

THE LAND ACQUISITION ACT,

1894

(Act No.1 of 1894)

PART I-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

COMMENTS

(1) **S. 1-Scope-**The Land Acquisition Act is an existing law within the meaning of Art 306, sub-cl (10) saved by the provision of Art 31 (5) of the Constitution.

[AIR 1958 All. 126]

2. Repeal and Saving-Rep. in part by the Repealing and Amending Act, 1914 (10 of 1914). S.3 and Sch. II, and later in part by the Repealing act, 1938 (1 of 1938) S.2 and Sch.

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

(a) the expression "land" includes benefit to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

²[(aa) the expression "local" authority' includes a town planning authority (by whatever name called) Set up under any law for the time being in force;]

(b) the expression "person interested" includes all person claiming an interest in 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: ³[appropriate Government] to perform the functions of a Collector under this Act;

²[(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 Companies 'Act, 1956 (1 of 1956), a 'society registered under the Society Registration Act, 1860, (21 of 1860) or under any corresponding law for the time being in force in a State, being a. society established or administered by Government and Co-operative Society within the meaning of any law relating to any 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 a original jurisdiction, unless the ³[appropriate Government] has appointed as it is hereby empowered to do) a special judicial officer within any special local limits to perform the functions of the Court under this Act,

(e) the expression "Company" means]

(i) a company as defined in Section 3 of the Companies Act, 1956 (1 of 1956). Other than a Government Company referred to in clause (cc);

(i) a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, other than a Society referred to in clause (cc);

(ii) 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);]

²[(ee) the expression "appropriate Government" means, in relating to acquisition of land for the purpose of the Union, the Central Government and in relation to acquisition of land for any other purpose, the State Government];

¹ [(f) the expression "public purpose" includes

- (l) 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 Scouring further development as planned;
- (iv) the provision of land for a corporation owned or controlled by the State;

COMMENTS

(1) S. I-Act not applicable to acquire a water source only

[1994 (3) Andh L.T. 149]

(2) Acquisition of land by State exercising its power of eminent domain-Held, does not offend right to livelihood or right to shelter or dignity of person-State not obliged to provide alternative site.

[(1996) 1 SCC 731]

- (v) the provision of land for residential purpose 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 the 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 I: 1 of 1860) or under any corresponding law for the time being in force in a State, or a co-operative 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 by 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 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 case 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 ~ors and the committees or managers of lunatise or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatise, 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 XXXII] 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.

COMMENTS

(1) S. 3 *Bamboos are timber in as much as they are used in the building and repairing of house by the custom of the country.*

[AIR 1923 Pat. 95]

(2) S. 3 *Lease hold interests-held-even though the land itself belonged to the Govt. the petitioner having lease hold's right therein, the lease hold interests could be acquired as they come within the definition of the expression "Land".*

[(AIR 1969 All.604) (AIR 1936 Pesh.217) (AIR 1986 Mad 63)]

(3) S. 3 *License- The measure of his interests is the amount of compensation that he could claim if his license were determined.*

[AIR 1936 Lah 1010]

(4) S. 3 *Bungalows and out house-Privy Council upheld acquisition of buildings where the Govt. claimed to be the owners of the land upon which the various bungalows and outhouse had been erected.*

[AIR 1939 PC 235]

(5) S. 3 *The Collector is bound to treat every person who claims compensation as an interested person. He should include him in the award u/s 11] even though he may award him nothing.*

[AIR 1959 Pat 343]

(6) S. 3 *Land includes superstructures. It is not the requirement of law to mention the superstructure in the notification.*

[AIR 1978 SC 515]

(7) S. 3 *Acquisition of land for construction of residential quarters for married Air Force personnel- Held for public purpose.*

[AIR 1981 All 130]

(8) S. 3 (b), 20, 50-*Per.von interested-Beneficiaries for whose benefits lands are acquired by Govt.- Not covered by term person interested-they cannot also be added as parties to proceedings under O.I.,R. 10, C.P.C.-Notice to them before making award u/s 20 not necessary. Appeal or writ petition challenging compensation amount by them -Not maintainable*

[AIR 1990 Mad 160 (FB)]

(9) *Village-defined in Art 243 (g) of the constitution.*

[AIR 1995 SC 1512]

PART II-ACQUISITION

Preliminary Investigation

4. Publication of preliminary notification and powers of officers thereupon-(1) Where never it appears to the ²[appropriate Government] that land in any locality ³[is needed or] is likely to be needed for any public purpose ¹[or for a company] a notification to that effect shall be published in the Official Gazette, ¹[and in 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, ¹[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 authorized 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 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 make 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 crops, 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.

COMMENTS

(1) S. 4 *Certain portions of land of area comprising the tea estate acquired for defence purpose. No mention about tea estate acquired as a unit.*

[AIR 1977 Gauhati 44]

(2) S. 4 *Land includes superstructure-It is not the requirement of law to mention super-structure in the notification.*

[AIR 1978 SC 515, AIR 1984 AP 215]

(3) S. 4 (1) and S.20 of ULC Act, 1976 - *Surplus land-Govt, granting exemptions from Ceiling Act-Govt is not prevented from acquiring such land subsequently.*

[AIR 1982 AP 474]

(4) S. 4 (i) and 17 (4) - *Gazette Notification u/s 4 (1) and direction u/s 17(4) made simultaneously-Local publication within time but no news paper publication even after lapse of 3 months from the date of Gazette Notification .Held notification was bad.*

[AIR 1986 AP 124]

(5) S. 4 (i) - *Requirement of publication in two daily newspapers is mandatory and not directory.*

[AIR 1986 AP 124]

(6) S. 4 (i) - *Lease of land by Govt. Construction of superstructure by lessee-Acquisition of superstructures only. Held Govt. was not wrong in resorting to Act 1 of 1894 for acquiring superstructures only. There was no question of acquiring land by Govt. because it was its own.*

AIR 1986 Mad 63]

(7) *Sufficient particulars of land, the locality etc. to be given in the notification-Held otherwise invalid*

[AIR 1961 MP 140]

(8) S. 4-*Declaration u/s 6 declared invalid by court or withdrawn by Govt.-Notification u/s 4 does not get exhausted.*

[AIR 1988 SC 1615] [(1995 1 SCC 133)]

(9) S. 4-*Later notification covered some land already covered under earlier notification-Further acquisition proceedings in r/o land common in both notifications should be taken in pursuance of later notification Proceedings initiated under earlier notification should be deemed to have been superseded.*

[AIR 1988 SC 1615]

(10) S. 4 - *Notification of acquisition-Publication of, in locality of land-Entry in Roznamcha (diary) that publication was made on day notification was issued-Objection [Ied pursuant to publication also showing that notification was published on same day it was issued-Plea that entry in diary should not be accepted as publication of the notification on the same day on which it was issued was impossible could not be accepted.*

[AIR 1988 SC 2181]

(11) S. 4 - *Acquisition of vast area of land for developing large industrial estate-Phased plan for industrialization is bound to take considerable time-Grass grown on land already acquired instead of keeping it fallow-Does not mean that land is not utilized for purpose for which it is acquired.*

[AIR 1989 Guj 187]

(12) S. 4 - *Publication of notification in newspapers. It is mandatory and such publication can be either before publication of substance locally or even thereafter.*

[AIR 1989 A.P. 342]

(13) S. 4 - Public notice of substance of notification-sequence mentioned in S. 4 (1) -Not mandat01y- Notice caused to be made by Collector prior to issue of publication of notification in Gazette and in newspaper would not invalidate notification.

[AIR 1990 A1L1, AIR 1990 All. 44, AIR 1993 All 14]

(14) S. 4 - Publication of substance of notification of acquisition not given at a convenient place in locality-Entire acquisition proceedings vitiated.

[AIR 1990 Ori. 196]

(15) S. 4 - Public purpose-disputed property alleged to be used for serving public. Purpose compulsory acquisition .of such property by State for serving another public purpose-Not barred.

[AIR 1990 AP 357]

(16) S. 4 and 6 - Notification published in Official Gazette not accompanied o immediately followed by public notice-No prejudice caused-Acquisition not void

[AIR 1991 MP 72]

(17) Acquisition of land for resettling displaced persons of one project-Allotment of land to displaced persons of another project does not render acquisition bad in law.

[AIR 1992 Barn. 72]

(18) Law does not debar Govt. from acquiring a land on which construction exist.

[(1994(1) C.L.J. (C Cr & Rev) 176]

(19) S. 4, 5-A and 17 - Acquisition of part of land-some more area occupied by Govt.-suit by owner of land-injunction by Court-Second exercise of power of eminent domain and issuance of notification u/s.4(1) in respect of disputed land not arbitrary or colorable second exercise of power-Second exercise of power u/s 17 (4) involving urgency clause-Proper.

[AIR 1995 SC 2480] [(1995) 5 SCC 587]

(20) S. 4 and 6 - Civil court has no jurisdiction to go into it.

[AIR 1995 SC 1955]

(21) S. 4 (1) - Publication of substance of the notifications in the locality-Time gap of more than 6 months between date of publication of notification in official Gazette and the publication of substance of the notification in the locality-not invalid.

[(1995) 1 SCC 133]

(22) S. 4 (1) - Acquisition of property by State-religious property-Not immune from acquisition.

[AIR 1995 Ori 56, AIR 1995 SC 605]

(23) S. 4 (1) - Allotment of alternative land in lieu of the acquired land-Depends upon purpose of acquisition-where land acquired is for defence purpose and not for any planned development of housing scheme-Held--allotment of alternative site to persons displaced from their holdings cannot be allowed since accept of request for such allotment would create insurmountable complications.

[(1995) Supp (4) SCC 615]

(24) S. 4 (I) - Govt. cannot acquire its own land-Government land mistakenly notified for acquisition. Subsequent Govt. withdrawing the same by issue of fresh notification omitting the Govt. land-Held-Govt. not bound to acquire the said land.

[1995 Supp (3) SCC 249]

(25) S. 4 and 17 (4) - While constructing compound wall of Govt. building State encroaching on Respondent land-mandatory injunction granted by the Civil Court to demolish the said wall and hand over possession of the land to the respondent-Held-in such a situation State was entitled to secondexercise its power of eminent domain and justified in acquiring the disputed land according to law-State was justified in exercising its power u/s. 17 (4) and dispensing with enquiry u/s. 5-A.

[(1995) 5 SCC 587, AIR 1995 SC 2480]

(26) S. 4 and 6 - District Judge not the authority or having jurisdiction to declare the notification u/s. 4 (1) and declaration u/s. 6 to be null and void.

[(1995) 3. SCC 723, AIR 1995 SC 1552]

(27) Non-specification of use to which each and every bit of land so notified would be put to-held- does not invalidate the notification.

[(1996) 1 SCC 250]

(28) S. 4 (I) - Errata notification-certain survey numbers situated in adjacent-village not covered by notification u/s 4 (1)-Govt issuing errata notification including those lands-Held such errata notification dates back to the date of initial notification and cannot be considered to be a fresh notification-Respondents having participated in S. 5-A inquiry declaration u/s S 6 did not get vitiated.

[(1996) 7 SCC 269]

(29) S. 4 (I) - Errata notification giving guntha numbers instead of survey numbers-Identity of land not in dispute and the land being part of the notification u/s 4(1)-Hence there was no illegality in notification u/s 4(1) as originally published.

[(1996) 7 SCC 567]

(30) S. 4 (I) - Public purpose-Malafides-challenge-not maintained after S.4 (1) and S. 6 becoming final.

[(1996) 5 SCC 386]

5. Payment of 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.*

Objection

¹**[5-A. Hearing of objections-(I)]** Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may ²[within thirty days from the date of 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 '(I) 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 authorized by him in this behalf) or by pleader and shall, after hearing all such objections and after making such further .enquiry, if any, as he thinks necessary ³[either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports 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 ⁶[appropriate Government] on the objections shall be final.

(3) For the purpose 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].

COMMENTS

(1) S. 5-A - Enquiry Officer informed that ownership of land vests in person not shown in Revenue record-Enquiry Officer is bound to issue notice and hear such person.

[AIR 1989 Mad 222 (FB)]

(2) S. 5-A - Affording of opportunity of being heard to the objector is a must and not to be treated lightly or casually.

[(1993) 4 SCC 255]

Declaration of intended Acquisition

6. Declaration that land is required for a public purpose-(I) Subject to the provisions of Part VII of this Act, ⁴[when the ⁶(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 order ⁵[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 or have been made (wherever required under Section 5-A, subsection (2) :]

¹[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 fund controlled or managed by a local authority.

²[**Explanation 1**-In computing any of the periods referred 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 revenues).

(2) ³[Every declaration] shall be published in the Official Gazette ¹[and in two daily newspapers circulating in the locality in which the land is situated 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 hereinafter 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 appropriate Government may acquire the land in manner hereinafter appearing.

COMMENTS

(1) S. 6-Notification u/s 6 following notification u/s 4-Notification u/s 4 does not exhaust itself before completion of acquisition proceedings. Notification u/s 6 can be done in parts.

[AIR 1936 MP 256, 1965 MPLJ 208]

(2) S. 6-Notification under-Land in question not covered by notification u/s 4-No further proceedings can subsist

[AIR 1986 Delhi 40, AIR 1961 Guj 93, AIR 1961 MP 140, (65) 67 Punj LR 616, AIR 1984 AP 5 (FB)]

(4) S: 6-Collector taking possession over an area in excess of the notified area-owner can recover possession being a trespass.

[1979 ALL U 1072, AIR 1980 Kant 22]

(4) S. 6 and 4-Section 4 Notification mentioning plot Nos. 1376 and 1377--section 6 mentioning plot No. 137 and 138-on detection of printing error erratum declaration issued giving correct number of plots i.e., 1376 and 1377-Held, correction by erratum declaration was permissible in view of S. 21 of General Clauses Act.

[AIR 1981 Cal 395]

(5) S. 6-Notification u/s 6-Part of Land acquired u/s 10 (3) of ULC Act, 1976-Section 6 Notification to the extent of remaining land remains unimpaired and could be acted upon to that extent.

[AIR 1982 Bom 22]

(6) S. 6-Publication of notification u/s 4 and declaration u/s 6 cannot be made now on the same date-There must be difference of dates between date of publication of notification u/s 4 and 6. If published on the same date it would violate section 17(4) as amended.

[1986 ALR 142]

(7) S. 6 (i)-Proviso, Explanation (T.N.)-Three year period computation-Explanation invoked only when

the State Govt. was prevented by stay or injunction order-It could not apply where S. 6 (1) declaration already issued was being challenged.

[AIR 1987 Mad 173]

(8) **S. 6 (i)**-First Proviso and 4 (i)-Prior declaration u/s 6 (1) made within three years from S. 4 (1) notification-Declaration being held void fresh declaration need not satisfy the requirement

[AIR 1987 Mad 173]

(9) **S. 6**-Publication of SA notification in Gazette on 10-11-86 and in two daily newspapers on 21-11-86 and 20-12-86 respectively-Decision regarding urgency and need to dispense with provision of S. 5-A expressed in S. 4 notification itself-So 6 declaration. in Official Gazette made on 11-11-1986-Held S. 6 declaration was not valid but S. 4 notification was valid.

[AIR 1988 Delhi 101]

(10) **S. 6**-Substance of two notifications u/s 4 and S. 6 published in locality on same day-Notification u/s 6 is rendered invalid.

[AIR 1988 All 177]

(11) **S. 6**-Notification u/s 4 together with direction u/s 17(4) dispensing with application of S. 5-A-It is still necessary to issue declaration u/s 6-.It has to be made forth with.

[AIR 1989 Pat 83]

(12) **S. 6**-Declaration u/s 6 cannot be issued simultaneously with notification u/s 4 on same date. It has to be issued on subsequent date.

[AIR 1989 SC 682]

(13) **S. 6**-Declaration u/s 6 has to be made within one year of date of notification u/s 4 (1).

[AIR 1989 Ker 223]

(14) **S. 6**-Publication of declaration in newspapers-publication in one newspaper made prior to publication in Gazette as well as in another newspaper-Declaration is liable to be quashed.

[AIR 1989 A. P. 233 J]

(15) **S. 6--**-Declaration signing within one year of publication of notification-is sufficient.

[AIR 1991 MP 72J]

(16) **S. 4 anti 6**-Particular public purpose declared at commencement of land acquisition proceedings-That purpose ceasing to exist subsequently-Acquisition proceedings not liable to be quashed when acquired land might be put ultimately to other public purpose.

[AIR 1993 Raj 157]

(17) **S. 4 and 6**-Land not used for purpose for which it was acquired-Handed over to local authority for another public purpose-land holder cannot claim land to be reconvened to him' on that ground.

[AIR 1994 Ker 322 (NOC)]

(18) There is no bar in law that beneficiaries under the acquisition cannot transfer the land to another authority.

[1944 (1) P.L.R. 615]

(19) **S. 6**-Declaration under-Published within one year of last date of local publication u/s. 4 (i)-Not invalid.

[AIR 1995 SC 1549]

(20) **S. 6**-Publication of declaration under-after proceedings stayed by High Court-held illegal

[(1994) 6 SCC 74]

(21) **S. 4 (1) and S. 6 (2)**-Requirement of publication of substance of the notification/declaration in the locality-Requirement u/s 4(1) is mandatory and u/s 6 (2) is directory.

[(1995) 1 SCC 133]

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 appropriate Government or some officer authorized by the appropriate Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

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-(I) 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 claims 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 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 or 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 authorized to receive service on their behalf, within the revenue district in which the land is situate.

(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 ¹[registered under sections 28 and 29 of the Indian Post Office Act 1898 (6 of 1898)]

COMMENTS

(1) S. 9 (3)-Notice not issued on occupiers-Award passed by Collector, liable to be quashed.

[AIR 1987 P & H 181]

(2) S. 9-Reference-Maintainability-Intimation only about date and time of hearing given to claimant and intimation not mentioning that it was for fixation of compensation-Date of hearing fixed within stipulated period of 15 days-Provision of S.9 not complied with-reference filed without filing a claim before land Acquisition officer-maintainable.

[AIR 1988 Bom 18J]

(3) S. 9 and 10-Failure to file written claim-right to claim compensation-Not taken away-oral claim maintainable. [AIR 1991 AP 110J]

(4) S. 9-Non service of notice u/s 9 on respondents who purchased the lands prior to the publication of notification u/s 4 (1) but mutation not effected in their names-Notice served on the original owner whose name found in the revenue record-Post notification sale by the respondents is illegal and does not bind the State-S. 4 (1) and 6 do not require personal service of notice-Publication in the locality and the Gazette is sufficient

[(1996) 1 SCC 299]

(5) S. 9-Mention of Main survey No in notification U/S 4(1) and Sub-division of Main survey No in notice u/s 9 does not render the notification u/s 4 (1) illegal

[(1996) 1 SCC 334]

(6) S. 9 & 10-Irregularity in service of notice under is curable and on account thereof award made by the collector does not become invalid.

[(1996) 7 SCC 269]

10. Power to require and enforce the making of statements as to names and interests-(I) 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), statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding 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 section 175 and 176 of Indian Penal Code.

COMMENTS

(1) This Section authorized the Collector to require any person upon whom a public notice under Section 9 has been Served, to deliver to him the name of every other person having any interest in land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise.. Claim may be oral. (A.1.R. 1956 Cal 122J

Enquiry into measurements, Value and Claims and Award by the Collector

11. .Enquiry and Award by Collector-(I) 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 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 area of the 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:

¹ [Provided that no award shall be made by the Collector under this sub-Section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorize in this behalf :

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

¹[(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 of compensation for any land under sub-Section (2) shall not in any way affect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of this Act.

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

COMMENTS

(1) S. 11-Person claiming compensation to prove his title to its affirmatively.

[AIR 1931 PC 1]

(2) S. 11-Award cannot be said to be made until it is so drawn up and signed.

[AIR 1934 Cal. 758]

(3) S. 11-Collector cannot make an award based on "Instructions."

[AIR 1936 Rangl 206]

(4) S. 11-Where a person claims title in the Govt land and possession is taken from him the Collector has to determine the compensation payable for the land and has also to decide if the compensation is payable to the claimant.

[AIR 1955 SC 298]

(5) S. 11-Award of the Collector not being a decree cannot be enforced.

[AIR 1955 Hyd 203]

(6) S. 11-The Collector is bound to treat every person who claims compensation as an interested person. He should include him in the award u/s 11 even though he may award him nothing.

[(1981) 83 PLR Delhi, AIR 1959 Pat 343]

(7) S. 11-Award given by LAO not appointed in accordance with law Govt appoints him LA.C. with retrospective effect-Award is illegal.

[AIR 1959 Punj 479, AIR 1959 Punj 544]

(8) S. 11-An officer can after writing out and signing an award change his mind and destroy it but this can be done only upto a particular stage ie. before award is filed.

[AIR 1962 All. 61]

(9) S. 11-Signing of award on Sunday not illegal.

[AIR 1963 Pat 139]

(10) S. 11-Burden of proof rests on the claimant-That the award is wrong.

[AIR 1964 MP 196]

(11) S. 11-Award not to confi1:Je to evidence at the enquiry. It is to take into account all available information for forming a true estimate for compensation to be...awarded.

[AIR 1966 MP 65]

(12) S. 11-Compensation-condition to deposit any amount out of compensation in NSC is illegal.

[AIR 1968 Bom 31, (1978) 2 Kar LJ 423]

(13) S. 11-Number of awards-Whole of the land acquired need not necessarily be dealt with in one award.

[AIR 1974 Cal 1]

(14) S.11-Collector, an agent of Govt. his award an offer made on behalf of Government

[AIR 1970 Mys. 89]

(15) S. 11-Collector's award is admissible for determination of compensation.

[AIR 1976. SC 651]

(16) S. 11-Award-Cannot be challenged by Govt except on grounds of fraud.

[AIR 1986 SC 1164]

(17) S.11-Land acquired in excess of notification u.s.4 and declaration u/s.6-compensation in respect of such excess land cannot be awarded. Aggrieved person can file civil suit or writ petition.

[AIR 1989 Cal. 89]

(18) S. 11-If the State or its officer has paid compensation to a person who has no right to receive it, it is for them to be blamed for it and the rightful owner cannot be allowed to suffer.

[1989 (1) Civil L.J. 339, (1990) I UP LBEC 613]

(19) S. 11-Acquisition of land declared vacant land under ULC Act, 1976-Claimants not entitled to immediate payment of compensation until proceedings under ceiling Act are finalized u/s.9 by preparing final statement and issue of notification u/s. 10 (3) as regards excess vacant land-By passing an award u/s.11 of LA.Act and taking over possession u/s.17 thereof land so acquired does not cease to be vacant land by operation of Sections 42-the ceiling Act 1976 prevails over the L.A.Act and there is no abatement of proceedings under the ceiling Act.

[AIR 1990 AP 138]

(20) S. 11-Award-Acquisit4on of land, superstructures and trees standing thereon-separate awards for land and superstructures not permissible.

[AIR 1991 P&H 98]

(21) S. 11-Record of Rights-Entries made by patwari in official records-are only for fiscal purpose-No title is created by them.

(22) S.11-Delay in award of compensation-award of additional compensation @ 12% per annum for the period beyond 23.8.1974 would be an appropriated relief

[(1994) 1 SCC 44]

(23) S. 11- 11.A and 16-Act does not make the making of the award or payment dependent on taking of the possession of land acquired.

[(1994) 1 SCC 44]

(24) S. 11-Award by collector-prior approval of the appropriate Govt or its authorized officer mandatory

[(1994) 5 SCC 686]

(25) S. 4 & II-Civil court has no jurisdiction to give declaration on invalidity of acquisition and award.

[(1996) 7 SCC 218]

(26) S. 11-Administrative instructions to obtain prior permission of Govt for making award when value exceed Rs. 20,000/- per acre-Held binding on subordinates but violation thereof does not constitute an infirmity in the acquisition of land itself

[(1996) 7 SCC 150]

(27) S. 11-s 4 (1) and 6 becoming final-cannot be quashed in writ petition for compensation.

[(1996) 4 SCC 579]

1[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 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 to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded].

COMMENTS

(1)S..11-A-Making award within two years-Time limit of two years if for making award as such and not to the issue of notice of making award to interested persons.

[AIR 1988 Ker 271]

(2) S. 11-A-Interim stay order for taking possession of petitioner's land-held-taking of possession of land is a post award operation-Extensions not possible.

[AIR 1988 Ker 280]

(3) S. 11 & II-A-Land declared surplus under UL.C. Act, 1976, was acquired along with other land-non awarding of compensation by LA.O for land acquired under Ceiling Act does not constitute error in procedure-S.11-A not attracted as land owner was entitled to receive compensation under the Ceiling Act.

(4) S. 11-A-Award by Collector-can be made till expiry of last date of period of two years-Date on which notice of award was Served on persons interested-Not relevant.

[AIR 1989 SC 239]

(5) S. 11-A-Expression .making of an award" u/s II-A-cannot be equated with expression "date of award" u/s 18(2)-Hence for purpose of computing period of limitation for making award u/s 11-A date of its communication is irrelevant

[AIR 1989 Bom. 339]

(6) S. 11-A-Lapse of acquisition proceedings-Remedy of damages available in a civil suit.

[1989 (2) A.L. T.471]

(7) S. 11-A-Non payment of compensation within period specified u/s. 11 -A would not result in lapse of acquisition proceedings.

[1987 (2) Knt.U 103, AIR 1990 AP.8]

(8) S. II-A-Declaration u/s. published in Gazette 01/31-3-1987, in two daily Newspapers on 3.4.1987 & 4.4.1987, Public Notice on 13.4.1987-Award could be made upto 13.4.1989.

[1991.All. U 294]

(9) S. II-A-Limitation for passing award does not apply when urgency clause u/s 17 is invoked.

[AIR 1993 SC 2517]

(10) S. 11-A-Award-Acquisition of Land by invoking urgency clause u/s.17-Land vested in Govt-provision of S .11-A regarding passing of award within two years not applicable-Fact that possession was taken illegally ie. without making payment of estimated compensation would not absolve Govt. from making award.

[(1995) 6 SCC 31, AIR 1993 SC 2517]

(11) S. 1-A & 48-eompensation claim-mere lapse 0.(proceedings by efflux of time fixed by S. 11-A-Does not amount to with drawal from acquisition proceedings-provision ofS.48 not attracted.

[AIR 1994 Ker.71]

(12) S. 11-A-To make an award in this Section means to sign the award.

[1994 (1) Knt. U. 561]

(13) S. 11-A-Not applicable to land acquisition proceedings. ,.,here award had been made prior to 24.9.1984

[(1994) 1 SCC 44]

(14) S. 11-A-Does not validate or justify long inaction on the part of the authorities after declaration u/s. .6.

[(1994) 1 SCC 44]

(15) S. 11-A-Limitation period of two years for making an award mandatory.

[(1994) 5 SCC 686J [(1996) 1 SCC 434]

(16) S. 11-A-Not applicable where award made prior to commenCe1J1ent of Amending Act.

[(1994) 1 SCC 44]

(17) S. 11-A-does not apply to' cases of acquisition u/s 17-Govt taking possession of land u/s 17(1) prior to the making of award.-Land vests in Govt and the Govt cannot withdraw from the acquisition-Hence acquisition proceedings would not lapse even if no award is made within the period prescribed u/s II-A.

[(1995) 6 SCC 31]

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 the 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

COMMENTS

(1) S.12 (2) *The Service of notice on the husband not valid.*

[AIR 1962 Ker, 266]

(2) S. 12 (2)-*The Service of notice by signature of some one on behalf of the claimant on acknowledgement due card not valid.*

[AIR 1976 Delhi, 188]

(3) S. 12 (2)- *The Service of the notice on son not valid.*

[AIR 1977 Cal. 205.]

(4) S. 12, 18 and 23- *Incomplete award made by Collector-subsequent award made in suppression of earlier one-Earlier award not final- subsequent award-valid*

[(1993) 2 SCC 674.]

¹**[13-A. Correction of clerical errors, etc.- (1)** The Collector may, at any time but not later than six months from the date of the award, or 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 Collator 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 liable to be refunded and in the case of any default or refusal to pay, the same may be recovered as an arrear of land revenue.]

14. Power to summon and enforce attendance of witness and production of documents-For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witness, 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 Civil Court under the 2[Code of Civil Procedure, 1908 (5 of 1908)].

15. Matters to be considered and neglected-In determining the amount of compensation the Collector shall be guided by provisions contained in Sections 23 and 24.

¹**[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 order passed or - as to the regularity of such proceedings and may pass such order or issue such 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).

Taking Possession

16. Power to take possession:- When the collector has made an award under Section 11, may take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances.

COMMENTS

(1) S. 16-*Possession can be taken without notice u/s. 12 (2).*

[AIR 1952 Cal. 67]

(2) S. 16-*Free from all encumbrances means that customary rights also come to an end or extinguished.*

[AIR 1955 ALL 895]

(3) S. 16- *Unless possession is taken, the land does not vest in the State.*

[AIR 1957 Raj. 59]

(4) S. 16- *After possession is taken easements do not remain alive even if mentioned in the award-land vests in the Govt. free from. all encumbrances including rights of easements.*

[AIR 1959 Cal. 19]

(5) S. 16- *It does not require Collector to take possession personally.*

[AIR 1962 Mys.169]

(6) S. 16- *Taking of possession where already in possession-Govt might have taken possession either (/J' t1 lessees or mortgagee or licenSCC or even as unauthorized occupant-possession u/s 16 is possession as full owner. Therefore actual occupation by collector or his agents or taking symbolic possessions or formal possession or doing something equivalent to effective possession is contemplated.*

[AIR 1967 pat.287]

(7) S. 16- *Once land has been taken possession of by authority, it could not withdraw from acquisition.*

[AIR 1975 SC 1767, AIR 1985 Gau 142 (NOC), 1985 PLJ 215]

(8) S. 16- *Taking of possession in cases of trespasser-becomes complete as soon as the possession which the owner was capable of delivering was taken.*

[1975 (1) 41 Cut LT.291]

(9) S. 16- *After possession land vests in the Govt even if previous owners were allowed to remove the crops standing on the land.*

[AIR 1975 P&H 26]

(10) S.16- *Mere claim for compensation does not entitle a person to resist eviction.*

[(1996) 1 SCC 731, AIR 1978 All 194]

(11) S. 16- *Govt cannot acquire dwelling house without providing alternative accommodation to tenants of house-court can take judicial notice about non-availability of alterative accommodation.*

[AIR 1985 Cal.159]

(12) S. 16- *Govt cannot withdraw notification once possession taken over even where possession is surrendered by owner.*

[AIR 1987 Mad 161]

(13) S. 16- *Once possession taken over the rights, title or interest of the tenant, sub-tenant or the licenSCCs came to an end and the land along with construction vests in the Govt free from all encumbrances*

[1988 All LJ 344]

(14) S. 16- *Particular public purpose declared at commencement of land acquisition proceedings-that purpose ceasing to exist subsequently-Acquisition proceedings not liable to be quashed when acquired land might be put to other public purpose.*

[AIR 1993 Raj 157]

(15) S. 4 & 6- *Land not used for purpose for which acquired-Handed over to local authority for another public purpose-land holder cannot claim land to be reconvened to him on that ground.*

[AIR 1994 Ker 322 (NOc)]

(16) S. 16- *The Act does not make making of the award or payment dependant on taking of the possession of land acquired..*

[(1994) 1 SCC 44]

(17) S. 16 & 4 (1)- *Purchase of property long after it being notified u/s 4 (1) not lawful-When acquisition is finalized the State is entitled to have the possession with absolute title free from all encumbrances.*

[(1996) 1 SCC 334]

(18) S. 16- *Possession of acquired land taken by way of a memorandum, panchnama, which is a legally accepted form-subsequent continuation of possession of erst-while owner is illegal and*

unlawful which does not bind the Govt.

[(1996) 7 SCC 269]

(19) S. 17 (1) and 16-Taking possession of land mode of possession of land taken and entire process of acquisition completed-subsequent thereto the retention of possession is illegal

[(1996) 4 SCC 212]

17. Special Powers in case of urgency-(1) In cases of urgency whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in Section- 9, sub-Section (1) ¹[take possession of any land needed for a public purpose). Such land shall thereupon vest absolutely in the 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 river-side or that station, or of providing convenient connection with or access to any such station ¹[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 appropriate Government enter upon and take possession of such land, which shall thereupon vest absolutely in the 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 un-necessary 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.

¹**[3-A]** Before taking possession of any land under sub-Section (1) or sub-Section (2), the Collector shall, without prejudice to the provisions of sub-Section 3

- (a) tender payment of eighty per centum of the compensation for such land as estimated "by him to the persons interested entitled thereto, and
- (b) pay it to them, unless prevented by someone 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].

¹**[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 refunded within three months from the date of the Collector's award, be recovered as an arrear of land revenue].

(4) In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-Section (1) or sub-Section (2) are applicable the appropriate Government may direct that the provision 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 ¹[after the date of the publication of the notification] under section 4, sub-section (1).

COMMENTS

(1) S. 17 (4)-Notification mentioning emergency instead of urgency- *The word emergency used is though in apt or wrong, but does not mislead the owner as to the idea the authorities intended to convey. Urgency relates to a situation requiring prompt action. Emergency indicates a situation, suddenly arising and demanding prompt action and is a stronger word. Held notification valid*

[AIR 1959 Punj 538]

(2) S. 17-Simultaneous publication of notification u/s 4 (1) and declaration u/s 6-After the amendment of the LA. Act in 1984 a declaration m/us 6 can be made only after the date of notification u/s 4 (1) and not

simultaneously. The date of notification means the date of publication in the Gazette, in two Newspapers and Public Notice, whichever date is later.

[AIR 1987 All. 113, AIR 1988 Delhi 101, 1990(2) Andh. L.T. 447]

(3) S. 17-Satisfaction of Govt with regard to urgency-Though courts cannot consider adequacy or otherwise of material where upon Govt reaches its satisfaction, courts can examine whether there was material at all before Govt to reach such satisfaction, whether it applied its mind to question of urgency and whether satisfaction was based on relevant consideration.

[AIR 1988 Delhi 101]

(4) S. 17 (4)-Notification u/s 4 together with directions u/s 17(4)-There was no illegality

[AIR 1989 Pat 83]

(5) S. 17 (4)-Notification u/s 4 together with directions u/s 17(4)-No steps taken for acquisition for three years-Held-second exercise of power u/s 17(4) was colorable one unrelated to existence of any urgency for acquisition.

[AIR 1989 Pat 83, AIR 1989 Ori 219]

(6) S. 17-Nature of land-applicability of Section 17-in view of LA (Amendment) Act, 1984, now for the application of Section 17 it is not necessary that the lands sought to be acquired should be waste or arable land. It can be any land needed for public purpose.

[(1991(1) PUR 285, 1991 (1) BLJR 471]

(7) S. 17 (1) -Taking possession and its vesting in Govt does not depend upon award to be made u/s 11.

[(1994) 5 SCC 486]

Part III-REFERENCE TO COURT AND PROCEDURE THEREON

18. Reference to Court-(I) Any person interested who 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 measurement 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.

COMMENTS

(1) S. 18-Reference at the instance of tenant-Tenant to get additional compensation.

[AIR 1924 CaL 158]

(2) S. 18- Title- The dispute has to be decided either by reference u/s. 18 or u/s. 30 or in a Separate suit.

[AIR 1934 ALL 260, AIR 1981 Gau 9, 1986 Kash L.1.295]

(3) S. 18-Where Govt. is owner of land and other persons have some limited interests it is open for Govt. to declare in the Notification u/s. 4 the nature of rights of Govt. over the land. If any person disputes the title of Govt. he may raise objection before Collector and District Judge and have determination of title on evidence. Collector can also make a reference u/s.30.

[AIR 1934 ALL 260. AIR 1966 SC 237. AIR 1977 Gau 47]

(4) S18-Reference-only Collector entitled to appear on the reference -Govt. has no locus standi.

[AIR 1950 Bom 243, AIR 1961 HP 40]

(5) S. 18-*Apportionment-Collector or Govt. has no locus stand whatsoever.*

[AIR 1950 Bom 243, AIR 1955 Cal 398]

(6) S. 18-*Reference-One of the brothers withdraws from the reference –no effect on reference.*

[AIR 1951 Ca142]

(7) S. 18-*As long as the applicant SETs out a claim to an interest in the compensation it is no part of the Collector's duty to decide whether the claim is well founded and he is not authorized to refuse to make the reference.*

[AIR 1956 Punj 231, AIR 1957 Kar 152, AIR 1985 Bom 188]

(8) S. 18-*Reference-cannot be withdrawn by Collector.*

[AIR 1960 AP 590]

(9) S18-*Tenant filing no reference-Not entitled to any part of enhanced compensation.*

[AIR 1960 Cal 506]

(10) S. 18-*Application for reference-cannot be made directly to the court.*

[AIR 1961 AP 387]

(11) S. 18-*Burden of proving the Collector's award to be wrong is on the claimant.*

[AIR 1962 Ori 21, AIR 1964 MP 196]

(12) S. 18-*Co-owners-one of them can file reference for enhancement of compensation which will ensure for the benefit of other co-owners.*

[AIR 1963 Punj 490]

(13) S. 18-*Reference-cannot be dismissed in default-The court has to make an award.*

[AIR 1964 MP 171, AIR 1974 Knt, 122]

(14) S. 18-*Application-can be signed by duly authorized pleader.*

[AIR 1964 Cal 277]

(15) S. 1-8*Sale deeds/transaction have to be proved by evidence of parties to such transactions, before they can be accepted by court.*

[AIR 1969 Guj 270]

(16) S. 18-*Grant-what is to be considered in each case is the purpose for which the lands are leased or an interest created therein with all the clauses.*

[(1971) 2 SCC B8]

(17) S. 18-*Collector or acquiring authority cannot Seek reference.*

[AIR 1976 AP 134]

(18) S. 18-*Payment by cheque-cheque accepted without protest-amounts to acceptance of award-subsequent application for reference not maintainable.*

[AIR 1976 Delhi 162]

(19) S. 18-*Title-each party has to prove his title.*

[AIR 1978 AP 10]

(20) S. 18-*Apportionment-Aggrrieved party can seek reference to court.*

[AIR 1978 AP 463]

(21) S. 18-*Person interested includes all persons who may be directly or indirectly interested either in the title to the land or in the quantum of compensation and includes a body, local authority or company for whose benefit the land is acquired.*

[AIR 1980 SC 1118]

(22) S. 18-*Claimants to prove gaminess of sale deeds.*

[AIR 1981 HP 71]

(23) S. 18-*Death. of claimant-on or after reference is made-court cannot pass award unless his level*

heirs brought on record-provisions of Limitation Act do not apply-application should be made within reasonable time.

[AIR 1982 HP 42]

(24) S. 1S-Absence of legal representatives-court representatives to be brought on record.

[AIR 1982 HP 42]

(25) S. 18-Court can go behind reference and examine its validity.

[AIR 1983 P&H 107 (FB), AIR 1993 Ker 95]

(26) S. 18-Court competent to decide as to whether compensation amount was received by claimant under protest or not.

[AIR 1983 P&H 160]

(27) S. 18-Additional grounds can be taken before court in addition to those given in the application for reference.

[AIR 1986 ALL CJ 395]

(28) S. 18-Reference is not appeal-material relied on by Acquisition Officer in his award-cannot be relied upon unless same is produced and proved.

[AIR 1988 SC 1652]

(29) S. 18-Petitioner a rustic villager making application seeking a reference u/s. 18-Rejection of, on ground that application was not maintainable since petitioner received compensation without protest not justified.

[AIR 1988 HP 39]

(30) S. 18-Compensation received under protest or not-Collector to forward it to District Judge for decision.

[1988 (2) 94 PLR 550]

(31) S. 18-Award of Collector regarding same kind of land acquired by same , "notification-Appeal against-Enhancement of compensation is respect of some appellants on basis of evidence produced by them-same evidence not produced by remaining appellants-same compensation awarded in case of lands of those appellants also keeping in view doctrine of "Stare decises and amended provisions of Act

[AIR 1989 P&H 154]

(32) S. 18-Reference under-Collector not to decide and reject reference on ground of acceptance a of award without any demur-collector to refer the same to District Court.

[(1995) 1 SCC 156] [AIR 1989 Guj 231]

(33) S. 18-Standing crops-court to consider the damages sustained –court to rely on revenue records, if available.

[1990 (2) Andh L T 249]

(34) S. 18- Time bound reference-Collector to forward it to District Judge leaving the said question open.

[1991 (1) PLR 519]

(35) S. 18-Right to make reference-Not affected when compensation amount is accepted under protest.

[AIR 1992 SC 974]

(36) S. 18-Reference court-It cannot go behind reference and declare that notification u/s. 4 (1) and declaration u/s. 6 are null and void or illegal. His duty and powers are confined vis-à-vis the provisions in S. 11, 18, 20, to 23.

[AIR 1995 SC 1552].

(37) S. 18 (I)-Any person interested-includes person for whose benefit land is acquired.

[(1993) 1 SCC 608, (1994) 6 SCC 74]

(38) S. 18-Enhancement of amount of compensation-claimant receiving without protest the compensation awarded by Collector-held-not entitled.

[(1994) SCC 67]

(39) S. 18-On filing of application by claimant u/s. 18. making of reference by Collector mandatory-civil suit barred.

[(1995) 1 SCC 156]

(40) S. 18-Enhancement of compensation-can be determined by Court only on recording finding on consideration of relevant material that the amount of compensation determined under award was inadequate for reasons that weighed with it.

[AIR 1995 SC 840]

(41) S. 18-Award by Collector in respect of some land covered under notification u/s.4(l)-cannot be ignored by Court while determining compensation payable for other acquired lands covered by same notification.

[AIR 1995 SC 840]

(42) S. 18-Report of experts-Court may act upon it if material on basis of which it is based is produced in court and its authenticity is proved.

[AIR 1995 SC 840] [1995 Supp (2) SCC 168]

(43) S. 18-Petitioner receiving compensation without protest-not entitled to Seek reference u/s. 18.

[(1995) 4 SCC 428]

(44) S. 18-Court cannot award compensation in excess of the amount claimed.

[(1995) 5 SCC 610]

(45) S. 18-Reference-claimant(interested person should be treated as a plaintiff-Burden lies on him to prove that the compensation awarded by the Collector was inadequate.

[(1996) 5 SCC 701]

(46) S. 18-Collector or LAO has no power to condone the delay.
[(1996) 9 SCC 414].

19. Collector's statement to Court-(I) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand

- (a) the situation and extent" 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[* * * * *].
- ² [(cc) the amount paid or deposited under sub-Section (3-A) of Section 17; and]
- (d) if the objection be 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 the statement in writing made or delivered by, the parties interested respectively.

COMMENTS

(1) S. 19-He can only make a reference in accordance with the provisions of law.

[AIR 1957 Raj 44]

(2) S. 19-No reference if there is no award.

[AIR 1957 Raj 44]

(3) S. 19-Collector's statement-in the statement the Collector is not required to state the question of Limitation.

[AIR 1958 Punj 490]

(4) S. 19-Reference not according to law-court justified in returning it and calling for a proper reference.

[AIR 1969 Ker 265]

(5) S. 19-Absence of grounds or basis of valuation-claimant has a very light burden to discharge and slight evidence would discharge his onus of proving his claim.

[AIR 1972 Cal 225]

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 objections, 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.

COMMENTS

(1) S'20, 50 (2), 18&54. Acquisition for Central Govt.-Deputy Commissioner having notice of the reference should be deemed to represent it (The Govt.)-Appeal by it u/s. 54 was not competent-SCC 50 (2) too could not be of any assistance. u.al. has no right to be notified.

[AIR 1982 Kant 322]

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 practice 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 compensation-(1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration

First, the market-value of the land at the date of the publication of the ¹[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 of 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 possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

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 any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under Section 6 and the time of the Collector's taking possession of the land.

¹**(I-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 or periods during which the proceedings for the acquisition of the land were held up on account -of any stay of 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 compu/sory nature of the acquisition_

COMMENTS

(1) S. 23-Deductions in compensation of valuation of small plot may be anything between one half and one third according to circumstances.

[(1996) 2 SCC 538J [AIR 1923 Bom 420]

(2) S. 23-Compensation between landlord and tenant-proportion-same as between Mariana paid by tenant to the landlord and land revenue.

[AIR 1931 Lah 649]

(3) S. 23-Interest of owner and tenant-in the absence of definite evidence may be presumed to be in the ratio 10 to 6 annas.

[AIR 1934 All 239, 1986 All LJ 1244]

(4) S. 23-LeaSCC-compensation-value interest of lessees or lessor and deduct from total valuation payable and remainder for other or value both interest of lessee and lessor. If sum total is not same as total valuation then divide total compensation in the ratio of their valuation of interests.

[AIR 1958 Cal 56, AIR 1961 P&H 503 AIR 1987 Delhi 151]

(5) S. 23-Lands covering large area-sale transaction of smaller plots-m!9' be accepted with a deduction of 25%.

[AIR 1959 SC~429]

(6) S. 23-Lease in perpetuity-Landlord's share is capitalized value of his rent.

[AIR 1961 P&H 503J

(7) S. 23-Compensation orchard-There are three prices of fruits (1) orchard price being price in garden (2) whole sale price being price in whole sale market (3) retail price-while valuing orchard, orchard price to be taken for assessing profits.

[AIR 1964 MP 196]

(8) S. 23-Grant-If acquired through LA. Act-compensation is payable as per provision of the Act.

[AIR 1965 Mys 222]

(9) S. 23-Compensation among co-owners-not to be decided on basis of actual possession.

[AIR 1966 Punj 334]

(10) S. 23-Permanent lease-owner and permanent lessee to get compensation in the ratio of 25 : 75.

[AIR 1967 Guj 36, AIR 1987 Guj 55, (1994) 5 SCC 239]

(11) S. 23-Extent of area is not the real test-more important is the location of land.

[AIR 1968 Guj 24]

(12) S. 23-Grantees-Entitlement-Market value of the interest of grantee in land is payable to grantee.

[AIR 1968 SC 1045]

(13) S. 23-Loss of business-businessman ousted from his business place-sufficiently compensated if awarded six months income.

[1970 BUR 1248]

(14) S. 23-Compensation fixed for contiguous land can be taken into consideration.

[AIR 1971 SC 2272, AIR 1987 Guj 55]

(15) S. 23-Deduction in valuation of small plots-guidelines given.

[(1971) 12 GLR 319]

(16) S. 23-Statutory tenant-compensation-Reasonable expenses incidental to change of place of business-cushioning period 18 months-18 months difference in rent of old and new may be sufficient.

[AIR 1971 Guj 276]

(17) S. 23-Compensation-Garden land-value of land is higher than capitalized value-land to be valued Separately and timber value of trees to be added.

[AIR 1972 Ker 274]

(18) S. 23-Rule of thumb-It is impossible to avoid same element of guess or conjecture.

[AIR 1973 Cal 342]

(19) S. 23-Sale deeds not proved by examination of vendors or vendees or witness-not reliable.

[AIR 1973 Gau 114, (1995) 2 SCC 304, (1995) 4 SCC 136]

(20) S. 23-Low lying lands acquired-compensation-reclamation charges to be borne by claimants while fixing compensation.

[AIR 1976 Mad 343]

(21) S. 23-Multiplier for purpose of capitalization-the situation of £~ property, the age of the building, its potential and all other .surrounding circumstances have to be borne in mind before a multiple is thought of for capitalization.

[(1978) 2 MLJ 16]

(22) S. 23-Acquisition of land with orchard thereon-land cannot be valued Separately.

[1979 All LJ 1009, 1995 Supp (2) SCC 637]

(23) S. 23-Punjab Security of Land Tenure Act-Interest of land owner is 3/4th and interest of tenant is 1/4th.

[AIR 1979 SC 733]

(24) S. 23-eompensation-Garden land-land and trees not to be assessed Separately-Market value of garden land to be assessed.

[AIR 1974 Kntt 1-1120, 1995 Supp (2) SCC 6137]

(25) S. 23-Acquisition of land underneath orchard-compensation-Market value Determination of.

[1995 Svpp (2) SCC 637, AIR 1981 P & H 170]

(26) S. 23-Valuation-Land acquired for house sites-Few mango and neem trees standing on house site could be valued separately.

[AIR 1981 AP 310;

(27) S. 23-Market Value-judicial notice can and should be taken of 1M rising inflation and land values.

[AIR 1981 Pat 81]

(28) S. 23-Market value-of buildings on the basis of 20 times the annual income.

[AIR 1981 Pat 81]

(29) S. 23-Award given by Collector with regard to adjoining property-Award is admissible in evidence.

[AIR 1981 [(am 26, AIR 1985 Ker 1, AIR 1992 SC 473]

(30) S. 23-Grant of compensation-Agricultural land containing fruit bearing trees-owner entitled to capitalized value of 8 years yield.

[1995 Supp (2) SCC 637]

(31) S. 23-Land containing fruit bearing trees-if valued as agricultural land it is reasonable to make capitalization of ten years income of fruit bearing trees-if land valued as house site then trees should be valued as timber of fuel value.

[(1996) 1 SCC 631, (1996) 3 SCC 592, AIR 1983 All 338]

(32) S. 23-Proper multiplier would be 15 years.

[AIR 1983 SE 1190]

(33) S. 23-Market value-valuation noted in market value register of the Govt maintained for the purpose of payment of stamp duty at the time of registration not proper basis.

[AIR 1983 AP,155, AIR 1993 AP 16, (1994) 4 SCC 595, (1995) 1 SCC 717, (1995) 2 SCC 305, [(1996) 2 SCC 62] [(1995) 5 SCC 310] [(1996) 3 SCC 124]

(34) S. 23-Market value-rate received for small pieces of land cannot be adopted for larger area of

land.

[(1996) 1 SCC 310, (1996) 7 SCC 3, AIR 1983 All 320, (1996) 8 SCC 247, (1996) 8 SCC 577]

(35) S. 23-potentiality is the time element of value-It includes probabilities, possibilities and prospects.

[AIR 1982 J&K 23, AIR 1983 All 320, AIR 1985 Delhi 298 and AIR 1986 Delhi 140]

(36) S. 23-capitalized value-The net return from landed property generally speaking reflects the prevailing rate of interest on safe money investments.

[AIR 1983 SE 1190]

(37) S. 23-Market value-land located in fairly developed area-1/3rd value of land should be deducted for development charges.

[(1996) 2 SCC 538, AIR 1984 Kant 69]

(38) S. 23-Lease of Govt land-resumption by Govt validly made in terms of lease before expiry of period of lease-compensation-Determinations of

[AIR 1984 Cal 226]

(39) S. 23-Land covering larger area-sale transaction of smaller plots-may be accepted with a deduction of 1/3rd (33.33%).

[AIR 1984 SE 892, (1995) 5 SCC 422, (1996) 1 SCC 310, 1995 Supp (3) SCC 315]

(40) S. 23-Agricultural lands-multiplier to be higher by 2 to 3 percent as obtained from gilt edged Securities-multiple of 12-1/2 reasonable.

[AIR 1994 SE 774]

(41) S. 23-compensation-judgements of similar acquired lands are relevant in determining compensation.

[AIR 1984 on 86]

(42) s. 23-If land valued as homestead compensation for fruit bearing trees on capitalized income from trees impermissible.

[AIR 1985 pat 84]

(43) S. 23 (I-A)-Additional amount of compensation granted-It is not market value-solatium not payable on this amount.

[AIR 1992 S(: 473, AIR 1985 Delhi 228, AIR 1987 HP 79, 1993 Supp (1) SCC 49]

(44) S. 23 market value-No sale transaction in concerned village, Transaction in adjoining village can be a good guide.

[AIR 1985 Delhi 298]

(45) S. 23-Right to compensation-when land vests in the Govt-true value of land determined through different levels of a hierarchical judicial structure later-Does not mean right to amount comes into existence later-Interest payable at the same rate as payable on date of possession for enhanced amount.

[(1985) 1 SCC 231]

(46) S. 23-Sale deeds filed relating to land sold after laying out plots and leaving land for roads-Deduction 40% for development charges to make lands under acquisition comparable with land covered by sale deed proper.

[AIR 1995 SE 2481, AIR 1986 All. 771]

(47) S. 23 The market price of acquired land has to be assessed according to the average price of the relevant or comparable sale instances relied upon by the parties and not according to a sale instance which might be fetching the maximum price, except where sale instances have been produced by the Govt and are relied upon, then a particular sale deed representing the highest value should be preferred unless there are other strong circumstances which may justify resorting to different course.

[AIR 1986 P&H 143, AIR 1995 SC 2283]

(48) S. 23-Market value-is the price which a willing purchaser will pay to a willing seller for the actual transaction freely entered into by the Seller and the purchaser.

[(1995) 1 SCC 717, 1986 All L.J 1022]

(49) S. 23-Market value of trees-Age of tree-Relevant date-Date of publication of notification u/s.4 is relevant.

[AIR 1987 HP 14]

(50) S. 23-Market price fixed in respect of comparable plots of land is the best guide-Award made u/s 18 in respect of land situated adjacent to land in question and acquired for same purpose-held-to be considered.

[AIR 1987 Guj 55]

(51) S. 23-Appportionment between claimants-Land acquired was given on permanent lease by landlord at fixed rent-apportionment of compensation ~between landlord and permanent lessees should be in proportion of 25:75 respectively.

[(1994) 5 SCC 239, AIR 1987 Guj 55]

(52) S. 23-Land in respect. of which permanent lease was created acquired-Appeal against award of compensation filed by lessees alone-Land owner only filling cross objection as regards apportionment of compensation-Appeal of lessees allowed and compensation enhanced-Benefit of enhanced compensation not available to land owner as proceedings for apportionment and proceeding for compensation are two different proceedings.

[AIR 1987 Guj 55]

(53.) S. 23-Compensation:-Claim by tenant-Grant of land by Government with term for recall-Tenant not disentitled to compensation on acquisition under Act.

[AIR 1987 Delhi 151]

(54) S. 23-Apportionment in the ratio of 7 : 1 between owners and tenant, looking to the nature of lease-held-justified.

[AIR 1987 Delhi 171]

(55) S. 23-Classification of land for revenue purpose-cannot be determinative factor to award lesSER compensation-Land having lower classification may fetch higher price.

[AIR 1987 Gau 51]

(56) S. 23-Market value-Determination of-Some element of conjectures and guess work is permissible.

[AIR 1987 HP 86]

(57) S. 23-Market value-Determination-Land with potentialities for urban use-prices fetched for lands similar to acquired land with similar advantages and potentialities at or about time of preliminary noticefication constitute best evidence.

[AIR 1988 SC 943]

(58) S. 23-Market value-determination of Large extent of land with potentialities .for urban use-prices fetched for small developed plots would be relevant on fulfillment of certain conditions-however, they can not be directly applied as they reflect retail price-Necessary deductions for development expenses are to be made-Valuation fixed working out to about 40% of retail price-no interference-held-Warranted.

[AIR 1988 SC 943, AIR 1995 SC 2481]

(59) S. 23-Market value-Determination-Sale transactions subsequent to preliminary notification in respect of land acquired can be relied' upon' for determining market value of land under acquisition on proof that market was stable between date of preliminary notification and transaction in question-burden to prove aforesaid 'is on party wanting to rely on it.

[AIR 1988 SC 943]

(60) S. 23-Market value-Determination of-Property comprising of building and extensive land-Structures not indicating realization of full developmental potential of land-It, is permissible to value property estimating Separately market value of land' with reference to date of preliminary notification and add tp it value or structures as at that time-Computation of value of structures-Method indicated. [AIR 1988 SC 943]

(61) S. 23-Market value-Determination of 7ree growing land valued with reference to potentiality for building purpose on basis of prices fetched by small plots in hypothetical lay out-7ree growth cannot be valued independently with reference to its horticulture value or value of yield- Timber value thereof is to be, however, awarded.

[AIR 1988 SC 943]

(62) S. 23-Interest-Enhancement of compensation-owner is entitled to interest on enhanced amount from date of taking possession till realization.

[AIR 1988 SC 943]

(63) S. 23-Land acquired was a passage-Compensation-Computation of Matters to be considered.

[AIR 1988 Ori 128]

(64) S. 23-Acquisition of land Under Defence of India Act-Solatum not payable on compensation.

[AIR 1989 All 150, 199J Supp (2) SCC 149, (1995) 1 SCC 292]

(65) S. 23-Compensation-Determination-Construction made in contravention of municipal laws-Compensation should be confined only to materials used.

[AIR 1988 Ori 163]

(66) S. 23-Market value of land-Determination of-It must be determined as on crucial date of publication of notification u/s 4-Methodology of determination indicated.

[AIR 1988 SC 1652]

(67) S. 23-Land-Valuation-Large block of agricultural land far in the interior in the midst of blocks of undeveloped land-Deduction of 25% on ground of largeness of block-justified-Depressing of valuation on, premises that development would reach after 12 years-not open to challenge-Further depressing however not warranted.

[AIR 1988 SC 1652]

(68) S. 23-Appellate court-Power of remand not to be second exercised lightly-unless award is wholly unintelligible, there is total lack of evidence and claim for enhanced compensation is tenable-even then some interim payment may be directed to mitigate hardship subject to adjustment in eventual award.

[AIR 1988 SC 2123]

(69) S. 23-No comparable sale available-Market value of land-Determination-Duty of Court.

[AIR 1989 P&H 27]

(70) S. 23-Land granted as "aforamento" under Portuguese Charter Law-Compensation is not payable to land holder on acquisition of land except for improvement.

[AIR 1989 Bom 81]

(71) S. 23-Compensation-Determination-SEmi hilly area having wide growth of trees-Market value held to be consisted of value of trees per acre besides value of land itself.

[AIR 1989 P&H 154]

(72) S. 23 (i)-Acquired land rendering the un acquired area completely inaccessible-owner directed to be paid compensation for un-acquired area .at rate of one half of market value determined.

[AIR 1989 P&H (NOC) 140]

(73) S. 23 (I-A)-Additional amount of solatium-is payable only on market value determined u/s 23 (1) and not on amount determined u/s 23 (3).

[AIR 1989 P&H (NOC)140]

(74) S. 23-Compensation granted equal to purchase price of disputed land- Three years elapsed between sale transaction and notification u/s 4 (1)Compensation increased by taking judicial notice of price rise.

[AIR 1989 P&H 261]

(75) S. 23-Market value-Determination-Sale of adjacent land- Relevancy-Agreement of sale five months after Section 4 notification-no sharp or speculative rise in price after acquisition-Sale could not be ignored.

[AIR 1989 SC 2051]

(76) S. 23 (2)-Enhancement in solatium-Benefit of-Available only in those appeals decided by High Court or Supreme Court which have arisen out of award passed by Collector or Court between date of introduction of amendment bill in parliament (30-4-1982) and date of its passing (24-9-1984).

[(1995) 5 SCC 282, AIR 1995 SC-1424, AIR 1989 SC 1933]

(77) S. 23-Market value-Determination-Transaction of adjoining villages can also be good guide when instances are not available in village itself.

[AIR 1989 Delhi 310]

(78) S. 23-Loss of business-Poultry-Re. 1/-per bird per month for one year sufficient.

[1989 LAC C 117]

(79) S. 23 (1A)-Possession of land taken on date of notification u/s 4(1)-No compensation is payable u/s 23.0 -A)-Compensation is payable u/s 23(2) and interest u/s 28.

[AIR 1990 Ori 13]

(80) S. 23-Compensation-Determination-Land in question begayat land Absence of proof of extent of superiority of land to jirayat land-Supreme Court determined its value per acre after taking into considerations contemporaneous documents of sale of jirayat land and awarded 25% excess compensation over and above market value of jirayat land.

[AIR 1990 SC 103]

(81) S. 23-Price of land sold four years before, Rs. 51- per sq yd-Price rising over said four years-Market value should be fixed at Rs.91-per sq yd and not Rs. 51-.

[AIR 1990 SC 731]

(82) S. 23-Market value-Absence of rebuttal evidence and dereliction of duty to adduce relevant evidence by State. Does not absolve judicial duty of court to subject the evidence -to close scrutiny in assessing reasonable market value.

[AIR 1990 AP (NOC) 35]

(83) S. 23-Land used as agricultural land-claimant cannot get market value on yardage basis.

[AIR 1990 AP (NOC) 35]

(84) S. 23 (I-A) (I)-Notification in 1967 and award by collector in 1979-No proceedings pending before collector on 30-4-1982, the date prescribed by S. 30 (1) (a) of Amending Act-S. 30 (I), (2) of Amending Act also not applicable as proceedings were initiated before 30-4-1982-Petitioner not entitled to benefit of additional compensation u/s 23 (I-A)

[AIR 1990 SC 981J]

(85) S. 23(2)-Higher solatium-Benefit of Available also in cases where award is made after 24-9-84-Any other construction of S. 30 would be vulnerable to attack under Art. 14 of constitution.

[AIR 1990 SC 981]

(86) S. 23-Nursery plants and mother plants on land acquired-land though agricultural, treated as urban land for assessment of its market value which was not disputed by owners-Mother trees in such circumstances are to be valued as wood-Nursery plant can be taken out of land and sold to customers-No compensation payable in respect of nursery.

[AIR 1990 SC 1219]

(87) S. 23-Acquired land not irrigated land-comparable sales of irrigated land cannot be the basis of market value of acquired land.

[AIR 1990 SC 2192]

(88) S. 23-Unregistered agreement of sale-no credence to be given for determining reasonable market value.

[1990 (2) AU 249]

(89) S. 23-Compensation-12% increase per years on compensation already determined reasonable to arrive at new rates.

[AIR 1995 Delhi 358, (1991-1) 99 PLR 672]

(90) S. 23- The method to be adopted in determining the compensation.

[AIR 1991 SC 2027]

(91) S. 23-Determination of compensation-plaintiffs getting land under 'D' Form pattas from Govt-Acquisition of land for public purpose-Held, even though notification u/s 4 (I) was not published or resumptions clause as per clause in 'D' Form pal1as was not invoked ,plaintiffs were entitled for benefit of Act with regard

to solatium and interest also apart from reasonable amount of compensation.

[AIR 1991 AP (NOC) 57]

(92) S. 23-Rise in market price from earlier order determining compensation for lands of same village-compensation enhanced taking into consideration such rise in market price.

[AIR 1992 SC 150, AIR 1993 SC 227]

(93) S. 23-Market value-price of land in concerned area going up at time closer to issue of Notification u/s 4-valuation on basis of market value then prevailing and deduction of development charges at one-fifth of valuation-Held proper.

[AIR '1992 SC 421]

(94) S. 23-Bonafide transactions in respect of same land under acquisition-High Court determining compensation placing reliance on award of some other land-not justified.

[AIR 1992 SC 666]

(95) S. 23-Land acquisition for housing scheme-1/3rd of market value should be deducted for developments of lands.

[AIR 1992 SC 666]

(96) S. 23-Area occupied by fruit bearing trees in bagayat land at the rate of 6 sq. meters per tree excluded from total area of land and their value of fruit bearing trees added in the value of Bagayat land.

[AIR 1992 Guj 79]

(97) S. 23-Compensation-Determination on basis of net agricultural income-Factors like rainfall vagaries of climate, invasion by insects etc. taken into consideration-Thereafter multiplier of 12.5 adopted in computing capitalized value of land.

[AIR 1992 Guj 79]

(98) S. 23-Fixation of rate on basis of sale instance of very small areas-Not proper-Supreme Court reduced rate by one third because of poor location, disadvantageous position "and lack of contiguity to the expansion of town due to the obstructing railway line.

[AIR 1992 SC 1406]

(99) S. 23-Market value-value has to be determined according to use to which land was put on date of notification u/s 4.

[AIR 1992 SC 1620]

(100) S. 23-Market value of land similarly situated but not coming under green belt should be taken into consideration.

[AIR 1992 Guj 165]

(101) S. 23-Acquisition of large track of land for housing purpose-Deduction in land value-Not warranted when it is already developed and has roads, drainage, electricity and communications in vicinity.

[AIR 1992 SC 2298]

(102) S. 23-Subsequent judgment of High Court giving higher amount of compensation relied on by claimants-cannot be allowed as it will give scope for making of arbitrary and fanciful awards.

[AIR 1993 SC 227]

(103) S. 23-prevalent practice of under valuation for evading stamp duty etc-court would not be justified in taking its judicial notice in absence of evidence-would not draw inference that actual price is more than mentioned in sale deeds.

[AIR 1994 All 66]

(104) S. 23 & 51-A-Certified copies of registered sale deeds-Admissible in evidence after examining vendors or vendees as witness.

[(1995) 2 SCC 304, (1995) 4 SCC 136]

(105) S. 23-Market value-Consideration and facts to be proved regarding sale deeds of lands-Burden lies on claimant-land owner-Failure to discharge the burden fatal

[AIR 1995 SC 2185, AIR 1994 SC 1142]

(106) S.23- Valuation of acquired land-Method of-separate plots of acquired lands with different features-should not be valued at uniform rate per unit measure.

[AIR 1994 SC 1160]

(107) S. 23- Court is to consider price reflected in sale/award pertaining to land which is closest or nearest to acquired land.

[AIR 1994 SC 1160]

(108) S. 23- Agricultural land-Two crops being raised every year and annual yield was @ Rs. 720/-per acre-Held 10 years multiplier instead of 15 years would be proper method in determining total market value by capitalization method.

[AIR 1994 SC 1836]

(109) S. 23-Market value – Means the amount which a purchaser is ready to give to a seller considering the advantages and disadvantages of the land he is willing to purchase. Urgent need of the purchaser and unwillingness of the seller are factors which have to be disregarded.

[(1994 (1) R.L.R. 505 P& H, (1995) 1 SCC 717]

(110) S.23-(1-A)- This section has been made applicable in cases of those claimants where the award of the Collector or the District Judge was rendered after 30-04-1982.

[(1994) 106 P.;L.R 596 (P&H)< AIR 1995 SC 1424]

(111) S.23-No piece of a land acquired can be given as a compensation by Land Acquisition officer.

[(1994) (1) R.L.R. 574 (SC)]

(112) S.23- Sale deed executed after 5 months of the notification may be considered as a sale instance but the price given in such sale deed is to be reduced to some extent by some guess work.

[(1994) (1) Mah L.R. 423 (Bom)]

(113) S.23- Crops grown in the landMethod of capitalization-Suitable multiplier-10 year multiplier-held-suitable.

[(1994) (23) A.L.R. 399 (SC), 1994, (1), L.S. 40 (SC), (1994) 3 SCC 323]

(114) S.23- Additional amount of compensation awarded in view of long lapse of time between issue of notification u/s. 4 and grant of award @ 12% per annum on the market value on the date of Section 4 (1).

[(1994) D.L.T. 303 (D.B.), (1994) 1 SCC 44]

(115) S.23- When there is evidence of the market value of land of a particular village itself, it is not necessary to go to the market value of land of adjoining village.

[1994 LAC 75 (D.B. Delhi)]

(116) S.23-Compensation-Entitlement-Agreement for sale of land – Does not confer title-purchaser claiming to be in possession of land-not entitled to compensation-Agreement subsequent to notification u/s. 4 (1) and not binding on Govt.

[AIR 1995 SC 1891]

(117) S.23-Fixation of rate of compensation at the average of sale price of two other pieces of land contiguous to the land in question – upheld.

[(1994) 4 SCC 67]

(118) S.23-Compensation-Burden on claimant-Nature of-claim on the basis of price fetched in sales of adjacent lands-claimant must establish that (a) sale transactions were genuine (b) the sale price represents

the prevailing market value and (c) the acquired land are similarly situated.

[1995 Supp (2) SCC 401, AIR 1994 SC 1142,
(1994) Supp (1) SCC 564, AIR 1995 SC 2185, (1995) 5 SCC 336]

(119) S. 23-Compensation-where acquired plots of land belong to different persons and do not have similar features they should not be treated as a single unit for awarding a uniform rate of market value.

[(1994) 2 SCC 133]

(120) S. 23-Market value-Method of working out average price paid under different sale transactions not proper-comparable sales proximate in time and place reliable.

[(1994) 5 SCC 734, (1994) 2 SCC 133, AIR 1994 SC 1160, (1995) 2 SCC 495]

(121) S. 23-Compensation-wells-not to be assessed Separately-However regard to be had to yield of water form wells.

[(1994) 6 SCC 456, AIR 1995 SC 186]

(122) S. 23 & 34-Market value-Price rise at the rate of 12% per year-where award made within a few days of notification u/s 4 question of taking judicial notice of inflation and price rise does not arise.

[(1994) 6 SCC 64]

(123) S. 23 (I-A)--

- (1) is applicable in every case where reference is pending u/s 18 before the court.
- (2) Not payable in appeals pending on or after 24/9/84 either in High Court or the Supreme Court.
- (3) Payable where award not made by Collector on or before 30-4-1982.
- (4) Payable when acquisition proceedings started after 30-4-1982.

[(1995) 2 SCC 736, AIR 1995 SC 2259, (1994) 5 SCC 593]

(124) S. 23 (I-A)-Possession taken in 1995-Notifuc:ation u/s 4 in 1980-Award passed after amendment of Act in 1984-Additional amount payable from the date of notification to date of award-Awarding additional amount from date of taking over possession would amount to giving retrospective operation to S. 23 (I-A).

[AIR 1995 SC 762]

(125) S. 23 (I-A)-Award made by Collector prior to enforcement date of amending Act-claimant not entitled to additional compensation.

[1995 Supp (3) SCC 510, AIR 1995 SC 581]

(126) S. 23-Possession of land taken over by Govt-under an agreement on 7-3-63-Land notified u/s 4(1) on 20-12-1989-Claimant's right to get compensation for the period between 7-3-1963 to 20-12-1989-held-to mesne profits only for the aforesaid period and to no other amount

[1995 Supp (4) SCC 583]

(127) S. 23 (2)-Solatium u/s 23(2) is not part of the compensation and therefore not part of the award.

[(1995) 3 SCC 208, AIR 1995 SE 1424]

(128) S. 23-Sale instances of small extent not relevant for determining value of vast lands-60% deduction for roads, drainage, electricity and other civil amenities-upheld.

[(1995) 5 SCC 422, (1996) 1 SCC 310, (1995) Supp (3) SCC 315]

(129) S. 23-Valuation of land for compensation-Land situated in same village-classification on the basis of situation of land not illegal

[(1995) 2 SCC 424]

(130) S. 23-Sale transaction of same or similar lands in locality relevant.

[(1995) 1 SCC 717]

(131) S. 23-Potentiality-Agricultural land within municipal limits and near to built up area-Held-Lands are possessed of potential value.

[(1995) 5 SCC 433]

(132) S. 23-Valuation of land-Belting system-Land abutting the road and land interior to the road

fetching different prices. Resort to beltings proper-Application of the principle of flat rate illegal.

[(1995) 5 SCC 433]

(133) S. 23-Valuation of land with fruit bearing trees-compensation for land as well as fruit bearing trees cannot be determined Separately-Eight year multiplier for trees or plantation and twelve years multiplier for agricultural land-held proper.

[1995 Supp (2) SCC 637]

(134) S. 23-Genuine sale deeds of smaller plots of lands-40% deduction upheld.

[(1995) 5 SCC 426]

(135) S. 23-Possession of land taken before publication of notification u/s 4(1)-claimant-held-entitled to the additional amount by way of compensation at the rate of 12% from the date of taking possession till the date of award for loss of enjoyment of land.

[(1995) 6 SCC 355. (1995) 5 SCC 683]

(136) S. 23 (1-A)-Additional benefit-provided u/s 23 (1-A) is independent of the escalation of solatium and interest u/~ 23 (2) and 28 respectively.

[(1995) 3 SCC 724, (1995) 3 SCC 316]

(137) S. 23-Acquisition of an extent of 20 acres of land-Determination of compensation on square foot basis illegal.

[(1996) 2 SCC 152, (1996) 2 SCC 538, (1996) 2 SCC 583, (1996) 7 SCC 554]

(138) S. 23-Where the owner himself had purchased the land a few years earlier the same would form the basis to determine market value.

[(1996) 2 SCC 152]

(139) S. 23-Market value-Hypothetical layout method rejected.

[(1996) 2 SCC 369]

(140) S. 23-Valuation of agricultural land-yield in 1957 about 10 bags per acre-In 1983 fixed at 22 bags per acre.

[1996) 1 SCC 631]

(141) S. 23-Theory of recitative compensation not applicable to determine compensation under.

[(1996) 1 SCC 731]

(142) S. 23 (2), 23 (1-A), 34 and 28-No interest is payable on solatium u/s 23 (2) or on additional amount u/s 23 (1-A)-similarly no solatium is payable on additional amount u/s 23 (1-A).

[(1996) 2 SCC 71]

(143) S. 23 (1-A)-Claimant remaining in possession of the acquired land-held-they are not entitled to additional amount under.

[(1996) 1 SCC 309]

(144) S. 23-Subsequent purchase's right to claim compensation-sale is void against the State. However, he is entitled to step into the shoes of the owner and claim compensation according to the provisions of the Act.

[(1996) 3 SCC 124, 1996) 7 SCC 426]

(145) S. 23-Compensation for value of buildings constructed unauthorized without obtaining sanction of the municipality is not permissible.

[(1996) 4 SCC 221]

(146) S. 23 (1-A)-Award of Collector made before introduction of Amendment Act in Parliament-claimant not entitled to additional amount under S. 23 (1-A)

[(1996) 4 SCC 535]

(147) S. 23 (1-A), 23 (2), 28-Executing Court has no jurisdiction to award benefit u/s 23 (1-A), 23 (2) or 28-the executing court or the reference court could not go behind the decree and amend the same-omission to award additional amount, solatium and interest does not amount to clerical or arithmetical mistake.

[(1996) 4 SCC 469 & 533, (1996) 4 SCC 535]

(148) S. 23-claimant-entitled to solatium on enhanced compensation and interest under amended provisions-not-entitled to adjust interest and solatium from principal amount deposited on respective dates nor is entitled to interest on solatium and additional amount u/s. 23 (I-A).

[(1996) 8 SCC 83J]

(149) S. 23 (I-A)-Award of Collector on 20-11-63 and decree of reference court-on 2219183.-claimant is not entitled to additional amount u/s 23 (1-A)-But he is entitled to the benefit of solatium and interest -under amended' provision.

[(1996) 8 SCC 482]

(150) S. 23-Court cannot reduce the compensation to less than the amount awarded by the Collector.

[(1996) 8 SCC 338]

(151) S. 23-The tenants are entitled to 314th of the compensation and the land lord 114th.

[(1996) 8 SCC 664]

(152) S. 23-Belting system-leveled up land and low lying land cannot command the same market rate.

[(1996) 9 SCC 188]

24. Matters to be neglected in determining compensation-But the Court shall not take into consideration.

First, the degree of urgency which has 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;

Fourthly, 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; ¹[* * *]

Seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or affected without the sanction of the Collector after the date of the publication of the ²[notification under Section 4, sub-Section (1)]; ³[or].

³[Eighthly, any increase to the value of the land on account of its being put to any use which is forbidden by law or opposed to public policy.]

COMMENTS

(1) S. 24-Possibility of treasure-trove in the land-not admissible.

[ILR 10 Bom 585]

(2) S. 24-Clause thirdly-'him'-It relates to the person interested and not to third person.

[AIR 1927 All 246]

(3) S. 24-Value of land-as it stood on date of notification u/s 4(1) and not when the land had been acquired and used for the purpose for which it was acquired.

[AIR 1959 Ker 158]

(4) S. 24-Compensation for loss to other lands-not admissible.

[AIR 1963 AP 300]

(5) S. 24-Courts only to take into consideration the potentiality of land and not non availability of resources or non sanction of layout plan.

[AIR 1967 Punj 325]

(6) S. 24-Clause fifthly-When two acquisitions have been simultaneously Set in motion qua two

adjacent properties, while granting such benefit or advantage arising out of the acquisition other than their own acquisition same allowance will have to be made for the benefit or advantage that has arisen on account of their own acquisition.

(1975 Mah LJ 468]

(7) S. 24-Clause Seventhly-It does not ban the construction of any building on the land which is so notified under/Section 4 (1).

{AIR 1988 SC 220]

¹**[25. Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector-**The amount of compensation awarded by the Court shall not be less than the amount awarded by the

COMMENTS

(1) S. 25-The total amount awarded by judge under different clauses of Section 23 not to be lower than the total amount' by the Collector u/s11.

(AIR 1933 Sind 21]

26. Form of awards-(I) Every award under this *Part sha11 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 amounts (if any) respectively awarded under each of the other clause of the same sub-Section, together with the grounds of awarding each of the said amounts.

²*(2) Every such award shall be deemed to be 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.]*

COMMENTS

(1) S. 26-Award-Enhanced compensation granted by civil Court-Ex-party stay passed subject to .depositing half of the amount by State-permission to withdraw amount deposited by State without Seeking furnishing of Security by the landlord-Not proper.

[AIR 1993 Ori 171]

(2) S. 13-A, 26 and 23 (I)-Correct ion-Civil court has no jurisdiction to alter it's award except to correct clerical and arithmetical error-Identification of land is not a clerical or arithmetical mistake within the meaning of Section B-A.

[(1995) 3 SCC 263]

(3) S. 26-Court has no jurisdiction to grant compensation higher than that claimed by the party.

[(1996) 5 SCC 574]

27. Costs-(I) Every such award shall also state the amount of costs incurred in the proceeding under this Part, and by what persons and in 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 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 I[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:

²*[Provided that 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 the amount of such excess or pan thereof which has not been paid into Court before the date of such expiry.]*

COMMENTS

(1) S. 28, 34-Interest payable on entire amount including solatium from the date of dispossession in view of S. 34.

[AIR 1928, PC 287, AIR 1973 Ori 70, AIR 1982 Pat 77, 1982 Mah LJ 37]

(2) S. 28-Interest is not part of compensation and so not part of award.

[AIR 1964 SC 1978. (1995) 3 SCC 208, AIR 1995 SC 1424]

(3) S. 28-Claimant deprived of possession of property anterior to commencement of proceedings under Act-entitled to interest on compensation amount from date of taking possession.

[AIR 1964 Ori 113, AIR 1975 Gau 78, AIR 1993 Kant 77]

(4) S. 28-Interest is taxable.

[AIR 1964 SC 1878]

(5) S. 28-No distinction between physical possession and symbolic possession-Interest payable from the date of possession.

[AIR 1975 Delhi 188]

(6) S. 28-No interest payable when L.A.O. awarded crop compensation by mistake.

[AIR 1975 Kant 71]

(7) S. 28-Further interest ceases on the deposit of principal amount.

[[LR 1977 (II) Delhi 330, 1987 PU 297, 1990 PU 205]

(8) S. 28-Interest payable on additional amount also.

[AIR 1985 Delhi 228]

(9) S. 28-State also entitled to claim interest on excess amount paid

[AIR 1986 P&H 312]

(10) S. 28-Interest means simple interest and not compound interest.

[AIR 1995 SC 2471, (1995) 5 SCC 437]

(11) S. 28-Interest can be claimed at any stage of proceedings under Act-Claimant need not file Separate appeal/cross objection before High Court-He can claim interest in State appeal.

[AIR 1991 SC 656]

(12) S. 28-No interest payable when enhanced compensation is nominal or negligible or period is short.

[AIR 1991 Gau 23]

(13) S. 28-Interest is payable even if not claimed.

[1991(1) Guj LR 523]

(14) S. 28-Interest runs only on 'sum payable as compensation-Interest paid on compensation for first year of default not to be considered.

[AIR 1992 SC 473]

(15) S. 28-Interest payable on compensation and not on the market value only.

[1994 LACC 128 (A.P)]

(16) S. 28-Enhanced interest awardable only when award by Collector or Court is made between 30-4-1982 and 24-9-1984.

[AIR 1995 SC 1424]

(17) S. 28-Collector can award interest on additional amount of compensation awarded u/s. 28-A while doing re-determination.

[AIR 1995 SC 2259]

(18) S. 28-Applicability-Not applicable to cases of undue delay in making award for compensation. S.28 is applicable only in respect of the excess amount, which is determined by the Court after a reference u/s 18.

[(1994) 1 SCC 44]

(19) S. 34-Applicability-not applicable to cases of undue delay in making award for compensation.

[(1994) 1 SCC 44]

(20) S. 28-Enhanced interest-entitlement-award passed after amendment Act came into force-Claimant entitled to enhanced interest.

[AIR 1995 SC 581]

(21) S. 28 & 31-Court must award interest as per statutory rates specified in the Act.

[(1995) 5 SCC 683, (1995) 6 SCC 233]

(22) S. 28 & 31-Claimant remaining in possession of land acquired-not entitled to payment of interest or additional amount under.

[(1996) 1 SCC 309]

(23) S. 28-Liability of State to pay interest ceases when amount of compensation is paid to the claimant or deposited in the court-claimant is not entitled to appropriate from the amount deposited towards costs, interest, additional amount u/s 23 (I-A) with interest and then claim the total balance amount with interest.

[(1996) 2 SCC 71]

(24) S. 11 (2), 18 and 34-Award on agreement which includes interest at 4%-not entitled to enhanced rate of interest under amended provisions.

[(1996) 8 SCC 259]

(25) S. 23 (2) and 28-Enhancement of compensation by the Court is a condition precedent for awarding interest and solatium.

[(1996) 9 SCC 638]

¹[28-A. Re-determination of the amount of compensation on the award of the Court-(1) Where in an 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 the Collector may, notwithstanding that they had not made an application to the Collector under Section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:

Provided that in 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 the 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 the Sections 18 to 38, so far as may be, apply to such reference as they apply to a reference under Section 18]

COMMENTS

(1) S. 28-A-Compensation-Award of-Reference-Amount enhanced person interested in all other land covered by same notification under S. 4 (1)-Entitled for re-determination of the amount of compensation. u/s 28-A.

[AIR 1990 P&H 68]

(2) S. 28-A-envisage re-determination of compensation by Collector Does not direct appellate court to modify or vary decree after it has become final..

(AIR 1988 P&H 308 (FB))

(3) S. 28-A-Reference-Amount enhanced-Person interested in all other land covered by same notification u/s 4(1)-Entitled for re-determination of the amount of compensation u/s 28-A.

[AIR 1990 P&H 68]

(4) S. 28-A-Re-determination of compensation under-claimant Seeking reference and also preferring appeal to High Court-Section does not apply.

[AIR 1991 SC 730]

- (5) **S. 28-A-Re-determination of compensation as per order of apex court by Collector. Date of award would be date when award initially given.**
 [(1991-1) 99 PLR 451]
- (6) **S. 28-A- Applicable only when 1'£0 reference u/s 18 is made.**
 [1991(1) 99 PLR 480]
- (7) **S. 28-A-Limitation starts from the date of award relied upon by land owner.**
 [(1991-2) 1'00 Punj L.R.65, AIR 1995 SC 2259]
- (8) **S. 28-A-Re-determination-person aggrieved by award of Collector Entitled to get compensation re-determined-Their failure to apply u/s 18-Not material.**
 [AIR 1992 All 170]
- (9) **S. 28-A-Re-determination on the basis of Court-benefit of Available only to person accepting compensation with protest.**
 [AIR 1992 All 170]
- (10) **S. 28-A- in case of Several awards it is open to the land owner to baSE his claim on an award which is most beneficial to him.**
 [(1992) 1 Guj LR 105]
- (11) **(A) 28-A-An application should be filed within three months from the date of knowledge of the award passed by the Civil Court only.**
 [1994 (1) ALI 491(A.P)]
- (11) **(B) 28-A-Prescribed period of 3 months from date of award.**
 [AIR 1995 P&H 335]
- (12) **S. 28-A-Land owner who comes u/s 28-A of the Act, limitation would count from the date of the award relied upon by him and not from the other awards given by the court with regard "0 ..he san/e land.**
 [1994 (1) P.L.R. 695 (P&H)]
- (13) **S. 28-A- .It is immaterial whether compensation was accepted with or without protest.**
 [1994 (1) P.L.R. 419 (A.P)]
- (14) **S. 28-A-Re-determination-who can apply-Land owners who did not file appeal against compensation determination in reference-cannot apply.**
 [AIR 1995 SC 1436]
- (15) **S. 28-A-Re-determination of compensation-Power of Collector-can award interest on additional amount of compensation awarded.**
 [AIR 1995 SC 2259]
- (16) **S. 28-A-Held-does not apply to a claimant who had already availed the remedy of reference and got no benefit 'or lesser benefit there under.**
- (17) **S. 28-A-Not available to the State.**
 [(1995) 2 SCC 689]
- (18) **S. 28-A-LAO not bound to re-determine compensation during pendency of appeal against award and decree of Civil Court u/s 26.**
 [(1995) 2 SCC 689, (1995) 2 SCC 766]
- (19) **S. 28-A-Interest on excess amount-Collector not competent to award interest u/s 28-However he can do so u/s 34.**
 [(1995) 2 SCC 736, AIR 1995 SC 2259]
- (20) **S. 28-A-Application can be made only on the basis of judgments of the reference Court and not of appellate court.**
 [(1996) 1 SCC 85]

(21) S. 28-A-Award, of reference, Court under appeal in High Court-Re-determination to be kept pending.

[(1996) 1 SCC 297]

(22) S. 28-A-Re-determination of compensation can be claimed only on the basis of award of the Court vis 26 and not on the judgment of High Court.

[(1996) 4 SCC 537]

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.

COMMENTS

(1) S. 29-Apportionment of compensation-landlord and tenant-Lease is in perpetuity with fixed rate-Value of interest of lessor and lessee has to be ascertained.

[AIR 1987 Delhi 151]

30. Dispute as to apportionment-When the amount of compensation has been Settled under Section 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.

COMMENTS

(1) S. 30-Lease in perpetuity-Landlord's share is capitalized value of his rent

[ILR 30 Cal 801]

(2) S. 30-Compensation between landlord and tenant- proportion same as between the Malikana paid by tenant to the landlord and land revenue.

[AIR 1931 Lah 649]

(3) S. 30-Interest of owner and tenant-In the absence of definite evidence may be presumed to be in the ratio of 10 to 6 annas.

[AIR 1934 All 239]

(4) S. 30-Collector or Govt has no locus stand whatsoever

[AIR 1950 Bom 243, AIR. 1955 Cal 398]

(5) S. 30-Land on lease-Principle is to assess the value of interest of lessor and lessees both and apportion compensation.

[AIR 1961 P&H 503, AIR 1987 Delhi 151]

(6) S 30-Punjab Security of Land Tenure Act-Interest of land owner is 3/4th and interest of tenant is 1/4th.

[AIR 1979 SC 733]

(7) S.30 & 53-Claimant not a party before Collector-Cannot Seek to be impleaded as a party imp ledged as a party to reference-Section 53 not attracted.

[AIR 1981 All 47]

(8) S. 30 & 13-Reference to Civil Court u/s 30-Option to Collector-He can decline to make reference even when complicated questions are involved.

[AIR 1982 AP 86]

(9) S. 30-Persons cannot be imp ledged by District Court in reference when they were not parties before Collector.

[AIR 1987 Bom 32]

(10) S. 30-Owners and tenant-apportionment in the ratio of 7:1 looking into the nature of lease-held-justified.

[AIR 1987 Delhi 171]

(11) S. 30-Order made un4er-not appeasable u/s 54-Appeal against that order would be nevertheless u/s 96 of C.Re.

[AIR 1989 HP 65]

(12) S. 30-Compensation-Tenilnt not to be deprived of it even if owner wrongly received it in full-State to recover from owner.

[(1989)(1) Civil L.1339, (19901 UP LBEC 613]

(13) S. 30-Reference court can add a person as a party to reference who. has not asked for reference if established that he is entitled to apportionment of compensation.

[AIR 1993 P&H 95]

(14) S. 30-The vesting of the acquired land in the Govt, under L.A. Act free from all encumbrances will not alter the legal position in regard to the applicability of the Ceiling Act for the purpose of payment of compensation.

[1994 L.A.e.C. 136]

(15) S. 30-Scope of order 1 rule 10 CPC in reference under LA. Act-A person cannot be permitted to come on record after reference, by filing an application under order 1, rule 10 C.P.C. and ask the Court after reference to decide the case on the ground that there is inters dispute between him and the reference.

[1994 (J) R.L.R. 409 (Hyd)]

(16) S. 30-Dispute in regard to title-matter to be referred to the Court-question of delay does not arise.

[1994 LA CC 141 (A.P)]

PART V-PAYMENT

31. Payment of compensation or deposit of same in Court (I) On making an award under, Section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one 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 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 be entitled to make any application under Section 18 :

Provided also that nothing therein contained shall affect 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 the 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 lands 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 interest of the parties concerned.

(4) Nothing in the last foregoing 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 thereto.

COMMENTS

(1) S. 31-Payment by cheque-cheque not enchased-claimant entitled to reference u/s 18

[AIR 1960 Mys 264]

(2) S. 31-Property taken possession under Defence of India Rules Compensation payable from the

date possession taken under L.A. Act.

[AIR 1961 Ori 135]

(3) S. 31-Payment of compensation by cheque-Payment of compensation is effected when cheque is offered and accepted.

[AIR 1974 Ker 73]

(4) S. 31 (2), 18-Filing application u/s 18' for reference-It must be deemed as a protest against compensation awarded-subsequent acceptance thereof would in no way bar the claim of enhancement thereof.

[AIR 1983 P&H 160]

(5) S. 31-Payment of compensation not dependent upon tenants giving actual possession.

[1984 (2) Guj LR 829]

(6) S. 31-If compensation is not accepted under protest then no reference is competent.

[AIR 1984 All 151]

(7) S. 31-Filing of reference application amounts to J;l protest petition.

[(1985) 87 PLR 125]

(8) S. 31-Compensation not received under protest-the claimant cannot be denied his right u/s 18 to ask for a reference.

[(1986) 1 MU 86]

(9) S. 31-Award-Payment of compensation neither paid nor deposited in Revenue Deposit or with District Judge-Award-held-not valid as regards claimants.

[AIR 1989 P&H 110]

(10) S. 31-If the award does not direct payment of interest, the executing Court cqn do so.

[AIR 1990 J&K 28]

(11) S. 31-Prctest need not be in' writing-oral protest can be pleaded and proved.

[AIR 1994 AP 5]

32. Investment of money deposited i~ respect of lands 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 where of 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 the ownership as the land in respect of which such money shall have been deposited was held, or
- (b) if such purchase~ cannot be 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 .persons 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 to be applied
 - (i) in the purchase of such other lands as aforesaid; or
 - (ii) in 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 charges and expenses incidental thereto; to be paid by the Collector, namely:

- (a) the costs of such investments as aforesaid;
- (b) the .costs of the orders {or 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 claimants.

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 ail interest ill such money, order the same to be invested in such Government or other 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 the time 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 'of 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 the amount of compensation or pan thereof which has not been paid. or deposited before the date of such expiry]

COMMENTS

(1) **S. 34**-Interest. SCC comments u/s 28.

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 ²[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 ²[appropriate 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 there from 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 compensation on restoration-(1) On payment of such compensation, or on executing 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 term, and if the persons interested shall so require the appropriate Government shall proceed under this Act to acquire the land as if 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. ¹ [* * * *]

38-A. Industrial concern to be deemed company for certain purpose-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-house 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 for the purpose of this part, and the references to company in 2[Section 4, 5-A,6,7 and 50] shall be interpreted as reference also to such concern.

39. Previous consent of appropriate Government and execution of agreement necessary-The provision of 2[Section 6 to 16 (both inclusive) and Sections 18 to 37 (both inclusive)] shall not be put in force in order to acquire land for any Company³[under this part] unless with the previous consent of the 4[appropriate Government,] nor unless the Company shall have executed the agreement hereinafter mentioned.

40. Previous enquiry-(1) Such consent shall not be given unless the . 4[appropriate Government] be satisfied. 5[either on the report of the Collector under Section 5-A, sub-Section (2), or] by an enquiry held as hereinafter provided

⁷[(a) that the purpose of the acquisition is to obtain land for the erection of dwelling house for workmen employed by the Company or for the provision of amenities directly therewith, or]

³[(aa) that such acquisition is needed for the construction of some building or work for a company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose; or]

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

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

(3) Such officer may summon and enforce the attendance of witness and compel the production of documents by the same means and, as far as possible in the same manner as is provided by the ¹[Code of Civil Procedure 1908 (S of 1908)] in the case of a Civil Court.

41. Agreement with appropriate Government-⁶[X X X X] If the ⁵[appropriate Government] is satisfied ²[after considering the report, if any, of the Collector under Section S-A, .sub-Section (2), or on the report of the officer making an inquiry under Section 40] that ⁴[the proposed acquisition is for any of the purpose referred to in clause (a) or clause (aa), (b) of sub-Section (1) of Section 40], it shall ⁶[X X X] require the Company to enter into an agreement with the ⁵[appropriate Government,] providing to the satisfaction of the ⁵[appropriate Government] for the following matter, namely:

(1) the payment to the ⁵[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.

(4) where the acquisition is for the purpose of erecting dwelling-house or the provision of amenities connected therewith, the time within which the conditions on which and the manner in which the dwelling house or amenities shall be erected or provided, ⁸[* * *]

³[(4-A) where the acquisition is for the construction of any building or work for a company which is engaged or taking steps for engaging itself in any industry or work which is for a public purpose, the time within which, and the conditions on which, the building or work shall be constructed or executed and

(5) where the acquisition is for the construction of any other! work, the time 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]

42. Publication of agreement-Every such agreement shall, as soon as may be after its execution, be published 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 where 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 (to of 1870), shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purpose of which, under any agreement with such Company, the Secretary of State for India in Council, the Secretary of State, 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 purpose of a Railway Company, the existence of such an agreement as is mentioned in Section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

¹[44-A. **Restriction on transfer, etc**-No Company for which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction.-(f) the appropriate Government.]

¹[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 in clause (a) of sub-Section (1) of Section 40, for a private company which is not a Government Company.

Explanation-Private company' and 'Government Company' shall have' the meanings respectively assigned to them in the Companies Act, 1956].

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 officer therein mentioned, 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 or" 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 ¹[registered under Sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898)], and Service of it may be proved by the production of the addresses' receipt.

46. Penalty for obstructing acquisition of land-Whoever willfully obstructs any person in doing any of the acts authorized by Section 4, Section 8, or willfully 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 exceeding [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 a 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 acquisitions; the Collector shall determine the amount of compensation due for the damages suffered by the owner in consequent of the notice or of any proceedings there under, and shall pay such amount to the person interested, together with all costs reasonably 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.

COMMENTS

(1) S. 48, 36, 16, 17-Withdrawl from acquisition-possession of land not taken by Govt. -land not rendered permanently unfit for use to which it was put-withdrawal! not invalid even after 20 years when order is not preverse or mala fide.

[AIR 1981 Guj 107]

(2) S. 48 (1)-Withdrawal from acquisition of land-State Govt. is competent provided it has not taken possession of that part.

[AIR 1981 Guj 107]

(3) S. 48--Withdrawal from acquisition-Award made and possession taken over-Provision of Section 48 cannot be invoked.

[AIR 1982 HP 42]

(4) S. 48-Dropping of acquisition proceedings-Prohibition against applies even where taking of possession is, pursuant to handing over of possession by owner-Taking of possession after passing of award or u/s 17(1) is not condition precedent.

[AIR 1987 Mad 161]

(5) S. 48-Withdrawal of proceedings by State Government u/s 48 Permissible-Order of withdrawal need not be backed by reasons-opportunity of hearing to land owner-not necessary-Government cannot be directed to acquire land in question.

[AIR 1987 SE 2421]

(6) S. 48, 17 (1), (3-A) and II-A-Once possession taken u/s. 17 (1), Govt. cannot withdraw from acquisition u/s 48

[(1993) 4 SCC 369]. [(1993) 2 SCC 84, AIR 1993 SE 2517]

(7) Allotment of land to erstwhile owner-Merely because the land is not utilized after the acquisition the erstwhile owner is not automatically entitled to the allotment.

[(1996) 7 SCC 729]

49. Acquisition of part of house or building-(1) The provisions of this 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 build rig 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 reasonably required for the full 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 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 appropriate Government to the. person interested, and shall thereafter proceed to make his award under Section 11.

COMMENTS

(1) S. 49 (1) & (2)-Right under to require Collector to have entire house acquired-Available to owner only-same is not available to person interested.

[AIR 1993 Ker 328]

(2) S. 49 (1) & (2)-Reference of dispute to Court-Dispute has to be one between owner and Collector-Inters dispute between tenant and .owner as to whether building forms part of larger one-Reference to court is not necessary.

[AIR 1993 Ker 328]

(3) S. 49 (1)-Order passed by Civil Court-held-neither a decree nor an award.

[(1994) 4 SCC 99, AIR 1994 SC 1901]

50. Acquisition of land at cost of local authority or Company-(1) Where the provision ?f 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 or 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.

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 under 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 to 1908), including a copy given under Section 57 of that Act, may be accepted as evidence of transaction recorded in such document].

COMMENTS

(1) S. 51-A-Certified copies-Mere production of certified copies-not sufficient unless they are proved by the competent persons.

[(1995) 2 SCC 304, (1995) 4 SCC 136]

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.

53. Code of Civil Procedure to apply to proceedings before Court-Save in so far as they may be inconsistent with any thing contained in this Act the provisions of the ¹[Code of Civil Procedure, 1908 (5 of 1908)] shall apply to all proceedings before the Court under this Act.

54. Appeal in proceedings before Court-Subject to the provisions of the Code of Civil Procedure, 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 ~n any proceedings 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 the Supreme Court subject to the -provisions contained in Section 110 of the Code of Civil Procedure, 1908 and in Order XLV thereof.

COMMENTS

(1) S. 54-Plea of time barred reference-Can be taken in appeal if taken in trial court.

[AIR 1964 HP 32]

(2) S. 54-Appeal-Collector can also file appeal.

[AIR 1973 Bom 231]

(3) S. 54-Appeal-Beneficiary for whose benefit the lands are acquired is entitled to prefer appeal.

[AIR 1981 All 344, AIR 1980 SC 1118]

(4) S. 54-High Court cannot grant enhancement at higher rate than that claimed.

[AIR 1986 Guj 24]

(5) S. 54-Delay in filing appeal-Condensation-ADEO got knowledge only when' LAC asked him to deposit money when execution proceedings were filed-delay condoned.

[1994 LAC 281 (Bom)]

(6) S. 54-Extension of time-Deficit court fee-Non receipt of sufficient amount by advocate not a good cause.

[1994 LAC 314(Orissa), 1994 LACC 149]

(7) S. 54-Writ not appeal-No bar in invoking writ jurisdiction to promote cause of justice.

[AIR 1950 SE 163, (1994) MPU 154]

(8) S. 54-Appeal-Appellant directed to deposit 50% of the amount awarded by the reference court-Respondent can withdraw half the amount without Security and balance on furnishing Security.

[1995 Supp (3) SCC 539]

(9) S. 54-Appeal to High Court by Govt. against award of reference court-writ to impaled as party in Appeal not maintainable.

[(1996) 2 SCC 332]

(10) S. 54-Appeal-Higher amount stated in memo of appeal but court fee paid at a lesser amount-Appellants cannot be allowed to pay the deficit. court fee at a later stage for higher. compensation.

[(1996) 5 SCC 547]

{11} S. 54-Limitation for filing of appeal begins to run from the date of supply of certified copies of judgement and decree.

[(1996) 5 SCC 516]

(12) S. 54-Appeal to be filed in time-legal cell to be constituted by Govt. of India-Officers responsible should be made accountable for the delay.

[(1996) 5 SCC 386]

55. Power to make rules-(1) The appropriate Government shall 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:

¹[Provided that power to make rules for carrying out the purpose of Part VII of this Act shall be exercisable by the Central Government and such rules may be made for the guidance of State Government and the officers of the Central Government and of the State Governments :

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 ²[before the expiry of the Session immediately following the Session or the successive Sessions aforesaid) both House agree in making any modification in the rule or both House agree that the rule should not be made, the rule shall there after have effect only in such modified form or be of no effect, as 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 rule.)

³[Provided also that every such 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 alter previous application.

(3) All such rules, alterations and additions shall be published in the Official Gazette, and shall thereupon have the force of law.

THE LAND ACQUISITION (AMENDMENT) ACT, 1984*

(Act No. 68 of 1984)

An Act further to amend the Land Acquisition Act, 1894 Be it enacted by Parliament in the Thirty-fifth Year of Republic of India as follows-

1. Short title-This Act may be called the Land Acquisition (Amendment) Act, 1984.

[* * * * *]

Note-Section 2 to 29 of the Amending Act 68 of 1984, are incorporated in the Principal Act at proper places.

30. Transitional provisions-(I) The provisions of sub-Section (1- A) of Section 23 of the Principal Act, as inserted by clause (a) of Section 15 of this Act, shall apply, and shall be deemed to have applied also to, and in relation to,

(a) every proceeding for the acquisition of any land under the Principal Act, pending on the 30th day of April, 1982 [the date of introduction of the 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 date of commencement of this Act.

(2) The provisions of sub-Section (2) of Section 23 and Section 28 of the Principal Act, as amended by clause (b) of Section 15 and Section 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, after

the 30th day of the 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.

(1) The provisions of Section 34 of the Principal Act, as amended by Section 20 of this Act, shall apply, and shall be deemed to be *applied, a1so* to, in relation to,

(a) every case *in which possession* 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 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 has 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*.

NOTIFICATIONS

1. Government of India, Min of Home Affairs

Notification No. 123/50-Jude

Dated 24th March, 1952.

In second exercise of the powers conferred by clause (1) of Article 258 of the Constitution the Central Government hereby entrusts to the Government of Bombay, Uttar Pradesh, Punjab, Bihar, Madhya Pradesh, Assam and Orrisa with their consent, the functions of the Central Government under the Land Acquisition Act, 1894 (1 of 1894) in relation to acquisition of land for the purpose of the Union within their *respective* territories.

2. Ministry of A and RD (Deptt. of Rural Development)

New Delhi, the 25th October, 1985.

S.O. 782 (E)-In second exercise of the powers conferred by clause (1) of article 258 of the *Constitution of India* and of all other powers enabling him in this behalf and in suppression of all previous notifications on the subject in so far as they relate to the States of Andhra Pradesh, Assam, Himachal Pradesh, Karnataka, Madhya Pradesh, Meghalaya, Orrisa, Tamil Nadu, 1tipura and West Bengal, the President, hereby entrusts to the Government of the aforesaid States, with .their consent, the functions of the Central Government under

- (i) The Land' Acquisition Act, 1894 (1 -of 1894, except the functions exercisable by the Central Government under the proviso to sub-Section (1) of Section 55 of the said Act, and
- (ii) The Land Acquisition (Companies) Rules, 1963, in relation to the acquisition of land for the purpose of the Union in these States subject to the following conditions, namely--
 - (a) that in the second exercise of such functions, the respective Government shall comply with such general and special directions as the Central Government may, from time to time, issue; and
 - (b) that notwithstanding the entrustment, the Central Government, may itself second exercise many of the said functions should it deem fit to do so in any case.

1. Subs. by Act No 68 of 1984.

3. Ins. by Act No. 31 of 1962

5. Subs. by ALQ. of 1950.

7. Subs. by Act No. 16 of 1933.

2. Ins by Act No. 38 of 1923.

4. Subs. by Act No. 31 of 1962.

6. Omitted by Act No. 38 of 1923.

8. Omitted by Act No. 31 of 1962