Lal* "were identical in all respects" stated that it was unable to find "any distinguishing feature on facts" and held that the petition deserved to be allowed and accordingly, it was allowed. Other petitions were also allowed. The common order of the High Court is challenged by the Indore Development Authority before us. B

We have heard the learned counsel for the parties. C

The learned counsel for the appellant - Indore Development Authority - contended that the High Court has committed gross error of law in allowing the petitions filed by the petitioners holding that the case was covered by the decision of this Court in *Madan Lal*. According to the learned counsel, *Madan Lal* was clearly distinguishable in view of the fact that whereas in that case draft scheme was prepared by the Improvement Trust and was forwarded to the State Government for approval but before approval was granted by the State Government, the Indore Development Authority came to be established. The Authority then proceeded with that scheme without issuing notices, without inviting objections from the objectors and without taking a decision on those objections. In the case on hand, notices were issued by the Improvement Trust under the Trust Act and objections were invited. Objections were filed by the objectors but no draft scheme was prepared. It was not submitted to the State Government for approval under the Trust Act. After establishment of Indore Development Authority under the Adhiniyam on 13th July, 1977, notices were again issued by the Development Authority in August, 1977. Those notices were received by the petitioners. They filed objections. Hearing was fixed, objections were heard and decided. It was, therefore, submitted that all actions required to be taken under the Adhiniyam had been taken by the Development Authority and the scheme was prepared and finalized. Such scheme cannot be held illegal, unlawful or against the provisions of Adhiniyam. *Madan Lal*, therefore, has no application. According to the learned counsel, hence, the order passed by the High Court deserves to be set aside. D E F G

The learned counsel for the respondents - petitioners, on the other hand, supported the order passed by the High Court. It was submitted that the High Court considered the contentions raised on behalf of the Development H

A Authority and negated them. It was submitted that admittedly notices were issued on 5th May, 1977 by the Improvement Trust under the Trust Act. It is not in dispute that on that day Indore Development Authority had not been established under the Adhiniyam. It came to be established on 13th July, 1977. If the Indore Development Authority wanted to take proceedings under the Adhiniyam, it ought to have started all proceedings afresh since there was no 'draft scheme' as envisaged by the Trust Act and the proceedings could not have been continued under the Adhiniyam by the Development Authority. All the proceedings by the Development Authority, therefore, were contrary to law and could not have culminated in a scheme under the Trust Act. It was urged that in *Madan Lal*, this Court considered the relevant provisions of both the Acts and came to the conclusion that preparation and finalization of scheme under the Adhiniyam was not legal and valid. It was, therefore, submitted that the order passed by the High Court is in accordance with law and no case has been made out to interfere with it.

D To understand the contentions of the parties in their proper perspective, it would be appropriate to keep in mind the relevant provisions of both the Acts i.e. the Trust Act and the Adhiniyam. The Trust Act i.e. Madhya Pradesh Town Improvement Trust Act, 1960 was in operation upto March 15, 1973. In that Act, "Scheme" was defined as inclusive of "town planning or town improvement scheme". "Trust" was defined as "the Improvement Trust" constituted under Section 4". Chapter II (Sections 4 to 15) provided for constitution of Trust and Officers of the Trust. Chapter IV (Sections 30 to 65) dealt with Improvement Scheme which *inter alia* included contents of Improvement Schemes, Classification of Schemes, Procedure to be followed in framing Schemes, etc. Section 46 provided for preparation, publication and transmission of notice as to improvement scheme and supply of documents to applicants. Section 48 required issuance of notice for proposed acquisition of land. Sections 55 to 60 contained provisions relating to powers and duties of the Improvement Trust in execution of Improvement Schemes. Chapter V (Sections 66 to 83) contained provisions as to acquisition and disposal of land.

G The Adhiniyam i.e. Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 came into force on March 16, 1973 which was amended from time to time. "Local authority" is defined as Municipal Corporation constituted by or under the Madhya Pradesh Municipal Corporation Act, 1956; a Municipal Council or Nagar Panchayat constituted by or under the Madhya Pradesh Municipality Act, 1961 or a Gram Panchayat constituted

under the Madhya Pradesh Panchayat Raj Adhiniyam, 1993. "Town Development Scheme" is defined as "a scheme prepared for the implementation of provisions of a development plan by the Town and Country Development Authority and includes scheme". "Town and Country Development Authority" means an authority established under Section 38 of the Act. Chapter III deals with Regional Planning and Chapters IV and V relate to Planning Areas, Development Plans and Zoning Plan. Chapter VII provides for establishment of Town and Country Development Authority and preparation of Town Development Schemes. Indore Development Authority was established under Section 38 of the Adhiniyam.

Section 50 empowers the Town Country Development Authority to prepare a scheme and reads thus :

"50. Preparation of town development schemes. - (1) The Town and Country Development Authority may, at any time, declare its intention to prepare a town development scheme.

(2) Not later than thirty days from the date of such declaration of intention to make scheme, the Town and Country Development Authority shall publish the declaration in the Gazette and in such other manner as may be prescribed.

(3) Not later than two years from the date of publication of the declaration under sub-section (2) the Town and Country Development Authority shall prepared a town development scheme in draft form and publish it in such form and manner as may be prescribed together with a notice inviting objections and suggestions from any person with respect to the said draft development scheme before such date as may be specified therein, such date being not earlier than thirty days from the date of publication of such notice.

(4) The Town and Country Development Authority shall consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (3) and shall, after giving a reasonable opportunity to such person affected thereby as are desirous of being heard or after considering the report of the committee constituted under sub-section (5) approve the draft scheme as published or make such modifications therein as it may deem fit.

(5) Where the town development scheme relates to reconstitution of plots, the Town and Country Development Authority shall

A notwithstanding, anything contained in sub-section (4) constitute a committee consisting of the Chief Executive Officer of the said Authority and two other members of whom one shall be representative of the Madhya Pradesh Housing Board and the other shall be an officer of the Public Works Department not below the rank of an Executive Engineer nominated by the Chief Engineer, Public Works Department for the purpose of hearing objections and suggestions received under sub-section (3).

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C (6) The Committee constituted under sub-section (5) shall consider the objections and suggestions and give hearing to such persons as are desirous of being heard and shall submit its report the Town and Country Development Authority within such time as it may fix along with proposals to -

(i) define and demarcate the areas allotted to or reserved for public purpose;

D (ii) demarcate the reconstituted plots;

(iii) evaluate the value of the original and the reconstituted plots;

(iv) determine whether the areas reserved for public purpose are wholly or partially beneficial to the residents within the area of the scheme;

E (v) estimate and apportion the compensation to or contribution from beneficiaries of the scheme on account of the reconstitution of the plot and reservation of portions for public purpose;

F (vi) evaluate the increment in value of each reconstituted plot and assess the development contribution leviable on the plot holder;

G Provided that the contribution shall not exceed half the accrued increment in value;

(vii) evaluate the reduction in value of any reconstituted plot and assess the compensation payable therefor.

H (7) Immediately after the town development scheme is approved under sub-section (4) with or without modifications the Town and Country Development Authority shall publish in the Gazette and in such other

manner as may be prescribed a final town development scheme and specify the date on which it shall come into operation.” A

Section 51 confers revisional power on the Director of Town and Country Planning. Section 52 authorises the State Government to give directions in public interest to the Town and Country Development Authority to frame, to modify or to revoke town development scheme. Section 54 deals with lapse of scheme in certain eventualities. B

Section 87 provides for Repeal and savings. The relevant part of the said section reads thus :

“87. *Repeal, savings, and construction of references.*— C

- (1) As from the date of —
 - (a)
 - (b)
 - (c) the establishment of the Town and Country Development Authority for any area, the following consequences shall ensue in relation to that area, namely -
 - (i) the Madhya Pradesh Town Improvement Trust Act, 1960 (No. 14 of 1961), shall stand repealed in its application to the said area ; E
 - (ii) the Improvement Trust functioning within the jurisdiction of the Town and Country Development Authority so established shall stand dissolved and any Town Improvement Scheme prepared under the said Act shall in so far as it is not inconsistent with the provisions of this Act be deemed to have been prepared under this Act; F
 - (iii) all assets and liabilities of the Town Improvement Trust shall belong to and be deemed to be the assets and liabilities of the Town and Country Development Authority established in place of such Town Improvement Trust under Section 38; G
 - (iiia).....
 - (iv)
 - (v) all records and paper belonging to the Town Improvement H

A Trust referred to in sub-clause (ii) shall vest in and be transferred to the Town and Country Development Authority established in its place under Section 38.

B (2) Notwithstanding the repeal of the Madhya Pradesh Town Improvement Trust Act, 1960 (No.14 of 1961) (hereinafter referred to as the repealed Act) under sub-clause (i) of clause (c) of sub-section (1) -

C (a) all cases relating to compensation in respect of acquisition and vesting of land in Town Improvement Trust under Section 71 of the repealed Act and pending before the Town Improvement Trust or the Court of the District Judge or the High Court immediately before the date of such repeal shall be dealt with and disposed of by -

- D (i) the Town and Country Development Authority established in the place of such Town Improvement Trust under Section 38;
- (ii) the Tribunal constituted under Section 73 of the repealed Act after the commencement of the Madhya Pradesh Nagar Tatha Gram Nivesh (Sanshodhan) Adhiniyam, 1979;
- E (iii) the Court of the District Judge;
- (iv) the High Court;

as the case may be, in accordance with the provisions of the repealed Act, as if this Act had not been passed;

F (b) the Town and Country Development Authority, the Tribunal, the Court of the District Judge or the High Court, as the case may be, may proceed to deal with or dispose of the same from the stage at which such cases were left over at time of repeal."

G In *Madan Lal*, this Court had an occasion to consider the provisions of the Trust Act as also of the Adhiniyam. In that case, the Indore Improvement Trust was constituted under the Trust Act. The Trust framed Scheme No. 72 by inviting objections from the persons whose land was proposed to be acquired for executing the scheme. Certain persons filed objections which were considered by the Trust. Under the Trust Act, the Improvement Trust had no authority to approve the scheme and it was required to obtain sanction of the State Government. Accordingly, the Government was approached for grant of sanction to Scheme No. 72. Section 51 of the Trust Act empowered H the State Government either to sanction the scheme with or without

modification or to refuse the sanction or to return the scheme for re-consideration by the Improvement Trust. The Government, however, could not take any action in view of subsequent development. On January 17, 1977, the Improvement Trust forwarded it to the Government with objections received by it. But during the pendency of the consideration of objections, the Development Authority under the Adhiniyam was established on July 13, 1977 and the Improvement Trust was replaced by Development Authority. The Government was deprived of power to sanction Scheme No. 72. The Development Authority notified the said scheme under sub-section (4) of Section 50 of the Adhiniyam and it was published in Government Gazette on September 30, 1977. On May 04, 1978, another notification was issued under sub-section (7) of Section 50 of the Adhiniyam informing general public that certain lands were to be acquired for implementation of the scheme. Notification under Sections 4 and 6 of the Land Acquisition Act were issued. The land owners challenged the scheme and acquisition of land by filing a petition in the High Court of Madhya Pradesh *inter alia* contending that since the scheme was not sanctioned by the State Government under the Trust Act, the Development Authority could not have adopted the scheme. The High Court allowed the petition upholding the objection and observing that there was no valid scheme in existence and all actions taken by the Development Authority were illegal and unlawful. The Development Authority approached this Court.

Holding that the High Court had not committed any error, this Court stated :-

“9. It is not in dispute that the Development Authority did not follow the procedure prescribed under Section 50 of the Adhiniyam for preparation of Scheme No. 72. A note dated August 24, 1977 prepared by the Officers of the Development Authority indicates that the scheme No. 72 was approved under Section 50(4) of the Adhiniyam without inviting objections and without considering the same. It was, however, argued for the appellant that the Development Authority need not have invited fresh objections and suggestions for consideration since that procedure has already been followed by the Improvement Trust under the Trust Act. The provisions of Section 87 (1) (c) (ii) of the Adhiniyam were also relied upon to salvage the scheme.

10. We do not think that the Development Authority was justified in following a short cut in this case. The procedure followed under the Trust Act could not be sufficient to dispense with all the requirements

A of Section 50 of the Adhiniyam. As earlier noticed that Section 50
of the Adhiniyam provides procedure for preparation and approval of
scheme for development. After preparing a draft scheme, the
Development Authority must invite objections and suggestions from
the public. There must be due consideration of the objections and
B suggestions received in the light of the Master Plan of Indore. Indeed,
the public must also have an opportunity to examine the scheme and
file objections in the light of the Master Plan if the Development
Authority wants to adopt the scheme. Since the scheme in question
was not an approved scheme under the Trust Act, the Development
Authority could not have dispensed with the procedure prescribed
C under Section 50 of the Adhiniyam.”

The Court said;

“12. Two separate consequences follow upon the constitution of the
Development Authority; firstly, the Improvement Trust functioning
D in that area shall stand dissolved; secondly, the Improvement Scheme
prepared under the Trust Act shall be deemed to have been prepared
under the Adhiniyam insofar as it is not inconsistent with the provisions
of the Adhiniyam. The High Court has held that the term ‘scheme
prepared’ in the context must mean a completed scheme in respect of
which all the procedures under the Trust Act have been followed.
E We agree with this conclusion as in our opinion, it is a correct view
to be taken. But the Scheme No. 72 was not a completed scheme
under the Trust Act. That scheme was considered only by the
Improvement Trust but not approved by the government. Under the
Trust Act the scheme has no validity unless it was approved by the
F government. Since that scheme was just a draft scheme under the
Trust Act, it could not get the benefit of legal fiction provided under
Section 87 (1)(c)(ii). Besides even if the scheme was prepared with
the approval of the government under the Trust Act it could not be
deemed to be a scheme under the Adhiniyam unless it is in conformity
with the Master Plan of Indore and it cannot also be said to be a
G scheme saved under Section 87 (1) (c) (ii) of the Adhiniyam.”

Taking into account the fact that fresh process may result in undue
delay, this Court proceeded to state :

H “13. However, in the circumstances of the case and to avoid delay in
the preparation of a fresh draft scheme, we reserve liberty to the

Development Authority to invite objections and suggestions with regard to scheme No. 72 under Section 50(3) and consider the same under Section 50(4) of Adhinyam and take further steps according to law, if so advised.” A

One more aspect was also considered by this Court and it was stated;

“14. There is yet another aspect. The High Court has quashed the acquisition of lands belonging to the respondents, but not on the ground of any illegality in the procedure followed. Mr. Parasaran learned counsel for the appellant therefore, submitted that the notifications issued under Sections 4 and 6 of the Land Acquisition Act may not be disturbed and the claimants will be given compensation at the current rate if the scheme is adopted and implemented. The submission appears to be reasonable and it would avoid repetition of the procedure for acquisition. We record the submission of learned counsel. We also direct that the claimants shall be paid compensation for the lands acquired at the market value as on the date of publication of the scheme under Section 50(7) of the Adhinyam if the scheme is ultimately approved as indicated above.” B C D

It is thus clear that in *Madan Lal*, Scheme No. 72 was framed by the Improvement Trust under the Trust Act. Objections were invited by the Trust from the persons whose land was proposed to be acquired for execution of the scheme. Objections were filed by interested persons to the Trust. They were considered by the Trust. Since the Trust had no authority to approve the scheme under the Trust Act, it approached the Government for grant of sanction to the scheme. On the scheme being sanctioned by the Government and publication of a notification to that effect under sub-section (1) of Section 52 of the Trust Act, it was to become “conclusive evidence” that the scheme had been duly framed and sanctioned as laid down in sub-section (2) of Section 52 of the Trust Act. But, as observed by this Court, the Government could not exercise the power and sanction the scheme under the Trust Act in view of the fact that the Development Authority came to be constituted under the Adhinyam. The Development Authority then proceeded with the scheme prepared by the Improvement Trust. The scheme was notified under Section 50(4) of the Adhinyam on September 30, 1977. It was stated that the scheme was “duly approved for Indore Planned Area and it would come into operation from the date of publication of the notification”. This Court, in the circumstances, proceeded to examine whether Scheme No. 72 prepared by the Improvement Trust but was not approved by the State E F G H

A Government could have been adopted by the Development Authority? Considering the ambit and scope of Section 50 of the Adhiniyam and the procedure laid down therein, this Court held that the Development Authority was required to call for objections and suggestions under the Adhiniyam and after giving a reasonable opportunity to the objectors who were desirous of being heard could approve the draft scheme. Since the Development Authority did not follow the said procedure in preparation of Scheme No. 72, the Court held that the action was not in consonance with law and Section 87(1)(c)(ii) of the Adhiniyam did not salvage the scheme.

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C At the same time, "to avoid delay in preparation of a fair draft scheme", the Court granted liberty to the Development Authority to invite objections and suggestions with regard to Scheme No. 72 under Section 50(3) and consider them under Section 50(4) of the Adhiniyam and take further steps in accordance with law.

D In the instant case, it is no doubt true, as contended by the learned counsel for the contesting respondents that Scheme No. 78 was prepared by the Improvement Trust under the Trust Act. It is also true that objections were invited by the Trust by issuing notices to the persons who were sought to be affected by the scheme on May 5, 1977. It is also correct that objections were filed on July 1, 1977. All those actions were taken prior to July 13, 1977, i.e. before the Development Authority was established. An important fact, however, cannot be overlooked and it is that on August 22, 1977, once again a notice was issued by the Development Authority to the objectors. It has come on record that though objections were filed by the objectors earlier, fresh objections were filed again on September 3, 1977. It was stated in those objections that applicants had received notices earlier and had filed their objections against Scheme No. 78. But as once again they had received such notice on August 23, 1977, they were submitting objections. It is also on record that those objections were heard at the office of the Development Authority, Indore, and "Note sheet" was prepared and signed by the Chairman of the Indore Development Authority. The scheme was then approved, finalized and published in local newspapers as well as in the Government Gazette. Notifications under Sections 4 and 6 of the Land Acquisition Act were also issued.

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G From the above facts, it is clear that in the present case, procedure under the Adhiniyam was also followed by the authorities. Notices were issued, objections were submitted and hearing was afforded to the affected

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persons and thereafter the decision was taken. As already noted in *Madan Lal*, this Court reserved liberty to the Development Authority to invite objections and suggestions against Scheme No. 72 and allowed the authority to take appropriate decision according to law after affording hearing to the objectors. Since in this case, the said procedure was followed, objections were submitted by the affected parties to the Development Authority, they were considered and the scheme was approved after extending opportunity of hearing to them, the provisions of the Adhiniyam had been complied with so also the principles of nature justice were observed. In these circumstances, it cannot be said that the action taken by the appellant was illegal or unlawful. As the revisional authority did not think it fit to interfere with the decision of the Development Authority, it approved the action of the Authority and dismissed the revision. Consequently, notifications under Sections 4 and 6 of the Land Acquisition Act were issued and published in accordance with law. Those actions also cannot be termed illegal. We, therefore, see no substance in the contentions of the respondents that Scheme No. 78 was illegal or unlawful.

For the foregoing reasons, in our opinion, all the appeals deserve to be allowed and are hereby allowed. The order passed by the High Court is quashed and set aside and scheme No. 78 prepared and approved by the Indore Development Authority is held legal, valid and in accordance with law. All consequential actions taken in pursuance of the scheme are also held legal and lawful.

The civil appeals are disposed of accordingly. In the facts and circumstances of the case, however, there shall be no order as to costs.

K.K.T.

Appeals allowed.