

LATEST CASE LAW ON LAND ACQUISITION ACT, 1894

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S.5-A-- Constitution of India Art 226--Land owner does not file objections in enquiry under S.5-A--Objections to notification cannot. be permitted to be raised by way of writ petition--Said .person has waived the, right to raise "personal objections--But if the objections pertains to the purpose for which land is being acquired, that it is not public purpose, such objection can be raised in writ jurisdiction of the court: **Delhi Administration v.Gurdip Singh Urban & cis. etc.;**
2001(1) ALL INDIA LAND LAWS REPORTER (Supreme Court) 3

Section 6--Appellant claims he is the title holder of land in question, which is 'subject matter of acquisition proceedings-- Counsel for State submits that appellant does not have any title over the land--High Court, without properly examining the material on record and without giving plausible reason; dismissed the writ petition--Case remanded back for re-examination the Contentions with reference to the lease-deed and assignments ;**Fali Firoz Shah Bomanji v. State of Maharashtra & ors.;** **2000(3) ALL INDIA LAND LAWS REPORTER (Supreme Court) 283**

S.6--Constitution of India Act 226-- Restitution of acquired land High Court directed Municipal Corporation to make over vacant possession of land to the petitioner and directed the petitioners to refund the amount received in compensation for the acquired land-- Chronological by (i) Notification under Maharashtra Regional and Town Planning Act, 1966, S.126() read With--S.6 of Land Act of 1894 issued in 15.5.1971 (ii) Award passed in April 1976 and (iii) Writ petition, filed in High Court on 21.10?1992 :'Municipal Corporation has filed this appeal-- Discretionary 'relief under the extraordinary jurisdiction can be allowed if the person claiming a relief based on equitable doctrine, provided by conduct he has not given a go bye to his rights--Writ filed after 21 years of issue of notification and 16 years after the award was passed--Restoration" does not and cannot arise—Writ Petition filed by respondents on High Court is dismissed--Maharashtra Regional and Town Planning Act, 1966-- Section 126(4); **The Municipal Council, Ahmad nagar &nr. V. Shah Hyder Beig & Co.;** **2000(3) ALL INDIA LAND LAWS REPORTER (Supreme Court) 218**

S. 11-A read with S.6--Proceedings stayed--Or even dispossession alone is stayed .Or any stay regarding any of the actions to be taken pursuant to declaration--Period covered" by stay is to be excluded; for the time fixed for passing an award--Consequence of lapse of acquisition proceedings would not happen; **M. Ramalinga Thevar v. State of Tamil Nadu& ors.;** **2001(1) ALL INDIA LAND LAWS REPORTER (Supreme Court) 110,**

Section 18 r/w S.30-- Reference-Writ petition' seeking reference rejected by High Court--Held—Dispute regarding title and also computation of appropriate compensation--Order of High Court set aside--LAO directed to make reference to appropriate. Court ;**Sri Prasada Rao Mikkilineni & ors. V. State of A.P. & ors.;**
2001(1) ALL INDIA LAND LAWS REPORTER (Supreme Court) 51

Important and Latest Case Law

S.23-Compensation--:By method of capitalisation High Court awarded Rs.22000/- per acre as against Rs. 13,000/- as allowed by LAO--Claimants appeal-- Approach of the High Court is not satisfactory--High Court has observed that there was no evidence to determine compensation--High Court should have remitted back the case to reference court to determine appropriate compensation--Impugned orders set aside-- Matter remitted back to High Court to examine in the light of evidence adduced -before the Reference Court and determine compensation;**L. Srinivasa Reddy and ors. v. The Mandai Revenue Officer-cum-Land Acquisition Officer; 2001(1) ALL INDIA LAND LAWS REPORTER (Supreme Court) 550**

S.23-Market Value-High Court allowed the appeals of claimant-- Disallowed appeal by State-- Enhanced compensation to Rs. 23/50 per sq.yd.--By special leave, here are appeals and cross appeals--High Court has taken the lands as levelled as- also that these lands possessed potential for buildings-- Except a small fraction the lands these need be levelled before it can be put to use for building purposes-- Conservative estimate would be to spend Rs. 60,000/- per acre for levelling and creating the potential--No prudent purchaser would purchase said lands @ Rs.23/50 per sq.yd--All relevant material on record considered-- Reasonable compensation would be Rs.50,000/- per acre; **Special Deputy Collector & Anr. etc. v. Kurra Sambasiva Rao & Ors. etc.; 2000(2) ALL INDIA LAND LA WS REPORTER (Supreme Court) 267**

S. 23--Market value--LAO granted compensation on acreage basis for the land acquired for industrial development--On reference, the compensation enhanced and determined on sq. foot basis, relying on sale instance of land measuring 40'x 40' situated 1 1/2 km. away within the developed municipal area-- Held--High Court and reference court were errereous in detaining compensation on sq. foot basis as no prudent and willing vendee would after that rate on sq. foot basis--Collector certified that land for agricultural therefore, no potential value-- Compensation reduced to Rs. 45,000/- per acre and solatium @30% and interest @ 9% for first year and @15% thereafter along with all statutory benefits; **Special Land Acquisition Officer, Dharward (The) v. Smt. TajarHanifabi; 2000(2) ALL INDIA LAND LAWS REPORTER (Supreme Court) 535**

Section, 23-Market value--Land situated on the outskirts of Surat city, having potential value, acquired for industrial development--High Court enhanced the compensation, relying on the sale instance of land situated two kilometer away--Order held unjustified--Compensation fixed at Rs.22/- sq. mtr after 1/3 of amount towards development charges along with all statutory benefits; **Gujarat Industrial Development Corporation v. Narottambhai Morarbhai & Anr.; 2000(2) ALL INDIA LAND LAWS REPORTER (Supreme Court) 534**

S. 23(1-A) Solatium-- Whereas interest is payable in compensation as per Act, would the same payable on solatium also--In view of divergent views of various 3 or 4 Judge Benches of the Apex Court, SLPs may be placed before' a 3 Judge Bench of Apex Court after suitable orders by C.J.I.; **Kapur Chand Jain (Dead) and others v. State Govt. of H.P. and**

others; 2000(2) ALL INDIA LAND LAWS REPORTER (Supreme Court) 410

Section 23(1) -- Compensation determined by the Land Acquisition Officer is in fact an offer by State-- Correctness can not, be questioned by State--Only exception to, this general rule is a local amendment of State of U.P.; **Union, of India y. The Special Land Acquisition Officer; 2000(2) ALL INDIA LAND LAWS REPORTER (Supreme Court) 413**

S.23(1) and 51-A-Sale deed/instances--Certified copies-- Vendees/vendors not examined-What S.51-A dispenses with is the production of original sale deeds-- Parties would not like to part with them for obvious reasons-- Marking of the certified copies as admissible in evidence is not admissible unless tile deeds are duly proved as per law; **Special Deputy Collector & Anr .. etc. v. Kurra Sambasiva Rao & Ors. etc.; 2000(2) ALL INDIA LAND LAWS REPORTER (Supreme Court) 267**

S.31—Amount in excess of the original awards was deposited- Apex Court had stayed withdrawal till appeals are finally decided--It appears Single Judge permitted disbursal-D.B. had observed "so far as right to withdraw is concerned, parties shall abide by decision of Supreme Court"-Appeals against the orders of the Single Judge are pending before D.B.-Appeals are directed to be disposed off expeditiously--And till then respondents should not be permitted to withdraw the amount over' and above the original awards; **Spl. Tahsildar , T.N. Magnesite Ltd. & anr. v. Vaiyapuri & ors.; 2001(1) ALLINDIA LAND LAWS- REPORTER (Supreme Court) 20**

8.23 (1-A)--Compensation enhanced by the Reference Court on 24.8.1999-- Further enhanced by lower appellate court and made claimants entitled to enhanced benefits in terms of 8.23 (1-A) of the Act--Section 23(1-A) was amended by the Act of 1984 so as to allow enhanced benefits only to awards made after introduction of the Bill in Parliament-- Present case not covered by S.30(1)(a)(b) of the amending Act 1984, is not entitled to the relief--Judgment and decree modified accordingly; **Special Land Acquisition Officer, B.R. Project, Davangere etc. v. Krishna Naik (Dead) by LRs.; 2000(3) ALL INDIA LAND LAWS REPORTER (Supreme Court) 499**

8.23--Land acquired with house constructed over it--Compensation paid for the land--What else is required to be paid is the compensation for the houses standing on it as the land could not be acquired without houses standing in it--Reference court rightly awarded compensation for the house--High Court has rightly reduced the compensation for land' as awarded by the reference court--But High Court erred in awarding compensation for loss and removal cost of houses- Compensation for houses granted was enough-Possession of land has been taken on 7.3.1988, appellants shall be entitled to solatium at 30% as such other benefits; **Abdul Kuddus Mandai and ors. v. State of Assam.and another; 2000(4) ALL INDIA. LAND LAWS REPORTER (Supreme Court) 67**

Ss. 40(1), (b), 3(f), 4 and 17-- Notification under S. 4(1) of the Act was published for acquisition of piece of land and a built up shop--Public purpose as mentioned is for having a passage for Lord Jaganath procession on the penultimate day of festival, when PALLIVETTA is performed-This procession is taken out once a year, for about one hour--There is no

fixed route for the procession to be taken to the appointed site to perform religious ceremonies- Notification challenged by a writ petition in the High Court-- High Court held acquisition was not for a public purpose, but for company or a society and 'consequently S. 17(4) of the Act, dispensing with enquiry under S. 5-A could not get attracted:-- Challenged in apex Court-Acquisition is for "company", a society registered under societies Act--Apex Court differs with the High Court who has too narrowly construed the terminology employed by the Legislature S. 40(i)(b)-- Suitable passage for the procession, can easily be obtained by a little diversion without disturbing the possession of respondent No. 1- -As for the astrologers giving a verdict against the diversion of the route, even the astrologers would differ between themselves-- This does not justify the proceedings under S. 40(i)(b) of the Act--Requirement cannot be held as genuine--Final decision by D.B. remains well sustained though on a different reasoning-- Appeal tents--No costs; **Jnanedaya Yogam and Anr. v. K.K. Pankajshy and Ors.; 2000(2) ALL INDIA LAND LAWS REPORTER (Supreme Court) 448**

S.48--Evidence Act, 1872--S.115--Denotification--Government/DDA informed the petitioner that acquisition proceeding 2s/notification has been quashed--Building plans could be got approved and constructions raised--And the house is constructed-- Question of estoppel under S.115 of Evidence Act prima facie arises--Applicants case for release of land under S.48 of the Act ,has to be sympathetically 'considered--Govt has placed before the court the extent and scope of concession--If compensation has not been paid the extent of de requisition and release of land in addition to the building has to be left to reasonable discretion of the competent authority; **Delhi Administration v. Gurdip Singh Urban & ors. etc.; 2001(1) ALL INDIA LAND LAWS REPORTER' (Supreme Court) 3**

S. 54--During pendency of appeals High Court ordered part payment of enhanced compensation to some appellants--Others not covered by orders-- Orders impugned--In the impugned orders no reasons have been given for a departure for the practice and that also in respect of some--Impugned orders set aside--High Court will reconsider the matter regarding such payments; **Nuclear Power Corpn. Ltd. v. Hodal Singh; 2000(4) ALL INDIA LAND LAWS REPORTER (Supreme Court) 602**

THE LAND ACQUISITION, ACT, 1894

¹[ACT NO. 1 OF 1894, AS AMENDED UPTO ACT 68 OF 1984]

[2nd February, 1894]

An Act to amend the law for the acquisition of land for public purposes and for Companies.

Whereas it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition ; it is hereby enacted as follows :-

PREAMBLE

CASE LAW

-Substantive provisions/Subsidiary provisions-Provisions relating to acquisition of land substantive in nature- The breach may result in nullification or invalidation of acquisition-Provisions relating to taking over of possession mandatory in nature- Their breach not to nullify or invalidate the Act unless there is specific provision. **1992 LACC (ALLAHABAD) 385.**

-A codified legislation embedding the doctrine of eminent domain-Power of acquiring sovereign power of the State-Principle of promissory estoppel has no bearing **1992 LACC (ALLAHABAD) 478.**

-Land Acquisition for a sound public purpose, fell into rough weather raising serious controversies between the parties in dispute, pure and simple acts of favouritism by the government to please a chosen few at the cost of the people in general and stays by courts on various representations--By the time clouds cleared the' payment of the compensation to those who were deprived of their lands was delayed by about 2 years--Such landowners claim some additional compensation for this. "blocking"--Such claim is based on equity and not on any law--Supreme Court is not only a Court of Jaw but a Court of equity as well and on equity granted Compensation in the form of interest calculated at the rate of 7¹/₂% P.A. for two years. **1993(3) ALL INPIA LAND LAWS REPORTER 242.**

1. Act 68 of 1984 received the assent of the President on September 24, 1984.

The Land Acquisition Act, 1894

-Scheme not providing that joint holdings would be partitioned--Question of title--Consolidation authorities are not required to decide the question of title--Section 16-A of the Consolidation Act is subordinate to the provisions of Section 117 of the Punjab Land Revenue Act. **1993(3) ALL INDIA LAND LAWS REPOTER 242.**

-The limited protection available to the subjects against acquisition of their property must be zealously guarded: of course bearing in mind that the rights of all are always superior to rights of any. Strict adherence to the conditions to the acquisition of the property is therefore necessary *Angrup Thakur v. The State of Punjab.*

3 DLT 455

-There is no prohibition in the Act regarding 'an interim, award. *Shadi Ram v.*

The Administrator, Union Territory of Chandigarh. **196-68 PLR Supp. 747**

When a procedure (s prescribed by the Legislature, it is not for the Court to substitute a different one according to its notion of justice. *Mandir Sita Ramji v. Lt. Governor of Delhi.*

A.I.R 1974 S. C. 1868=1975 PLR 333=1975 Cur. L.J. 64=11 DLT 121

-Land acquired for expansion of Dhandari Kalan Industrial Local Point-Collector classify the land as agricultural where as land was being acquired for potential purpose and awarded very low rate-Land Acquisition Court enhanced the compensation by Rs. 6000/- per acre-High Court enhanced the rate from Rs. 6000/- to Rs. 32,000 per acre. **1981 CLJ (Civil) 85**

-Market value of the fruit bearing trees assessed on the basis of earlier award by the holding that valuation accepted in their award was quite fair, proper and adequate---

Not correct approach-Award set aside.

1985(1) CLJ 100.

-Compensation for the fruit bearing trees-In LPA if the compensation assessed by the Tribunal is found inadequate the only Course open was to quash the order of the Tribunal and send back the case for a fresh decision. **1985(1)**

CLJ 100

-Acquisition of the land for particular purposes and the subsequent carrying out that purpose are two entirely separate and distinct stages: some irregularity or illegality committed in respect of the latter stage, such irregularity or illegality will in no way affect the validity of the actual acquisition.

1966 ALL 4J 350: ILR 1966(2) 2 ALL 220.

-Under the specious garb' of urgency or necessity there can never be denial of the citizens' rights. The officers can never be permitted to trample upon the property. Rights of the citizens and' forcibly taken possession of the properties and dig a channel in the face of their protests. The plea of 'urgency and of absolute necessity is fantastic.

1969(2) ANDH. WR 153.

-Land Acquisition Act deals distinctly with two categories of acquisition, namely acquisition for a public purpose and acquisition for a private purpose of a restricted type, viz. Acquisition for companies when purposes are those mentioned in Section 40 of the Act. Whenever land is required' for a public purpose, even though the company is to bear all the expenses and use the land, there is no need to comply with the provisions

of part VII of the Act.

ILR 1959 PUNJAB 1143 : 61 PLR 532 : AIR 1959 PUNJAB 535.

The Land Acquisition Act, 1894

¹[Act' No. 1 of 1894, as amended upto Act 68 of 1984]

[2nd February, 1894]

[WITH STATES AMENDMENTS]

CASE LAW DIGEST

[1894 -1994]

An Act to amend the law for the acquisition of land for public purposes and for Companies.

Whereas it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition: it is hereby enacted as follows:--

PREAMBLE

CASE LAW DIGEST

-Food Corporation is a company and provisions of part VII to be complied with.

1984(1) All India Land Laws Reporter 591

-Delay and laches-Acquisition proceedings commenced in the year 1972 by. issuing notification under section 4 of the Land Acquisition Act, 1894-Section 6 notification issued in the year 1975-Proceedings under section 9 started in the year 1981-Petition filed in 1981 cannot be held to be belated.

1982 All India Land Laws Reporter 562

-If the land is to be notified for acquisition under the Land Acquisition Act for a company, the requirements of Part VII of that Act, must be complied with, and failure to do so would render the acquisition invalid. But where the land is not to be acquired for the company and is to be acquired for carrying out the industrial development and town expansion scheme of the Improvement Trust, and then allotted for carrying out the scheme to the company for development, the provisions of Part VII of the Land Acquisition Act would not apply. *Dal Chand v. Delhi Improvement Trust (New Delhi Development Authority), New Delhi.*

AIR 1967 SC 87: 68 PLR (D) 232

-The highly favorable location of the land under acquisition and Its potential for industrial and residential development also does not seem to have received any adequate attention in the judgment under appeal. The evidence produced would show that in close proximity of the land, considerable area has been taken over for the purpose of setting up Iron and Steel Foundries and other industrial units. The land under acquisition had a great potential for industrial development and to assess it merely as agricultural land whilst losing sight of its potentialities would hardly be justified. *The State of Punjab v. Pritam Singh.* **1976 PLR 397**

1. Act 68 of 1984 received the assent of the President on September 24, 1984.

Land Acquisition Act, 1894.

-Scheme not providing that joint holdings would be partitioned Question of title-Consolidation authorities are not required to decide the question of title-Section 16-A of the Consolidation Act is subordinate to the provisions of Section 117 of the Punjab Land Revenue Act.

1982 All India Land Laws Reporter 621

-The limited protection available to the subjects against acquisition of their property must be zealously guarded: of course bearing in mind that the rights of all are always superior to the rights of any. Strict adherence to the conditions precedent to the acquisition of the property is therefore necessary. *Angrup Thakur v. The State of Punjab*.

3 DLT 455

-There is no prohibition in the Act regarding an interim award. *Shadi Ram v The Administrator, Union Territory of Chandigarh*.

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-Compensation for the fruit bearing trees-In LPA if the compensation assessed by the Tribunal is found inadequate the only course open was to quash the order of the Tribunal and send back the case for a fresh decision. **1985 (1) CLJ 100**

-Acquisition of the land for particular purposes and the subsequent carrying out of that purpose are two entirely separate and distinct stages: some irregularity or **illegality** committed in respect of the latter stage, such irregularity or illegality will in no way affect the validity of the actual acquisition.

1966 All LJ 351: ILR 1966**(2) 2 All 220**

-Under the specious garb of urgency or necessity there can never be denial of the citizens' rights. The officers can never be permitted to trample upon the property rights of the citizens and forcibly take possession of the properties and dig a channel in the face of their protests. The plea of urgency and of absolute necessity is fantastic. **1969(2) Andh. WR 153**

-Land Acquisition Act deals distinctly with two categories of acquisition, namely acquisition for a public purpose and acquisition for a private purpose of a restricted type, viz. Acquisition for companies when the purposes are those mentioned in Section 40 of the Act. Whenever land is required for a public purpose, even though the company is to bear all the expenses and use the land, there is no need to comply with the provisions of part VII of the Act.

ILR 1959 Punjab 1143: 61 PLR 532: AIR 1959 Punjab 535

The Land Acquisition Act, 1894

-Acquisition for a company or for the purpose of an industry in some circumstance is for a public purpose. **1976 (71) Cal WN 499**

-District Magistrate requisitioned land having a factory located in it

-Difference in the compensation offered by the authority-Referred to arbitrator- Who assessed the value much less than the one shown in the balance sheet more than 20 years earlier- Evidently the arbitrator has assessed the value in surmises- No question of the depreciation of the value of Karkhana- No reasons to disbelieve the figures given 20 years earlier when no one could even think of the land being requisitioned-As for Compensation of land, the finding of another arbitrator, to grant Compensation at uniform rate for Barani, Banjar Qadim and Gair Mumkin-Solatium and interest as per amended Law.

Vol. 29 All India Land Laws Reporter (Supp.) 472

-Land Acquisition (Amendment) Act, 1984-Kerala Land Acquisition Act, 1961, Sections 3(1) and 6-Acquisition proceedings going on under Kerala Act when 1984 amending Act came into force-Provisions of Kerala Act are substantially different and in view of its being repugnant to provisions of Central 1984 Act, Kerala Act stands repealed-Several precedents of Supreme Court to reinforce the view that the acquisition could be continued under the Land Acquisition Act, 1894

Vol. 29 All India Land Laws Reporter (Supp.) 44

-Land Acquisition Amendment Act, 19&4-Sections 23 (I-A)and 30 (I)-Section 30 being transitory provision provided limited retrospectivity to S. 23 (I-A)-Deemed to have applied to two kinds of acquisition proceeding covered under clauses (a) and (b) of Sub-section (1) of Section 30-And as spelled out in the judgment present case is not covered there under -Notification issued on 21-3-78-Award made by Collector on 30-12-1980 and by Civil Court on reference under Section 1& on 28-2-1985 - Amendment Act introduced in Parliament on 30-4-82 and date of the commencement of the Act is 24-9-1984-Does not fall in the transitional period and on account of various different decisions/opinions matter referred to larger Bench.

Vol. 30 AU India Land Laws Reporter (Supp.) 64

-Appellant offered to the Land Acquisition Officer that for lump-sum compensation, he-was willing to agree to acquisition-The offer was perhaps for payment without delay. Offer was no more than the offer in terms of the Contract Act-And to say that the landowner agreed to acquisition was wrong-Offer

-Award-No Justification for two awards for one acquisition- One for Land and the other for trees or buildings on it-The purpose of acquisition is to acquire all interests which clog, the right of the Government to full ownership of land i. e. when land is notified for acquisition the Government expresses its desire to acquire all outstanding interests collectively.

Vol. 26 All India Land Laws Reporter

(Supp.) 81

till accepted, there was no contract between the parties--And this offer was never accepted by the L.A.C. till the filing of the writ petition-Writ petition should not have been dismissed by the courts below-Appeal succeeds-Rule in the writ made absolute.

Vol. 30 All India Land Laws Reporter (Supp.) 193

The Land Acquisition Act, 1894

-Procedure to acquire land-Procedure laid down in the statute for acquisition of land must be followed to generate the feeling that rule of law prevails-And when statute prescribes a procedure Court cannot substitute it with a different one.

Vol. 26 All India Land Laws Reporter (Supp.) 169

-Compensation and Qualification are two different things-Right to compensation accrue when land vests in the State-Quantification could be only thereafter-And for late quantification provision to pay interest in there.

Vol. 26 All India Land Laws Reporter (Supp.) 222

--Compensation-For land under personal cultivation-And that under tenants cultivation-Is different in two cases.

HELD-It may be that resort may be had to fair rent as a true measure of income derived from a particular land by its proprietor for fixing the compensation by multiplying it by 20 years as has been done here by the High Court where no other method of valuation is possible. But where the acquired land has been under the personal cultivation of a claimant, the annual rent obtained by him from a tenant from another land may not be the correct or real income obtainable by the claimant. The rent of the land under a tenant's cultivation may have been agreed upon several years ago or may not otherwise be the fair rent by reason of several factors. Quite apart from that, the two lands may not be equal in quality, situation and productivity and therefore the rent, obtained for one cannot be the same for the other. Obviously, therefore, the annual rent obtained by the claimant from his tenant for one acquired piece of land cannot be applied as a measure for another piece of land which is personally cultivated by the claimant. The net return to the claimant from each of the two and is bound to differ.

Vol. 26 All India Land Laws Reporter (Supp.) 427

-Proceedings under this act have no bearing on the question whether the land in question is vacant or not for the purposes of the ceiling law Acquisition proceedings can be dropped-Have actually been done in the meantime-1976 Ceiling Act has the overriding effect on all other laws.

Vol. 26 All India Land Laws Reporter (Supp.) 172

-It is open to the State Government to drop the land acquisition proceedings and to withdraw the lands from acquisition under Section 48 of the Land Acquisition Act, 1894. We are informed that State Government has in fact subsequently withdrawn these lands acquisition' The proceedings under Land Acquisition Act, 1894 can not therefore have any bearing on the question whether the land in question are vacant lands or not for purposes of the ceiling law contained in the Act. When the lands in question or bulk of them are likely to be acquired under the ceiling law by paying compensation as provided therein, it would not be proper to compel the Government to acquire them under the provisions of the Land Acquisition Act, 1894. As already stated the Act has the overriding effect on all other laws.

Vol. 26 All India Lands Laws Reporter (Supp.) 172

The Land Acquisition Act, 1894

-Acquisition of land-When complete-Acquisition is complete when the entire possession is taken and the title passes to the government.

1980 All India Land Laws Reporter 188

- Though it is incumbent upon the Revenue to keep their records up to date by effecting mutation of names reflecting the actual state of affairs by showing the persons really interested in the land their records, yet in a few cases it may so happen that the revenue records are not made up to date and the person who is really interested in the land may not receive any notice from the Collector for the enquiry under Section S-A of the Act. In such cases, if it is brought to the notice of the Collector by the erstwhile land owner or by any other persons including the present owner thereof, of the names of interested persons, the Collector as a statutory functionary cannot decline to afford an opportunity to the person who is really interested in the land and close the enquiry.

Vol. 26 All India Land Laws Reporter (Supp.) 130

-No prudent person would make such an investment if there was no reasonable change of a good return over that investment in the present, or immediate future. In our opinion this circumstance coupled with the other facts namely, that the land in question is within the municipal limits and is located just on the edge of an inhabited locality of the town having other buildings in the immediate vicinity, was sufficient to establish its potential value as building sites. In their application dated October 17, 1965.under Section 18 of the Act, the appellants stated that similar land in the immediate vicinity had been sold at the rate of Rs 1,250/- per acre and another plot at the rate of Rs, 1350/- per acre. These lands are close to the area for which they had paid the division charges at the rate of Rs. 500/- per acre. They filed a map also showing the location of those lands.

Vol. 26 All India Land Laws Reporter (Supp.) 423

-Constitution of India, Article 14-Legal Malice/Acquisition of land Power to acquire is a statutory power referred to as eminent domain-No legal malice merely because the acquisition notification has effect of defeating the decree of Civil Court-Does not amount to legal malice.

1990 LACC (Andhra Pradesh) 589

-Parts II & VII-Acquisition or land for a Company-Compensation amount to be paid by the Government-Part II of the Act will be applicable.

1990 LACC (Madras) 486

-Substantive provisions/Subsidiary provisions-Provisions relating to acquisition of land substantive in nature-The breach may result in nullification or invalidation of acquisition-Provisions relating to taking over of possession mandatory in nature-Their breach not to nullify or invalidate the Act unless there is specific provision.

1992 LACC (Allahabad) 385

-A codified legislation embedding the doctrine of eminent domainPower of acquiring severeign power of the State-Principle of promissory estoppel has no bearing.

The Land Acquisition Act, 1894

-Land acquisition for a sound public purpose, fell into rough Weather raising serious controversies between the parties in dispute, pure and simple acts of favouritism by the government to please a chosen few at the cost of the people in general and stays granted by courts on various representations-By the time clouds cleared the payment of the compensation to those who were deprived of their lands was delayed by about 2 years-Such landowners claim some additional compensation for this "blocking"-Such claim is based on equity and not on any law-Supreme Court is not only a Court of law but a Court of equity as well and on equity granted Compensation in the form of interest calculated at the rate of 7¹/₉ % P. A. for two years.

1993 (3) All India Land Laws Reporter 242

-Act is based on the doctrine of eminent domain-Right of the owner for compensation for deprivation of property is also well recognised-Further power is provided by (i) regard for public welfare is the highest law -(b) Public necessity is greater than private necessity-Under the act there is complete displacement of private ownership by ownership of the State on the property acquired-Sine *que non* is this *public purpose* -And restoration is not visualised-Hence the solatium and interest for permanent deprivation-Does not render the compensation clause in Requisition Act, 1952 in any way offensive to Article 14 of the Constitution of India.

1993(3) All India Land Laws Reporter 121

-Provisional enhancement-Grant of Porteria No. 153 of 1906 Charter law also included in provisional enactments- This law deals with grant of government land-Different terms and condition called 'Concessions'-Entitlement for grant of compensation of undeveloped land-Matter to be considered.

Vol. 20 All India Land Laws Reporter (Supp.) 65

-Land Acquired-Compensation awarded-Title of Land disputed-Title to be decided before payment of compensation.

Vol. 20 AU India Land Laws Reporter (Supp.) 38

-Land Acquired-Compensation-Award passed-Claim of higher compensation than awarded in award-Assessment of value of land - Circumstances be looked into fairly and interest and solatium awarded.

Vol. 20 All India Land Laws Reporter (Supp.) 179

-Land of Market Committee notified for acquisition-Market Committee is not a body corporate or Company and hence procedure for acquisition of land of Companies need not be followed-Land Acquisition Act 1894, Section 3(cc) as amended by Karnataka (Amendment) Act, 1966, Section 9.

Vol. 20 All India Land Laws Reporter (Supp.) 446

-Mandatory provision of law to be followed by Collector-Objection filed-To submit a report to government after considering objection is a valid procedure.

Vol. 17 All India Land Laws Reporter (Supp.) 142

-Awarding of compensation-Under S. 8-Land Acquisition Officer awarding Rs.1320/- to Rs. 4000/- per acre-On reference Distt. Judge enhanced it to Rs. 70,000/---Rs. 85,000/- as per awards for land in Karim Nagar -High Court remanded the matter for fresh disposal-Additional evidence may be addueed-Supreme Court fixed a rate of Rs. 25,000/- per acre.

1988(2) All India Land Laws Reporter 630

[SECTION-I] The Land Acquisition Act, 1894

Section 1

PRELIMINARY

1. SHORT TITLE, EXTENT AND COMMENCEMENT - (1) This Act may be called the Land Acquisition Act, 1894.

(2) It extends to the whole of India except 1 [the State of Jammu and Kashmir.]

(3) It shall come into force on the first day of March, 1894.

STATE AMENDMENTS

Andhra Pradesh State

In sub-section (2) of Section 1 after the words "Part B States" insert the words "other than the territories specified in sub-section (1) of Section 3 of the States Reorganisation Act, 1956 (31 of 1956)".

Notes

Under Section 3 of States Reorganisation Act XXXVII of 1956, runs as under:-

"3. (1) As from the appointed day there shall be added to the State Andhra Pradesh the territories comprised in-

- a) the districts of Hyderabad, Medak, Nizamabad, Karimnagar, Warrangal, Khammam, Nalgonda and Mahbubnagar:
- b) Alampur and Gadwal taluks of Raichur district and Kadanangal taluk of Gulbarga district:
- c) Tandur taluk of Gulbarga district;
- d) d) Zahirabad taluk (except Nima circle), Nyalkal circle of Bidar taluk and Narayankhed taluk of Bidar district:
- e) Bichkonea and Jukkal circles of Deglur taluk of Nader district;
- f) Mudhol, Bhainsa and Kuber circles, Mudhol taluk of Nanded district: and
- g) Adilabad district except Islapur circle of Both taluk, Kinwat taluk and Rajura taluk :

and thereupon the said territories shall cease to form part of the existing State of Hyderabad and the State of Andhra shall be known as the State of Andhra Pradesh

(2) The territories referred to in clauses (b), (c), (d), (e). and (f) of sub-section (1) shall be included in, and become part of, Mahbubnagar, Hyderabad, Madak, Nizamabad and Adilabad districts, respectively in the State of Andhra Pradesh.

STATE AMENDMENTS

Gujarat State

"In Section 1, after sub-section (3), the following section shall be inserted, namely:

1. Subs. by Act 68 of 1984.

* Inserted by Act 20 of 1963.

I] (contd.)

“(4) On and from the commencement of Land Acquisition (Gujarat Unification and Amendment) Act, 1963, this Act shall also extend to and be in the Saurashtra area of the State of Gujarat.”

Karnataka State

In sub-section (2) of Section 1 of the principal Act, after the expression “except the territories which immediately before the 1st November, 1956, were comprised in Part B States” the expression “other than territories specified in clause (a) and (c) of sub-section (1) of Section 7 of the States Reorganisation Act, 1956 (Central Act 37 of 1956)” shall be added.

Notes

Under Section 7 of the States Reorganisation Act XXXVII of 1956 provides as under:-

“7 (1) As from the appointed day, there shall be formed a new Part A State to be known as the State of Mysore comprising the following territories, namely:-

(a) the territories of the existing State of Mysore:

(b) Belgaum district except Chandgad taluk and Bijapur, Dharwar and Kanara districts, in the existing State of Bombay:

(c) Gulbarga district except Kodangal and Tandur taluks, Raichur district except Alampur and Godwal taluks, and Bidar district except Ahmadpur, Nilang Udgir taluks and the portions specified in clause (d) of sub-section (1) of Section 3, in the existing State of Hyderabad:

(d) South Karuna district except Kasaragod taluk and Amindivi Island and Kollegal taluk of Coimbatore district in the State of Madras; and

(e) the territories of the existing state of Coorg;

and thereupon the said territories shall cease to form part of the said existing State of Mysore, Bombay, Hyderabad Madras and Coorg, respectively

(2) The territories comprised in the existing State of Coorg shall from a separate district to be known as Coorg district, and the said Kollegal taluk shall be included in and become part of Mysore district, in the new State of Mysore.

Maharashtra State

Extension of Act 1 of 1814 all rules thereunder as in force Bombay area to other area in Maharashtra State subject to certain modification-On the commencement of this Act' the Land Acquisition Act, 1894 (1 of 1894) (hereinafter referred to as "the principal Act) and the rules made thereunder as in force in the Bombay area except the Land Acquisition (Bombay Amendment) Act, 1948 (Bombay Act IV of 1948), shall extend and be in force throughout the State of Maharashtra, and accordingly on such commencement in Section I of the principal Act.

SECTIONS 1 & 2-(concl.)

(i) sub-section (2), after the words and letter “comprised in Part B States” the words other than the Hyderabad area of the State of Maharashtra” shall be inserted.

(ii) in sub-section (3), after the figures “1894 the words' brackets and figures "but in the Hyderabad area of the State of Maharashtra shall come in to force on such day as is appointed under sub section (3) of Section 1, of the Land Acquisition (Maharashtra Extension and Amendment) Act, 1964” shall be added.

Tamil Nadu State

In Section I in sub section (2) in regard to territories added to the State by Act 56 of 1959 omit the words "other than the territories specified in sub section(1) of section 3 of the States Reorganisation Act, 1956 (Central act 37 of 1926)-T.N.A.L.O. 1961 (w.e.f 1-4-1(60)

CASE LAW DIGEST

-Statute conferring on Government power to compulsorily acquire land shall be strictly construed. **1967(1) SCR 120: AIR 1967 SC 1074**

-Land Acquisition Act ought to be interpreted and implemented very strictly **1966 All L J 310 : ILR 1966(2) All 185**

-Merely because the acquisition is for providing residential facilities it cannot become a part of the Town Planning Scheme as contemplated by the Town Planning Act. 1970 (2) Andh WR 366

-Were an officer commits an error of procedure, every presumption should be made in favour of the party likely to have been prejudiced by the error. **AIR 1970 Madras 826 (DB)**

-The principles of English cases are applicable to Indian Act-It may possibly lead to misunderstanding to seek guidance from the English, decisions, except in so far as it is necessary to explain ambiguous provisions of the Indian statute. It is clearly to follow an English decision where doing so would involve doing violence to a statutory provision in the Indian Act. **AIR (Vol. 14) 1927 All 246: 100 Indian Cases 749**

-Section 1 (2) as amended in 1984 Kerala Land Acquisition Act, 1961-Since the Amendment Act. 1984 has been extended to Part 'B' States retrospectively acquisition initiated under the Kerala Land Acquisition Act is covered by it--Some provisions have limited retrospectively and are to that extent applicable here also.

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-The Bombay Rent Act was not intended to apply to premises acquired under the Land Acquisition Act for public purpose;

AIR 1921 Bom 214: 69 Indian Cases 571: 23 Born LR 3S: 45 Born 725

-The Act does not contemplate acquisition of any interest belonging to Government, 1911 (9) MLT 272: 1911 (2) MWN 367: 9 Ind Cas 841.

Section 2

2. [REFEAL AND SAVING]:-Repeal in part by the Repealing and Amending Act 1914 (X of 1911.), Section 3 and Schedule II, and Later in part by the Repealing Act, 1938 (1 of 1938), Section 2 and Schedul

The Land Acquisition Act, 1894
Section 3

3. DEFINITION:-In this Act, unless there is something repugnant in the subject or context,-

(a) the expression land includes benefits to arise out of land, and things attached to the earth or permanently fasten to any things attached to the earth;

(aa) the expression "local authority" includes town placing authority (by whatever named called) set up under any law for the time being in force;

(b) the expression "person interested" includes all persons claiming an interest IU compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land ;

(c) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the ²[appropriate Government] to perform the functions of a Collector under this Act;

[(CC) the expression "corporation owned or controlled by the State" means any body corporate established by or under a Central, Provincial or State Act, and includes a Government company as defined in Section 617 of the Companies Act, 1956, a society registered under the Societies Registration Act, 1&60 or under any corresponding law for the time being in force in a State being a society established or administered by Government and a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, being a co-operative society in which not less than fifty-one per centum of the paid-up share capital is held by the Central Government, or by any State Government, or Governments, or partly by ,the Central Government and partly by one or more State Governments ;]

(d) the expression "Court" means a principal Civil Court of original jurisdiction, unless the ²[appropriate Government] has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under tills Act ;

³[(e) the expression "Company" means-

0)a company as defined in Section 3 of the Companies Act, 1956, other than a Government company referred to in clause (cc) ;

(ii) a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, other than a society referred to in clause (cc) ;

1. Ins. by Act 68 of 1984.

2. Subs. by the A.L.O., 1950, for "Provincial Government".

3. Subs. by Act 68 of 1984.

The Land Acquisition Act, 1894

SECTION 3-(contd.)

(iii) a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, other than a co-operative society referred to in clause (cc) ;]

¹[(ee) the expression "appropriate Government" means, in relation to acquisition of land for the purposes of the Union, the Central Government, and, in relation to acquisition of land for any other purpose, the State Government;

²[(f) the expression "public purpose" includes-

(i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites;

(ii) the provision of land for town or rural planning;

(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;

(iv) the provision of land for a corporation owned or controlled by the State;

(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State :

(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, or a cooperative society within the meaning of any law relating to co-operative societies for the time being in force in any State:

(vii) the provision of land for any other scheme of development sponsored Government, or, with the prior approval of the appropriate Government, by a local authority;

(viii) the provision of any premises or building for locating a public office, but does not include acquisition of land for Companies ;]

(g) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)-trustees for other persons beneficially interested shall be deemed the

1.Added by A.L.O., 1950.

2.Subs. by Act 68 of 1984.

The Land Acquisition Act, 1894

SECTION 3-(contd.)

persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have

acted if free from disability;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of

full age; and

the guardians of minors and the committees or manager of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics, or idiots themselves, if free from disability, could have acted:

Provided that-

(i) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend, or, In default of his appearance by a next friend the Collector or Court, as the case may be shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(iii) the provisions of I[Order XXXU of the First Schedule to the Code of Civil Procedure, 1908] shall, *mutatis, mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a Guardian for the case, in proceedings

under this Act; and

(iv) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase money on a voluntary sale.

STATE AMENDMENTS

Gujarat State

After clause (g) insert (aa):-

(aa) the expression 'arable land' includes 'garden land'. (Extended to the whole of Gujarat by Act XX of 1965).

Karnataka State

After clause (a) insert:-

(aa) the expression 'arable land' includes 'garden land'. Extended to

the whole State of Karnataka by Act XVII of 1961.

Maharashtra State

In Section 3 of the Land Acquisition Act, 1894 (1 of 1894) for clause (aa), the following shall be deemed always to have been substituted,

1. Subs. by Act 68 of 1984.

The land Acquisition Act, 1894

SECTION 3-(contd.)

namely:-

“(aa) the expression ‘arable land’ means land fit for cultivation whether **III** fact cultivated or not; and includes garden land.”

West Bengal State

Clause (b) of Section 3 of the Act-

(i) after the words “affecting the Land”, the words “or cultivates the land or any portion of it as a bargadar”, shall be added and shall be deemed always to have been added.

(ii) the following Explanation shall be added and shall be deemed always to have been added, namely:-

“*Explanation.*- Bargadar is a person who, under the system generally known as adhi, barga or bhag cultivates the land of another person on condition of delivering a share of the produce of such land to that person”.

(3) Clause (c)**Bihar State**

In Section 3 of the Land Acquisition Act, 1894 sos clause (c), the following clause shall be substituted, namely:-

“(c) The expression ‘Collector’ means the Collector of a district and includes a Deputy Commissioner, Additional Collector, Additional Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the function of a Colleco¹

under this Act except the functions under Sections 4, 5-A, 6, 35 and 38.”

Gujarat

Words "or by the Commissioner" shall be deleted.

Karnataka State

¹In Clause (c) for the words “Deputy Commissioner”, the words “an Assistant Commissioner incharge of a sub-division of a district” shall be substituted. [Mysore Act XVII of 1961].

Maharashtra State

²In its application to the whole State of Maharashtra in clause (c), after the words “Appropriate Government” *insert* the words “or by the Commissioner”.

In section 3, in clause (e); in its application to the Bombay and Vidarbha areas of the State, after the words “any officer”, *insert* the words “or person”.

Uttar Pradesh State

Omit the words a "Deputy Commissioner and" from Sec. 3, clause (c). [U. P. Act 30 of 1956].

Gujarat State

In clause (d) add the following at the end:

³ “and shall in relation to any proceedings under this Act, include the

-
1. Substituted by Act No. 17 of 1961.
 2. Inserted by Act No.8 of 1958.
 3. Added by Act No. 20 of 1965.

The Land Acquisition Act, 1894

SECTION 3-(contd.)

¹ “and shall in relation to any proceedings under this Act, include the Court of Civil Judge (Senior Division) to which the principal Civil Court may transfer any such proceedings.” [Bombay Act 35 of 1953 & Gujarat Act 20 of 1965.]

Karnataka State

For clause (d), the following clause shall be substituted namely-

“(d) the expression ‘Court’ mean a principal Civil Court of original jurisdiction, includes any other Civil Court empowered by the State Government by a notification in the official Gazette, perform the functions of the Court under this Act, within the pecuniary and local limits of its jurisdiction.”

Karnataka State

³ “(dd) the expression ‘Co-operative Society’ means a registered society within the meaning of the Co-operative Societies Act, 1912 (Central Act II of 1912), or any society registered or deemed to be registered under any law corresponding to that Act for the time being in force in any part of India.”

Madhya Pradesh State

In clause (d), after the word ‘Court’, *insert* the words “except in sub-section (3) of Section 18.”

Maharashtra State

“and shall in relation to any proceedings under this Act, include the Court of 3 Civil Judge (Senior division) to which the principal Civil Court may transfer such proceedings” [Bombay Act 35 of 1953, and Maharashtra Act 38 of 1964]

West Bengal State

² “(d) The expression 'Court' means a principal Civil Court of original jurisdiction and includes the Court of any Additional Judge, Subordinate Judge or Munsif whom the State Government may appoint, by name or by virtue of his office, to perform, concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act within any specified limits and, in the case of a Munsif up to the limits of the pecuniary jurisdiction with which he is vested under Section 19 of the Bengal, Agra and Assam Civil Courts Act, 1887.”

Clause ‘e’ “The existing clause has been substituted by Act 68 of 1984.”

Andhra Pradesh State

In clause (e) *add* the following at the end-

⁴ “and also includes a company or society registered or incorporated by or under any corresponding law in force in the transferred territories.”

Karnataka State

In Section 3, for clause (e) *substitute* the following, namely-

⁵ “(e) the expression ‘Company’ means-

-
1. Added by Act No 20 of 1965.
 2. Substituted by (Bengal Amendment) Act 2 of 1934.
 3. Inserted by Act No. 17 of 1964.
 4. Added by Act No. 20 of 1959.
 5. Substituted by Act No. 17 of 1961.

The Land Acquisition Act, 1894

SECTION 3-(contd.)

- (i) a company formed and registered under the Companies Act, 1956 (Central Act 1 of 1956);
- (ii) a company formed and registered under any previous Company Law for the time being in force in any part of India other than the State of Jammu and Kashmir;
- (iii) a company formed and registered under any law for the time being in force in the State of Jammu and Kashmir;
- (iv) a company-
 - (a) incorporated under any law relating to companies for the time being in force in any foreign country; and
 - (b) having its principal place of business in India;
- (v) a company incorporated by an Indian Law relating to a particular company;
- (vi) a co-operative society;
- (vii) a society registered under the Societies Registration Act, 1860 (Central Act XVI of 1860), or under any law corresponding to that Act for the time being in force in any part of India; and
- (viii) a corporation created by or under any law for the time being in force in any part in India not being a corporation owned or controlled by the State;".

Madhya Pradesh State

In Section 3, for clause (e) *substitute* the following-

"(e) the expression 'company' means a company registered under the Indian Companies Act, 1882 (6 of 1882), or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament of the United Kingdom or by an Indian Law, or a Royal Charter, or Letters Patent and includes a registered. society with the meaning of clause (b) of Section 2 of the Madhya Pradesh Societies Registration Act, 1959 (1 of 1960), a society within the meaning of clause (z) of Section 2 of the Madhya Pradesh Co-operative Societies Act, 1960 (17 of 1961) and a corporation within meaning of clause (3) of Section 2 of the **M.P.** Trading Corporation Act, 1962 (20 of 1962)."

Bihar State**(7) Clause (ee)**

Patna (City)

¹After clause (e), the following clause shall be deemed to be *inserted*, namely:

"(ee) the expression 'local authority' includes the Board of Trustees for the Improvement of (name of the town) constituted under Section 3 of the Bihar Town Planning and Improvement Trust Act, 1951". (Enforced in Patna City w.e.f. 6-12-1961).

Maharashtra State

Nagpur (City)

1. Inserted by Act No. 33 of 1951.

The Land Acquisition Act, 1894

SECTION 3-(contd.)

¹After clause (e) of Section 3, the following clause shall be deemed to be *inserted* namely:

“(ee) the expression 'local authority' includes the Trust constituted under the Nagpur Improvement Trust Act, 1936.”

Orissa State

²For the purpose of acquisition of land in pursuance of the provisions of Orissa Town Planning and Improvement Trust Act, 1956, after clause (e) of Section 3 of the Land Acquisition Act, 1894, the following clause shall be deemed to be *inserted*, namely;

“(ee) the expression 'Local Authority' includes the Improvement Trusts, and the Special Planning authority constituted under Sections 7 and 80 respectively of the Orissa Town Planning and Improvement Trust Act, 1956.” [Orissa Act 10 of 1957].

Punjab, Haryana and Chandigarh

³After clause (e) of Section 3, the following shall be deemed to be *inserted* namely:

“(ee) the expression 'local authority' includes a Trust constituted under the Punjab Town Improvement Act 1922.”

Uttar Pradesh State

After clause (e) of Section 3, the following shall be deemed to be *inserted*, namely:

⁴“(ee) the expression 'local authority' includes a Mahapalika constituted under the Uttar Pradesh Nagar Mahapalika Adhiniyam, U.P. Act No. 2 of 1959.

West Bengal State

For the purpose of acquisition of land in pursuance of Calcutta Improvement Act, 1911, after clause (e) of section 3, the following shall be deemed to be *inserted*, namely:

⁵“(ee) the expression 'local authority' includes the Board of Trustees constituted under the Calcutta Improvement Act, 1911.”

For the purpose of acquisition of land in pursuance of Howrah Improvement Act, 1956, after clause (e), the following clause shall be deemed to be *inserted*, namely:

“(ee) the expression 'local authority' includes the Board of Trustees constituted under the Howrah Improvement Act, 1956.”

Karnataka State

After clause (ee), the following clause shall be *inserted*, namely:

-
1. Inserted by Act No. 36 of 1936.
 2. Inserted by Act No. 10 of 1957.
 3. Inserted by Act No. 31 of 1966.
 4. Inserted by H.P. Nagar Mahapalika Adhiniyam II of 1959. 1959.”
 5. Inserted by Calcutta Improvement Act, 5 of 1911.

The Land Acquisition Act, 1894

SECTION 3-(contd.)

¹“(eee) the expression ‘prescribed’ means prescribed by rules made under this clause.”

Maharashtra State

In Section 3 after clause (ee) *insert* the following new clause:

“(eee) ‘Land Acquisition Officer’ means an officer appointed as such by the State Government by notification in the Official Gazette for such provisions of this Act as may be specified in the notification.”

²**Tamil Nadu**

After clause (ee) of Section 3 of the Land Acquisition Act, 1894 thereafter in this Schedule referred to as “the said Act”), following clause shall *inserted*, namely:

“(eee) the expression ‘Local authority’ includes the Board of Trustees for the Improvement of the City of Madras, constituted under Section 3 of the Madras City Improvement Trust Act, 1950.”

Union Territory of Pondicherry

“(eee)” the expression ‘Local authority’ includes the planning authority constituted under Section 11 of Pondicherry Town Act Country Planning Act, 1969. “[Pondicherry Act 15 of 1971.]

Bihar State Clause “f” [As it stood before 1984 amendment].

For Clause (f) the following clause shall be *substituted*, namely:

⁴“(f) the expression ‘public purpose’ includes provision for or in connection with-

- (i) sanitary improvements of any kind including reclamation; and
- (ii) the laying out of village-sites or townships, or the extension' planned development or improvement of existing village-sites or townships; and.”

Gujarat State

In clause (f) of Section 3-

⁵(i) after the word ‘includes’ the brackets and figure ‘(1)’ shall be *inserted*;

(ii) after the words ‘such provisions’ the following shall be *inserted*, namely:

“(2) the acquisition of land for purposes of the development of areas from public revenues or some fund controlled or managed by a local authority and subsequent disposal thereof in whole or in part by lease, assignment or sale, with the object of securing further development; and

-
1. Inserted by Land Acquisition (Mysore Extension Amendment) Act, 17 of 1961.
 2. Inserted by Madras City Improvement Trust Act No. 37 of 1950.
 3. Substituted by Bihar Act No. 11 of 1961
 4. Inserted by Land Acquisition (Bombay Amendment) Act No 35 of 1953.
 5. The existing clause 'F' has been substituted by Act 64 of 1984.

SECTION 3-(contd.)

- (3) a housing scheme which the State Government may, from time to time, undertake for the purpose of increasing accommodation for housing persons and shall include any such scheme undertaken from time to time with the previous sanction of the State Government by a local authority or company."

Karnataka State

¹For clause (f) the following clause shall be *substituted*, namely;

"(f) the expression 'public purpose' includes-

- (i) the provision of village-sites;
- (ii) the provision of land for planned development from public funds and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned ; .
- (iii) the provision of land for town or rural planning under any law relating to such planning;
- (iv) the provision of land-
 - (a) for carrying out any housing scheme or health scheme sponsored by the Central Government or any State Government or a local authority; or
 - b) for clearing slum areas: or
 - (c) for relieving congestion; or
 - (d) for housing poor, landless, or displaced persons or persons residing in areas affected by floods ;
- (v) the provision of,-
 - (a) residence for any person holding an office of profit under the Central Government or a State Government or accredited as a diplomatic consular or trade representative of a foreign Government;
 - (b) building for locating a public office;
- (vi) The provision of land for corporations owned or controlled by the State, or other nationalized industries or concerns;
- (vii) the provision of land for any local authority and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development ;
- (viii) the provision of land for a company-
 - (a) where the land is needed for the construction of some work and such work is likely to prove substantially useful to the public, or
 - (b) where the land is needed by a building, a co-operative society or corporation for the construction of houses;
- (ix) the provision of land for any charitable trust.

Explanation.-'Charitable trust' includes a trust established or to be established for the relief of the poor, education, medical relief, or advancement of any other object of general public utility."

1. Substituted by L.A. (Mysore Extension Amendment) Act 17 of 1961.

The Land Acquisition Act, 1894

SECTION 3-(contd.)

Madhya Pradesh and Vidarbha Region

1"(f) the expression 'public purpose' includes the provisions of land ,for agriculture or for residential, business, or industrial purposes, or for any purpose incidental to any of these with a view of resettlement and rehabilitation of displaced persons."

he definition of 'displaced persons' as given in this amending Act:

“ ‘Displaced person’ means any person who, on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or fear of such disturbances in any area now forming part of Pakistan, has been displaced from or has left his place of residence in such area after the 1st day of March, 1947, and who has subsequently been residing in India.”

Maharashtra State

In clause (f)-

(1) after the word 'includes', *insert* the brackets and figure "(1)";

²(2) after the words 'such provision' *insert* the following:

“(2) the acquisition of land for purposes of development of area from public revenues or some fund controlled or managed by a local authority and subsequent disposal thereof in whole or in part of lease assignment or sale, with the object of securing further development.”

Uttar Pradesh State

In Section 3, for clause (f), *substitute* the following-

³“(f) the expression 'public purpose' includes provision for or in connection with-

- (i) Sanitary improvements of any kind, including reclamation;
- (ii) the laying out of village-sites, townships or the extension planned development or improvement of existing village-sites or townships;
- (iii) the settlement of land for agriculture with the weaker section of the people; and.”

(10) Clause (g)**Karnataka State**

After clause (g), the following clause shall be *inserted*, namely:⁴(h) the expression 'local authority' includes a town planning authority and a City Improvement Trust Board.”

Madhya Pradesh State

⁵In its application to Bhopal Area of the State of Madhya Pradesh, after clause (g) of Section 3, *insert* the following-

-
- 1.Substituted by C.P. & Berar Act No. 20 of 1949.
 - 2.Inserted by L.A. (Bombay Amendment) Act No. 35 of 1953.
 - 3.Substituted by L.A. (D.P. Amendment) Act, No, 5 of 1959.
 - 4.Inserted by L. A. (Mysore Extension Amendment) Act 17 of 1961.
 - 5.Inserted by L.A. (M. P. Amendment) Act No 5 of 1959

SECTION 3-(contd.)

“(h) the expression ‘Bhopal Area’ shall have same meaning as assigned to it in the Land Acquisition (M. P. Amendment) Act, 1959.”

‘Bhopal Area’ comprises the area comprised within the Municipal limits of Bhopal Town and the area extending to ten miles beyond such limits.

Uttar Pradesh State

In Section 3, after clause (g), *add* the following new clause, namely.”

(h) ‘Land Reforms Commissioner’ means the Land Reforms Commissioner appointed by the State Government.”

Uttar Pradesh State

²For the purpose of acquisition of land in pursuance of the provisions of the U.P. Avas Evam Vikas Parishad Adhiniyam, 1995 after clause (h), the clauses shall be deemed to be *inserted*:

(i) “local authority” includes the board;

(j) ‘the Board’ means the U.P Avas Evam Vikas Parishad established under U.P. Avas Evam Vikas Parishad Adhiniyam, 1965

Maharashtra State

In its application to the whole State of Maharashtra, after Section 3 *insert* the following new section namely:-

"3 (1-A). POWERS TO BE EXERCISED BY COMMISSIONER BY OR UNDER ACT.- The powers conferred on the Commissioner by or under this A bvct shall be the powers exercisable by him in relation to the acquisition of land for those purposes only for which the State Government is the appropriate Government."

Andhra Pradesh State

⁴After Section 3, the following Section 3 A shall be deemed to be *inserted*, namely,-

"3-A. DELEGATION OF FUNCTIONS:- The State Government may, by notification in the Andhra Pradesh Gazette, direct that any power conferred or duty imposed on them by this Act, shall in such circumstance and under such conditions, if any, as may be specified in the notification, be exercised or discharged by the District Collector."

Gujarat State

⁵In Bombay area of the State, the words “or the Commissioner” and or as the case may be, any officer authorised by the Commissioner” in Section 3-A are deleted.

(2) (a) In Section 3 A for clause (ii), substitute the following, namely,-

“(ii) to dig or bore into sub-soil;”

1.Added by L. A. (U. P. (Amendment) Act No. 22 of 1954.

2.Inserted by U. P. Avas Evam Vikas Parishad 1 of 1965.

3.Inserted by Bombay Act 8 of 1958.

4.Inserted by L. A. (A. P. Amendment) Act No. 22 of 1976.

5.Substituted by Gujarat Act 15 of 1964.

The Land Acquisition Act, 1894

SECTION 3 -(contd.)

(b) for the word "and" at the end of clause (iii) and for clause (iv), *substitute* the following clauses, namely,-

- "(iv) to set out the boundaries of the land likely to be needed and the intended line of the work (if any) likely to be done thereon;
- (v) to mark such levels boundaries and lines by placing mark and cutting trenches;
- (vi) to measure the land so likely to be needed; and
- (vii) where otherwise the survey cannot be completed and the levels taken for the boundaries or lines marked, to cut down and clear away any part of any standing, crop, fence or jungle;"

PART I-A
Preliminary Survey

3-A. PRELIMINARY SURVEY OF LAND AND POWERS OF OFFICERS TO CARRY OUT SURVEY.-For the purpose of enabling the State Government or the Commissioner to determine whether land in any locality is needed or is likely to be needed for any public purpose, it shall be lawful for any officer of the State Government in the Public Works Department or any other officer either generally or specially authorised by the State Government in this behalf, or as the case may be, any officer authorised by the Commissioner and for servants and workmen,-

- (i) to enter upon and survey and take levels of any land in such locality;
- (ii) to mark such levels;
- (iii) to do all other acts necessary to ascertain whether the land is adapted for such purpose;
- (iv) where otherwise the survey cannot be completed and the levels taken, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter in to any building or upon any enclosed court or garden attached to dwelling house (unless with the consent of the occupier thereof), with out previously giving such occupier at least seven days notice in writing of his intention to do so.

3 B. PAYMENT FOR DAMAGE.- The officer of the State Government in the Public Works department, and any other officer so authorised shall, at the time of such entry pay tender payment of all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered; shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the district, and such decision shall be final."

After Section 3-B, insert the following, namely,-

"3-C. MEASUREMENT OF AND COMPRISING SURVEY NUMBER OF SUB-DIVISION.-In the case of the whole of a survey number or sub-division of a survey number, as defined in the Bombay Land Revenue Code, 1879, as in force in the Bombay area, the Saurashtra area, for, as the case may be, the Kutch area of the State of Gujarat, the area of such survey number or, as the case may be, sub-division as entered in the land records

The Land Acquisition Act, 1894

SECTION 3-(contd.)

shall be deemed to be the measurement of the land comprising such survey number or sub-division." Gujarat Act 20, 1965, Section 6 (15- 8-1965)

PART I-A

Gujarat (Same as Maharashtra).

Maharashtra State

¹After part I of the Land Acquisition Act, 1894 *insert* the following part, namely,-

CASE LAW DIGEST

-Food Corporation of India is a company within the meaning of definition-Compliance of provisions of Chapter VII. 1981 RLR 90 See also 1931 CLJ (Civil) 192, 1981 PLJ 83 necessary.

-Land acquired for Devasthanam-Award passed-Judgment in appeal also rendered-Application by Devasthanam for re-hearing appeal, after impleading it as party respondent not maintainable. **AIR 1981 Madras 42**

-Food Corporation of India is a Company within Section 3 (e)-It is not a Govt. department. **AIR 1981 SC 1694**

-‘Company’ includes local authority-Municipal Corporation as defined in Section 4 (2), Punjab -Municipal Act (3 of 1911) has to be constructed as a local Authority, General Clauses Act (10 of 1887) **1984 RLR 74**

-Purchasers of land after notification can file petition challenging proceedings.

AIR 1982 P&H 519

-Purchasers of land can claim to be interested in the compensation of the acquired land-Not easy to hold that a person interested in compensation is lacking locus standi to challenge the acquisition. **1982 RLR 427**

-Any person affected by extinguishment of right in land is person interested.

AIR 1982 Gauhati 63

-Land acquired for dwelling houses for poor-District Collector is empowered to commence proceeding and to dispense with enquiry under S. 5-A **AIR 1982 Andhra Pradesh 445**

-Merely because somebody is a person interested in compensation, does not mean that compensation has to be paid to him in spite of the fact he has no interest or right in the land-Person not having any interest is not entitled to payment of any compensation payable for acquired land. **1981 PLJ 489**

-Limitation of 3 years to Challenge to acquisition proceedings after issuance of Notification under Section 6. **1984 PLJ 389**

-No universal rule can be laid down prescribing the share Government in the compensation money, but the area of the land, and all other circumstances which would relate to the possibility of Government fixing the next assessment have to be taken into consideration.

AIR 1926 Bombay 47: 91 Ind Cas 357: 27 Bom LR 1237 (FULL BENCH)

-A juristic person cannot be described as a company unless it is composed of a fluctuating body of persons, which body may conveniently be described as (i) associating body of persons, and (ii) Its member held shares in it, in which they can freely transfer without consulting the other shareholders. **19681 (1) Mys. LJ. 300 : 13 Law Rep**

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1, Inserted by Maharashtra Act No. 3& of 1964.

The Land Acquisition Act, 1894

SECTION3-(contd.)

CASE LAW DIGEST

-Municipal Corporation a 'local authority' and not a company.

1984 PLJ 192

-Person interested-Person in occupation of land-Is a person interested-Can seek a reference under Section 8-Cannot on that account contend that he is entitled to payment of compensation.

1981 All India Land Laws Reporter 341

-Person in possession of Evacuee Land-Not entitled to compensation as his rights comes to an end on account of the provisions of East Punjab Displaced Persons (Land Resettlement) Act, 1949 and in view of the provisions of the Administration of Evacuee Property Act, 1950.

1982 All India Land Laws Reporter 341

-Land is not confined to merely "waste and arable Land" but equally to land bearing a forest, an orchard or buildings thereon. *Gulzar Singh v. State of Punjab.*

74 PLR 6 SN : 1972 PLJ 522 : 1972 RLR 713

-The making of a valid report after hearing objections of the persons interested in the land under S. 5-A, by a person who is duly constituted Collector within the meaning of S. 3 (c) of the Act, being a sine qua non all illegal report of such an officer lacking inherent jurisdiction will also be vitiated. *Mayapati v. The State of Haryana,*

AIR 1973 Punjab 356 : 1972 PLJ 576 : 1972 Rev. LR 772

-Trespassers on land have no right to challenge the legality of the notice issued under Section 4 of the Act.

1984 (1) All India Land Laws Reporter 32

-Acquisition for a Municipal Corporation-Municipal Corporation is a local authority-Provision of Sections 38 and 44 not attracted.

1984 (1) All India Land Laws Reporter 457

-Company for whose benefit land has been acquired is not a necessary party-Is not a person interested. It was held as under: -

- (i) That an application under Order 1 Rule 10 of the Code of Civil Procedure for being impleaded as a party by the company is not legally maintainable.
- (ii) That the Company is not an interested person so as to give it a right to become a party to the proceedings in reference before the District Judge.
- (iii) That the only right under the Act available to the company is to appear and 'adduce evidence for determination of the amount of compensation.
- (iv) That the company by itself would have no right to file an appeal.

1981 All India Land Laws Reporter 285

-Acquisition of Land for Food Corporation of India-Corporation is a company within the meaning of Section 3(e)-Compliance with the provisions of Chapter VII has to be made-Acquisition not in accordance with law when the provision not complied with.

1981 All India Land Laws Reporter 238

-Acquisition for the benefit of a co-operative society-Acquisition to be in accordance with the provisions of Chapter VII of the Land Acquisition Act, 1804-Provisions of Chapter VII not complied with--Acquisition held to be bad

1981 All India Land Laws Reporter 259

The Land Acquisition Act, 1984

CASE LAW DIGEST

SECTION 3-(contd.)

-Person interested-Land belonging to an evacuee and disposed of under Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954--Person purchasing the land is person interested, **1981 All India Land Laws Reporter 259**

-Person interested-Company in whose favour acquisition is made is not a person interested and cannot be allowed to be impleaded as a respondent.

1981 All India Land Laws Reporter 285

-A Juristic person cannot be described as a company unless it composed of a fluctuating body of persons, which body may conveniently be described as (i) association of individuals, and (ii) its members hold shares in it, which they can freely transfer without consulting the other shareholders. The Food Corporation does not satisfy any of the two essential ingredients of a company. The Corporation is not a company within the meaning of S. 3 (e). *Raja Ram Baru Ram v. State of Punjab.*

AIR 1970 (P&H) 361 : 1970 Rev. LR 325

-House falls within the definition of land. *Mahabir Parshad Bawani-wala v. The State of Haryana.*

1973 PLJ 517

-Company-Food Corporation of India is a company within the meaning of Section 3(e) of the Land Acquisition Act-Is not a Government Department. **1981 All India Land Laws Reporter 238**

-Interested person-Company for whose benefit acquisition is made is entitled to get impleaded in a reference under Section 18.

1983(1) All India Land Laws Reporter 137

-Person interested-Term Includes mortgage, tenant, lessee person having an interest and host of others who would fall within the phraseology of the Section.

1983(2) All India Land Laws Reporter 581

- Trees standing on land-Compensation has to be awarded-But trees planted by the Government-No evidence that the claimants planted the trees-Claimants not entitled to compensation-Trees in a forest need not be valued separately.

1979 All India Land Laws Reporter 149

-Person interested-Subsequent purchaser purchasing land after the issuance of the sections 4 and 6 notification-Falls within the definition of the word 'person interested'-Can challenge the acquisition.

1982 All India Land Laws Reporter 562

-Acquisition for a company-A society registered under the Cooperative Societies Act, 1912 falls within the definition the word 'Company'.

1981 All India Land Laws Reporter 259

-Land Acquisition for Punjab State Electricity Board--Board is a company-Acquisition without compliance of the provisions of part VII is bad. **1984 (2) All India Land Laws Reporter 181**

-Punjab State Electricity Board-Answers the description of a company as contemplated by Section 3 (e). **1984 (2) All India Land Laws Reporter 181**

-Person interested-Person for whose benefit acquisition made can not file appeal.

1982(2) All India Land Laws Reporter 599

The Land Acquisition Act, 1894

SECTION 3-(contd.)

-The Punjab State Warehousing Corporation established under the Warehousing Corporation Act being incorporated by an "Indian Law" is fully covered by the definition of 'company' in Section 3(e). The word "company" has been used in Section 3(e) for facility of reference or for purposes of description and by the user of this word, the condition that it should be a company as understood in ordinary law has not become as one of the essential requirements to be fulfilled before any juristic person could fall within the definition of "Company" as given in Section 3(e). From the bare reading of Section 3(e), there does not appear to be any basis of the formulation of this condition.

AIR 1979 Punj. 118 : 1979 Pun. LJ 89 : (1979) 82 Pun LR 294 (FB)

-Acquisition for expanding activities of a school to meet growing educational need is for a public purpose. **AIR 1972 Kerala 143 (DB)**

-The concept of a 'public purpose' is not a static but a dynamic one and it is too late in the day to contend that landable schemes for housing the houseless weaker sections of the community would in the present times not fall within so broad a term as 'public purpose'.

1975 PLJ 366 : 1975 Cur LJ (Land Laws) 39 : 78 Punj LR 256 (DB)

-Land acquisition Collector not being 'Court' within meaning of Section 3 (d) Section S3 is not attracted and hence cannot claim any power of review reference. **68 Pun LR 585 : 1966 CIS 13 (Punj)**

-An acquisition made for a Company for a public purpose-Portion of the cost of the acquisition to come out of the public funds and the balance out of the funds of the Company, not essential to comply with the requirements of Part VII.

ILR (1966) 1 Cal 10 : AIR 1967 Cal 275

-The Municipal Corporation established under the Bombay Provincial Municipal Corporation Act, 1949 is a local authority as defined in Section 3(h) and not a Company within Section 3(e)(viii) for the purposes of the Land Acquisition Act.

7 Law Rep 419 : ILR (1966) Mysore 1013 : AIR 1968 Mysore 127

-Act does not apply to State of Rajasthan.

AIR 1978 Raj 31 : 1976 WLN 835 (DB)

-'Land' in Section 3(a) includes superstructure. **AIR 1978 SC 515**

-Term Deputy Commissioner expressly includes "Assistant Commissioner" in charge of a sub division.

AIR 1977 SC 2030 : (1977) 2 SCC 515: ILR (1977) 2 Kant 1315

-Land with orchards thereon cannot be separately valued.

1979 All LJ 1009 (DB)

-Act cannot be interpreted in such manner as to exclude land covered by mosque or grave from acquisition under Act. **AIR 1978 All 280 (DB)**

-The expression "Collector" means the Collector of a District and includes a Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under the Act.

AIR 1980 Andh Pra 247 : (1980) 1 APLJ (HC) 400: (1930) 2 Andh LJ, 32 : (1980) 2 Andh WR 109 (DB)

The Land Acquisition Act, 1894

SECTION 3-(contd.)

-Where a co-operative society, in which the State has a major interest, wants to construct a sugar factory with a view to encourage the local sugarcane growers and the industry and also to increase the production of sugar in order to meet the acute shortage of sugar in the country, it could not be said that no public purpose is involved in such a venture.
AIR 1979 Andhra Pradesh 127 (DB)

-The definition under Section 3(c) of the Land Acquisition Act makes it clear that it takes in the Companies not only registered under the Indian Companies Act, 1956 but also those incorporated by an Act of Parliament of the U. K. or by an Indian Law or by a Royal Charter or Letters Patent as the case may be. Once the acquisition is made for a public purpose it not matter whether the beneficiary, if any, is a Company on acquisition or an unincorporated organisation. **1979(1) Andhra LT 424: (1979) 2 Andh WR 332 (DB)**

-Solatium payable under S. 23(2) cannot form part of market value of land.

1973 (2) SCR 720: 1973(1) SCC 109 : AIR 1973 SC 305

-Company selling trees standing on the acquired land-Sale not prohibited by Section 44 A. **1976 All LJ 42 : AIR 1975 All 450 (452) (DB)**

-Second notification in respect of another piece of land for an identical particular purpose stated in the still subsisting first notification would be invalid.

1971 All LJ 1064

-Acquisition of "fishery" was held acquisition of land. **1975(1) Cal LJ 576**

-The definition of words "Premises" and 'property' in Requisitioning and Acquisition of Immoveable Property Act (1952) cannot be imported in the definition of 'Land' in Acquisition Act. **1973 PLJ 517**

-Local authority or company is not person interested not entitled to be impleaded in proceedings under the Act. **AIR 1972 AP 362**

-Buyer can claim the amount advanced by him in term of agreement with seller together with interest from the money which represents the converted value of that land.

AIR 1972 Bom 217 (DB)

-Person who has preferred claim to compensation payable is 'person interested'.

ILR 1972 (2) Cal, 357

-Acquiring body for whose benefit the land is proposed to be acquired is not a necessary or proper party suit. **AIR 1973 Gujarat 97**

-A person who has purchased certain land prior to notification in respect of its acquisition is entitled to make an application for reference under S. 1& (3) (b).

AIR 1972 Mys. 215

-Tenant is "person interested" within S. 3 (b)

1973 PLJ 517

-Consent of parties cannot cure lack of jurisdiction.

1972 Punj. LJ 576 : 1972 Rev. LR 722 : AIR 1973 Punj. 356 (357)

-A Municipality is not hound to use the land for the purpose for which is professedly acquired. **AIR (Vol. 14) 1927 Cal 874 : 104 Indian Cases 129 (DB)**

The Land Acquisition Act, 1894

SECTION 3-(contd.)

- To constitute, a public purpose in taking land, it is not necessary that the land when taken should be made available to the public at large. It is enough if the object or aim of the acquisition, is one in which the general interest of the particular interests of individuals is directly concerned.

AIR (Vol) 1 1914 PC 20: 39 Born 279: 42 I A 43: ALJ 117: 17 MLJ 76 : 19 CWN 305 : 17 Born LR 130 23 MLJ 179 : 2 LW 191 : 21 CLJ 134: (1915) MWN 663 : 27 Ind Cas 26

- All enquiry by a Collector under the Land Acquisition Act is an administrative and not a judicial proceeding and the award made by the Collector under Section 11 of the Act is not a final award binding on the claimant but merely a tender or an offer of an amount mentioned in the award as compensation payable by the Government to the claimant. An award is in fact merely the starting point of the other proceedings. An award given by an Additional Revenue Assistant who was not a Collector under the Land Acquisition Act, is not invalid merely because the notification appointing him as Collector under the Act was published after the award.

AIR 1959 Punj. 479 : 60 PLR 302 : ILR 1958 Punj. 1104

-Where the Land Acquisition Officer was not vested with the powers of the Collector, he had no jurisdiction to proceed under Sections 9 and 10, nor to give an award under Section 11 because he had to take all these actions as a Collector, which he was not.

AIR 1959 Punjab 538: JIR 1958 Punjab 1451

- The building of houses for poor men, for displaced persons or for industrial workers is a public purpose which advances the good of the State and of the community.

AIR 1959 Punj. 535: ILR 1959 Punj. 1143: 61 PLR 532

-The term 'public purpose' is hard to define but in the case of acquisition of land it is not confined to the direct use of the land by Government itself or even that the land acquired is to be made available to the public at large. The acquisition of land by the Government for the housing scheme of any kind in which the houses were to be sold or let to persons any class if an acute housing shortage existed and this shortage could not be met by private enterprise, is a public purpose and the acquisition of land for this purpose is valid.

AIR 1959 Punjab 478: ILR 1958 Punjab 134

- The expression 'public purpose' as defined in Section 3(f), does not determine its scope. In fact this expression is not capable of precise and comprehensive definition and no useful purpose would be served to define it In as much as the concept of public purpose is not static but dynamic and changes from time to time in accordance with the requirements of the society. If the acquisition benefits a private person alone or only individuals then it is not public purpose. If the acquisition furthers the general interests of the community though incidentally it benefits individuals also, it cease not cease to be a public purpose. Under the Act, the State Government must initially determine whether a particular purpose is or is not a public purpose and if acquisition of a particular piece of land would serve and that public purpose. This determination is not final and when the question is raised before Courts of law, it is their duty to determine the nature of the purpose for which the particular piece of land has been required.

AIR 1959 Punjab 544 : ILR IS59 Punjab 1665: 61 PLR 609

The Land Acquisition Act, 1894

SECTION 3-(contd.)

-Notification under S. 3(d) issued appointing principal subordinate judges as “Courts in their respective jurisdiction-After issue of notification District Judge cannot entertain reference under S. 11. Land Acquisition Officer.

36 Cut. LT 1063 : ILR 1971 Cut. 18 : AIR 1971 Ori. 7275 (FB)

-Orissa Government appointing all subordinate judges as “Court” in respective jurisdiction-Such Courts act in their capacity as subordinate judges and are not ‘persons designata’.

36 Cut. LT 1063 : ILR 1971 Cut. 18: AIR 1971 Ori. 71(74) (FB)

-Government after acquisition allotted a part of property to co-operative societies for development-Allotment would not make acquisition one for ‘company’. **1975(1) SCR 802: (1975 (4) SCC 285: AIR 1974 SC 2077 : 1974 UJ 765**

-Food Corporation of India is a statutory body and falls within definition of ‘Company’. **AIR 1975 Punj 189 (191)**

-State Government is “Appropriate Government” under CI. (ee)
Section public purpose also serves national purpose. **1973 (17) Cal WN 242**

-Constitution of India, Act. 258 (1) State authorised to acquire land for specific Union purpose. **1973 (77) Cal WN 242**

-The President of India, while administering Union Territory of Pondicherry by virtue of Article 239 of the Constitution does not act as the head of the Central Government.

He cannot therefore delegate the powers and functions of Central Government under the Land Acquisition Act for the purpose of land for the purpose of the auto telephone exchange for the Posts and Telegraphs Department at Pondicherry, to the District Governor of Pondicherry or to an Administrator appointed under the Article.

AIR 1975 Madras 345 (353 to 356)

-Industrialisation of an area is in public interest.
1971 (1) SCWR 491 : 1971 (1) SCC 671 : 1971 (2) Um NP 424 : 1971 (1) Civ APJ 416 (SC) : 1971 (3) SCR 871 : AIR 1971 SC 1033 (1035)

-Acquisition of land for purpose of the school and for providing for its play grounds etc. is for public purpose. **ILR 1971 Andh Pra 418**

-Acquisition of “fishery” for purposes of reclamation for rehabilitating displaced fishermen-Such acquisition for its development is acquisition for a public purpose. **1975 (1) Cal LJ 576 (DB)**

-Acquisition for co-operative societies would be one for public purpose because a housing scheme for a limited number of persons constituting particular Housing Society could be considered a public purpose. **AIR 1973 Guj 176**

-Only those who have an interest in the land that is acquired and could thus claim an interest in compensation are persons interested within the meaning of Section 3 (b).

AIR 1976 Andhra Pradesh 134: (1976) 1 Andh PLJ 52 (FB)

-Acquisition of land for resettlement of project-affected persons is or public purpose and not for benefit of any particular individuals.

AIR 1977 Bom. 355: 1977 Mah LJ 16 : ILR 1979 Bom, 264 (DB)

The Land Acquisition Act, 1894

SECTION 3-(contd.)

-The Scope of the expression public purpose is obviously not static and must change with varying concept, time, state of society and its needs Therefore, the approach is to consider the scheme as a whole and then examine whether the entire scheme of acquisition is for a public purpose or not.

AIR 1976 Bom. 129: 1976 Mah. LJ 267 (DB)

-Award not. apportioning compensation between claimants invalid.

1980 Rajdhani LR 634 (DB)

-Person in occupation of property whether in capacity of tenant or licensee is 'person interested'.

AIR 1976 Him Pra 16 : ILR (1975) Him Pra. 389

-Construction of a 'travellers bungalow' held to be for a public purpose.

(1979) 2 Kant LJ 117

-The definition of the term "Public purpose" shows that the cost need not be of the local authority itself. It may come out of any fund controlled or managed by such authority. Hence a notification declaring that cost is to come out of the fund is beyond the scope of challenge unless it can be shown that it has been made in fraud of powers or in colourable exercise of powers of acquisition.

AIR 1973 Gujarat 261

-Basic concept underlying the expression "public purpose" is general interest of community. The test is where the purpose is primarily and predominantly for general interest of the community, or it is mainly or primarily to serve the interests of a few individuals.

(1971) 12 Guj LR 1 : AIR 1971 Gujarat 158

-Person not noticed under Sections 9 and 12 not barred from seeking reference under Section 18(3).

1968 MP LJ 766 : AIR 1969 Madh. Pra. 78

-The expression 'person interested' does not require that a person must really have an interest in the land sought to be acquired. It is enough if he claims an interest in the compensation as distinguished from an interest in the property sought to be acquired.

1967(1) Mad. LJ 329: 80 Mad LW 114

-Person having existing interest in land on date of preliminary notification is person interested.

1966 (2) Mys. LJ 301 : 1966(8) Law Rep. 36

-The expression 'Any person interested' does not include a Company or Local Authority for whose benefit the acquisition is made.

(1968) 34 Cuttack LT 17: ILR 1967 Cut. 831

-Company for whose benefit the acquisition is being made is not a necessary party to the proceedings.

ILR (1967) Cuttack 510 : AIR 1967 Orissa 180

-Expression person interested includes all persons claiming an interest in the compensation to be made for acquisition.

1970 Cur LJ 644 (Punj)

-District School Board incorporated under Bombay Primary Education Act is not a 'Company' but 'Local authority'.

19681 (1) Mys. LJ 300

-Housing scheme for limited number of persons can be considered as a public purpose.

1970(2) SCC 264 : AIR 1970 SC 984 : 1970 UJ 451

-Owner of dominant tenement is "person interested"

AIR 1943 Cat. 35 : ILR 1942 (1) : Cal 488 : 46 CWN 136 : 44 Cr. LJ 288 : 244 Indian Cases 370 (DB)

The Land Acquisition Act, 1894

SECTION 3— (contd.)

-Defines a Collector to mean Collector of the District and includes Deputy Commissioner and any officer specially appointed by the Government to perform the functions of a Collector under the Act.

9 Guj LR 243 : 1968 (2) SCJ 425 : 1968 (1) SCR 597 : 1969 SCD 31: 17 Law Rep 229 : AIR 1968 SC 432

-Validly-Appointment by virtue of office and not by name can be made.

When an officer is authorised to perform the functions of the Collector it means that he is appointed to perform those function. The clause does not contemplate a separate or an additional post. What it means is that some officer who is already in the Government employment is authorised to work as a Collector for the purpose of the Act.

9 Guj LR 243 : 1969 SCD 31 : 17 Law Rep 229 : 1968(2) SCJ 425 : 1968 (1) SCR 597 : AIR 1968 SC 432

-Government appointing particular Extra Assistant Commissioner in one district to perform functions of Collector, cannot be deemed to be authorised to perform functions of Collector under the Land Acquisition Act in another district.

1966 Mah LJ (Notes) 10

-Notification under Section 4 can be issued by Government or Deputy Commissioner.

1970 (2) Mys LJ 102 : AIR 1970 Mys 317, 318

-An attaching decree-holder is a person 'interested' in the land within the meaning of the Act.

AIR (Vol 13) 1926 Mad. 307 : 97 Indian Cases 496 : 49 Mad 38 (DB)

-A party to a valid agreement for purchase of land is an person interested.

AIR (Vol. 14) 1917 Lab 40 : 18 PR 1917 : 28 PWR 1917 : 37 Indian Cases 822 (DB)

-The expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of the land.

(1913) 31 Born, 76 : 14 Bom. LR 507 : 15 Indian Cases 771

-Subordinate Judge who is appointed under Section 3 (d) to decide a dispute referred by Collector under Section. 30 is a Civil Court.

AIR (Vol 27) 1940 Mad. 474 : 51 MLW 553 : 194Q (1) MLJ 732: 1940 MWN 438 : ILR (1940) Mad 791 : 188 Ind Cas 447 (FB)

-The Special Judge appointed under S. 3 (d), Land Acquisition Act has not all the powers of a Civil Court.

AIR (Vol 24) 1937 Cal 680 : 66 CLJ 134: 41 CWN 1291 : ILR 1938 (1) Cal 231 : 176 Indian Cases 288 (DB)

-The District Judge, in deciding a reference under the Land Acquisition Act, is acting as a 'Court' as defined in S. 3.

AIR (Vol. 21) 1934 All 260 : (1934) ALJ 32 : 3 A WR 1 : 148 Ind Cas 617 (FB)

-An Additional District Judge is competent to dispose of references made over to him for disposal by the District Judge under S. 8(2) of the Bengal N. W. P. and Assam Civil Courts Act 1887.

AIR (Vol. 6) 1919 Cal 133:50 Indian Cases 690 (DB)

-Things attached to the earth, are included in the word "land" in

S. 3 (a). **AIR (Vol 3) 1916 Pat 330 : 35 Indian Cases 97 (pat) (DB)**

The Land Acquisition Act, 1894

SECTION 3-(contd.)

-The definition of 'company' as in S. 3(c), Land Acquisition Act, extends to a Cooperative Society registered under Bom. Co-operative Societies Act of 1925. **AIR (Vol. 23) 1936 Bom 37: 37 Bom LR 955 : 60 B 125 : 161 Indian Casts 96 (DB)**

-The expression public purpose includes a purpose in which the general interests of the community, as opposed to the particular interests of the individuals, is directly and vitally concerned. If the effect of the Government order is to enable it to acquire a particular house set for a particular individual, it is only a matter of detail, which does not affect the general question of the purpose being a public one.

AIR (Vol. 17) 1930 Mad 798: 59 MLT 2 74 32 : MLW 179

-Acquisition Act, land includes buildings and also trees and standing crops.

AIR (Vol. 27) 1940 Sind 28 : ILR 1940 Kar : 396 : 187 Indian Cases 714 (DB)

-A bungalow is included in the definition of "land".

AIR (Vol. 26) 1939 All 106 : 1938 AIJ 1171: 1938 A WR 811: ILR 1938 All 994 : 280 Indian Cases 954 (DB)

- The benefit of doubt ought to be given to the party as against the Government.

AIR (Vol. 18) 1931 Mad 50 : 1930 MWN 1896 :

32 LW 788 : 59 MLJ 911 (DB)

-The epithet "permanently" is used as antitheses to temporarily".

-AIR (Vol. 14) 1927 PC 172: 103 Indian Cases 366 : 54 Cal 582 : 54 IA 187 29 Bom LR 953 : 45 (:LJ 589: 1927 MWN 436 : 31 CWN 950 : 39 MLT 63 : OWN 735 : 26 MLW 892: 53 MLT 99

-Scope and applicability of definition.

-The definition of 'land' as given in the land Acquisition Act, S. 3(a) is expressly restricted to the enactment in which it appears.

AIR (Vol. 12) 1926 Cal 97: 52 Cal 862 : 90 Ind Cas 901 (DB)

-To acquire a piece of land under the Land Acquisition Act is not necessarily the same thing as to purchase the right of fee simple to it but means the purchase of such interest as clogs the right of Government to use it for any purpose it likes. The word "includes" in S. 3(a) of the Land Acquisition Act shows that the legislature intended to lump together in one single expression "land" several things or, particulars such as the soil, the buildings on it, any charges on it, and other interests in it all which have a separate existence and are capable of being dealt with either in a mass or separately as the exigencies of each case arising under the Act may require. The Legislature having given a general direction that the amount of compensation payable for a plot of land shall be determined according to its market value left the decision as to the interests subordinate to the right of ownership or fee simple to rest upon principle which the Collector or the Court: may seem fit apply in each case on grounds of law and equity. Interests in or benefits arising out of land are various, and it would have been practically impossible to mention them exhaustively and provide for each of them in the Act.

The Land Acquisition Act, 1894

SECTION 3-(contd.)

-The Government are not debarred from acquiring and paying for the only outstanding interests merely because the Act, which primarily contemplates all interests as held outside Government, directs that the entire compensation based upon the market value of the whole land must be distributed among the claimants. In such circumstances there is no insuperable objection to adopting the procedure to the case on the footing that the outstanding interests, which are the only things to be acquired, are the only things to be paid for.

1909(12) Bom LR 34(41) : 5 Indian Cases 621 (DB)

-Word 'land' includes soil, including any charges on the land or the interests in it.

1969 (1) SCJ 344 : AIR 1969 SC 255

-The leasehold interests in land, can come within definition of expression 'land'.

AIR 1969 All 604

-The Act requires compensation to be paid for all interests held in the land.

1967 All LJ 30 : 1966 All WR (HC) 640

-A person becomes a person interested if he claims as interest in compensation to be awarded.

1967 (1) SC WR 481: 1968 SCD 262 1968 (1) SCA 250: 70 Bom LR 353 : 1968 (1) SCJ 685 : 14 Law Rep 597 : 1968 (1) SCR 36 : AIR

1968 SC 366

-If the notifications issued under Section 4 or Section 6 of the Land Acquisition Act suffer from omission in regard to material particulars which are required by law to be mentioned, the legal infirmity of such notices cannot be cured by raising a plea that the person challenging the notices is not recorded as a person having a right or interest in the land.

1969 All (HC) 557: 1969 AU LJ 813: AIR 1970 All 414 (419) (FB)

-The phrase 'person interested' is inclusive definition, which does not exclude ordinary meaning of said expression.

1969 (1) Cal WN 543 : ILR 1971 (1) Cal 562

-Where the acquisition is with the object of providing for residential and industrial development, there is no reason why such provision would not be included in the concept of public purpose in the present context.

1967 (1) SCA 384 : 1966(3) SCR 5 : AIR 1966 SC 1788 (1803)

-Acquisition of land for excavating field channel for supplying water under irrigation scheme-It is for public purpose.

AIR 1970 Andhra Pradesh 1180

-Definition of public purpose is only of an inclusive character and being not compendious is not of much help in ascertaining the ambit and scope of the words "public purpose."

(1970) 72 Punj. LR (Delhi) 332

-S. 3-Construction of Khul is a public purpose.

AIR 1966 Himachal Pradesh 8(9)

-A purpose may be a public purpose even if a fraction of the community is benefited by it.

AIR 1967 Himachal Pradesh 8(9)

-An acquisition is for a public purpose when it involves an element of public utility and has for its aim social welfare and public good.

ILR (1966) Mys 1013 : 7 Law Rep. 419 AIR 1968 Mys. 27(130)

The Land Acquisition Act, 1894

SECTION 3-(contd.)

-A 'person interested' within the meaning of S. 3(b) can apply to Court to be joined as party to reference even if his name does not appear in reference provided the question raised by him is, in essence, the dispute referred.

AIR 1942 Sind 82: ILR (1942) Kar. 157: 201 Ind. Cas. 639

- The explanation of person interested, can afford assistance only in the matter of claims for compensation. **AIR (Vol. 28) 1941 Cal 45 CWN 370 : 197 Indian Cases 395 (D3.)**

-Company interested as tenant is 'person interested'.

AIR (Vol. 26) 1939 Cal 669: ILR 1939(2) Cal 401 : 43 CWN 973 : 186 Indian Cases 17 (DB)

-Person who is interested in an easement affecting land acquired by Govt. is a person interested under S; 3(b).

AIR (Vol. 23) 1936 AU 879 : (1936) ALJ 1160: 1936 AWR 1011 : 166 Indian Cases 24 (DB)

-Reversioner is "person interested".

AIR (Vol. 16) 1929 Lahore 736 : 116 Tnlian Cases 335

-S. 3(I)-Acquisition of land for providing house sites for rural landless labourers is for public purpose.

AIR 1976 Bom. 129

-Ss. 3, 4, 5-A and 55-Acquisition of Land-Enquiry under Section 5(A) -Enquiry officer is bound to issue notice and hear a person-In whose name the ownership of land vests-But his name is not shown in the Revenue record.

Vol. 26 All India Land Laws Reporter (Supp.) (Madras) 130

-Sections 3,4,6, 12 & 17-Limitation Act, 1963, S. 3 & Article 58-Limitation/Award/Notification-Notification under S. 6 not challenged before passing of Award-Can challenge it on legally permissible ground by combining the challenge to the award if challenge to the notification otherwise with in Limitation.

1992 LACC (Gujarat) 181

-Ss. 3, 17 and 18- Equal compensation for similarly situated lands have same potential value as building site is to be potential value as building site is to be paid-Interest at 6 % full payment and solatium at 15 per cent the compensation amount is entitlement of the appellants.

Vol. 26 All India Land Laws Reporter (Supp.) (Supreme Court) 423

-Section 3(a)-Land-Definition-Land includes all benefits to arise out of land and things attached to earth or permanently fastened to anything attached to earth-Includes buildings, super-structures- This definition is wider than visualised in Transfer of Property Act.

1992(1) All India Land Laws Reporter 382

-Section 3(a)-land Definition of It includes land, trees, gardens and others superstructures.

1991 LACC (Allahabad) 431

-Section 3(aa)-A.P. Charitable and Hindu Religious Institution and Erdowment Act, 1987, Section 111 (4) (X)--Land Authority- Tirumala Devasthanam a local authority within the meaning of section 3(aa).

1991 LACC (Andhra Pradesh) 454

-Section 3(b), 18 and 54-Person interested Appeal Necessary Parties -Person for whom Land is acquired is person interested under.- Section 3 (b) -He is entitled to file appeal under section 54 and challenge the award and impleaded as necessary party---Provision of O. 1, R. 10 of C. P.C. applicable appeals under section 54

1991 LACC (Madhya Pradesh) 37

The Land Acquisition Act, 1894

SECTION 3-(contd.)

-S. 3 (b)-Constitution of India Art. 226 (I)-Person interested-Person aggrieved-Person, who purchased the property with open eyes having knowledge that said property is being acquired by State, after notice under S. 4 and S. 6 had been published, can he “person interested” or “person aggrieved”, and to what decree-Also can he move the High Court under Art. 126 or 227 of the Constitution for a writ of certiorari-Dealing with second Part first-Infringement of some legal right or prejudice to some legal interest inhering in the petitioner is necessary to give him a locus standi to invoke writ jurisdiction of the High court-In case he has not been subjected to a legal wrong or suffered any legal grievance OR in words of Supreme Court unless he has legal peg for a justiciable claim to hang on he is not a person aggrieved- Now for the person interested-A purchaser of the property after the notifications are issued/published, is a person interested but his interest depends on the stage at which he came into the picture-For example he may just be entitled to question the quantum of compensation-Definition of person interested in S. 18 of the LA Act is an inclusive definition and even a person or a company for whom the land is acquired by the Government cannot be said to have no claim or title to the land at all after the same is transferred to it-Company is thus an interested person 1980-All India Land Laws Reporter 186 relied upon.

1993(3) All India Land Laws Reporter (Madras) 143

-Section 3(b)-Person interested/Person aggrieved-The Corporation or the Local authority for whom land is acquired is a person interested-An appeal may be filed by person aggrieved-Not much difference in person interested and person aggrieved. **1992 LACC (Allahabad) (Supp.) 213**

-Sections 3(b) 18, 50 and 54- Civil Procedure Code, 1908 O.1 R. 10

-Necessary Parties/Person interested/Reference/Appeal-Land acquired for the benefit of Local authority or company-Such local authority or company who is a beneficiary not ‘person interested’ under the Act-Such beneficiary cannot claim to be impleaded as defendant either before Collector or reference proceeding-Such beneficiary can adduce evidence for purpose of determining compensation and can prefer an appeal under Section 54.

1992 LACC (Orissa) 376

-Section 3 (b) and 48 (2) and 49 (1)-: Person interested/Owner Difference between-An owner is certainly a person interested-All persons interested cannot be considered as owner. *Mohammed v. Project Director*

1993 LACC (Kerala) 409

-Section 3(b)-Constitution of India, Article 226-Writ petition/ Person interested-Locus standi to file writ petition-Person aggrieved-Meaning to vary according to the context of the statute-Even a stranger can have locus standi to file petition provided he moves court for a right in common with general public.

1993 LACC (Madras) 250

-Section 3 (b) Person interested-Expression person interested of property after notification under section 4 or been declaration under Section 6 of the Act can be" person interested ‘—’ Held that his right to file objection depends on the stage of Acquisition.

Seethalakshmi Ammo v. State of Tamil Nadu

1993 LACC (Madras) 52

The Land Acquisition Act, 1894

SECTION 3-(concl'd.)

-Section 3(cc) (as amended by Karnataka (Amendment) Act, 1966, Sec. 9)-
Land of Market Committee is not a body corporate or Company and hence procedure
for acquisition of land of companies need not be followed.

Vol. 20 Supp. All India Land Laws Reporter (Karnataka) 446

-Section 3(d) defines the 'Court' as principal Court of original jurisdiction- It
does not mean the principal Civil Court of Original jurisdiction within a district. The
bracketed portion is the definition of district in sub-section (4) of S. 2 of C.P.C. cannot
be inserted in the definition of the word 'Court' given S. 3 (d) of the Acquisition Act.

AIR 1978 Goa 42

-Ss. 3(d) and 19-Under Section 3(d) the Government of Orissa by a
notification dated 14th November, 1968 appointed all principal subordinate Judges to
perform the duties of Court-Within their local limit jurisdiction-Impliedly by the
District Judge had no authority to entertain the reference on 6th July. 1963

Vol. 26 All India Land Laws Reporter (Supp.) 306

-So 3(e)-In case of compensation to be paid for land acquired for the
Warehousing Corporation prays to be impleaded a party covered by the provision of
Section 1 (e)-Allowed to appear and adduce evidence

Vol. 26 All India Land Laws Reporter (Supp.) 217

-Section 3 (e) -Companies Act. 1956 Societies Registration Act, 1935
-Bihar Co-operative Societies Act. 1935-Co-operative Society/Company. A
society registered under the Bihar Co-operative Society Act is a company:

1991 LACC (Patna) 141

-Punjab State Electricity Board is a Company within meaning of definition in
Section 3(e).

1984 PLJ 192

-Food Corporation of India is a Company within meaning of Section 3(e).

1984 PLJ 375

-Punjab State Electricity Board a Company within a meaning of Sec. 3 (e)-
Compliance with provisions of Part VII necessarily to be made in order to lawfully
acquire land for Punjab state Electricity Board.

1984 PLJ 192

-Ss. 7(e) and 50(2)-Land Acquired-For purpose of company Reference made for
compensation-Evidence must be recorded before court- Validity.

Vol. 23 All India Land Laws Reporter 441

-Section 3 (f) 4(i) and 17-Public purpose-Includes planned development of village
or ether sites-Provision for town or rural planning-Prevision of land for Corporation
owned and controlled by State-And when financed out of public funds-For providing
house sites to landless labourers rural areas.

Vol. 29 All India Land Laws Reporter (Supp.) (Bom:) 401

-The Municipal Corporation established under the Bombay Provincial Municipal
Corporation Act, 1949 is a local authority as defined in Section 3(h) and not a Company
within Section 3(e) (viii) for the purpose; of the Land Acquisition Act.

7 Law Rep 419 : ILR (1966) Mysore 1013 : AIR 1968 Mysore 127

Section 4

PART II—ACQUISITION Preliminary Investigation

4. PUBLICATION OF PRELIMINARY NOTIFICATION AND POWERS OF OFFICERS THEREUPON : (1) Whenever it appears to the [appropriate Government] that land in any locality ²[is needed or is likely to be needed for any public purpose S[or for a company], a notification to that effect shall be published in the Official Gazette ³[and two daily newspapers circulating in that locality of which at least one shall be in the regional language] and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality ³[(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)].

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

to enter upon and survey and take levels of any land in such locality ,

to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon; to mark such levels, boundaries and line by placing marks and cutting trenches; and,

Where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

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

STATE AMENDMENTS

Andhra Pradesh State

For the purpose of acquisition of land for the construction, extension or improvement of any dwelling house for the poor, the Land Acquisition Act shall have effect in relation to such acquisition subject to the following modifications, namely,-

(a) in sub-section (1) after the words “appropriate Government”, the words “or the District Collector” and after the words “Official Gazette”, the words “or the District Gazette” shall be *inserted*.

(b) in sub-section (1), after the words “such Government”, the words “or the District Collector” shall be *inserted*.

1. Subs. by the A. O. 1950, for “Provincial Government”.

2. Ins. by Act 38 of 1923, S. 20.

3. Ins. by Act 68 of 1984, S. 4.

The Land Acquisition Act, 1894

SECTION 4-(contd.)

Land Acquisition (Andhra Pradesh Amendment and Validation) Act 1983¹

(A.P. Act 9 of 1983) Ss. 2 and 5

2. In its application to the State of Andhra Pradesh, in sub-section (1) of Section 4, (w.e.f. 12-9-1975) for the words "the Collector shall, cause" the words "the Collector shall, within forty days from the date of publication of such notification, cause" shall be *substituted*.

5. VALIDATION OF CERTAIN ACQUISITIONS.-Notwithstanding any judgment, decree or order of any Court, tribunal or other authority to the contrary,-

(a) no acquisition of land made or purporting to have been made under the principal Act before the commencement of the Land Acquisition (Andhra Pradesh Amendment and Validation) Act, 1983 and no action taken or thing done (including any order made, agreement entered into, or notification published) in connection with such acquisition shall be deemed to be invalid or ever to have become invalid merely on the ground-

(i) that the Collector has not caused public notice to be given as required under sub-section (1) of Section 4 of the principal Act, simultaneously with the publication of the notification in the Andhra Pradesh Gazette, as the case may be ;

(ii) that a declaration has been made under Section 6 of the principal Act, after a considerable delay in respect of any land in the case of which the State Government have directed under sub-section (4) of Section 17 of the principal Act, that the provisions of Section 5-A of the principal Act shall not apply ;

(iii) that the possession of land has not been taken immediately after a direction by the State Government that Section 5-A of the principal Act shall not apply ;

(b) any acquisition of land in pursuance of any notification published under sub-section (1) of Section 4 of the principal Act before the commencement, of the Land Acquisition (Andhra Pradesh Amendment and Validation) Act, 1983, may be made after such commencement, and such acquisition made and no action taken or thing done (including any order made, agreement entered into, or notification published) whether before or after such commencement, in connection with such acquisition shall be deemed to be invalid merely on the grounds referred to in clause

(a) or any of them. [A.P. Act IX of 1983]

(iii) For the purpose of acquiring land for the Board under the Land Acquisition Act, 1894 (Central Act 1 of 1894), the said, Act shall be subject to the modification that the publication of a draft notification under Section 22· A A. P. (Telangana Area) Housing Board Act XLVI of 1956, shall be *substituted* for and have the same effect as publication in the Andhra Pradesh Gazette and in the locality of a notification under sub-section (1) of Section 4 of the Land Acquisition Act except when a notification under sub-section (1) of

1. Assented by President on 23rd June, 19'

The Land Acquisition Act, 1894

SECTION 4-(contd.)

section 4 or declaration under Section 6 of the Land Acquisition Act has been previously made and is in force. [A.P Act XLVI of 1956 as amended by Section 15 of A.P. Act 15 of 1962].

Bihar State

¹In Section 4 of the Act-

(a) for sub-section (1), the following sub-section shall be *sub section shall be substituted*, namely,-

“(1) Whenever it appears to the appropriate Government or the Collector that land in any locality is need or is likely to be needed for any public purpose, a notification to that effect shall be published at the office of the Collector, at the office of the sub-divisional officer, at the offices of the smallest revenue administrative unit and Gram Panchayat, if any, constituted under the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948), and at conspicuous place in the village in which the land is situated; and the Collector shall cause copies of the notification to be served on all persons known or believed to be interested in the land.

Explanation.-For the purposes of this Section the expression “smallest revenue administrative unit” shall mean “or the revenue administrative unit next below that of a sub-division whether known for the time being as N. E. S. Block, Circle, Anchal or otherwise”, and (b) in sub section (2), after the words “such Government”, the words "or the Collector" shall be *inserted*.

Gujarat State

²In Section 4 of the Act-

(1) in sub-section (1) after the words “for any public purpose” the words “or for a Company” shall be *inserted*;

(2) in sub-section (2), for the words beginning with words "to make such levels" and ending with words "trenches and" the following shall be *substituted* namely :-"to mark such levels, boundaries and line by placing marks and cutting trenches; to measure the land likely to be needed and",

Karnataka State

³In Section 4 of the Act -

(1) in sub-section (1)-

(a) after the words "appropriate Government" the words "or the Deputy Commissioner" shall be *inserted*;

(b) for the words "notification to that effect", the words "notification stating the purpose for which the land is need or likely to be needed, and describing the land by its survey number, if any, and also by its boundaries and its approximate area" shall be *substituted*;

(c) after the words "the said locality", the following sentence and explanation shall be *added*, namely

1. Substituted by L. A. (Bihar Amendment) Act No. 11 of 1961.

2. Substituted by Gujarat Act 20 of 1961.

3. Inserted by L. A. (Mysore Extension & Amendment) Act No. 17 of 1961.

SECTION 4-(contd.)

“The Deputy Commissioner may also cause a Copy of such notification to be served on the owner, or where the owner is not the occupier on the occupier of the land.

Explanation. -- The expression ‘convenient places’ includes, in the case of land situated in a village, the office of the Panchayat within whose jurisdiction the *land* lies.”

(2) After sub-section (1), *the* following sub-section shall be *inserted* namely,-

“(I-A) The notification under sub-section (1) shall also specify the date (such date not being less than thirty days from the date of publication of the notification on or before which, and the manner in which, objection to the proposed acquisition may be made~ under Section 5-A.”

(3) In sub-section (2).-

(a) for the word 'Thereupon' the words "On the publication of such notification" shall be *substituted* ;

(b) for the words “such Government”, the words “such Government or by the Deputy Commissioner” shall be *substituted*;

(c) in the first clause occurring after the words “servants and workmen” for the words “any land in such locality”, and words “the land” shall be *substituted*;

(4) After sub-section (2), the following sub-section shall be *inserted* namely :-

“(3) Where the acquisition is for a company, an officer of such Company may be authorised by the appropriate Government or the Deputy Commissioner to exercise the powers conferred by sub-section (2).

(4) The officer authorised under sub-section (2) Or sub-section (3) shall complete his investigation and submit this report to the Deputy Commissioner within a period of three months or within such longer period not exceeding six months in all as the Deputy Commissioner may allow, from the date of the Publication of the notification under sub-section (1) and the Deputy Commissioner shall forward the report with his remarks to the appropriate Government along with his report under sub-section (2) of Section 5.A.”

Kerala

In Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

(i) in sub-section (1):-

(a) after the words “the appropriate Government” the words “or to the Board of Revenue or to the Collector” shall be *inserted*;

(b) after the words “any locality” , the words “in the State of Kerala or within the jurisdiction of the Collector, as the case may be”. shall be *inserted*;

(ii) in sub-Section (2), after the words “by such Government” the words or the Board of Revenue or the Collector, as the case may be,” shall be *inserted*.

[Land Acquisition (Kerala Amendment) Act, 1985 (28 of 1985)]

SECTION 4-(contd.)

Madhya Pradesh State

¹In the notification issued under section 4 of the Land Acquisition Act 1894(1 of 1894), as specified in column (1) of the Table given in Part A of the Schedule, for the entries in column (2) specifying the area to be acquired, the entries as in the corresponding entries in column (3) of the said Table shall be *substituted*.

Jubbulpore (City)

²“The first publication of a notice of an improvement scheme under Section 281 of the City of Jubbulpore Corporation Act, 1948, shall be *substituted* for, and have the same effect as publication in the Official Gazette and in the locality, of a notification under sub-section (1) of Section 4, except where a declaration under Section 4 or Section 6 has been made and is still in force”

Maharashtra State

³In Sub section (1) for the words “shall be published in the Official Gazette” the words “shall be published in the Official Gazette or in the Government periodical entitled 'Lok Rajya' or in a newspaper having circulation in the local area, shall be *substituted*.”

In sub-section (1) after the words “appropriate Government” *insert* the words “the Commissioner, or Land Acquisition Officer” and in sub-section (2) after the words “such Government” *insert* the words “the Commissioner, or as the case may be, by the Land Acquisition Officer”.

Nagpur (City)

⁴“The first publication of a notice of an improvement scheme under Section 39 of the Nagpur Improvement Trust Act 1936, shall be *substituted* for, and have the same effect as publication in the Gazette and in the locality of a notification under sub-section (i) of “Section 4, Land Acquisition Act, 1894, except where a declaration under Section 4 or Section 6 of that Act has previously been made and is still in force.

Orissa

⁵The first publication of a notice of an improvement scheme under Section 45 of the Orissa Town Planning and Improvement Trust Act, 1956, shall be *substituted* for and have the same effect as publication in the Gazette in the locality of a notification under sub-section (1) of Section 4 of the Land Acquisition Act except where a notification under sub-section (1) of Section 4 or a declaration under Section 6 of the Land Acquisition Act has been previously made and is in force.

Punjab, Haryana and Chandigarh

⁶“The first publication of notice of any improvement scheme under Section 36 of the Punjab Town Improvement Act, 1922, shall be *substituted* for and have the same effect as publication in the Official Gazette and in the

-
1. Substituted by L.A. (M.P. Amendment & Validation of Acquisition of Law Act.
 2. Substituted by C. P. Berar Act 3 of 1950.
 3. Substituted by L.A. (Maharashtra Amendment) Act, 29 of 1917.
 4. Substituted by Nagpur Improvement Trust Act, 1936.
 5. Substituted by Orissa T. P. & Improvement Act, 1956.
 6. Substituted by Fb. Town Improvement Act, 1922.

.SECTION 4-(contd.)

locality of a notification under sub-section (1) of Section 4 of the Land Acquisition Act, 1984, except where a declaration under Section 4 or Section 6 of the said Act has previously been made and is still in force”.

Tamil Nadu State

¹The first publication of a notice of an improvement scheme under Section 47 of the Madras City Improvement Trust Act, 1945, shall be *substituted* for and have the same effect as publication in the Official Gazette and in the locality of a notification under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 except where a notification under Section 4 subsection (1) or a declaration under Section 6 of that Act has been previously made and is in force”.

Uttar Pradesh State

²In Section 4 of the Land Acquisition Act, 1894-

- (1) in sub-section (1) after the word “Government” the words “or Collector” shall be *added*; and
- (2) in sub-section (2) after the words “such Government” the words “or Collector” shall be *added*.

³In Section 4 of the Land Acquisition Act, 1894, as amended in its application to Uttar Pradesh-

(i) in sub-section (1), between the words “and” and the “Collector” the following shall be *inserted* and be deemed always to have been *inserted*, namely:-

“except in the case of any land to which by virtue of a direction of the State Government under sub-section (4) of Section 17, the provisions of Section 5-A shall not apply”.

(ii) after sub-section (1), the following Explanation thereto shall be *inserted* and be deemed to have been *inserted* with effect from October 16, 1958, namely :-

“Explanation.- In respect of any land in a regulated area as defined in the Uttar Pradesh (Regulation of Building Operations) Act, 1958, a notification under this sub-section may be issued in anticipation of the preparation and finalisation of a scheme for the planned development of the area in which the land is situated, and notwithstanding anything contained in Section 5-A it shall be sufficient to specify in such notification that the land is needed or is likely to be needed for the planned development of that area without further specification of the particulars of the proposed development”.

“In its application to the acquisition of land by Nagar Mahapalika the first publication of a notice of an improvement scheme under Section 357 of the U.P. Nagar Mahapalika Adhiniyam, 1959, shall be *substituted* for and have the same effect as publication, in the Official Gazette and in the locality of a notification under sub-section (1) of Section 4 of the Land Acquisition Act, except where a declaration under Section 4 or Section 6 of the Land Acquisition Act, 1894, has previously been made and is still in force”.

-
1. Substituted by Madras City Improvement Act, 1950.
 2. Added by L.A. (U.P Amendment) Act, 1954.
 3. Inserted by L.A. (U.P. Amendment) Act & of 1974.
 4. Substituted by U. P. Nagar Mahapalika Adhiniyam 2 of 1959.

The Land Acquisition Act, 1894

SECTION 4-(contd.)

CASE LAW DIGEST

-Section 4-Land Acquisition (Companies) Rules, 1963, Rule 4-Enquiry under Rule 4-Need not precede notification u/S 4-Enquiry before issuance of notification u/S 4 not mandatory.
1985 (1) All India Land Laws Reporter 1

-Scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi-Scheme is meant to rehabilitate and provide alternate accommodation-Entitlement for alternate accommodation-Individual who was owner at the time of issuance of notification u/S 4 is entitled to alternate accommodation-Person purchased land after notification u/S 4 but before acquisition is not entitled to alternate land.
1985 (1) All India Land Laws Reporter 14

-Section 4 (Constitution of India, Article 14)-Discrimination-U.P. Government notification dated 27-7-1967. Notification granting exemption from acquisition to one society in spite of non-fulfillment of conditions-Another society refused exemption in similar circumstances-Held, there is discrimination.
1985 (1) All India Land Laws Reporter 458

-S.4-Proposed acquisition is objected to on two grounds-One is that third party had been allowed by the State Government to collect slurry and the law being "coal bearing area" could not be acquired under the LA Act-Second being that notification under S. 4 was published in Distt. Gazette and not in official Gazette as provided in the Act-Held-Third party had no right to collect slurry after the issue of the notification and had as such no *locus standi* to object to acquisition-Second objection being highly technical and this objection had not been raised for many years-Writ petitions dismissed-Constitution of India, Art. 136.
1993 (2) All India Land Laws Reporter 157

-S.4-Haryana Ceiling on Land Holdings, Act, 1972-Ss. 12, 15 and 16-Land acquisition for a factory-Displaced tenants press for compensation I-Respondents resist the claim and extert that tenants have been allotted land in another village in lieu of this land-No compensation thus payable-There is a serious contest on this point and the impugned Judgment is silent with regard to this controversy-Determination of this fact has indeed a material bearing on the right to compensation-Award by the District Judge set aside and remanded the case for fresh decision in the light of observation.
1993(2) All India Land Laws Reporter 150

-"Land" in Section 3 (a) includes superstructure.

AIR 1978 SC 515 : 1978 UJ (SC) 203 : 1978 (2) see 373 : 1968 (1) SCJ 430

-Acquisition of land for expansion of rail facilities-14 years after the acquisition of land the railway authorities transferred a part of land to the Notified Area Committee. Such transfer would not affect the validity of acquisition.
AIR 1977 SC 1456 : 1977 UJ (SC) SCC 46

-No prohibition to a notification under Sec. 4. **AIR 1976 SC 417 : 1976 (3) SCR 1 : 1976 (1) see 843 : 1976 UJ (SC) 302**

-Collector has no jurisdiction to take possession over an area not covered by notification under S. 6. **1979 All LJ 1072**

The Land Acquisition Act, 1894

SECTION 4-(contd.)

-Nature of provisions are Mandatoy.

AIR 1980 Andh. Pra 85 : 1979 (2) APLJ (HC) 253 : 1979 (2) A459(DB)

-Discretion to acquire land must be exercised in reasonable manner and not in capricious or unreasonable manner. **1980(2) Andh LR 170 (1 17) (DB)**

-Expression "work of public utility" in Art. 226(6) means work useful to all members of public. **AIR 1978 Andh Pra 195 (DB)**

-Notification under S. 6-Cancelled-Government can issue fresh notification in its place without a fresh notification under S. 4 of Act,

AIR 1977 SC 594 : 1976 (3) SCC 536 : 1976 Supp. SCR 28

-Power to issue notification under section 4 under vests only in District Collector as defined by Section 3(8) of Andhra Pradesh General Act by virtue of said State Amendment.

AIR 1979 Andh Pra 264 (DB)

-Publication of notification in Official Gazette must precede public Notice of substance there of at convenient place in the locality--Prior public notice in locality-Cannot validly precede publication of notification official Gazette. **1983 PLA 549**

-Word "notification" implies widest publication to the people generally-Has become synonym with the same being published in Official Gazette or authorised media or in any manner prescribed by state. **1983 PLJ 549**

-Instruction contained in Financial Commissioner's standing Order No 26 are Binding on Acquiring Authorities. **1983 PLJ 164**

-Flagrant violation of Instructions in Financial Commissioner's Standing Order No. 28-No genuine need of land-Acquisition quashed. **1983 PLJ 164**

-Only path to land acquired-Provision of path fundamental requirement-Blocking passage to land right to hold property-Amounts to unreasonable restriction. **1983 PLJ 175**

-Land Acquisition Act not impliedly repealed by the Delhi Development Act (1957).

ILR 1976 (1) Delhi 485

-Government being in process of acquiring the land for planned development of Delhi, the acquisition cannot be challenged on that ground. **ILR 1976 (1) Delhi 376**

-Acquisition sought to be made in violation of declared policy of Government not to acquire land in developed area-Notification, quashed. **1980 (21) Guj LR 83 (DB)**

-Compensation is to be determined with reference to the date of preliminary notification **1980 (2) Kant LJ 319 (DB)**

-Act extended to Union Territory of Pondicherry-Appropriate Government for purpose of Section 4 (1) notification and S. 6 declarations is the Lieutenant Governor of Pondicherry.

1978 (1) Mad LJ 28

-Tenant is entitled to compensation for his tenancy rights of land governed by Punjab Security of Land Tenures Act. **1980 Cur (Civil) 311 (Punjab)**

The Land Acquisition Act, 1894

SECTION 4-(contd.)

-Determination of surplus land under Punjab Land Reform Act-Land notified for acquisition not to be excluded. **1979 Punj LJ 575 : 1980 Rev. LR 65(DB)**

-Decision to acquire a particular piece of land is in the nature of executive decision-No citizen is entitled to claim a hearing at this stage. **1997 Punj LJ18**

-Government issuing order to Collector to take steps to withdraw notification for acquisition-Soon after Government changed its mind and ordered the "Government having carefully examined the matter" it was decided to proceed with acquisition proceedings-On challenge, view of the Government was held to be capricious and arbitrary. **1980 (2) Andh LT (170) 177 (DB)**

-Notification issued by Government withdrawing some portion of land from total acquisition-Notification held not tantamount to notification under Section 4 (1).

AIR 1978 Madras 406 (DB)

-Purchaser of land entitled to and interested in compensation of acquired land.

1982 PLJ 349

-Simultaneous or within reasonable time-Delay of 20 days Failure of State to give any reason-Non-compliance vitiates acquisition. **1982 PLJ 68**

-No explanation for Delay between dates of publication of Notification in Official Gazette and alleged publication of its substance in locality concerned-Acquisition proceedings rendered void. **1982 PLJ 109**

-Objection under Section 5-A filed within statutory period duly considered-Notification cannot be assailed on ground of delay in publication in locality.

1982 PLJ 269

-Object of publication of notification in locality is to enable employees of Government to enter upon land, make necessary survey and find out if land suitable for the purpose for which sought to be acquired. **1982 PLJ 269**

-Word "locality"-Ordinarily a village would amount to specifying the locality unless shown that village specified much too large to be treated as a locality, there being smaller units within that village and having a name which can be more appropriately called a locality. **1982 PLJ 146**

-Report that a copy "passed on a thoroughfare" only meaning that can be drawn is that a copy pasted on the road. **1982 PLJ 146**

-Unexplained inordinate delay in finalisation of acquisition proceeding. Taints it with vice of colourable exercise of power. **1982 PLJ 349**

-Government can issue another notice where notice under section 6 is invalid.

AIR 1980 se 367: 1980 (1) see 308 :

1980 (2) SCR 369: 1980 UJ (Se) 294: 1980 (1) SCJ 556

-Acquisition with ulterior motive to wreak private vengeance of politicians.-Held mala fide. **AIR 1980 SC 319 : 1980(1) SCR 1071 : 1980 SCC 471.**

-Procedure from notification under S. 4 to notification under S: 6 gives place to procedure provided by S. 14 to 18 of Bangalore.

AIR 1976 SC 2403 : 1976 (4) SCC 9 : 1977 (1) SCR 133.

The Land Acquisition Act, 1894

SECTION 4-(contd.)

-Purchaser of land after notification held were not entitled to benefits.

1978 All LJ 32 : 1978 (4) All LR 49 (DB)

-Under Land Policy persons whose land was acquired to be given certain benefits-Govt. can alter policy when expedient.

1978 All LJ 32: 1978 (4) All LR 49(DB)

-Giving of benefits under Land Policy only to persons who were owners of land prior to notification and not to persons becoming owners after notification is not discrimination under Art. 14.

1978 32(DB)

-Acquisition of land for construction of market yard for Krishi Utpadan Mandi Samiti is valid.

1978 All LJ 32 (DB)

-Acquisition of land for resettlement of project affected persons is for public purpose and for the benefit of any particular individual.

1979 Bombay CR 542: 1981 Mah LR (Bombay) 65 (DB)

-Decision based on evidence cannot be challenged in revision on ground that other land was available.

AIR 1976 Bombay 115 (DB)

-Decision of Government as to suitability of certain land is final and cannot be challenged.

AIR 1976 Bombay 55 (DB)

-Initiation of acquisition proceedings if rested on nothing more than illusory need in future rather than immediate need for existing public purpose -Not sustainable-- Test on bona fides-Must exist a present need for acquisition for execution of existing public purpose.

1981PLJ 349

-Action for Authorities in delaying payment of compensation renders exercise of power arbitrary and deserves to be quashed.

1982 PLJ 146

-Acquisition proceeding kept pending for a number of years-Notification cannot be issued for purpose of pegging down or freezing price and then wait for a convenient and opportune time to pass award.

1982 PLJ 109

-Urgency provision invoked-Notification still to be published in the locality-Delay of ten days in the matter of publication-Explanation that it took five days for the official gazette to reach the subordinate revenue officials-Explanation held to be not tenable.

1984 (2) All India Land Laws Reporter 173

-Publication in a locality by ,beat of drum-Allegation made that such publication could not be made by-the person alleged to have made the publication on account of his old age and infirm health-Factual assertion not denied-Mere assertion that amount was paid to the person for making publicity is not enough.

1983 (1) All India Land Laws Reporter 272

-Locality-Publication of the substance of the notification in the locality-Locality means an area which is sufficiently small and compact so that it can be named and any publicity in that locality may amount to notice to all the inhabitants of the locality.

1983 (1) All India Land Law Report 272

-Publication of substance of notification in a locality-Report that a copy was passed on a thoroughfare-Inference is that the copy was passed in some road and not on a building-Report held to be mechanically recorded.

1983 (1) All India Land Laws Reporter 272

The Land Acquisition Act, 1894

SECTION 4-(contd.)

-Objection that the landowners themselves want to raise industrial unit of the type for which acquisition is being made-Objection considered and rejected-Notification under Section 6 cannot be challenged.

1983 (1) All India Land Laws Reporter 529

-Locality-Ordinarily a village may not be a locality unless it is shown that specified village was much too large to be treated as a locality and that there were similar units which could be identified as locality Publication in the revenue estate of Hissar without and further specification is not a due publication in accordance with law.

1983 (1) All India Laws Reporter 772

-Acquisition challenged by all right holders except (appellant) Acquisition quashed-Appellant seeking reference under Section 18-Cannot challenge acquisition after 9 years merely because acquisition set aside in other cases-Seeking higher compensation amounts to acquiescence.

1983 (1) All India Land Laws Reporter 639

-Section 4 notification issued on 19th December, 1976-Section 6 notification issued on 13th December, 1976-Section 9 proceedings taken in August, 1981 Acquisition held belated.

1983 (1) All India Land Reporter 292

-Standing order 28 Para 10 and 12-Requirement to assess the value- Value to be assessed at the time of issuance of Section 4 notification -Valuation not determined-No ground for holding that delay should be ignored-Para 12 prescribes a period of six months to complete acquisition -Notification lacking bona fides and with a view peg down prices to be quashed.

1983 (1) All India Land Laws Reporter 292

-Acquisition for a company-State contributing Rupees one hundred-Requirement of Section 6 fulfilled-Acquisition is valid. **1983(1) All India Land Laws Reporter 522**

-Award given by court-Is a best piece of evidence-Award given by a 'court declaring certain land as having the potentiality of a building site Application made for amendment of memorandum of appeal on the basis of the judgment so passed-Order 6 Rule 17 of the Code of Civil Procedure, 1908 would be applicable-Amendment can be sought at any stage of proceedings.

1983(1) All India Land Laws Reporter 307

-Market price-Freezing of-Market price freezes in two manners (a) market price has to be determined. by taking into consideration the date on which the section 4 notification has been issued, (b) no improvement can be made by the land holder and any improvement made ignored.

1983(1) All India Land Laws Reporter 272

-Acquisition challenged on the ground that it has not been made bona fide-Acquisition quashed holding (i) earlier notification under section 4 was allowed to elapse (h) authorities issued section 6 notification just before 3 years (iii) delay of more than three months in issuing notification under section 9 after the notification, under section 6.

1983(1) All India Land Laws Reporter 272

-Person in whose favour acquisition made is not an interested person and cannot be impleaded as a party in a reference before the District Judge Earlier view in Indo Swiss Time Ltd.

1981 All India Land Laws Reporter 285 reaffirmed**1983(2) All India Land Laws Reporter 483**

The Land Acquisition Act, 1894

SECTION 4-(contd.)

-Acquisition of land in such a manner that remaining land left without a path-Acquisition held to be bad as it deprives the landowner to the use of the remaining property-Path cannot be blocked-Constitution of India, Article 19(1) relied.

1983(2) All India Land Laws Reporter 40

-Standing order 28-Guide line given that Acquisition should be completed within 6 months should be respected.

1983(2) All India Land Laws Reporter 42

-Communication addressed by the State Government directing that in cases where possession is not taken within one year of the issuance of section 6 notification would be deemed to have lapsed-Communication has the effect of abandonment from Acquisition-Separate notification need not be issued-Fact that communication was withdrawn after four months would not affect the operation of the earlier communication-The letter communication would have only the prospective effect-withdrawal from acquisition can be by a communication addressed on behalf of the State Government.

1983(2) All India Land Laws Reporter 59

-Urgency-No action taken, for a year and a half to take possession-No urgency can be inferred-The normal procedure embodied in Section 5-A cannot be abridged.

1984(1) All India Land Laws Reporter 332

-Publication in the locality-Resolution of the Gram Panchayat saying that there should be mushtri munadi placed on the record-Nothing brought on the record as to whether the resolution passed by the Panchayat was given effect to or not-Held that there is no publication.

1984 (1) All India Land Laws Reporter 332

-Acquisition for Food Corporation of India is acquisition for the purposes of the Company-No contribution made by the Company-Acquisition set aside.

1984(1) All India Land Laws Reporter 297

-Failure to specify the instrumentality by which public purpose is to be carried out does not invalidate the acquisition proceedings.

1984 (1) All India Land Laws Reporter 604

-Building taken on lease by government-Later notification under sections 4 and 6 invoking provisions of Section 17- Government should not have resorted to urgency provisions as it was already in possession.

1984 (1) All India Land Laws Reporter 347

-Absence of funds available with Authorities for acquisition-Purpose of issuance of notifications could be nothing other than pegging down prices of land to date of notification under Section 4.

1984 PLJ 304

-Land acquired by Government for purpose of great public benefit and utility and execution where of brook no delay-High Court normally allows implementation of Scheme.

1984 PLJ 375

-No explanation-Delay of 4 days in publication of substance of notification in the locality-Amounts to non-compliance with mandatory requirement of Section 4 (1).

1984 PLJ 192

-Absence of budgetary provisions of fund, available with Authorities for acquisition of land-Purpose of issuance of notifications could be nothing other than pegging down prices of land.

1984 PLJ 304

The Land Acquisition Act, 1894

SECTION 4-(contd.)

-Notifications under Sections 4 and 6 challenged nearly a month after passing of award and entire process of acquisition undergone on suggested though admitted discrepancies-Peitioners by their neglet and conduct not entitled to any relief under Articles 226 and 227 of Constitution. **1984 PLJ 314**

-Acquisition of property belonging to a religious institution is not barred.

1984 PLJ 344

-Resolution of Panchayat that musotari munadi should be done by village Chowkidar-Nothing to show that this resolution of Panchayat carried out-Non-compliance with provisions of Section 4-Notification quashed. **1984 PLJ 392**

-Every time gap between publication in Official Gazette Public Notice in locality not fatal to acquisition-No warrant for reading words "simultaneously" or immediatly thereafter into Section 4(1). **1984 PLJ 595**

-Delay in issuance of Section 6 notification very material in view of successive notification-Entire delay for which no convincing explanation leads to irresistible conclusion that notification suffers from vice of mala fide. **1984 PLJ1**

-Two notification i. e. one notification issued under Section 4 (1) ill respect of one land and another under Section 17 (4), in respect of other land _Notification in respect of one land, even if invalid notifications in respect of both lands are. not required to be struck down as invalid.

79 Mad L W 469 : ILR 1967 (2) Mad 590 : 1967 (2) MLJ 531 : A I R 1965 Madres 118

-Satisfaction about existence of public necessity stated in notification to be that of Collector and not Additional Collector.

1979 Patna L J R 416: AIR 1971 Patna 209

-Specification of limits of land being the only requirement of the form not necessary that Khata and Khasra number of land should be given. **1969BLJR 860**

-Notice not giving full 30 days period for filing objections-Notification published under Section 4, however giving the required period-There was sufficient compliance. ILR 1966 (2) Punjab 449 -A notification withdrawing the notification under Section 4 is outside the powers of the Collector. **1967 All LJ 796**

-Government cannot under Section 52 (1) withdraw in respect of a portion of land comprised in the declaration under Section 5 of the Cochin Act (2 of 1970). **AIR 1968 Kerala 3**

-A separate notice need not be served upon every person interested in land.

1970 (72) Pun LR Delhi 266

-Individual notice to owners of land proposed, to be acquired no obligatory.

1968 (1) Mad LJ 444

-Notice need not be addressed to all interested persons by name.

1979 Mad LW 469: ILR 1967 (2) Mad 590: 1967 (2) Mad LJ 531

AIR 1967 Madras 118.

SECTION- 5

5. PAYMENT FOR DAMAGE.-The Officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and in case 'of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer: the dispute to the decision of the Collector or other Chief Revenue Officer of the district, .and such decision shall be final.

¹OBJECTIONS

5-A. HEARING OF OBJECTIONS.--(1) Any person interested in any land which has been notified under Section 4, sub-section (1), as being needed or likely needed for a public purpose or for a Company may ²[within thirty days from the date of the publication of the notification], object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard ²[in person or by any person authorised by him in this behalf] or by pleader and shall, after hearing all such objections. and after making such further inquiry, if any, as he thinks necessary; either make a report in respect of the land which has been notified under Section 4, sub-section (1), or make different report in respect of different parcels of such land to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government]. The decision of the ⁴[appropriate Government] on the objections shall be final.

(3) For the purposes of this Section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

CASE LAW

Section 5-A-Proceeding became final-Award made-Symbolic possesses taken Public purpose served or not cannot be the basis of a challenge to acquisition-In the absence of construction, escalation in prices of land of land can again not be a ground of challenge.

Bhagat Singh v. State of U.P. and others, 1999(1) ALL INDIA LAND LAWS REPORTER 276.

Sections 5-A, 6 and 17(4)-Legality of notification u/s 6, issued without considering objections under Section 5-A, is challenged--Urgency clause if applied, and same if justified, objections under Section 5-A need not be considered.

Idol Shri Thakurji, Temple-Bhadra v. State of Rajasthan and Ors.

1998(1) ALL INDIA LAND-LAWS REPORTER 21.

Sections 5-A, 17(4), 4 and 6--What challenged is the right of the State to dispense with enquiry under Section 5-A. and .invoke emergency provision under Section 17(4) and acquire abadi and inspite of a valid policy of State--After the Amendment Act of 1984 State has the power to decide about the urgency which

1. This Section with its heading was inserted by Act 38 of 1923.

2. Subs. by Act 68 of 1984, Section 5.

3. Subs. by Act 13 of 1967, Section 2, for certain words (w.e.f. 12-4-1967).

4. Subs. by A. O. 1950, for "*Provincial Government*".

SECTION - 6

prior to that was permissible for waste or arable lands-Has such a subjective satisfaction been arrived at after due "consideration for planned development of the area-Encroachment alone seems to be the cause to lead that decision-Not enough reason to arrive at such a subjective satisfaction by the . State to deprive the landowners, of a valuable right to file objections-Appeal to that extent is allowed. **OM PRAKASH AND ANR. ETC. V. STATE OF U.P. AND ORS. 1918(3) ALL INDIA LAND LAWS REPORTER 1.**

6. DECLARATION THAT LAND IS REQUIRED FOR A PUBLIC

PURPOSE- Subject the provisions of Part VII of this Act; '[when the 2[appropriate Government is satisfied after considering the report, if any made under Section 5-A, sub-section (2),] that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders 3[and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under Section 4, sub-section (1), irrespective of whether one report or different reports has been made (wherever required) under Section 5-A, sub-section (2)]

⁴[provided that no declaration in respect of any particular land covered by a notification under Section 4, sub-section (1), --

(i) published after the commencement of the land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of the land Acquisition (Amendment) Act, 1984, shall be made after the expiry of three years from the date of the publication of the notification : or

(ii) published after the commencement of the land Acquisition (Amendment) Act 1984, shall be made after the-expiry of one year from the date of the publication of the notification:]

Provided further that no such declaration shall be made unless the compensation to be awarded-for such property is to be paid by a company, or wholly or partly out of public revenues or some funds controlled or managed by a local authority.

⁵*EXPLANATION 1*,--In computing of the periods refer to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under Section 4, sub-section (1), is stayed by an order of a Court shall be excluded.

EXPLANATION 2,--Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by the State, such compensation shall be deemed to be compensation paid out of public revenue.]

1. Sub. by Act 38 of 1923.

2. Sub. by the A. O. 1950, for "provincial Government".

3. Ins. by Act 13 of 1967, Section 3 (w.e.f. 12-4-1967.)

4. Subs. by Act 168 of 1984.

5. Ins. by Act 68 of 1984.

The Land Acquisition Act, 1894

SECTION - 6

(2) ¹[Every declaration] shall be published in the Official Gazette, ²[and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of Such public notice, being here in after referred. to as the date of the publication of the declaration), and such declaration shall, state] the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be, and, after making such declaration, the ³[appropriate Government] may acquire the land in manner hereinafter appearing:

"6-A. PUBLICATION OF NOTIFICATION, HEARING OF OBJECTION AND DECLARATION UNDER THE HOWRAH IMPROVEMENT ACT, 1956, TO BE SUBSTITUTED FOR THOSE UNDER SECTIONS. 4, 5-A AND 6--When acquisition is proposed to made of land comprised within any improvement scheme framed by the board and published under Section 51 of the Howrah-Improvement Act, 1956--

- (i) the publication of a notice of the movement scheme under sub-section (2) of Section 45 of the Howrah Improvement Act, 1956, shall be substituted for and have the same effect as publication of a notification in the official Gazette and giving public notice of the substance of such notification in the Locality under Section 4.;
- (ii) proceeding under Section 47 and sub-section (1) of Section 49 of the Howrah Improvement Act, 1956, shall be substituted of the Calcutta Improvement Act, 1911, shall be substituted for and have the same effect as proceedings under Section 5-A :
- (iii) the publication of a notification under Section 21 of the Calcutta Improvement Act. 1956 shall be substituted for and have the same effect as a declaration under Section 6".

CASE LAW

S. 6-Ground for quashing notification was no enquiry- was held in accordance with provisions of S.5A of the Act-As per rejoinder filed by State, petitioners were heard objections examined in detail--Only thereafter the notification declaration under S. 6 was issued -Under these circumstances, notification under S. 4 could have been quashed- Proceedings are upheld. **STATE OF KERALA AND, OTHERS V. ANTONY AND ANOTHER, 1998(3) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 35.**

S. 6-Expl. I-State is in appeal against orders of the High Court quashing

1. Subs. by Section 3 Act 13 of 1967

2. Sub. by Act 68 of 1984.

The Land Acquisition Act, 1894

SECTION - 6 and 7

declaration/notification under S. 6 - as issued beyond limitation--While considering objections under S. 5A, dispossession could not be done till the final decision--This happened on 2nd July, 1993- This stay(?) was vacated on 18th January, 1994--Excluding this period, as provided in Expl. I to S. 6. declaration under S. 6 is within time--Otherwise also till enquiry under S. 5A is held and objections are considered. it would amount to stay of proceedings pursuant to notification under Section 4. **STATE OF KERALA AND OTHERS V. ANTONY FERNANDEZ AND ANOTHER, 1998(3) ALL INDIA LAND LAWS**

REPORTER (SUPREME COURT) 35. Section 6-Declaration under Section. 6 was approved by State' on 1 ~ 11977 --Conte! Lion of state is what law require\$ is only making of the declaration and not its publication--Publication date is not given--Claimants says that acquisition lapsed as the declaration was not made within one year of publication of notification --From office file it is seen that declaration was published in Gazette on 29-197-- Notification was published in the locality on was published in Gazette on 29-197 -- Notification was published in the locality on 20-1-1996--Since declaration beyond one year, notification under Section 4(1) lapsed and with that lapsed the acquisition proceedings. **SAYED MOHAMMED V. STATE OF KERALA 1998(3) ALL INDIA LAND LAWS REPOTER 566**

Section 6 and 11-A-Declaration under Section was made on 30-1-1986--Under Section 11-A award was to be made within 2 years i.e. on before 29-1-1988--Interim relief of dispossession operated from 24-1-1986--Period of 364 days IS to be excluded--Award could be made on or before 28-1-1989--Award was made on 28-1-1989—Became effective only on 2-2-1989 after the Collector approved/signed it--- Thus being beyond a period of two years, proceedings lapsed. **MRS. MARGARIDA GOMES PEREIRA V. STATE OF GOA AND OTHERS. (1999(1) ALL INDIA LAND LAWS REPORTER BOMBAY) 85.**

Section 6(2) and 11-A-Award made by the Land Acquisition Officer. if made beyond 2 years from the last date of publication of declaration, is a nullity--But not in this case--Award made on 23-8-1988--Declaration was last published in one news on 23-8-1986 and in other newspaper on 24-8-1986--Limitation starts from 24-8-1986. **GAINDI DEVI AND ANOTHER V. STATE OF U.P. AND OTHERS) 1999(1) ALL INDIA LAND LAWS REPORTER (ALLAHABAD) 23.**

. Section 6(3)-Fisheries Department is the beneficiary--Required for rehabilitation of displaced fisherman--Reclamation of tank fisheries--It is a public purpose which has become conclusive under S. 6(3)--Tank fisheries were expressly brought within the ambit of "Land" in 1981--No illegality interference with D.B. judgment. **MRINALINI ROY RATNA PROVA MONDAL & ORS. V. STATE OF WEST BENGAL & ORS, 1999(1) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 256.**

7. AFTER DECLARATION COLLECTOR TO TAKE ORDER FOR ACQUISITION.-
-Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the ¹[appropriate Government] or some officer authorised by the appropriate Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

1. Substituted. by A. O. 1950, for "State Government".

SECTION- 8 and 9

8. Land TO BE MARKED OUT MEASURED AND PLANNED:-The Collector shall thereupon cause the land (unless it has been already marked out under Section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof), a plan to be made of the same.

9. NOTICE TO PERSONS INTERESTED:-(1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claim to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice) and to state the nature of their respective interests in the land and the amount and particulars of their Claims to compensation for such interests, and their objections (if any) to the measurements made under Section 8. The Collector may in any case require such statement to be made in writing and signed by the party of his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situated.

(4) In case any person so interested resides elsewhere; and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and 2[registered under Sections 28 and 29 of the Indian Post Office Act, 1898].

CASE LAW

S. 9--Land Acquisition (Companies) Rules, 1963-Rr. 3 and 4--Another limb of the attack in this SLP is not only on High Court holding acquisition bad only under Rr. 3 and 4 but also under Section 9 of the Act--No notice was served on petitioners--In the writ petition filed by petitioners in the High Court, petitioners have admitted that two separate notices were served upon them--And petitioners had represented against the notices--In the face of specific admission by petitioners, findings of the High Court cannot be upheld--Further Company and the State have filed affidavits that provisions of Rr. 3 and 4 have been complied with Orders of the High Court are quashed. **M/S. LARSEN & TOUBRO LTD. ETC. V. STATE OF GUJARAT & ORS., 1998(2) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 3.**

S. 9—Re-determination of compensation—Claimants claim Rs. 26/- per sq.yd.--Collector awarded at Rs. 1.60 per sq. yd.--Land concededly located on municipal limits, cannot be assessed as agricultural land--Located adjacent to Bus Stand--Sale instances shown similar land assessed at Rs. 8.70 P. per sq. yd.-Claimants having relied upon this evidence, market value is assessed at Rs. 8.70/-per sq. yd. **BAKSHI RAM JAIN V. STATE OF HARYANA, 1998(2) ALL INDIA LAND LAWS REPORTER (PB. & HRY.) 557.**

The Land Acquisition Act, 1894

SECTION - 9 and 10

S. 9 (3)--Authorities have contended that notice under Section (3) was issued to pattadars or enjoyers of the land under acquisition--Authorities admit that enjoyer of the land--Clearly the authorities having that knowledge failed to issue notice to him--It is not their case of bona fide ignorance or mistake--:Failure to follow mandatory provisions of issuing notice to the enjoyer under Section 9(3) vitiates the .acquisition to the extent of land occupied by him--Award passed without mandatory notice under Section 9(3)' of the Act is not sustainable in Law. **UPPALAPATI KRISHNA MURTHY V. GOVERNMENT OF A.P. REP. BY ITS SECRETARY, TRANSPORT, ROADS AND BUILDINGS DEPARTMENT AND OTHERS, 1998(2) ALL INDIA LAND LAWS REPORTER (A.P.) 133.**

> Ss. 9 & 18-Appellants challenge the acquisition on grounds under S. 17(4)-

-Possession taken over in 1979--Many of the appellants have received compensation--Most of them participated in Award enquiry--Most of them have not taken "recourse to 'Reference' -- Acquisition cannot be quashed--Appellants ,are directed to take proceedings under S. 18 of the Act within 6 weeks, if so advised--No objection with regard to limitation would be raised. **H.M. KELOGIRAO & ORS. ETC. V. GOVT. OF A.P. & ORS., 1998(2) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 415.**

. S. 9-Re-determination of compensation--Claimants claim Rs. 26'- per sq. yd.--Collector awarded at Rs. 1.60 per sq. yd.-Land concededly located on municipal limits, cannot be assessed as-agricultural land--Located adjacent to Bus Stand-Sale instances shown similar land assessed at Rs. 8.70 per sq. yd.-Claimants having relied upon this evidence, market value is assessed at Rs.8.70 per sq. yd. **BAKSHI RAM JAIN V. STATE OF HARYANA,1998(3)ALL INDIA LAND LAWS REPORTER (PB. & HRY.) 451 .**

Ss. 9 & 18-Appellants challenge the acquisition on grounds under S. 17(4)-Possession taken over in 1979-Many of the appellants have received compensation--Most of them participated in Award enquiry--Most of them have not taken recourse to 'Reference' -Acquisition cannot be quashed-Appellants' are directed to take proceedings under S. 18 of the. Act within 6 weeks, if so advised--No objection with regard to limitation would be raised. **H.M. KELOGIRAO & ORS. ETC. V. GOVT. OF A.P. & ORS., 1998(3)- ALL INDIA LAND LAWS REPORTER (SUPREME COURT.) 445.**

S. 9(3)--What it is not known or- believed that same persons are interested in the acquired land, award cannot be held bad or illegal if such persons were not noticed--Without disturbing the award, a balance has to be struck by the Court to protect the rights of interested persons and those .not served with a notice--Such person not noticed can pursue his remedy by seeking a reference--In case reference has been disposed of an appeal can be filed. **J.RAJY ALAKSHMI AND OTHERS V. LAND ACQUISITION OFFICER, HUDA, HYD., 1999(1) ALL INDIA LAND LAWS REPORTER (ANDHRA PRADESH) 27.**

10. POWER TO REQUIRE AND ENFORCE THE MAKING OF STATEMENTS AS TO NAMES AND INTERESTS:--(1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other possess-

SECTION - 11

ing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of the nature of such interest, and of the rents and profits (if any) received or Receivable on' thereof for three

years next proceeding the date of the statement

(2) Every person required to make or deliver a statement under this section or Section 9 shall be deemed to be legally bound to do so within the meaning of Sections 175 and 176 of the Indian Penal Code (45 of 1860).

11. ENQUIRY AND AWARD BY COLLECTOR.—(1) On the day so fixed or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under Section 9 to the measurements made under Section 8, and into the value of the land 2[at the date of the publication of the notification under Section 4, sub-section (1)], and into the respective interests of the persons claiming the compensation and shall make an award under his hand of:-

(i) the true of land;

(ii) the compensation which in his opinion should be allowed for the land;

and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land of whom, or of whose claims, he has information, whether or not they have respectively appeared before him ;

3[Provided that no award shall be made by the Collector under this subsection without the previous approval of the appropriate Government or of such officer as the appropriate Government may specify in this behalf:

Provided further that it shall be competent for the appropriate Government to direct that the Collector may make the such award without such approval in such class of cases as the appropriate Government may specify in this behalf:

³[(2) Notwithstanding anything contained in sub-section (1), if at any stage of the proceedings, the collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement.

(3) The determination for any land under sub-section (2) shall not in any way affect the determination of compensation in respect of other land in the same locality or elsewhere in accordance with the other provision of this Act.

(4) Notwithstanding anything contain in the Registration Act, 1908 (16 of 1908), no agreement made under Sub-section (2) shall be liable to registration under that Act.] .

⁴[11-A. PERIOD WITHIN WHICH AN AWARD SHALL BE MADE.--

The Collector shall make an award under section 11 within a period of two years from the

Inserted by Act 68 of 1984.

Inserted by Act 38 of 1923 .

Inserted by Act 68 of 1984.

Inserted by Act 68 of 1964.

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SECTION - 11-A

date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse :

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation.--In computing the period of two years referred to, in this Section, the period during which any action or proceeding of a Court shall be excluded].

CASE LAW

Ss. 11 and 11-A--Award is to made as per S. 11 by virtue of prescription in S. 11-A, within 2 years from 24.9.1984--This award made within time is for land only and not for super-structures--Since no piecemeal award, by making a subsequent award after that, is. Permissible, award made shall be treated as final--Claimants may seek compensation by a reference under S. 18. **MOHANJI & ANR. ,V. STATE OF U.P. & ORS., 1999(1) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 279.**

Ss. 11 and 18--incomplete award--Collector awards compensation for land but does not pass additional award for constructions, frees and/or appurtenants, acquisition proceedings cannot be quashed just on that ground--Claimants can claim a reference to the court u/S. 18 as if the additional compensation has not been awarded. **RADHEY LALGUPTA V. STATE OF HARYAHA, 1999(1) ALL INDIA LAND LAWS REPORTER (PB. & HRY.) 272**

Ss. 11-A. 16 and 34--Interest claimed is from date of taking possession--By making wrong statements. the petitioners have moved this Court--Petitioners cannot be allowed to take advantage of their own wrong--Interest cannot be paid for the period. for delay of which , petitioners had been litigating on a wrong plea. **GAINDI DEVI AND ANOTHER V.STATE OF U.P. AND OTHERS. 1999(1) ALL INDIA LAND LAWS REPORTER (ALLAHABAD) 23.**

S. 11-A--Award made after two years of acquisition declaration would be null and void--Unless the proceedings of acquisition if started, earlier are completed within two years of coming into force of the Amending Act--Period of stay by competent court is to be excluded while computing 2 years. **JOGINDER SINGH V.STATE OF HRY. 1998(3) ALL INDIA LAND LAWS REPORTER (P&H) 247.**

S. 11-A--Limitation—For making award is 2 years from the date of declaration—Stay of dispossession amounted to stay of further proceedings--Entire period of stay had to be excluded while computing period of 2 years under S.11A--Erroneousorders of High Court set aside.-Case remanded, for fresh adjudication. **MUNICIPAL- CORPORATION OF DELHI V. LICHHO DEVI, 1998(3) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 110.**

S. 11-A (as amended by Amendment in 1984)—Karnataka Acquisition of land for House Sites Act, 1972--Application of S. 11-A of L. A. Act 1894 for the purposes of Karnataka Act, 1972 is in dispute--Appellant contend that the Section is attracted to proceedings under Karnataka Act. 1972--Conversely respondent contend it is not applicable--High Court has held as not attracted and hence this appeal--Karnataka Act. 1972 cannot be treated as self contained code, Karnataka

SECTION -11-A

Act 1972 and Control Act, 1894 are supplements to each other--Unless Central Act supplements Karnataka Act; latter cannot function-- The two Act are in Pari Materia because Karnataka Act deals with same subject of land acquisition which would otherwise fall in the ambit of Central Act, 1894-Karnataka Act 1972 clearly falls within the exception to Corporation--Amendment made in 1984 to the Central Act,1894 including S: 11-A will have to be read into Karnataka Act, 1972--That would be the meaning of phrase "MUTATIS MUTANDIS" as used as Karnataka Act also—With elapsing of the period prescribed under S. 11-A of the Central Act, entire land acquisition proceedings including notification under S. 3(1) and S.3(4) of the Karnataka Act, 1972. Lapsed. **Mariyappa & Ors. v., State of Karnataka & Ors., 1998 (3) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 476.**

Ss. 11 (1)& 11 (2)--When appeals for further enhancement of compensation were pending, appellants filed writ petitions for directing respondents to implement the settlement was allegedly arrived at between the Action Committee of the landowners and the State Government signed by the Principal Secretary to the Petitions were dismissed as the settlement had not been converted into an order as per business rules of the State Government--Hence this appeal--Such settlement cannot be said to be decision of the Government as, the same has not been signed by the C.M. or the Minister Incharge. or the Chief Secy. and later approved by the Council of Ministers--Also such agreement if enforced would affect the rights of third parties also--And this cannot be done by the Court by issuing a writ--Constitution of India, Art. 166--Business of Government of Punjab Rules, 1985--Rules 8 and 9. **UTTAM SINGH V. STATE OF PUNJAB, 1998(3) ALL INDIA LAND LAWS REPORTER (P&H) 169.**

Section 11 Proviso--Important question is could the Commissioner reduce the compensation for various types of lands, when the proposal goes to him for approval--Land Acquisition Collector, cannot offer the amount without approval of competent authority--And when the competent authority so appointed by the Government is the Commissioner of a Division, then he can certainly exercise the discretion and jurisdiction subject to restriction, if any, imposed with that appointment--Orders of High Court set aside--Proceedings remained to High Court to proceed further in accordance with law. **1998(1) ALL INDIA LAND LAWSREPORTER (SUPREME COURT) 8**

. Section 11(1)-L.A.C. cannot offer "Compensation" without approval of the Government...Government in this case vested in the Commissioner of Division- State of Bihar has designated him as competent authority in cases involving compensation from Rs. 5 lacs to Rs. 15 lacs-Commissioner has the power to interfere with compensation proposed by L.A.C View of the High Court set aside. **1998(1) ALLINDIA LAND LAWS REPORTER (SUPREME COURT) 392**

Section 11 (1) A number of pieces of land acquired under same notification, composite award would be one exceeding Rs. 5 lacs-Commissioner has power to interfere--Other contention case total compensation computed by collector exceeds Rs.15 lacs, Commissioner would be decided that power--State Government alone would be competent to approve--Aspect not dealt with by High Court, matter remitted back to High Court to proceed further in accordance with law. **1998(1) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 392.**

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SECTION - 11A to 13A

Section 11-A and 48(2)--Compensation--Determination by negotiations-

During negotiations by efflux of time, limitation of 2 years expired- Notification under S.4 and Declaration under S.6 stood lapsed- Application for damages by landowners appellants- Damages are payable only if the Government withdraws from the acquisition-HELD- Statutory lapse under S.11.A. is distinct and different from voluntary act of withdrawal on the part of State - Appellants are not entitled to avail of remedy under sub Section(2) of Section 48 **1998(2) ALL INDIA LAND LAWS REPORTER (S.C.) 309**

12. AWARD OF COLLECTOR WHEN TO BE FINAL.--(1) Such award shall, be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

CASE LAW

Sections 12(2) and 18(2)-Until the essential contents of the award are brought to the notice of the party affected, it is no notice under Section 12(2) of the Act--No reference Section 18(2) could be requested in the absence of that --Copy of the award is thus a must for-application for reference--Time taken for obtaining a copy has to be deleted while computing limitation-Reference application is not time barred-Matter may be referred to competent Court be dealt with as per law.

1998(3) ALL INDIA LAND LAWS REPORTER (GUJ.) 496

13. ADJOURNMENT OF ENQUIRY.- The Collector may, for any cause he thinks it, from time to time adjourn the enquiry to a day to be, fixed by him.

[13A. CORRECTION OF-CLERICAL ERRORS, ETC.--(1).the Collector may, at any time but not later than six months from the date. of the award, of where he has been required. under Section 18 to make a reference to the Court, before the making' of such reference, by order, correct any clerical or arithmetical mistakes in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority:

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making a representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid, shall be refunded and in the case of any default or refusal to pay, the same may be recovered as an, arrear of land revenue.]

CASE LAW

Section 13A--S. merely permits corrections to the extent of clerical or arithmetical--Collector cannot recall the award, order refund of compensation paid--This was done on the application of tenure holders who questioned title of the petitioner--Reasonable opportunity of hearing has to be granted to tenure holders--Orders quashed. **1998(1) ALL INDIA LAND LAWS REPORTER (ALL.) 598**

14. POWER TO SUMMON AND ENFORCE ATTENDANCE OF WITNESSES AND PRODUCTION OF DOCUMENTS.

--For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents, by the same means, and (so far as may be) in the same manner as is provided in the case of a Civil Court under the '[Code of Civil Procedure, 1908].

15. MATTERS TO BE CONSIDERED AND NEGLECTED.--In determining the amount of compensation,. The Collector shall be guided by the provisions contained in Sections 23 and 24.

CASE LAW

Sections 15.and23-By belting system, LAO awarded Rs. 17,000/- Rs, 17,000/- Rs. 15,000/- and Rs.14000/- per kanal--Reference Court on consideration of sale instance of small chunks of land and also on oral' evidence of Lambardars/Zamindars, raised the compensation to Rs. 45,000/- for lands-Report of the Local Tahsildar showing market value at Rs. 30,000/- per kanal was ignored-Additional compensation was allowed for fruit bearing trees and tube well etc.-Appeals partly allowed -Sale instances of small chunks, of land could not from a basis of award--Nor could the oral evidence of Lambardars or Zamindars be considered-Local Tahsildar assessed value at Rs. 30,000/- which is awarded-As regards imposition of costs, these discretions are to be exercised judicially-Usual costs prescribed by law would be payable. **1998(3) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 25**

²**[15-A. POWER TO CALL FOR RECORDS, ETC.** -- The appropriate Government may at any time before the award is made by the Collector under Section 11 call for any record of any proceedings (whether by way of enquiry or otherwise for the purpose of satisfying, itself as to the legality or propriety of any finding or as to the regularity of such proceedings and may pass such order direction in relation thereto as it may think fit:

Provided that the appropriate Government shall not pass or issue any order or direction prejudicial to any person without affording such person a reasonable opportunity of being heard]

16. POWER TO TAKE POSSESSION.--When the Collector has made an award under Section 11, he may take possession of the land, which shall thereupon ³[vest absolutely in the⁴[Government), free from all encumbrances.)

17. SPECIAL POWERS IN CASES OF URGENCY.--(1) In cases of urgency, whenever the ⁵[appropriate Government] so directs, the Collector, though

Substituted by Act 68 of 1984, Section 11.

Inserted by Act 68 of 1984, Section 12.

Substituted by the A.O. 1937

Substituted by the A.O. 1950.

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no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in Section 9, sub-sec. (1), ¹[take possession of any land needed for public purpose.] Such land shall thereupon ²[vest absolutely in the ³[Government], free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a riverside or ghat station, or of providing convenient connection with or access to any such station, ⁴[or the appropriate Government considers it necessary to acquire the immediate possession of any land for the purpose of maintaining any structure or system pertaining to irrigation, water supply, drainage, road communication or electricity,] the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the ⁵[appropriate Government], enter upon and take possession of such land, which shall thereupon ²[vest absolutely in the ³[Government] free from all encumbrances :

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least Forty-eight hours' notice of his intention so to do or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in Section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

⁴[(3-A) Before taking possession of any land under sub-section (1) or sub-sec. (2), the Collector, without prejudice to the provisions of sub-sec. (3), --

(a) tender payment of eighty per centum of the compensation for such land as estimated by him to the, persons interested titled thereto, and

(b) pay it to them, unless prevented by some one or more of the contingencies mentioned in Section 31, sub-section (2),

and where the Collector is so prevented, the provisions of Section 31, sub-section (2), (except the second proviso thereto), shall apply as they apply to the payment of compensation under that section

(3-B) The amount paid or deposited under sub-section (3-A), shall be taken into account for determining the amount of compensation required to be tendered under Section 31, and where the amount so paid or deposited exceeds the compensation awarded by the Collector under Section 11, the excess may, unless

Substituted by the 68 of 1984, Section 13.

Substituted by the A.O. 1937.

Substituted by the A.O. 1950.

Inserted by Act 68 of 1984, Section 13.

Substituted by the A.O. 1950; for "State Government".

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refunded within three months from the date of the Collector's award, be recovered as an arrear of, land revenue.]

¹[(4) In the case of any land to which in the opinion of the ²[appropriate Government], the provisions of sub-section (1) or sub-Section (2) are applicable, the ³[appropriate Government] may direct that the Provisions of Section 5-A shall not apply, and, if it does so direct, a declaration may be made under Section 6 in respect of the land at any time ⁴[after the date of the publication of the notification] under Section 4, sub-section (1)]

PART III**REFERENCE TO COURT AND PROCEDURE THEREON**

18. REFERENCE TO COURT.-Any person interested, has not accepted the award may, by written application to the Collector require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measuring of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12; sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

CASE LAW

Section 18--Reference-Big chunk of land acquired by common notification, several reference application filed-Appellant's application, being one of these, was rejected as appellant was not present—Even if there was no evidence in the reference application, this should have been decided by the Reference Court, alongwith other applications--Rejection is improper--Reference application restored to original position for fresh adjudication. **1998 ALL INDIA LAND LAWS REPORTER (P&H) 215. i**

Ss. 18 and 23-Reference court held the sale instances of small pieces of land as of little help--Allowed 10% increase in view of potential for being used as industrial area--Once comparable sale instances are available, even for small areas, what is to be seen is the cut to be applied--Some guess work has to be done--Sale instances of 1965 are otherwise comparable--Market value would come to Rs. 50 per sq.yd--If a cut of 2/3rd is applied and the result is rounded off the value would be Rs. 16.50 per sq.yd--Court fee already paid for Rs. 16/- sq.yd, that would be the entitlement of the appellant--Plus pre-amendment statutory benefits. **1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 487.**

Added by Act 38 of 1923.

Substituted by the AO 1950 for "Crown".

Substituted by Act 58 of 1984.

Amended by LA (AP Amendment) Act 22 of 1976.

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Sections 18 and 54—Compensation—Reference Court enhanced compensation--On appeal by LAO. such compensation was upheld but a cut of 25% was made to provide for 1/4 land to be reserved for roads and amenities—High Court also relied on a sale instance for a small price of land--Division of Blocks dependings on their lacations was done away with--LAO has challenged this aspect of High Court relying upon sale instance pertaining to a small piece of land--Apex Court upheld the findings of the High Court but enhanced the cut to 40%. **1998(1) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 559.**

Sections 18, 53 and 54--limitation Act, 1963--Article 137--No application for reference can be dismissed in default by the reference court—Much less on the non-appearance of the counsel-Litigant is not to suffer--Restoration is ordered--And the limitation for reference is three years. **1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 215.**

Sections 18 and 34—Constitution of India Art. 226—While Reference Petition of the appellants was pending before Reference Court, appellants file a writ petition for grant of interest on the compensation--On refusal to admit, the appeal is before D.B--Interest is payable--from the date of taking possession which in his case is disputed-- That also is to be decided by Reference Court--Compensation is a wide term and includes all benefits to which claimants are entitled to--Once an effective remedy is already sought and is pending before the Civil Court, relief cannot be agitated again by way of writ jurisdiction--Better forum is the Civil Court. **1998(1) ALL INDIA LAND LAWS REPORTER (A.P.) 112.**

S.18- Reference -Appeals against order of the Single judge declining reference under S.18 when the applicants were not protestors at the time of receiving compensation -Protest was lodged by the petitioner with the respondents orally as well as in writing while receiving compensation and can thus not be denied the right to reference. **1998(2) ALL INDIA LAND LAWS REPORTER (P & H) 557.**

Ss.18 & 51A- Evidence Act, 1872-S.62- Reference Court -- Enhanced market value based on certified copies of sale deeds duly registered and awarded higher for one belt than the other -All the sale deed are for very small pieces of land most of them belonged to same family, only a small amount has been paid as advance and passing of rest consideration not proved-- Endorsement made by Sub Registrar on lack of sale deed is not legible -No clear proof of passing consideration before sub registrar—Vendors/Vendees not examined as additional evidence either befor the Trial Court or before the High Court --No reliance can be placed on the sale instances-Sale instances excluded from the array of consideration claimants are left with no evidence to claim higher compensation from the one awarded by L.AO– Award made by Reference Court is set aside. **1998(2) ALL INDIA LAND LAWS REPORTER (P & H) 263.**

Ss.18, 23 & 54 --_ Award by the reference Court was impugned--Ld. Single Judge depending upon sale transactions and award came to conclusion that chahi land would carry a market value of Rs.64, 280 per acre and Barani Rs.53, 334/- per acer—In final award rounded of the figures to Rs.60, 000/- and Rs.50, 000/- per acer --In this LPA Division Bench held the compensation amount shold not have been reduced just to found of the figures- Award made for Barani Land Rs.55, 000/- and

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for Chahi Rs. 65,000/- per acer-- Appellants would be entitled to other benefits. **1998(2)**

ALL INDIA LAND LAWS REPORTER (P&H) 124

Ss. 18 and 54-- Land Acquisition by State for Krishi Samiti etc. Compensation as decided by Collector was paid to appellant (p) for 20 Bighas- Reference application for enhancement was filed by B and R for 57 bighas (including 20 Bighas of P)--P did not seek a reference-- But P filed an intervention application and also claimed the amount as one of the--Application was rejected--B & R resisted the claim of p and Court confirmed it Question of title was not decided-P may approach Reference Court and bring his claim to the notice of the Court-- Questions to be decided are (i) if P was entitled to the amount .received and (ii) whether B& R are entitled to received the amount by treating total property to their share--Revision allowed--Civil Procedure Code 1908-S 1150. **1998(2) ALL INDIA LAND LAWS REPORTER**

(M.P.) 51

Section 18--Reference--Appeals against order of the Single Judge declining reference under Section 18 when the applicants were not protestors at the time of receiving compensation-- Protest was lodged by the petitioners with the respondents orally as well as in writing while receiving compensation and can thus not be denied the right to reference.

1998(3) ALL INDIA AND LAWS REPORTER (P&H) -Section 18--Limitation Act, 1963-Section 5-Wrong advice by the counsel resulted in late filing of reference application--Valid reason and sufficient cause to condone delay.

1998(3) ALL INDIA LAND LAWS REPORTER (P&H) 420

Section 18--For the land acquired for a grain and *vegetable* market Reference Court enhanced compensation--On further appeal Ld. Single Judge further enhanced to the extent of 160% over and above the award by LAO--Also allowed enhanced benefits--Appellants claim enhancement upto 300%, depending on a case decided on 26-8-1998-- Ld. Single Judge has rightly observed that notification was issued 10months prior to the notification being depended upon--No relief possible. **1998(3) ALL INDIA LAND LAWS REPORTER (P&K) 133**

Section 18--Enhanced payment ordered I by Reference Court—Not paid for half a decade-- Proposal for payment routed through Commissioner for Land Revenue and Revenue Secretary--Only when contempt proceeding is filed papers moved and opinion of the Govt. Pleader was suggested--Strictly it is a matter between the LAO and Acquisitioning department-Contempt proceedings dropped--One months time given for affecting payment.

1998(3) ALL INDIA LAND LAWS REPORTER (A.P.) 74

Section 18, 54 and 34-Reference Court disallowed enhancement--On appeal High Court enhanced the compensation but restricted payment only to the extent of Court fee paid--it further denied permission *to* make up the deficiency *in* the Court fee—Apex Court allowed Court fee to be made up--When *it* came to payment to claimants, interest was not permitted for the period from 8-5-1979 but was made payable from date of order i.e. 1-12-1997 to the date of final payment--Contention was that interest for *the* period for which claimants litigated could not be burdened on the State for no fault.

1998(3) ALL INDIA LAND LAWS REPORTER (P&H) 332

SECTION - 18

Section 18—Constitution of India, Articles 226-227—Court enhanced Compensation of the 33 acre land acquired for establishing new grain market Committee and the State Marketing Board made this compensation recoverable from allottees of 4 acres only who were allotted land on reserve price--In a way them to help to shift from old Mandi to New Mandi-- Entire enhancement cannot be clamped on this category only--When major portion of acquired land be used for other purpose also in addition to shops and booths, sold by acution-- It is Unfair and unjust to demand entire compensation from one category--Respondents directed to re-allocate the amount proportionately. **1999(1) ALL INDIA LAND LAWS REPORTER (P&H) 150**

S. 18—Compensation—Reference Court enhanced the compensation to Rs. 35/- per sq. yd. and allowed Rs. 82000/- for super structures built in 1968/1979--An appeal Ld. Single Judge made it Rs.40/- per, sq.yd. and by a well reasond award enhanced compensation for superstructures taking depreciation @ 2.5% per year for 10years--In this LPA there is further enhancement is prayed--Acquired area abuts National Highway--Location is far superior to the location of colony, the sale deed of which has considered--It is felt that compensation should be enhanced to Rs. 4544 per sq.yd. and to that extent LPA succeeds--As for the compensation for the super structures it has been correctly assessed by the Ld. Single Judge at Rs. 1,09,810/- by a well reason judgment--No further enhancement is considered necessary. **1999(1) ALL INDIA LAND LAWS REPORTER (P&H) 73**

Section 18 and 28A - Civil Procedure Code, 1908-S.151-- Appellant has played something of a fraud with the State revenue -Appeal filed without paying court fee and got dismissed- Appellant know that compensation had been increased and he could avail the remedy under S.151 of C.P.C--Moved application under S.28-A of the Act read with S.151 of C. P.C. his compensation was enhanced--Here is challenge by State-S.28A of the Act read with S.151 of C.P.C. is available to those who did not seek a reference under S.18--lower Appellate Court fell into error of law by enhancing compensation--Act is illegal--Appeal by State is allowed.

1999(1) ALL INDIA LAND LAWS 'REPORTER (ALL)42

Ss.18 and 23--LAO offered Rs. 12,000/-per Acre-- Reference Court declined enhancement but in one case allowed the price paid by the purchaser sometime earlier--Reference Court completely ignored sale instances of small chunks of land as per observation these could not afford a reliable guidance--Here is an appeal--It is wrong to say that small instances could not be considered--Again land abutting a canal but falling within municipal limits has a potential--Awarded Rs. 9/- Per square yards with 1/3 cut. **1999(2) ALL INDIA LAND LAWS REPORTER (P&H) 320.**

Ss.18 & 54-- Compensation--On reference compensation was enhanced from Rs. 4000/- to Rs. 10,000/- per bigha for land acquired for development of Delhi--In the absence of any sale transactions in the village, decision of the Court @ Rs.17,800/-involving adjoining village was taken as basis--Claimants claimed Rs.20,000/- per bigha, based their claim also on a Court award in the nearby village--Claimants have not taken any advantage of time gap in their pleading--Also the villages depended upon, on account of location have an edge over the village land in dispute--Appropriate would to allow. Rs. 18,000/- per bigha plus

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SECTION - 18 and 19

enhanced benefits as per amended Act. **1999(2) ALL INDIA LAND LAWS REPORTER (DELHI) 317**

Section 18-Enhancement of compensation--Delay in filing reference application--Condonation denied-Appellants were given to understand by the counsel that they would get the benefit on application filed by others--Hence application for redetermination not filed--Furnishes sufficient cause to condone delay-Appeal allowed--Limitation Act, 1963--Section 5. **1998(4) ALL INDIA LAND LAWS REPORTER (P&H) 580**

Sections 18 and 30--Appellant claimed apportionment of compensation awarded--Title is proved by the fact that this banjar Qadeem land was being used by proprietor for grazing cattle--Matter referred to Civil Court-- Respondent claimed to be owner -land which is not cultivatable, was left for the use of Bashindgan Deh, an indeterminate body--Gram Panchyat or other appellants had no Locus Standi to lay claim to apportionment-Reference was for apportionment between the respondent as owner and Gram Panchayat a tenant But exclusive possession of the tenant has not been proved--No apportionment. **1998(4) ALL INDIA LAND LAWS REPORTER (P&H) 17**

Sections 18 and 54-Acquisition of land situated on Ambala-Kalka road for extension of Panchkula, a satellite town of Chandigarh but laying in Haryana-Land surrounded by ,Bus stand, Cinema, Commercial establishments and residential houses-All within one to half kilometer--Having potentialities for urbanisation, land cannot be assessed as agricultural--Assessed at Rs. 1,50,000/- per Acre uniformly by Reference Court-Claimants are in appeal for further enhancement- Findings on the basis of average of sale transactions would nether be fair not scientific approach-- Again while assessing market value there is no scope for completely fore-closing the reasonable assessment-Ld. Single judge has awarded Rs. 1.96,000/per acer-- Evan taking average sale of two instances (C-2 & C-4)compensation would come to Rs. 2,50,000/-Ld. Single judge has erred in favour of state market value of land under acquisition could not be less than Rs. 2,50,000/- per acer--In considered view of the High Court, market value of the land in dispute is assessed at Rs. 2,25,0001/ per acer plus all statutorily enhanced benefits. **1998(4), ALL INDIA LAND LAWS REPORTER (PB. & HRY.) 403**

19. COLLECTOR'S STATEMENT TO THE COURT.--(1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand, --

- (a) the situation and extend of the land, with particulars of any trees, buildings or standing crops thereon;
- (b) the names of the persons whom he has reason to think interested in such land;
- (c) the amount awarded for damages and paid or tendered under Sections 5 and 17, or either of them, and the amount of compensation awarded under Section 11;
- ¹[(cc) the amount paid or deposited under sub-section (3-A) of Section 17; and]

1. Inserted by Act 68 of 1984.

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(d) if the objection to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of statements in writing made or delivered by, the parties interested respectively.

20. SERVICE OF NOTICE -- The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection, and directing their appearance before, the Court on that day, to be 'served on the following persons, namely : -

(a) the applicant; ,

(b) all persons interested in the objection, 'except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and.

(c) if the objection .is in regard to the area of the land or to the amount of the compensation, the Collector.

21. RESTRICTION ON SCOPE OF PROCEEDINGS.--The scope of the enquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

22. PROCEEDINGS TO BE IN OPEN COURT.—Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the State shall be entitled to appear, plead and act (as the case may be) in such proceeding.

23. MATTERS TO BE CONSIDERED IN DETERMINING COMPENSA-

TION.--(1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court take into consideration-

first, the market-value of the land at the date of the publication of the [notification under Section 4, sub-section (1)];

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees 'which may',be on the land at the time of the Collector's taking possession ,thereof;

thirdly, the damage (if any) sustained by the person interested, at the time if the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly the damage (if any) sustained by the person interested at the time of the Collector's taking possessions of the land, by reason of the acquisition injuriously affecting his other' property, movable or immovable, in any other manner of his earning.

fifthly, if, in consequence of the acquisition of the land by the Collector, the ,person interested is compelled to change his' residence or place of business, the reasonable expenses (if any) incidental to such change; and ' .

sixthly, the damage (if *anybona fide* resultingtr1m diminution of the profits of the land between the time of the publication of the de declaration

1. Substituted by Act '38 of 1923, Section' 7 fOf "declaration relating thereto under Section 6. H '

SECTION - 23

under Section 6 and the time of the Collector's taking possession of land.

[(1-A) In addition to the market-value of the land, as above provided the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under Section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier,

Explanation.-In computing the period referred to in this sub-section any period during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.]

(2) In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of ²[thirty per centum] on such market-value, in consideration of the Compulsory nature of the acquisition.

CASE LAW

S. 23-objection is to the deduction of 40% an account of development charges as ordered by Ld. Single Judge--As held in AIR 1989 P & H 27settled position is that 1/3rd of the compensation is to be deducted--End of justice would met if 1/3rd is deducted in their case.

1898(4) ALL INDIA LAND LAWS REPORTER (P&H) 49

Section 23-Compensation-Enhancement claimed based on higher compensation allowed on other lands--Relative values of lands in the neighbourhood, same soil condition; other same or similar advantages would call for comparable price--No similarity in the lands award by trial Court as confirmed by High Court does not warrant interference. **1998(1) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 581**

Section 23-Just and proper compensation-LAO awarder Rs. 3/- per sq.mt.-

Reference Court dismissed reference-In appeal an instance of acquisition @ Rs. 16/- per sq.mt. was produced--Present land distanced 7 KM, Locality in less-interior, though uneven--On proper consideration Rs. 7/- per sq.mt. is awarded. **1998(1) ALL INDIA LAND LAWS REPORTER (BOM.) 36**

Section 23--Compensation-Development charges-Deduction of--Division Bench has recorded deduction 40% would be reasonable--Apex Court found no ground to interfere. **1998(1) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 603**

Section 23(1-A)--Awarding additional amount at the rate of 12% per annum as provided by Section 23(1-A) will not be payable in the present case--Award made much earlier than Section 23 (1-A) was inserted in the Statute by amending Act of 1984--Notification issued on 20-2-1976 and award of the Land Acquisition Collector was made on 19-11-1976. **1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 417.** Sections 23 and 18--Reference Court enhanced compensation on basis of entries in Mutation--State challenged award as copies of mutations of the documents were no evidence in the eyes of law and such evidence was made basis of enhancement of compensation plus benefit due thereon--Ld. Single Judge allowed the appeal--Directed LAO to pay compensation at original rate--In this appeal,

Inserted by Act 68 of 1984.

Substituted by Act 68 of 1984.

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appellants sole grievance is that another opportunity was not allowed to claimants to adduce evidence while allowing appeal by State--As held apex Court in **1996(2) ALL INDIA LAND LAWS REPORTER 326,**

if vendee or vendor or vendor are not examined, sale deeds cannot be taken to have been proved--Judgment of the Ld. Single and Reference Court are set aside with directions to Reference Court to consider matter afresh after affording opportunities to parties. **1998(1) ALL INDIA LAND LAW REPORTER**

Section 23 and 54--State is in appeal against the award of the Reference _ Court for the land within municipal limits, acquired for the purpose of Outer Harbour Project-- There is no demand for the land for reasons to slum area, and subject to sea erosion-Reference Court enhanced compensations land was situated at a distance of one kilometer from the built up area and M.C. Office-Appreciated the potentiality as house sites which otherwise appear to be exaggerated-Features and potentialities are to be considered as on the date notification was published-Accepting appeal by State, market value is reduced from Rs, 100/- per sq.yd allowed by Reference Court to Rs. 75/- per sq.yd plus enhanced benefits as per Amending Act, 1984.

1998(1) ALL INDIA LAND LAWS REPORTER (A.P.) 461

Sections 23 and 18--Compensation for Brick Kiln--Receipts of lease money paid to landowner: attested by witnesses proved, fictitious when the expert engineer, who visited the spot, in his cross examination state of that there was no trace of a brick kiln at the time of his visit-No such claim made before the Collector--In an effort to become wise the award claim has been made at the time of Reference--Such observations of Reference Court disentitle any further enhancement. .

1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 153

Section 23(1-A) (as inserted by amendment Act 1984)--State is aggrieved by the award of 12% additional under Section 4(1)--Relief claimed is no such payment as said sub-section is not attracted--Such a relief would adversely visit the law abiding RYOT who has willing surrendered possession , at the request of the authorities--In view of the plain language of the Section, additional amount is payable from date of possession if the possession is taken before the making of an award-- This event is always supposed to be after the notification as published under Section 4(1)--In the present Case 'additional amount can be allowed from date of publication of notification under Section 4(1)-Award is amended to that extent.

1998(1) ALL INDIA LAND LAWS REPORTER (A.P.) 292

Section 23(2)--State has challenged the award of solatium @ 30% and interest @ 9% for first year and 15% thereafter on the enhanced compensation; as awarded by-Division Bench of P&H High Court-Award by the Collector as well the reference by the Reference court settled prior to 1982--No benefit of Section 23(2) could be claimed--Rate of interest shall be confined to 6% p.a. only

(SUPREME COURT) 242

Section 23(1-A)--Section 23(1-A) interested by the Amendment Act which was introduced in Parliament on 30-4-1982--Benefit of additional compensation not available to claimants as award was made by Land Acquisition Officer on 30-3-1982 **1998(1) ALL INDIA LAND LAWS REPO'RTER(A.P.)55**

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Section 23(2)-Civil Procedure Code, 1908-Sections 151 and 152--Solatium and interest is payable under the Land Acquisition Act and is an integral part of the procedure thereunder--Cannot be granted under the Requisition Act--Nor can it be sought or awarded by District Court under Section 151_or 152 of CPC-- That would be inherent lack of jurisdiction--Requisition and Acquisition of Immovable Property Act, 1952-Section 7. **1998(1) ALL INDIA LAND LAWS REPORTER (SUPREMECOURT) 108**

Sections 23(2) and 28-Benefit of the Sections in terms of solatium and enhanced rate of interest on excess compensation--will be available to the complainants as decree and award of civil Court was made on 15-07-1985 after the Amendment act of 1984 came into force.

1998(1) ALL INDIA LAND LAWS REPORTER (A.P.) 55

S.23-Enhancement of compensation- When the claimants claimed compensation @ Rs. 10,000/- per acre, relief confined to that extent only - No infirmity in the order passed by Ld. Single Judge -Appeal devoid of merit. **1998(2) ALL INDIA LAND LAWS REPORTER**

(P&H) 118.

S. 23 and 54-- State as well as the claimants have preferred these appeals--State has impugned 'the award of referred Court whereas claimants pray for enhancement--LAO has awarded for the well and for the Syphen system for irrigation purposes and that cannot be set at naught--State cannot challenge the award of the LAO--No separate compensation can be awarded for pipe Lines and other arrangement for drawing from well—Sale instances for which parties have not been examined cannot be admitted into evidence--As Acquired land is abutting main road, located just one kilometer from University and two furlongs from Bheemaram village--Another undisputed fact is that acquired land is very near Warangal Town -This dry land commands irrigation facilities--Land value enhanced by Rs. 2000/-

-per Acre--Enhancement of compensation for well and syphen system set aside.

1998(2) ALL INDIA LAND LAWS REPORTER (A.P.) 179

Section 23-Reference Court enhanced compensation from Rs. 2310/- to Rs. 3000/-per cent but disallowed further enhancement since deeds preferred were Post notification--Location of property, very near MALA Junction, is ideal and suitable for building construction for commercial exploitation--There is no absolute, bar on taking into consideration of post notification deals, especially when sale i for pre notification period are not there--Compensation enhanced to Rs. 3000/- percent to Rs. 7,500/-percent--Appellants will also be entitled to get all the amended statutory benefits as awarded under Sections 23(1-A), 23(2) and 28--Claim of the appellants for the construction and appurtenances did not call for enhancement. **1998(2) ALL INDIA LAND LAWS REPORTER (KERALA) 295**

Section 23 and 18--In fact Belting was challenged which rendered some land preferential and some second rote--Also difference in market value awarded to two belts--If the Courts felt that abutting Highway were more valuable than the land falling in the interior or away from the main road, belting could be allowed--On the same basis the market value awarded, have to be upheld.

1998(2) ALL INDIA LAND LAWS REPORTER (P&H) 283. ,

Section 23(1-8) and 28A-(Amended in 1984)-Only point involved in the appeal is that learned single Judge erred in extending benefits allowed by the

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Amending Act, 1984 to the respondents-LAO made the award on 18-4-1979 and Reference Court made it on 31-7-1980-Benefits of the Amending Act cannot be extended to the land acquisition cases in which award was made prior to 30-4-1982, the date of introduction of the Act in the Parliament. **1998(2) ALL INDIA LAND LAWS REPORTER (P&H) 251**

Sections 23(1-A), 23(2) and 28—Benefits bestowed on the claimants by the Amendment Act, of 1984 by inserting Section 23(1-A) and 23(2) as also Section 28 is sought to be allowed on entire amount of compensation--It was held that benefit of amended provisions can be allowed to claimants only to the extent of enhanced compensation. **1998(2) ALL INDIA LAND LAWS REPORTER (P&H) 366**

Section 23(1-A) and (2)-Solatium and interest-As allowed by the Amendment Act, 1984-- Payable on the awards pending finalisation on the date the amendment was introduced in the Parliament-Solatium at 15% is payable on the items covered only by clause firstly of Section 23(1)—Not on the compensations/damages totally unconnected with the market value of the land. **1998(2) ALL INDIA LAND LAWS REPORTER (P&H) 28**

Section 23(1) and 23(1-A)--Interest--Not payable on solatium or additional amount--Interest under certain circumstances is payable only on compensation or excess compensation.

1998(3) ALL INDIA LAND LAWS REPORTER (KERALA) 602

Section 23(1-B) and 28A--(Amended in 1984)-Only point involved in the appeal is that learned single Judge erred in extending benefits allowed by the Amending Act, 1984 to respondents-LAO made the award on 18-4-1979 and reference Court made it on 31-7-1980-Benefits of the Amending Act cannot be extended to the land acquisition cases in which award was made prior to 30-4-1982, the date of introduction of the Act in the Parliament.

1998(3) ALL INDIA LAND LAWS REPORTER (P&H) 494.

S.2-G-- Compensation- Land Acquisition Officer awarded compensation from 1.11- to 1.77 per sq. metre for three categories of land in village Chelana-- On reference, Court awarded Rs. 4/- per sq. mtr. at uniform rate on basis of earlier judgment and award in adjacent villages, for similar fertile lands acquired for same project--In appeal Division Bench referred to an earlier judgment by which lands in village pandwan adjoining the lands in dispute in V.Chelana was awarded Rs. 5/-per sq. mtr—Enhanced the compensation to that extent with additional benefits as per amended Act

1998(4) ALL INDIA LAND LAWS REPORTER (GUJARAT) 398.

Ss.23 & 24--Compensation- Reference Court exhibited his feats of imagination-by awarded sky high rate of compensation -Depended on sale instances relating to small extent , of lands-- Also placed reliance on future potentiality-- Reduction ordered by High Court ignoring the evidence and taking into consideration Section 24, clause fifthly, is just and proper--In the absence of any appeal by State, compensation at Rs. 65.000/-per acre is confirmed **1998(4) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 512**

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SECTION - 23 and 25

Ss. 23(2) & 28--Could interest be awarded on solatium also- Apex Court had given various different observations-In in some cases interest has been allowed on solatium also taking it as part of compensation -- In others, solatium has been treated apart and not subject to interest-Since the Judgments reported in 1995(2) ALL INDIA LAND LAWS REPORTOR 29 and 1997(1) ALL INDIA LAND LAW REPORTOR454 are by larger Bench of the Apex Court and it does not allow interest on solatium, that has to be followed- Interest cannot be allowed on the amount of solatium awarded under 5.2'3(2) of the Act. **1999(2) ALL INDIA LAND LAWS REPORTER (DELHI) 260.**

S.23-For planned development of Delhi, near Palam Airport, large tract of land was acquired—As against the LAO's offer of Rs. 3300/2200 per bigha, Reference Court made it Rs.4800/3200 per bigha—High Court enhanced it to Rs. 13000 per bigha as similarity situate land in an adjacent village had been valued at that--Impugned judgment of High Court is neither perverse nor illegal calls for no interference. S.30-LAC, instead of paying the awarded amount of the petitioner, the rightful person to receive the compensation, has wrongly made the payment to third person-Petitioner is to be paid--Order of the Court is binding on the LAC who was present in the Court-It is LAC who may recover the amount erroneously paid to third persons- Petitioner cannot be relegated to recover said amount from third persons-Writ Petition is thus allowed. **1999(1) ALL INDIA LAND LAWS REPORTER (ORISSA) 34.**

24. MATTERS TO BE NEGLECTED IN DETERMINING COMPENSATION.--But the Court shall not take into consideration-

first, the degree of *urgency* which had led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourth, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under Section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested. likely to accrue, from the use to which the land acquired will be put;

seventhly, any *outlay* or improvements on, or disposal of, the *land* acquired, commenced, made or effected without the sanction of the Collector after: the dates of the publication of the¹[notification under Section 4, sub-section (1); or

²[*eighthly*, any increase to the value of the land on account, of its being put to any use which forbidden by law or opposed to public policy.]

³[**25 AMOUNT OF COMPENSATION BY COURT NOT TO BE LOWER.**

THAN THE AMOUNT AWARDED BY THE COLLECTOR.--The amount of com-

Substituted by Act 38 of 1923 S. 8 for the declaration under S. 6.

Inserted by Act 68 of 1984.

Subs. by Act 68 of 1984.

The Land Acquisition Act, 1894

SECTION - 25 and 28

compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11]

CASE LAW

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Section 25(as amended in 1984)--Unamended provision placed a bar on the power of the Court to award more than what was claimed before the Collector-Fetter was removed by the amendment in 1984 which was applicable to appeals pending-Limitation now is that Court cannot award less than that awarded by the Land Acquisition Collector under Section 11-BUT when a claimant originally made a claim for Rs. 10,000/-in reference Court and adduced evidence, he cannot be heard on appeal to claim Rs. 25,000/--Cross objections in appeal cannot be a source of windfall-Although there is lack of evidence for what was claimed/awarded by Reference Court, yet enhancement allowed to the extent awarded by apex Court to similarly situate claimants **1998(4) ALL INDIA LAND LAWS REPORTER (ANDHRA PRADESH) 67**

26. FORM OF AWARDS:- [(1)] Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of Section 23, and also the also amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

¹[(2)] Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of Section 2, clause (2), and Section 2, clause (9), respectively, of the Code of Civil Procedure, 1908, (5 of 1908).]

27. COSTS :-(1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and on what proportions they are to be paid . (2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. COLLECTOR MAY BE DIRECTED TO PAY INTEREST ON EXCESS

COMPENSATION:-If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in the excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of ³[nine per centum] per annum from the date on which he took possession of the land to the date of payment of such excess into Court:

³[Provided the award of the Court may also direct that where such excess or any part thereof is paid into court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on t\le amount of such excess or part thereof which has not been paid into the date of such expiry]

1. Inserted by Section 2 of Act XIX of 1921.

Substituted by Act 38 of 1984 S. 18.

Inserted by Act 68 of 1984, S. 18.

SECTION - 28

¹[**28 A. RE-DETERMINATION OF THE AMOUNT OF COMPENSATION ON THE BASIS OF THE AWARD OF THE COURT--** (1) Where in award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under Section 11, the persons interested in all the other land covered by the same notification under Section 4, sub-section (1) and who are also aggrieved by the award of Collector may, notwithstanding that they had not made an application to the Collector under Section 18, by the written application to the Collector within three months from the date of the award of the Court require that the amount of compensation awarded by the Court:

Provided that computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of Sections 18 to 28 shall, so far as may be, apply to such reference under Section 18.]

CASE LAW

Section 28-A--Application for redetermination of compensation was filed within 3 months--Rejected by Collector just because certified copy of award was not attached--Provisions of Order 41, RI of C.P.C. although applicable to this Act, yet production of certified copy of award with application has not been made compulsory either by the Act or the Rules--Fresh orders may be passed on the application for redetermination of compensation. **1998(1) ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 7**

Section 28-A--Application for redetermination of; compensation was filed within 3 months--Rejected by Collector just because certified copy of award was not attached--Provisions of Order, 41, RI of C.P.C. although applicable to this Act, yet production of certified copy of award with application has not may be compulsory either by the Act or the rules--Fresh orders may be passed on the application for redetermination of compensation. **1998(1) ALL INDIA LAND LAWS REPORTER (KERALA) 27**

Section 28-A--Civil Procedure Code, 1908--Section 151--Petitioner prays for exercise of inherent powers of the Court to award same compensation as was awarded to those who pursued further beyond the reference Court Award--For

1. Inserted by Act 68 of 1984.

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SECTION - 28 and 29

paucity of funds petitioner did not prefer an appeal against award of Reference Court--Petitioner had the award enhanced by the reference Court--Remedy under Section 28-A is available to those who did not avail the remedy under Section 18--And not thereafter--As for invoking inherent powers of the Court, if relief could be allowed by invoking specific provisions of the Act, resort to Section 151 of CPC is uncalled for. **1998(2) ALL INDIA LAND LAWS REPORTER (DELHI) 373**

Section 28A--Application for re-determination of compensation, when lands were acquired under same notification--When claimant \did not apply for reference, application is to be filed within three months from the date of reference Court made the award--Time taken to get certified copies is to be excluded--Filed after 5 years as the claimant had come to know only then is clearly time-barred--As held is 1997(2) ALL INDIA LAND LAWS REPORTER 601, "date of knowledge" is not relevant.

1998(2) ALL INDIA LAND LAWS REPORTER (P&H) 574

Section 28-A(3)-Question involved is if the State or the beneficiary of the acquisition could make an application for reference or for redetermination--Beneficiary or the State had no right to seek reference against order of the Collector, by which he redetermined the compensation--Order, however is not totally unique from judicial scrutiny of jurisdiction of High Court, under Art. 226/ 227 of the Constitution.

1998(2) ALL INDIA LAND LAWS REPORTER (P&H) 572

Section 30--Rights of the persons to share compensation is to be decided by the Reference Court--And persons entitled to apportionment or any dispute in that connection is to be decided by Civil Court--Petitioner petition for unpleadment has been rightly rejected by the Reference Court--Petitions were not on record of LOA. **1998(2) ALL INDIA LAND LAWS REPORTER (A.P.) 356**

Section 28-A(3)-Question involved is if the State or the beneficiary of the acquisition could make an application for reference or for redetermination--Beneficiary or the State had no right to seek reference against order of the Collector, by which he redetermined the compensation--Order, however, is not totally unique from judicial scrutiny of jurisdiction of High Court, under Art. 226/ 227 of the Constitution.

1998(3) ALL INDIA LAND LAWS REPORTER (P&H) 456 PART IV**APPORTIONMENT OF COMPENSATION**

29. PARTICULARS OF APPORTIONMENT TO BE SPECIFIED:- Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment,

The Land Acquisition, Act 1894

SECTION - 30 and 31

30. DISPUTE AS TO APPORTIONMENT:-When the amount of compensation has been settled under S. 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

CASE LAW

Section--Appointment of compensation between the Waqaf and tenants. in possession of land- Tenants are not in possession of lease deeds--Are not protected tenants--Inducted by Mutavalli are entitled too the tenancy beyond 3 years--Since in Possession at time of acquisition cannot be evicted excepted in accordances of law--Claimed by tenants was for 40 or 50%--None claim 60%--Court had no power to award 60 to tenants--Compensation may be apportioned between landlord/tenant at 60:40, Wakaf Act, 1954-Section 36A. **1998(1) ALL INDIA LAND REPORTER (A.P.) 206**

Sections 30 and 54--Civil Procedure Code, 1908--O.1, Rules 10--Petitioner file this against the order of Reference Court dismissing their application to be impleaded as .interested parties in a case for apportionment of compensation--Interested persons are already on record and the LAO has made a reference for apportionment--No futher persons "Interested persons" could be unpleaded--Appeal dismissed. **1998(2) ALL INDIA LAND LAWS REPORTER (A.P.) 356**

Section 30--LAC, instead of paying the awarded amount to the petitioner, the rightful person to receive the compensation has wrongly made the payment to third persons--Petitioner is to be paid--Order of the Court is binding on the LAC who was present in the Court--It is LAC who *may recover* the amount erroneously *paid* to third persons--Petitioner cannot be relegated to *recover* said amount from third Persons--Writ Petition is thus allowed. **1998(3) ALL INDIA LAND LAWS REPORTER (ORISSA) 474**

PART V**PAYMENT****31. PAYMENT OF COHPENSATION OR DEPOSIT OF SAME IN COURT.--**

(1) On making an award under S. 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by someone or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or *if* there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the

1. Substituted by the A.O. 1950, for State Government.

The Land Acquisition Act, 1894

SECTION - 31 and 32

amount of the compensation in the Court to which a reference under Section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall entitled to make any application under Section 18:

Provided also that nothing, herein contained shall effect the liability of any person, who may receive the whole or any part of any, compensation awarded under this Act, to pay the same, to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of the¹[appropriate Government], instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other land in exchange, the remission of land-revenue on other lands, held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last forgoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement' with any person interested in the land and competent to contract in respect thereof.

CASE LAW

Section 34 and 23(1-A)--In Act Section 23(1-A) provides for loss on account of delayed awards--Person himself responsible for the delay, by filing appeals/revisions/objections will not be paid a premium for the delay--Compensation deposited immediately after cessation of legal proceedings, no interest is payable under Section 34 or under Section 23(1-A) **1998(4)**

ALL INDIA LAND LAWS REPORTER (SUPREME COURT) 526

32. INVESTMENT OF MONEY, DEPOSITED IN RESPECT OF LAND BELONGING TO PERSONS INCOMPETENT TO ALIENATE--(1) If any money shall be deposited in Court under sub-section (2) of the last preceding Section and It appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall--

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(b) if such purchase cannot effected forthwith; then in such Government or other approved securities as the Court shall think fit ;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or person who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied--

The Acquisition Act, 1894

SECTION - 32 to 35

(i) in the purchase of such other lands as aforesaid; or

(ii) in the payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable be charges and expenses incident, thereto to be paid by the Collector, namely:-

(a) the Costs of such investments as aforesaid;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being, invested and for the payment, out of Court of the principal of such moneys and of all Proceedings relating thereto, except such as may be occasioned by litigation between adverse claimts.

33. INVESTMENT OF MONEY DEPOSITED IN OTHER CASES.--When any money shall have been deposited *in* Court under this Act for any cause other than that mentioned in the last preceding Section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or there approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit there from as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

34. PAYMENT OF INTEREST.--When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of ¹[nine per centum] per annum from of so taking possession until it shall have been so paid or deposited:

¹[Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum shall be payable from the date of expiry of the said period of one year on the amount of Compensation or part thereof which has not been paid thereof which has not paid or deposited before the date of such expiry.]

PART VI**TEMPORARY OCCUPATION OF LAND**

35. TEMPORARY OCCUPATION OF WASTE OR ARABLE LAND PROCEDURE WHEN DIFFERENCE AS TO COMPENSATION EXISTS.--(1) Subject to the provisions of Part VII of this Act, whenever it appears to the ³[appropriate Government] that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a company, the ³[appropriate

1. Substituted by Act 68 of 1984

2. Inserted by Act 68 to 1984, Section 20 See Section 30(3) of Act 68 of 1984 in this regard.

3. Substituted by the A.O. 1950, for "State Government".

The Land Acquisition Act, 1894

SECTION - 35 to 38

Government] may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to, them such compensation, either in a gross sum of money, or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

36. POWER TO ENTER AND TAKE POSSESSION AND COMPENSA-

TION ON RESTORATION:- (1) On payment of such compensation, or on executing of such agreement or on making a reference under Section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement and shall restore the land to the persons.

interested therein :

Provided that if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such terms, and if the persons interested shall so require, the [appropriate Government] shall proceed under this Act to acquire the land as it was needed permanently for a public purpose or for a Company.

37. DIFFERENCE AS TO CONDITION OF LAND: - In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

PART VII**ACQUISITION OF LAND FOR COMPANIES****38. COMPANY MAY BE AUTHORIZED TO ENTER AND SURVEY.--**

²[* * * *]

3[38-A. INDUSTRIAL CONCERN TO BE DEEMED COMPANY FOR CER-

TAIN PURPOSES.--An Industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall so far as concerns the acquisition of such land be deemed to be a Company in ⁴[Sections 4, 5-A, 6, 7 and 50] shall be interpreted as references also to such concern.]

Subs. by the A.O. 1950 for "Provincial Government".

Omitted by Act 68 of 1984. S.21

3. Inserted by Act of 5 of 1933, Section 2.

4. Subs. by Act 68 of 1984, Section 23.

SECTION - 39 to 41

39. PREVIOUS CONSENT OF APPROPRIATE GOVERNMENT AND EXECUTION OF AGREEMENT NECESSARY.-- The provisions of ¹[Sections 6 to 16 (both inclusive) and Sections 18 to 3 (both inclusive)] shall not be put in force in order to acquire land for and Company ²[under this Part), unless with the previous consent of the ³[appropriate Government] nor unless the Company shall have executed the agreement here in after mentioned.

40. PREVIOUS ENQUIRY.-(1) Such consent shall not be given unless the ³{appropriate Government] be satisfied, ⁴[either on the report of the Collector under Sec. 5-A, sub-section (2), or] by an enquiry held as hereinafter provided,--

⁵[(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company. or for the provision of amenities directly connected therewith, or

⁶[(aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, or]

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

(2) Such enquiry shall be held by such officer and such time and place as the ³[appropriate Government] shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and as far as possible, in the same manner as is provided by the ⁷[Code of Civil Procedure, 1908] in the case of a Civil Court.

41. AGREEMENT WITH APPROPRIATE GOVERNMENT.--⁸[* * * J If the ⁴[appropriate Government] is satisfied ⁹[after considering the report, if any, of the Collector under Section 5-A, sub-section (2), or on the report of the officer making an inquiry under Section 40) that ¹⁰[the proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of Section 40], ¹¹[* * *] require the Company to enter into an agreement ¹²[with the ¹[appropriate Government], providing to the satisfaction of the ¹³[appropriate Government) for the following matters, namely :-

1. Ins. by 68 of 1984, Section 23

2. Ins. by Act 68 of 1984, Section 23

3. Subs. by the A.O. 1950, for "provincial Government."

Ins. by Act 38 of 1920.

Substituted by Act 16 of 1933, Section 3 for the original clause.

Ins. by Act 31 of 1962.

Subs. by Act 68 of 1984.

The words "Such officer shall report to the local Government the result of the inquiry, and" omitted by Act 38 of 1923,

9. Ins, by the Act 38 of 1923.

Subs. by Act 31 of 1962; Section 4, for certain words.

11. The words "subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf" omitted by Act 38 of 1920, Section 2 and Sch. 1, Pt. I.

12. Subs. by the AD 1937, for "with the Secretary of State for India in Council."

The Land Acquisition Act, 1894

SECTION - 41 to 43

(1) the ¹[payment to the ³[appropriate Government]] of the cost of the acquisition;

(2) the transfer, on such payment of the land to the Company;

(3) the terms on which the land shall be held by the Company;

²[(4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided; ³* * *

⁴[4-A) where the acquisition is for the construction of any building or work for a Company which is engaged for is taking steps for engaging itself in any industry or work which is for a public purpose the time within which, and the conditions (ort which, the building 'or work shall be constructed or executed; and]

(5) where the acquisition is for the construction of any other work, the same within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.]

CASE LAW

Section 41-Acquisition of land for Company--Enhanced compensation was not deposited by the company as it had become sick--And no legal proceedings could be launched against it for recovery of the amount--In the Executing Court State conceded no payment/deposit and also sought time to recover the amount from the company and then deposit--Relevant questions are (i) who is responsible for the payment to claimants; the State or the company and (ii) Is the company a necessary/proper party for the proceedings of acquisition etc.-As for the deposit, claimants are not concerned with the-company, can make claim on the authority who acquired the land i.e. State--Company could be a party a proper party only to the limited extent if enhancement of compensation is awarded--state directed to deposit enhanced compensation--May take steps to recover the amount.

1998(2) ALL INDIA LAND LAWS

REPORTER (P&H) 291.

42. PUBLICATION OF AGREEMENT.- Every such agreement shall; as soon as may be after its execution, be published ⁵ * * * in the Official Gazette and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

43. SECTIONS 39 TO 42 NOT TO APPLY WHEN GOVERNMENT BOUND BY AGREEMENT TO PROVIDE LAND FOR COMPANIES:-The provisions of Sections 39 to 42 both inclusive shall not apply and the corresponding sections of the Land Acquisition Act, 1870 (10 of 1870), shall be deemed never to have applied, to the acquisition .of land for any Railway or other Company, for the purposes of which; ⁷[under any agreement with such Company, the

Sub by *ibid*, for "payment to Government".

Subs. by the Act 16 of 1933, Section 4 for the originate clauses,

The word "and" omitted by Act 31 of 1962.

4. Ins. by Section 4, Act 31 of 1962.

5. The words "in the Gazette of India, and also "omitted by the A.O. 1937.

6. Rep. by this Act.

7. Substituted by the A.O. 1937, for under any agreement between such Company and the Secretary of State for India Council, the Government is, or was, bound to provide land".

The Land Acquisition Act, 1894

SECTION - 44 to 46

Secretary of State for India in Council, the secretary of State, ¹[the Central Government or any State Government] is or was bound to provide land.]

44. HOW AGREEMENT WITH RAILWAY COMPANY MAY BE PROVED.-In the case of the acquisition of land for the purposes of Railway Company the existence of such an agreement as is mentioned in Section 43 may be proved by the production of a printed copy there of purporting to be printed by order of Government.

²44-A. RESTRICTION ON, TRANSFER, ETC.—Company for which any land is acquired under this part shall be entitled the said land or, any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government].

44-B. LAND NOT TO BE ACQUIRED UNDER THIS PART EXCEPT FOR CERTAIN PURPOSE FOR PRIVATE COMPANIES OTHER THAN GOVERNMENT COMPANIES.--Notwithstanding anything contained in this Act, no land shall be acquired under this part, except for the purpose mentioned clause (a) of sub-section (1) of Section 46: for a private company which is not a Government Company.

Explanation.--"Private Company" and "Government Company" shall have the meanings respectively assignee to them in the Companies Act, 1956 (1 of 1956).]

The Land Acquisition Act, 1894

PART VIII**MISCELLANEOUS**

45. SERVICE OF NOTICES.-(1) Service of any notice under this-Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under Section 4, by the officer there in mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge..

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and ³[registered under Sections 28 and 29 of the Indian Post Office Act, 1898)], and service of it may be proved by the production of the addressee's receipt.

46. PENALTY FOR OBSTRUCTING ACQUISITION OF LAND.--Whoever wilfully obstructs any person in doing any of the acts authorised by Section 4 or

Substituted by the by the A.O. 1948 for "or any Government in British India".

Substituted by 44-A and 448 inserted by Act 31 of 1962, Section 5.

Substituted by Act 68 of 1984.

The Land Acquisition Act, 1894

SECTION- 46 to 48

Section 8, or wilfully fills up, destroys, damages or displaces any' trench or mark made under Section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to, fine not exceeding ¹[five hundred rupees], or to both.

47. MAGISTRATE TO ENFORCE SURRENDER.--If the Collector is opposed or impeded in taking possession under: this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

48. COMPLETION OF ACQUISITION NOT COMPULSORY, BUT COMPENSATION TO BE AWARDED WHEN NOT COMPLETED.-(1) Except in the case provided for in Section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested together with all costs reasonable incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

CASE LAW

Section 48(2)--Compensation to owners when State withdraws from the acquisition-- Acquisition of land for a public purpose that is -for construction of a housing colony was practically complete and compensation, was awarded at Rs. 18/- per sq.yd.-At this stage the State published a notification under Section 48 of the L.A. Act withdrawing the acquisition proceeding--Land owners were compelled to sell away the land to Housing Societies at Rs. 10/- per sq.yd.--Land owners sought a reference for compensation of damages--Awarded by the civil Court is challenged by the State--Held--There were pressing demands on the respondents including threat of sale by Bank for outstanding on the borrowers --There is every justification for the respondents for disposing land at a lower price--No ground to interfere with the decree and judgment of lower Court. **1998(2) ALL INDIA LAND LAWS REPORTER (A.P.) 455**

Section 48(2)--Compensation to owners when State withdraws from the acquisition-- Acquisition of land for a public purpose that is for construction of housing colony was practically complete and compensation was awarded Rs. 18/-per sqyd-- At this stage the State published a notification under S.48 of the L.A. Act with drawing the acquisition proceedings-- Land owners sought a reference for compensation of damages-- Awarded on the respondents including therat of sale by Bank for outstanding on the borrowers-- There is every justification for the respondents for disposing land at a lower prise--No ground to interfere with the decree and judgment of lower Court. **1998(3) ALL INDIA LAND LAWS REPORTE.R (A.P.) 434**

1. Subs. by Act 68 of 1984, Section 23

SECTION-49 to 50

Section 48--By this S.L.P. petitioners seeks denotification of a part of land acquired when the acquisition had attained finality--Civil suit relating to acquisition proceedings is not maintainable under Section 9 of C.P.C.-- Court cannot issue mandatory injunction against State to denotify the acquisition--Civil Procedure Code, 1908-Section 9
1998(4) ALL INDIA LAND, LAWS REPORTER (SUPREME COURT) 11

49. ACQUISITION OF PART OF HOUSE OR BUILDING.--(1) The provisions of Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of - such house, manufactory or buildings shall be so acquired:

Provided that the owner may, at any time before the Collector has made his award under Section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form. part of a house, manufactory or building within the meaning of this Section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonable required for the full and unimpaired use of the house, manufactory, or building.

(2) If, in the case of any claim under Section 23, sub-section (1), thirdly; by a person interested, on account of the severing of the land to be acquired from his other land, the ¹[appropriate Government] is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under Sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of, the ¹[appropriate Government] to the person interested, and shall thereafter proceed to make his award under Section 11.

50. ACQUISITION OF LAND AT COST OF A LOCAL AUTHORITY OR COMPANY-

(1) Mere the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under Section 18.

CASE LAW

Section 50--Right of the beneficiary to -participate in the proceedings admitted-Right to be noticed also admitted--"Knowledge" established--Communication from LAO. for depositing amount received in January 1995--Railways took

1. Subs. by A.O. 1950 for "Provercipal Government".

SECTION - 50 to 52

15 months to file the writ petition without explaining the delay—This gives a colour of laches to the action taken by the Railways-Writ petition dismissed--Constitution of India, Art. 226. **1998(1) ALL INDIA LAND LAWS REPORTER (A.P.) 437**

Section 50(2)--Eigibility of the beneficiary of land acquisition a company or a local authority to be heard before an award is passed--Beneficiary has a right to appear in acquisition proceeding before the Collector and the reference Court--Has a right to be given adequate notice--Local Authority is precluded from seeking a reference (Under Section 18 of the Act)-But if aggrieved by determination of amount of compensation, can invoke the remedy under Article 226 of the Constitution--Local Authority is also entitled to judicial review--Local Authority is a "PROPER PARTY," can oppose the enhancement and also adduce evidence in that regard--Railways in this case has said that no opportunity of being heard was provided--Railways deny "Knowledge of the proceeding and thus justify the laches"--There is enough evidence on record to establish "Knowledge" since 1988--Requirement of notice was served by specific "Knowledge"--Laches have not been satisfactorily explained-Award cannot be annulled-Writ petition dismissed. **1998(1) ALL INDIA LAND LAWS REPORTER (A.P.) 437**

51. EXEMPTION FROM STAMP-DUTY AND FEES.--No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming any such award or agreement shall be liable to pay any fee for a copy of the same.

¹[51-A. ACCEPTANCE OF CERTIFIED COPY AS EVIDENCE.--In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908 (16 of 1908), including a copy given under Section 57 of that Act, may be accepted as evidence of the transaction recorded in such document]

52. NOTICE IN CASE OF SUITS FOR ANYTHING DONE IN PURSUANCE OF ACT.-- No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof; nor after tender of sufficient amends.

"52-A. DELEGATION.-(1) Notwithstanding anything contained in the foregoing provisions, a Collector may, subject to the general or special orders of the State Government, delegate any of his powers or functions is under this Act to any officer not below the rank of a Mamlatdar or to a Land Acquisition specially appointed by the State Government in his behalf.

(2) The State Government may, by-notification in the Official Gazette, direct that the powers exercisable by it under this' Act, except the power to make rules under Section 55, shall, in such circumstances under this notification, be exercisable also by an officer subordinate to it not below the rank of a Collector."

²HIMACHAL PRADESH STATE

After Section 52 of the principal Act, the following new section shall be inserted, namely—

Ins. by Act 68 of 1984.

Ins. by Land Acquisition (Himachal Pradesh Amendment) Act, 1979.

The Land Acquisition Act, 1894

SECTION - 52 and 53

"52-A. PROTECTION OF COMPENSATION.-- No compensation awarded or awardable under this Act-

(a) before it is actually paid to the person entitled to receive the same; or (b) before or after it is actually Paid to the person entitled to receive the same in respect of any land which is not liable under the law for the time being in force to attachment or sale in execution of a decree or order of any court; shall be liable to seizure, attachment or requisition by process of any court, at the instance of a creditor, for any demand against the person entitled to compensation, or in satisfaction of a decree or order of any Court, and notwithstanding any thing to the contrary in law for the time being in force, neither the official assignee nor any receiver appointed under any law shall be entitled to proceed against or to have any claim on any such compensation.

¹PUNJAB HARYANA AND CHANDIGARH

After Section 52, the following section shall be deemed to be inserted, namely,-

52-A. PROTECTION OF COMPENSATION.-- No compensation awarded or awardable under this Act-

(a) before it is actually paid to the person entitled to receive the same; or
 (b) before or after it is actually paid to the person entitled to receive the same in respect of any land which is not liable under the law for the time being in force to attachment or sale in execution of decree or order of any Court;
 shall be liable to seizure, attachment of requisition by process of any Court, at the instance of a creditor, for any demand against the person entitled to compensation of a decree or order any Court, and, notwithstanding anything to the contrary in any Law for the time being in force, neither the Official Assignee nor any Receiver appointed under any law shall be entitled to proceed against or to have any claim on any such compensation.

53. CODE OF CIVIL PROCEDURE TO APPLY TO PROCEEDINGS BEFORE COURT.--- Save in so far as they may be inconsistent with anything in this Act, the provisions of the [Code of Civil Procedure 1908], shall apply to all procedures before the Court under this Act.

CASE LAW

Section 53--Civil Procedure Code, 1908--0.21, R. 1, --Civil Procedure code is not applicable to Section 53 on the Act--Appropriation of debt from the

1. Inserted by Punjab Act15 of 1948.

SECTION - 54

compensation deposited is not permissible-Raion is applicable to debtor and creditor in an ordinary Civil suit government by provisions of C.P.C.--Liability to pay interest ceases the moment in the Court is made--Revision petition fails as no illegality is found in impugned order. **1998(3) ALL INDIA LAND LAWS REPORTER (KERALA) 602**

¹[**54 APPEALS IN PROCEEDINGS BEFORE COURT.**-- Subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceeding under this Act to the High Court from the award, or from any part of the award of the Court~ and from any decree of the High Court. passed on such appeal as aforesaid an appeal shall lie to ²[the Supreme Court] subject to the provisions contained in Section 110 of the Code of Civil Procedure, 1908 and in Order XLV thereof.]

CASE LAW

S.54-- Right of appeal-Unless there is a bar express or implied from the Judgment of a Single Judge Bench not barred-Court should always uphold the right of appeal- Such right is neither curtailed By. S.54 of the Act, nor by the Kerala High Court Act, 1958--S.5 (ii) **1999(1) ALL INDIA LAND LAWS REPORTER (KERALA) 246.**

55. POWER TO MAKE RULES.--(1) The ³[appropriate Government) shall 4[* * *] have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

⁵[Provided that the power to maker rules for carrying out the purposes of Part VII of this shall be exercisable by the Central Government and such rules may be made for the guidance of the State Governmnet and the officers of the Central Government and of the State Government:

Provided further that every such rule made by the central Government shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or two or more successive sessions and if, ⁶[before the expiry of the session. immediately following the session or the successive sessions aforesaid) both Houses agree in making any modification in the rule or both House agree that rules should not be made, the rule shall thereafter have effect

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1. Substituted by Act 68 of 1984.
 2. Substituted by Act 19 of 1921.
 3. Substituted by the A.O. 1950 for a State Govt.
 4. Omitted by Act 38 of 1920.
 5. Added by Act 31 of 1962.
 6. Substituted by Act 31 of 1962.

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only in such modified from or be of no effect, at the case may be so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rules]

¹[Provided also that every rule made by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.]

(2) The power to make, alter and add to rules under sub-section (1), shall be subject to the condition Of the rules being made, altered or added to after previous publication ..

(3) All such rules, alterations and additions shall ²[* * *] be published in the Official Gazette, and shall thereupon have the force of law.

CASE LAW

Section 55-Land Acquisition (Companies) Rules 1963-Rules 3 and 4-High Court set aside the acquisition on grounds of non compliance with provisions of Rules 3 and 4-Company as well the State has challenged the order--First respondent sought quashing of notification under Section 4 of the Act and declaration under section 6 of the Act on various grounds-In the whole body of the petition it has no where been related that provisions of Rule 3 have been contravened-Rule 4 was quoted and contention was that statutory requirements contained therein had not been fulfilled--Authority had held no enquiry--In the absence of allegation that Rule 3 had not been complied with and no particulars of non-compliance of Rule 4 having been stated, High Court was not right in quashing the acquisition proceedings.

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Ins. Act 68 of 1984.

Omitted by Act 4 of 1914.

APPENDIX II
THE LAND ACQUISITION
 [NO. 13 OF 1967]

(AMENDMENT AND VALIDATION)
ACT, 1967

[12TH APRIL, 1967]

**AN ACT FURTHER TO AMEND THE LAND ACQUISITION
 ACT, 1894 AND TO VALIDATE CERTAIN ACQUISITIONS
 OF LAND UNDER THE SAID ACT**

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:--

1. SHORT TITLE.--The Act may be called the Land Acquisition (Amendment and Validation) Act 1967.

* * * * *

4. VALIDATION OF CERTAIN ACQUISITIONS.-- (1) Notwithstanding any judgment, decree or order of any court of the contrary,--

(a) no acquisition, of land made or purporting to have been made under the principal' Act before the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), and no action taken or thing done (including any order made, agreement entered into, or notification published) in connection with such acquisition shall be deemed to be invalid or ever to have become invalid merely on the ground.

(i) that one or more Collectors have performed the functions of Collector under the principal Act in respect of the land covered by the same notification under sub-section (1) of Section 4 of the principal Act;

(ii) that one or more reports have been made under sub-section (2) of Section 5-A of the principal Act whether in respect of the entire land, or different parcels thereof covered by the same notification under sub-section, (1) of Section 4 of the principal Act;

(iii) that one or more declarations have been made under Section 6 of the principal Act in respect of the different parcels of the land principal Act:

* Pub. in Gaz. of India, Extra, Pt II, Sec. 1, dated 12-4-1967.

The Land Acquisition (Amendment and Validation) Act, 1967

(b) any acquisition in pursuance of any notification published under sub-section (1) of Section 4 of the principal Act before the Commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967(1 of 1967), may be made after such commencement and no such acquisition and no action taken or thing done (including any order made, agreement entered into, or notification published) whether before or after such

commencement, in connection with such acquisition shall be deemed to be invalid merely on the grounds referred to in clause (a) any of them.

(2) Notwithstanding anything contained in clause (b) of sub-section (1) No declaration under Section 6 of the principal Act in respect of any land which had been notified before the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), under sub-section (1) of Section 4 of the principal Act, shall be made after the expiry of two years from the commencement of the said Ordinance.

(3) Where acquisition of any particular land covered by a notification under Section (1) of section 4 of the principal Act, published before the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), is or has been made in pursuance of any declaration under Section 6 of the principal Act, whether made before or after such commencement; and such declaration is or has been made after the expiry of three years from the date of publication of such notification, there shall be paid simple interest, calculated at the rate of six per centum on the market value of such land, as determined under Section 23 of the principal Act, from the date of expiry of the said period of three years of the date of tender of payment of compensation awarded by the Collector for the acquisition of such land: Provided that no such interest shall be payable for any period during which the proceedings for the acquisition of any land were held up on account of stay or injunction by order of a court.

Provided further that nothing in this sub-Section shall apply to the acquisition of any land where the amount of compensation has been paid to the persons interested before the commencement of this Act.

5. REPEAL AND SAVING.—(1) The Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this had come into force on the 20th day January, 1967.

APPENDIX II
THE LAND ACQUISITION
(AMENDMENT) ACT, 1984

[NO. 68 OF 1984],

(SEE SECTIONS 15, 18, 23, AND 28)

[24TH SEPTEMBER, 1984] AN ACT FURTHER TO AMEND THE LAND ACQUISITION ACT, 1894

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows: --

1. SHORT TITLE.---The Act may be called the Land Acquisition (Amendment) Act 1984.

* * *

30. TRANSITIONAL PROVISION.--(1) The provisions of sub-section (1-A) of Section 23 of the principal Act, as inserted by CI. (a) of Section 15 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation,--

(a) every proceeding for the acquisition of land under the principal Act pending on the 30th day of April, 1982 [the date of introduction of land Acquisition(Amendment) Bill 1982, in the House of the people], in which no award has been made by the Collector before that date;

(b) every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an award has been made by the Collector before the commencement of this Act.

(2) The provisions of sub-section (2) of Sections 23 and 28 of the principal Act, as amended by CI. (b) of sections 15 and 18 of this, Act respectively, shall apply, and shall be deemed to have applied, also to, and in relation to; any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any Such award under the provisions of the principal Act later than 30th day of April, 1982 [the date of introduction, of the land Acquisition (Amendment) Bill, 1982, in the House of the People] and before the commencement of this Act.

(3) The provisions of Section 34 of the principal Act, as amended by Section 20 of this Act, shall apply, and shall be deemed too have applied, also to and in relation to,-- (a) every case in which possessions of any land acquired under the principal Act had been taken before the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People] and the amount of compensation for such acquisition had not been paid or deposited under Section 31 of the principal Act until such date, with effect on and from that date; and -

(b) every case in which such possession had been taken on or after that date but before the commencement .of this Act without the amount of compensation having been paid or deposited under the said Section 31, with effect on and from the date of taking such possession.

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