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IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 19<sup>th</sup> DAY OF DECEMBER, 2011

BEFORE

THE HON'BLE MR. JUSTICE N.KUMAR

WRIT PETITION No.4536/2004 (LA-RES)

C/W

WRIT PETITION NO. 4990/2004 (LA-RES)

IN W.P.NO.4536 OF 2004

BETWEEN

- 1 K SULOCHANA  
W/O LATE T KRISHNA REDDY  
68 YRS,  
HINDU,  
R/AT AT NO.174, SARAKKI VILLAGE,  
J P NAGAR POST, BANGALORE 560 078
- 2 BHAKTHAVATSALA  
S/O LATE T KRISHNA REDDY  
40 YRS,  
HINDU,  
R/AT AT NO.174  
SARAKKI VILLAGE,  
J P NAGAR POST  
BANGALORE 560 078
- 3 GAYATHRI S K  
D/O LATE T KRISHNA REDDY  
38 YRS,  
HINDU,

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R/AT AT NO.174,  
SARAKKI VILLAGE,  
J P NAGAR POST  
BANGALORE 560 078

- 4 DAYANIDHI  
S/O LATE T KRISHNA REDDY  
36 YRS,  
HINDU,  
R/AT AT NO.174  
SARAKKI VILLAGE,  
J P NAGAR POST  
BANGALORE 560 078

... PETITIONERS

(By Sri : C V NAGESH, ADV. )

AND :

- 1 THE STATE OF KARNATAKA  
REPTD BY ITS PRL SECY  
DEPT. OF COMMERCE AND INDUSTRIES  
M S BLDG, VIDHANA VEEDHI,  
BANGALORE 560 001
- 2 THE SPL LAND ACQUISITION OFFICER  
PODIUM BLOCK BLDG,  
VISVESWARAIAH TOWERS,  
3RD FLOOR,  
BANGALORE 560 001
- 3 THE SPL DEPUTY COMMISSIONER  
BANGALORE SOUTH,  
BANGALORE URBAN DIST.,  
D C OFFICE COMPOUND,  
K G ROAD, BANGALORE 9

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4 THE GEOLOGICAL SURVEY OF INDIA  
REPRESENTED BY ITS  
DEPUTY DIRECTOR GENERAL,  
AMSE WING,  
VASUDHA BHAVAN,  
KUMARASWAMY LAYOUT,  
BANGALORE - 560 078.

5 THE GEOLOGICAL SURVEY OF  
INDIA EMPLOYEES ASSOCIATION  
REP. BY ITS CHAIRMAN  
SRI KALEGOWDA  
VASUDHA BHAVAN, GSI COMPLEX,  
KUMARASWAMY LAYOUT,  
BANGALORE 560 078

... RESPONDENTS

(By Sri : M.KESHAVA REDDY, AGA FOR FOR R1-3; SRI  
P.S.DINESH KUMAR, CGSC, FOR R4; SRI T KRISHNA, ADV.,  
FOR R5]

THIS WRIT PETITION IS FILED UNDER ARTICLES 226  
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO  
QUASH THE AWARD DT. 5.6.1992 PASSED BY THE R2 IN  
L.A.C.3428/84-85 IN SO FAR AS IT RELATES 3 ACRES 13  
GUNTAS OF THE LAND BEARING SY.NO.59 OF  
JARAGANAHALLI VILLAGE, UTTARAHALLI HOBLI,  
BANGALORE SOUTH TALUK, BANGALORE IS CONCERNED AS  
PER ANX. 'G'; THE SO CALLED AWARD NOTICE DT.  
26.12.2003 PURPORTEDLY ISSUED BY R2 UNDER SECTION  
12(2) OF THE LAND ACQUISITION ACT, 1894 AT ANX. 'E' AND  
CONSEQUENTLY ANNUL THE ENTIRE ACQUISITION  
PROCEEDINGS RELATING TO THEIR LANDS NOTIFIED FOR  
ACQUISITION AS PER ANX. 'A' DT. 19.3.1983 AND ANX. 'B' DT.  
11.9.1984.



IN W.P.No.4990 OF 2004

BETWEEN

- 1 C RAMU  
S/O LATE CHINNASWAMY GOUNDAR  
MAJOR, R/O. NO.42, II CROSS,  
TATA SILK FARM, BANGALORE -04  
BY HIS GPA HOLDER  
SYED NASEERUDDIN  
R/AT NO.19/A, UMARBAGH LAYOUT  
KANAKAPURA ROAD WEST  
BANGALORE-78
- 2 C RAMU  
S/O LATE CHINNASWAMY GOUNDAR  
MAJOR, R/O. NO.42, II CROSS,  
TATA SILK FARM, BANGALORE -04  
BY HIS GPA HOLDER  
SYED NASEERUDDIN  
R/AT NO.19/A, UMARBAGH LAYOUT  
KANAKAPURA ROAD WEST  
BANGALORE-78
- 3 MOHAMMED AHMEDULLAH SHARIFF  
S/O.G.A.RAZACK,  
AGED ABOUT 33 YEARS.
- 4 AKBAR KHAN  
S/O.ANWAR KHAN SAHIB,  
AGED ABOUT 31 YEARS.
- 5 NAZIM PASHA  
S/O.ABDUL JABAR SAHIB,  
AGED ABOUT 45 YEARS.

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- 6 G A RAZACK  
S/O.MOHAMMED GHOUSE  
AGED ABOUT 69 YEARS.
- 7 MOHAMMED ASADULLAH SHARIFF  
S/O. G.A.RAZACK,  
AGED ABOUT 40 YEARS.
- 8 SMT FAKHIRA BEGUM  
W/O.RAFEQ AHAMED  
AGED ABOUT 46 YEARS.
- 9 MOHAMMED SHAFIULLA SHARIFF  
S/O.HAJI G.ABDUL RAZACK SAHIB  
AGED ABOUT 43 YEARS.
- 10 SMT SABINA BEGUM  
W/O.BAKSHI SAB,  
AGED ABOUT 44 YEARS.
- 11 SYED ASADULLA  
S/O.S.A.RAHIM  
AGED ABOUT 53 YEARS.
- 12 SMT NAJAMUNNISA I  
W/O.ABDUL FAZIL,  
AGED ABOUT 45 YEARS.
- 13 NISAR AHAMED BAIG S B  
S/O SHAIK BUDDAN BAIG,  
AGED ABOUT 50 YEARS.
- 14 GHOUSE SHARIFF ALIAS  
SAMSHEER AHMED  
S/O.LATE B.S.ABDUL BASHITH  
AGED ABOUT 40 YEARS.



- 15 NASRULLA SHARIFF  
S/O.G.A.RAZACK,  
AGED ABOUT 35 YEARS.
- 16 MRS FAREEDA BEGUM  
W/O.ABDUL KHALEEL KHAN  
AGED ABOUT 35 YEARS.
- 17 SMT ASMATH UNNISA  
W/O.LATE SYED SALAR  
AGED ABOUT 58 YEARS.
- 18 JAMEELUNNISA  
W/O.MR.MOHAMED KALILULLA  
AGED ABOUT 41 YEARS.
- 19 FAZLUNNISA  
W/O.AFSAR PASHA,  
AGED ABOUT 32 YEARS.
- 20 DR PADMA RAJAMMA  
W/O. LATE PANDIT  
VENKATARAMACHAR  
AGED ABOUT 61 YEARS.
- 21 SMT RUKMINI DEVI  
W/O.LATE PANDIT  
VENKATARAMACHAR  
AGED ABOUT 50 YEARS.
- 22 K M MAROOF  
S/O.K.M.IBRAHIM  
AGED ABOUT 31 YEARS.
- 23 K M IKHLAS  
S/O.K.M.IBRAHIM  
AGED ABOUT 32 YEARS.



- 24 SMT K M ZAKIA  
W/O.K.M.IBRAHIM  
AGED ABOUT 50 YEARS.
- 25 K M SAWOOD  
S/O.K.M.IBRAHIM  
AGED ABOUT 35 YEARS.
- 26 MOHAMMED HANEEF  
S/O.HAJI M.I.ISMAIL  
AGED ABOUT 43 YEARS.
- 27 SMT KHAMARUNNISA  
W/O.LATE MOHAMMED  
RAHAMATHULLA  
AGED ABOUT 44 YEARS.
- 28 MOHAMED RIVAZ AHMED M H  
S/O.MOHAMED HASHIM SAHIB,  
AGED ABOUT 52 YEARS.
- 29 SAYEEDA FAZLUNNISA BANU  
D/O.LATE SYED HYDER  
AGED ABOUT 43 YEARS.
- 30 MOHAMED HASSNUDDIN ABID  
S/O.LATE MOHAMED  
RAZIUDDIN SAHEED  
AGED ABOUT 43 YEARS.
- 31 K M AHTHESHAM  
S/O.SRI.K.M.IBRAHIM  
AGED ABOUT 27 YEARS.
- 32 JAVID KHALEEL  
S/O.A.J.KHALEEL SAHIB,  
AGED ABOUT 47 YEARS.

- 33 SULAIMAN SHARIFF  
S/O.ISHAQ SHARIFF SAHIB  
MAJOR.
- 34 SMT SHAHEENA PARVEEN  
W/O.MASOOD HASSAN  
AGED ABOUT 39 YEARS,  
  
REP. BY GENERAL POWER  
ATTORNEYHOLDER  
SRI.H.S.ABBAS KHAN  
S/O.LATE HAYATH KHAN,  
AGED ABOUT 80 YEARS.
- 35 RAFIA ALEEM  
W/O.M.A.ALEEM  
AGED ABOUT 53 YEARS.
- 36 MASJID-E-TUQWA  
REP. BY ITS SECRETARY,  
MOHAMMED AHMEDULLA  
S/O.G.A.RAZAK  
AGED ABOUT 36 YEARS.
- 37 BIBI FATHIMA EDUCATIONAL TRUST  
RING ROAD, ILYASNAGAR,  
BANGALORE, REP. BY ITS SECY.,  
THAQAUVIA YASHEEN,  
W/O.M.A.HAWALDAR,  
AGED ABOUT 36 YEARS.
- 38 MAHAMOOD SHARIFF  
S/O.SRI SANAULLAH SAHIB,  
AGED ABOUT 29 YEARS.
- 39 SMT SHABINA SHARIFF  
W/O.SRI NAZEER SHARIFF  
AGED ABOUT 30 YEARS.

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- 40 SMT FAIROZ BEGUM  
S/O.SRI ABDUL MAJEED  
AGED ABOUT 44 YEARS.
- 41 SRI ZABEULLA  
S/O.SRI.ABDUL JABBAR SAHIB  
AGED ABOUT 35 YEARS.
- 42 SMT GULHEERA SHAIK  
W/O.SRI.SHAIK ALI PASHA  
AGED ABOUT 30 YEARS.

PETITIONERS 3 TO 42  
ARE THE R/O. UMARBAUG EXTENSION  
J.P.NAGAR, POST,  
BANGALORE - 78.

... PETITIONERS

(By Sri P.R.NANJUNDASWAMY SHETTY, ADV. )

AND :

- 1 THE STATE OF KARNATAKA  
BY THE SECRETARY  
DEPARTMENT OF REVENUE  
GOVERNMENT OF KARNATAKA  
VIDHANA SOUDHA  
BANGALORE -1
- 2 THE SPECIAL DEPUTY COMMISSIONER  
BANGALORE URBAN DIST  
BANGALORE

- 3 THE SPECIAL LAND ACQUISITION OFFICER  
PODIUM BLOCK  
VISVESWARAIAH TOWER  
DR AMBEDKAR VEEDHI  
BANGALORE-01
- 4 GEOLOGICAL SURVEY OF INDIA  
VASUDHA BHAVAN  
KUMARASWAMY LAYOUT  
BANGALORE-560 078  
BY ITS DEPUTY DIRECTOR GENERAL
- 5 THE COMMISSIONER  
BANGALORE MAHANAGARA PALIKE  
BANGALORE - 560002

...RESPONDENTS

(By Sri : M.KESHAHA REDDY, AGA & Sri E.S.INDIRESH, HCGP, FOR R1 TO R3, SRI P.S.DINESH KUMAR, CGSC FOR R4; Sri MURALIDHAR B.V., ADV. FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH VIDE ANX. B DT. 19.3.1983, ANX. C DT. 11.9.1984, ANX. F AND G DT. 5.6.1992 AND ANX. Q & R DT. 26.12.2003 ISSUED TO THE PETITIONER BY R3 AND DECLARE THAT THE ENTIRE ACQUISITION PROCEEDINGS OF THE ABOVE SAID LANDS ARE LAPSED OR IN THE ALTERNATIVE, DIRECT THE R1 TO CONSIDER THE REPRESENTATIONS ANX. S,T AND U AND DENOTIFY SY.NO. 57 AND 58 OF OF JARAGANAHALLI VILLAGE, UTTARAHALLI HOBLI, BANGALORE SOUTH TALUK FROM ACQUISITION PROCEEDINGS.

THESE PETITIONS COMING ON FOR PRL.HG. IN B GROUP THIS DAY, THE COURT MADE THE FOLLOWING :

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**ORDER**

In both these writ petitions, the petitioners are challenging the very same acquisition proceedings on identical grounds. Therefore, they are taken up for consideration together and disposed of by this common order.

2. The subject matter of Writ Petition No.4536/2004 is land bearing Sy.No.59 measuring 3 acres 13 guntas situated in Jaraganahalli village, Uttarahalli Hobli, Bangalore South Taluk. At a partition, the said property fell to the share of one Sri T.Krishna Reddy, the husband of the first petitioner and father of petitioners-2 to 4. The said Krishna Reddy died on 2-3-1999. After his death, the petitioners have succeeded to his estate.

3. The subject matter of Writ Petition No.4990/2004 is Sy.No.57 measuring 4 acres 31 guntas and Sy.No.58 measuring 4 acres 35 guntas situated in Jaraganahalli village, Uttarahalli Hobli, Bangalore South Taluk.

The said land belongs to C.Ramu, the first petitioner and his brother i.e. C.Swaminathan who were joint owners of the said land. Said C.Ramu is represented in this Court by Power of Attorney Holder Syed Nasiruddin. During the pendency of this writ petition, three applications have been filed for impleadment of persons who have purchased sites formed in the said land, all have been allowed and 40 persons have been added as petitioners-3 to 42 who claim interest in the sites formed in the said survey numbers.

4. The aforesaid Survey Nos.57, 58 and 59 were notified for acquisition under Section 4(1) of the Land Acquisition Act (for short hereinafter referred to as the "Act") on 19-3-1983. It was published in the Karnataka Gazette on 31-3-1983. C.Ramu and his brother Swaminathan filed their objections to the said acquisition, whereas, Krishna Reddy did not file any objections. In fact, three survey numbers measuring in all, 12 acres 14 guntas were notified for acquisition for the purposes of providing residential quarters for

the staff of Geological Survey of India at Bangalore, the fourth respondent in the writ petitions. After enquiry, the objections were overruled and final notification came to be issued on 11-9-1984 under Section 6(1) of the Act. It was published in the official gazette on 22-11-1984. C.Ramu along with Swaminathan preferred a writ petition challenging the aforesaid acquisition in W.P.No.6309/1985. An order of stay came to be passed in the said writ petition on 18-4-1985. The said interim order reads as under:-

*"The portion of notification dated 19-3-1983 in No.LA(2)SR-16/82-83 issued by respondent No.2 and the notification dated 11-9-1984 in No.RD.200/ABA/84 issued by respondent No.1 be and the same hereby stayed."*

In view of the aforesaid interim order, though Sri T.Krishna Reddy had not challenged the acquisition proceedings and in fact, who had appeared before the Land Acquisition Officer in pursuance of notice issued under Section 9 of the Act, the

entire award proceedings were stayed. The aforesaid writ petition after contest came to be dismissed on 4-2-1991.

5. The petitioners in W.P.No.4536/2004, i.e., the legal representatives of deceased T.Krishna Reddy contends that in pursuance of notice under Section 9 of the Act, Sri T.Krishna Reddy appeared on 15-4-1985 and filed his objections. He contended that his land was not the subject matter of Writ Petition No.6309/85. The order of stay granted in the said case cannot be construed as an order of stay in so far as his land is concerned. Admittedly, within two years from the date of final notification, no award was passed in their case as contemplated under Section 11A of the Act. According to them, the last date for publication of declaration was 4-2-1985 and as no award was passed within two years period, the entire acquisition has lapsed. T.Krishna Reddy passed away on 4-3-1999. On 26-12-2003 the respondents addressed a letter to Sri T.Krishna Reddy purported to be sent under Section 12(2) of the Act. The second petitioner received this on 27-12-2003. 9-1-2004 was fixed as



the date for their appearance. The second petitioner appeared and filed statement of objections. Thereafter, he applied for copy of the award which he obtained which disclosed that on 5-6-1992 an award has been passed as per Annexure-G. Therefore, they contend the award in so far as Sy.No 59 is concerned, should have been passed on or before 4-2-1987 and the purported award is dated 5-6-1992 is beyond the period of two years as mandated under Section 11A of the Act. The acquisition is for the purpose of construction of staff quarters to the fourth respondent. The Sy.Nos.57 and 58 which measures in all 8 acres has been fully developed by the land owners long time back. Several constructions have been put thereon, ring road has been formed, buildings are existing in the said land. There is a Mosque and educational institutions, besides, several residential and commercial buildings on those sites. During the year 1991, an extent of 25 gunas of land in Sy.No.59 which also forms part of the acquisition in favour of the fourth respondent came to be acquired by the B.D.A. for formation of Outer Ring Road by issue of preliminary notification dated 23-3-1989 and

final declaration. Possession of 25 guntas was taken on 6-12-1989 and ring road has been formed thereon.

6. Sri Krishna Reddy during his life time as applied for conversion of his land from agricultural to non-agricultural purposes. The Deputy Commissioner granted permission as required under the Land Revenue Act by an order dated 6-8-1997 and directed Sri T.Krishna Reddy to pay conversion fee of Rs.3,77,101/- which amount Sri Krishna Reddy paid on two occasions, i.e., That a sum of Rs.2,84,501/- on 24-3-1997 and Rs.50,560 on 1-7-1997. Annexures-J, K and L evidences the same. They also contend the aforesaid land was the subject matter of acquisition earlier by virtue of preliminary notification dated 13-7-1989 as per Annexure-M. However, by subsequent notification dated 23-2-1988 the said notification was cancelled as per Annexure-N. After receipt of the order, the second petitioner made enquiries with the fourth respondent and came to know that the land which are sought to be acquired are now sought to be used for a altogether for a different purpose. The

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land which are required for residential staff quarters is now sought to be used for office complex other than the purpose for which the land came to be acquired. In Paragraph-20 at Page No.17 it is asserted that since the petitioners are keeping the land in sy.No.59 vacant and even to this date, no purpose would be served by proceeding further with the acquisition of only an extent of 3 acres 13 guntas, which extent of land even according to the fourth respondent, is wholly insufficient. For its purposes, it requires a minimum of 10 acres. A copy of the interim order in Writ Petition No.6309/1985 is produced and marked as Annexure O. By way of an amendment additional grounds are raised. It is specifically contended the award passed is dated 5-6-1992. The Special Deputy Commissioner has modified the draft award on 7-9-1992. That day cannot be construed as the date of the award. The Spl.Land Acquisition Officer is required to pass an award in terms of the modification made by the Special Deputy Commissioner. The modified award was sent by the Special Deputy Commissioner to the Land Acquisition Officer only on 25-9-2002 and the Land



Acquisition Officer has carried out the amendments only on 30-7-1993. That would be the date of the award. As the award is not passed without two years as contemplated under Section 11A of the Act, the entire acquisition lapses. The beneficiary do not possess the requisite amount for being paid as compensation for the land acquired and they have not deposited the said amount with the Land Acquisition Officer immediately after the passing of the award. Therefore, the award is vitiated. After the objections are filed in pursuance of the notice issued under Section 9, under Section 11 of the Act, the Collector shall proceed to enquire into the objections and then only pass an award. The order sheet produced in this case of the Land Acquisition Officer clearly shows no such enquiry was conducted. There is no consideration of the objections filed and therefore, the award is vitiated. For the aforesaid reasons, they have sought for quashing of the award and the entire acquisition proceedings.

7. The case of the petitioners in W.P.No.4990/2004 is that the Bangalore Development Authority acquired 1 acre 15 guntas of land in Sy.No.57 and 36 guntas in Sy.No.58 which are subject matter of the aforesaid acquisition proceedings for the public purpose of formation of Outer 150 Ring Road and industrial sites. Two separate awards dated 2-11-1990 came to be passed by the B.D.A. and possession of the aforesaid extent of land is taken and the land is fully utilised for the project of Outer Ring Road and formation of Industrial sites by virtue of the acquisition of the B.D.A. The acquisition proceedings issued earlier stands superceded and therefore, respondents-1 to 3 have no jurisdiction or power to proceed further to acquire the remaining extent of land. However, the third respondent has passed two separate awards on 5-6-1992. But the 4<sup>th</sup> respondent acquiring body has not come forward to get the acquisition proceedings for the acquisition of aforesaid land finalised by depositing the entire amount of the cost of acquisition as it was not interested in implementing their project of providing staff quarters to its staff members.



Obviously, the extent of remaining land after the acquisition by the B.D.A. was found insufficient to meet their need and also there were already residential houses and other buildings even at the time of preliminary notification. On account of default of the fourth respondent, respondents-2 and 3 did not proceed with the matter. They did not take possession of the land by following the procedure under Section 16 of the Act. Even to this day, the remaining extent of land remains with the petitioners. The several persons who were earlier allotted residential sites by the petitioner and his brother approached Bangalore Mahanagra Palike to provide civic amenities like sewerage system, drinking water, electricity etc. to the remaining extent of land in the above said survey numbers. The Bangalore Mahanagara Palike collected betterment charges from the purchasers of sites in the above said survey numbers, formed roads, gave no objections to BWSSB to provide drinking water and sewerage system. BESCOM has given electricity connection. The Revenue Officers of Bangalore Mahanagara Palike assessed the vacant sites in the above said lands for the

payment of property tax and collected property tax. Pursuant this, the authorities have also issued Katha Certificates in respect of several sites in the above said lands which is now part and parcel of 56<sup>th</sup> Municipal Ward, Padmanabhanagar Extension. The owners of the residential sites and other civic sites have constructed pucca R.C.C. buildings on the above said lands with the building plan and license issued by the competent authorities. There are several non-residential building such as school building, an ITI Training Institute building and industrial and other commercial buildings have come up. The school and ITI Institute are run by private management with the approval of Department of Education and other competent authorities. There is also a Masjid in that area. Photographs are produced to demonstrate the said facts. Though respondents-1 and 2 have acted upon the acquisition proceedings as the 4<sup>th</sup> respondent do not want the said land and the purchasers of sites have put-up constructions thereon and are living with their family members, the respondents are estopped from proceeding further with the acquisition




proceedings by reviving the same. When the petitioners were served with notices under Section 12 (2) of the Act it, amounted to revival of the acquisition proceedings. Though there was stay order in the writ petition filed by the petitioners, the respondents-1 to 3 were free to proceed with the acquisition proceedings. However, they have not taken any steps to finalise the acquisition proceedings by passing an award and paying compensation to the petitioner and his brother and by taking over the possession of the above said lands. The awards passed on 5-6-1992 is beyond the period of two years and violates the mandatory requirement as contemplated under Section 11A of the Act. In fact, they have given representation to the Government to drop the acquisition proceedings. Under those circumstances, they are constrained to file this writ petition seeking quashing of the entire acquisition proceedings.

8. The petitioners-3 to 42 who have been impleaded in the writ petition are all persons who have purchased sites formed in Sy.Nos.57 and 58. It is not in dispute that the

purchase of site by these petitioners 3 to 42 are registered subsequent to the award passed by the Land Acquisition Officer. Therefore, as the purchase is after the issue of preliminary notification, they have no right to challenge the acquisition proceedings.

9. The State has filed its statement of objections. They admit the acquisition proceedings initiated in the year 1970 which was cancelled. Thereafter, the present acquisition proceedings were initiated for the fourth respondent to construct residential quarters for its employees. They admit that a portion of land is acquired by the B.D.A. for formation of Outer Ring Road. Excluding the said portion, the Government has passed an award under the Act. The petitioners' in fact did not oppose the acquisition proceedings at all. Therefore, they contend the petitioner is estopped from challenging the acquisition proceedings. They deny there is any delay in passing the award as contended by the petitioners.



10. In so far as Writ Petition No.4536/2004 is concerned, it is contended that the land owners filed objections to the acquisition proceedings. They participated in the enquiry. Their objections were overruled. They preferred writ petition challenging the acquisition in Writ Petition No.6309/1985. They obtained an order of stay of further proceedings in pursuant to the said interim order on 18-4-1985. The said writ petition came to be dismissed on 4-2-1991. Thereafter, steps were taken to pass an award. The award was passed on 5-6-1992. The same was approved on 7-9-1992 and therefore, the said award is in time.

11. The fourth respondent beneficiary has filed detailed statement of objections contending that it is one of the oldest Central Government Department of the country. The Department is 153 years old, and has established Regional Head Quarters/Circle Office at all the State Capitals after the Independence. The then Mysore State got the Circle Office of Geological Survey of India during 1961, to carry out the



Geological mapping and Mineral Exploration of Karnataka and Goa. During 1972 Airborne Mineral Survey and Exploration Wing of Geological Survey of India, which had Head Quarters in New Delhi was also shifted to Bangalore due to official reasons of Government of India. The Airborne Mineral Surveys and Exploration Wing (AMSE Wing) carries out Aerial Surveys all over the country for Mineral Exploration purposes. Since the inception i.e., from 1961 the Department had its office premises at various private buildings, mainly in South Bangalore. The Geological Survey of India has a strength of nearly 250 officers of Group 'A' and 'B' and has a staff strength of around 300 of Group 'C' & 'D'. The officers of the Department are liable to be transferred anywhere in India and more than 60% of the officers presently available at Bangalore are from outside. The Department was looking for its own premises to carry out scientific work in Karnataka and to establish its different advanced Scientific Laboratories. Hence, the Department approached Government of Karnataka in the later part of 70's for a land for office construction. Finally Government of

Karnataka was kind enough to sanction the land falling in Survey Nos.55 & 56 of Jaraganahalli, Uttarahalli Hobli, Bangalore South Taluk for construction of office premises. The Department established its Scientific Laboratories and a big Mechanical Wing in the land allotted. The Department had to sacrifice portion of the land for the Ring Road also. The very nature of the job demands the movement of the officers all over India and the staff within the Region. Hence, many of the officers and staff are staying in private rented houses and paying huge amount for rent and advance, and finding it very, very difficult to pay the same. Keeping in view of the same, the Department approached Government of Karnataka to establish quarters for its officers and staff way back in 1982.

12. The State of Karnataka allotted land measuring 9 acres 18 guntas situated in Survey No.57, 58 & 59 of Jaraganahalli Village, Uttarahalli Hobli, Bangalore South Taluk in the year 1992-93. However, the amount could not be paid, as the funds were not sanctioned from the Ministry of Mines. The

Director General, Geological Survey of India, Calcutta approached the Ministry of Mines to allot funds for taking possession of the land for construction of quarters. The Government of India released the funds of Rs.16,02,991/- to be paid to the Government of Karnataka. The Department finally paid an amount of Rs.16,02,991/- on 17-12-2003, which was the balance amount paid towards the acquisition. When the possession of the land was about to be handed over, the petitioners have filed the Writ Petition. This respondent urgently requires the property for the purpose of commencing the work of quarters construction.

13. The Preliminary Notification was issued on 19-3-1983 and the Final Notification has been issued on 11-09-1984. Aggrieved by the said final Notification, Writ Petition No.6309/1985 was filed by C Swaminathan and C. Ramu questioning the validity of the final Notification. In the said proceedings, an interim order was granted on 18-4-1985 staying the operation of Preliminary Notification dated 19-3-1983 and



the Final Notification dated 11-9-1984. The Writ Petition came to be dismissed on 4-2-1991 and a copy of the said judgment is produced as Annexure-R2. After the dismissal of the Writ Petition, the award was passed on 5-6-1992. After the passing of the award, there was a delay in depositing of the amount by this respondent, and after the depositing of the amount, the petitioners have been called upon to accept the said amount. The petitioners will also be entitled for interest on the said amount, and if they are not satisfied with the award amount, it is open for them to seek for enhancement of the compensation amount.

14. The petitioners have not even questioned the acquisition proceedings and they have accepted the correctness of the same. The petitioners in Writ Petition No.4990 & 4991/2004 had filed Writ Petition quashing the acquisition proceedings and in these proceedings, this Court granted an interim order of stay, staying the acquisition proceedings. However the petitioners have throughout accepted the

acquisition proceedings and they have not questioned the same at any point of time. As the entire acquisition proceedings were stayed, the award could not be passed even in respect of the land belonged to the petitioners herein. The petitioners contend that they have already formed a layout wherein several persons are in possession of the sites. It appears that the petitioners have alienated the land in question in favour of different persons, and as such they are not entitled to question the validity of the acquisition proceedings. The location map of proposed construction of Laboratory Complex, of Geological Survey of India is produced as Annexure-R3. A detailed survey sketch of the entire proper indicating the extent of land where certain constructions are made is produced as Annexure-R4. The contention of the petitioners that the award is barred by time, is not correct. The award could not be passed earlier in as much as this Court had granted an interim order of stay, staying all further proceedings pursuant to the preliminary and final notification. The final notification is dated 11-9-1984 and the interim order has been granted on 18-4-1985. This interim



order continued to operate till 4-2-1991. Thereafter the award has been passed on 5-6-1992. Hence, the contention that the award is time barred by time is not correct. They deny the contention that the Special Deputy Commissioner cannot pass the award. The Deputy Commissioner and the Special Deputy Commissioner have equal powers. They also deny that the Special Deputy Commissioner is not competent to pass the award. They further deny that the interim order granted in the connected Writ Petition has no application to the petitioners herein. A perusal of the said interim order makes it clear that the entire Notification is stayed, and does not confine to the petitioners only. There was no question of passing of the award in respect of only a portion of the property. Even other wise, the project itself will not be feasible if the award is passed in respect of one portion and the acquisition is allowed to be closed in respect of the remaining portion of the property. The acquisition is proposed to be done for the purpose of construction of residential quarters for which the entire land is required. If the acquisition proceedings were to be set aside in respect of a

portion of the land, then the very purpose of acquiring the land will be defeated. Hence, the question of passing of award in respect of certain portion of the land when the stay is operating and in respect of other portion of the land, will not arise.

15. The contention of the petitioners that there is delay in issue of the notice directing them to pay compensation, and as such the acquisition proceedings should be dropped is not a tenable argument. It is no doubt true that after the passing of the award, the compensation has not been received by the claimants immediately. If there is any delay in payment of the compensation, it was the duty of the petitioners to have approached this Court seeking for appropriate direction. In this regard, if the petitioners have not made any complaint regarding payment of the compensation amount, now they cannot contend that the acquisition proceedings are vitiated by the said delay. The provisions of the Land Acquisition Act does not contemplate a situation where the acquisition proceedings lapse merely because there is delay in payment of the compensation amount.



The award has been passed after notifying the petitioners and it cannot be said that they were not aware of the award itself. The mere fact that the petitioners have been called upon to take the amount in the year 2003 does not vitiate the award passed on 5-6-1992. The acquisition do not lapse merely because there is delay in payment of the amount. The mere fact that the petitioners have tried to develop the land after the acquisition proceedings does not confer any right on them. Hence, they state that there is no merit in the writ petition and the same is liable to be dismissed.

16. The Union of workers of the fourth respondent are also impleaded as parties to this proceedings as 5<sup>th</sup> respondent. They have filed their statement of objections reiterating the stand of the fourth respondent, as such the same is not set out to avoid repetition.

17. After issue of notice to the respondents, this Court directed the parties to maintain status-quo on 4-2-2004. On



30-3-2005 a further order came to be made to the effect that the parties shall maintain status-quo as on the date and no further construction shall be put-up or encumbrance shall be created in respect of the land in question. On 14-12-2005, when it was brought to the notice of the Court by the respondents that persons claiming under the petitioners who are not parties to the proceedings are proceeding with the construction, this Court passed an order directing the petitioners and other persons claiming through the petitioners from changing the nature of the property and they were restrained from putting up construction until further orders. Similar orders are passed in the connected writ petition also. On 16-1-2006 in Writ Petition No.4970/2004 after allowing the impleading application of all the subsequent purchasers of sites when they proceeded with construction the 4<sup>th</sup> respondent requested for police protection. This Court ordered that in spite of the interim orders/directions are given, the 4<sup>th</sup> respondent should initiate contempt proceedings against such persons.



The jurisdictional police in the meanwhile was directed to prevent illegal constructions on the schedule property.

### **RIVAL CONTENTIONS**

18. Sri. C.V. Nagesh, learned Counsel appearing for the petitioner contended that the award which is passed in this case is barred by time in view of Section 11-A of the Land Acquisition Act, as the same is not made within a period of two years from the date of publication of declaration. Secondly, he contended that the notice of the award under Section 12(2) of the Land Acquisition Act has been issued belatedly in the year 2003. As such, on account of delay and laches the entire acquisition proceedings is vitiated. Lastly he contended that the award has been passed by the Special Deputy Commissioner. The Special Deputy Commissioner is incompetent to pass the award as the Deputy Commissioner is required to pass the award.



19. Sri. M.E. Prabhu, the learned Counsel appearing for the petitioner in W.P.No.4990/04 contends that the notification issued to acquire the lands is not in force because the very same lands have been notified again by the BDA for the purpose of formation of ring road, there cannot be any parallel acquisition in respect of the very same land and therefore, the impugned acquisition proceedings have lapsed. In support of his contention, he relied on the judgment of this Court in the case of **RAGHUNATH AND OTHERS Vs. STATE OF MAHARASHTRA AND OTHERS** reported in **AIR 1988 SC 1615**, where it has been held that in respect of the land covered by the first notification under Section 4 which are also covered by or comprised in the second notification under Section 4, further proceedings regarding acquisition should be taken in accordance with law only in pursuance of the latter notification and the proceedings initiated in respect of such lands by the first notification should be deemed to have been superceded. Therefore, he contends that the award passed in pursuance of



the first notification is *non est* in the eye of law and unenforceable.

20. An application is filed by Ramu, one of the petitioners contending that the person who is prosecuting the aforesaid writ petition is not authorised and therefore he should be permitted to prosecute the writ petition. It was contended that he and his brother Swaminathan had executed power of attorney on 03.02.1992 in favour of Syed Nazirrudin. Swmainathan died in the year 1994. Therefore, as the said power of attorney being a joint power of attorney executed by him and Swaminathan, it loses its value after the death of the executant. Therefore, the said Swaminathan could not have filed this writ petition at all. Therefore, he must be permitted to prosecute the said writ petition.

21. Per contra, the learned Counsel appearing for the petitioner submitted that the said power of attorney is a power of attorney coupled with interest and in such circumstances,

death of the executant is of no consequence and more over, one of the executant is very much alive who is now before the Court and therefore as the power of attorney coupled with interest has not been revoked in the manner known to law, by mere death of one of the executant, the power of attorney do not come to an end. As such, he submits that there is no substance in the said contention. Further, he submits that if the writ petition is filed by a person who is duly authorised to file the writ petition, the applicant cannot be permitted to prosecute the said writ petition, as he can file a separate writ petition.

22. The learned counsel for the fourth respondent after referring to various legal proceedings referred to above, contented that there is delay in issue of notice directing them to pay compensation as such the acquisition proceedings should be dropped is not a tenable argument. It is true that after passing of award, compensation could not be received by the claimant immediately. That cannot be a ground for quashing the lawful acquisition proceedings. The acquisition

proceedings do not lapse merely because there is delay in payment of the amount. The mere fact that the petitioners have tried to develop the land after the completion of acquisition proceedings does not confer any right on them. There is no merit in this petition. The petitioners in Writ Petition No.4940/2004 have questioned the validity of acquisition and the writ petition came to be dismissed. After dismissal of the writ petition, if the petitioners or any persons have put-up any construction in the acquired property, the same cannot confer any right to contend that the acquisition proceedings should be set-aside. In-fact the petitioners have not approached the Government seeking for permission to put-up construction in the land. Merely because the possession of property was not taken, the same cannot confer any right on the petitioners or their predecessors. Even in Paragraph-10 of the writ petition, the petitioners have categorically stated that they have already sold several of these sites to third parties after the dismissal of the writ petition by this Court. Hence, the writ petition is not maintainable at the instance of the persons who have no



subsisting interest on the date of the writ petition. The contention that the award has not been passed within a period of two years is not correct. If the period of stay of is excluded, the award passed is in time.

23. In the course of argument, it was brought to the notice of the Court if the award came to be passed on 5-6-1992 as contended by the respondent, on the application filed by the petitioners in W.P.No.4536/2004, the Special Deputy Commissioner by his order dated 8-5-1997 accorded conversion and a sum of Rs 2,84,501/- was paid towards conversion fine on 24.3.1997 and another sum of Rs50,560/- on 1-7-1997. In order to find out how the Deputy Commissioner accorded sanction for acquisition of the acquired land for non-residential purposes when a valid award had been passed. Sri Veerbhadraiah the Deputy Commissioner was directed to be present in Court. He appeared on 23-7-2007. On 23-7-2007, he filed an affidavit which reads as under:



"AFFIDAVIT:

I, M. V. Veerabhadraiah S/o Veeramaraiah, aged about 52 years, presently working as Deputy Commissioner, Land Acquisition, Bangalore Development Authority at Bangalore do hereby solemnly affirm and state on oath as follows:-

1. I state that I was working as a Special Deputy Commissioner (Revenue) Bangalore Urban District for the period from 7-12-1995 to 30-5-1997.
2. I further state that in the above case on 10-07-2007 the Hon'ble Court was pleased to issue a direction, directing me to file an Affidavit by furnishing full particulars of the recommendations received by me from the lower authorities and on the materials relied upon by me before passing the order of conversion.
3. I state that one Sri T. Krishnareddy S/o Tayappa Reddy residing at Sy.174 of Sarakki Village, Bangalore on 5-12-1996 filed an application before the Deputy Commissioner, Urban, Bangalore seeking





conversion of the land situated in Sy.No.59 of Jaraganahalli Village, Uttarahalli Hobli, Bangalore South Taluk from agriculture to non-agriculture use under the provisions of the Karnataka Land Revenue Act. A copy of the Application filed in Form No.1, dated 5-12-1996 is herewith produced and marked as Annexure-R1.

4. I state that on receipt of the said application on 18-12-1996 the office of the Deputy Commissioner, Bangalore (Urban) replied to the same and called upon the said Sri Krishna Reddy to furnish the particulars required for the purpose of passing the conversion order. A copy of the same was forwarded to the various Governmental authorities with a specific order that each of the Officers to whom the copy was sent, to give reply within 15 days from the date of receipt of the letter, failing which the authority would proceed further holding that there is no objection from the concerned authorities. A copy of the said letter dated

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18-12-1996 is herewith produced and marked as Annexure-R2.

5. I further state that though the Office of the Special Deputy Commissioner, vide letter dated 18-12-1996 called for the remarks in respect of the acquisition of the schedule land from the Spl. Land Acquisition Officer, within 15 days from the date of receipt of the said letter, no reply was received from the then Land Acquisition Officer clarifying whether the schedule land was the subject matter of acquisition in any of the land acquisition proceedings or not.
6. I state that in pursuance of the direction issued by the Deputy Commissioner, the Revenue Inspector of Sarakki Village, Uttarahalli Hobli, Bangalore South Taluk, after inspection sent a report specifying stating that the schedule land was not the subject matter of any acquisition vide column No.17. A copy of the Report of the Revenue Inspector is produced herewith and marked as Annexure-R3.



7. *I further state that the then Tahsildar of Bangalore South Taluk, after visiting the spot and verifying the records, has sent a report specifically stating that the schedule land was not the subject matter of any acquisition vide column No.17. A copy of the said report is herewith produced and marked as Annexure-R4.*
8. *I state that on 10-3-1997 the concerned case worker prepared an office note/check list in respect of the said land bearing survey No.59 of Jaraganahalli Village the said Office Note vide column No.23 has clearly stated that schedule land was not the subject matter of any land acquisition proceedings. Similarly, the Revenue Head Munshi (RHM) vide note dated 11-03-1997 has specifically stated that the applicant is the absolute owner of the schedule land and further recommended for the conversion of the schedule land.*



9. *I state that the Office Assistant to Deputy Commissioner vide note dated 11-03-1997 has recommended the schedule land for conversion with the following remarks.*

“ಮೇಲಿನ ಖಂಡಿಕೆ 35ರವರಿಗೂ ನೋಡಬಹುದು. ಅದರಲ್ಲಿ ವಿವರಿಸಿದೆ. ಅರ್ಜಿದಾರರು ಹಕ್ಕುದಾರರಾಗಿದ್ದಾರೆ. ಬಿಡಿಎರವರಿಂದ ಅಭಿಪ್ರಾಯ ಬಂದಿಲ್ಲ. (Para 33). SLAL, BDA ರವರ ಪತ್ರ ದಿನಾಂಕ: 13.02.1997ರಂತೆ ರಸ್ತೆಗಾಗಿ acquisition proceedings ಇರುತ್ತದೆ. ತಹಶೀಲ್ದಾರರ ವರದಿ ದಿನಾಂಕ: 7.1.1996 ನೋಡಬಹುದು. ಅವರು ದಿನಾಂಕ: 5.10.1996ರಲ್ಲಿ ಸ್ಥಳ ತನಿಖೆ ಮಾಡಿರುತ್ತಾರೆ. ಅವರ ವರದಿಗೆ ಒಪ್ಪಿಸುತ್ತಾ ಖಂಡಿಕೆ 35ರಂತೆ ವಾಸದ ಉದ್ದೇಶಕ್ಕೆ ಭೂ ಪರಿವರ್ತನೆಗೆ ಆದೇಶಿಸಬಹುದು.”

10. *I state that Head Quarters Assistant to Deputy Commissioner has recommended the schedule land for conversion excluding 25 guntas of land which was earlier acquired for the formation of Outer Ring Road by the Bangalore Development Authority. The copies of the office note dated 10-03-1997 of the case worker dated 11-3-1997 of Revenue*

Head Munshi dated 11-3-1997 of Office Assistant to Deputy Commissioner and note of the HQA to Dy. Commissioner are produced herewith and marked as Annexure-R5.

11. I state that having regard to the recommendations made by various subordinate Officers and keeping mind the provisions of Section 95(5) of the Act, I passed the order of conversion of the schedule land from agriculture to non-agriculture purpose on payment of conversion fee excluding land measuring 25 guntas, which was acquired by the Bangalore Development Authority for the formation of the Outer Ring Road vide office note dated 18-3-1997 vide Annexure-R5 (para 38).

12. I state that the order of conversion dated 18-3-1997 of the schedule land passed by me was strictly reference to the records available in the file and in normal course of discharge of official duties.



13. I further state that none of the subordinate officers has stated that the schedule land was the subject matter of any land acquisition proceedings. Hence, the order passed by me on 18-3-1997 is in accordance with law.

14. I state that I have passed the Order of conversion from agriculture to residential purpose by following all the procedure and in accordance with law.

Wherefore, I humbly pray that this Hon'ble Court be pleased to accept the above factual statement in the interest of justice and equity.

I do hereby further declare that what is stated above is true and correct to the best of my knowledge information and belief."

24. Along with the affidavit he has enclosed as Annexure-R1 the recommendation which he has received from the subordinate officials which is the basis for the order of acquisition. On 24-7-2007, respondents were directed to



furnish the names of the officials who misled the Deputy Commissioner in passing the aforesaid order of acquisition. The names of those officials were furnished. Out of them two have retired and remaining four are still in so far as it relates to service. On 24-7-2007, time was granted to the Deputy Commissioner to take appropriate action against the aforesaid officials. A week's time was granted. In the application for conversion filed by Sri Krishna Reddy as against the column whether in respect of very same survey number, an application for conversion was filed earlier and if it is dismissed, for what reason, it is mentioned that an order dated 28-1-1986 came to be passed rejecting the said request. Accordingly, I directed the Government Advocate to make available the said order, which he has done. He has also made available the records. The said documents clearly demonstrate the fraud played.

25. In the light of the aforesaid facts and rival contentions, the points that arise for consideration in this proceedings are as under:

- (1) Whether the award passed in this case is barred by time in view of Section 11-A of the Land Acquisition Act?
- (2) Whether notice of the award under Section 12(2) of the Land Acquisition Act has been issued belatedly? Consequently, whether the entire acquisition proceedings is vitiated on account of delay and laches ?
- (3) Whether the award passed by the Special Deputy Commissioner is incompetent, as the award is to be passed by the Deputy Commissioner?
- (4) Whether the impugned notification stands superceded by the notification issued by the BDA for the purpose of formation of ring road, as such, no further proceedings in pursuance of the impugned notification could have been taken?

26. Before answering the said points, it is necessary to notice the relevant statutory provisions on which the entire claim is based and the decisions rendered by the Apex Court as well as this Court on the point.





**STATUTORY PROVISIONS & JUDGMENTS**

27. Section 11-A provides the period within which an award shall be made. It reads as under:

***“ 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.”*

It prescribes a period of two years from the date of publication of declaration as the period within which the award



must be made. If no award is made within that period, the entire proceedings for the acquisition of land shall lapse. The explanation to Section 11-A clarifies that in computing the period of two years period during which action or proceedings to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded. This provision has been the subject matter of interpretation by the Apex Court in various decisions.

28. The Apex Court in the case of **KALIYAPPAN vs STATE OF KERALA AND OTHERS [(1989) 1 SCC 113]** interpreting Section 11A of the Act held as under: -

*“Under Section 11-A of the Act the Collector is empowered to make an award before the expiry of the period of two years from the date of the publication of the declaration under Section 6 of the Act and in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 before the expiry of the period of two years from the date of its commencement. If an award is not made within the prescribed period of two years in either case, it is*

open to the person interested in the land to approach the Collector and tell him that the acquisition proceeding should be dropped unless the Collector is able to produce before him an award made by him within the period of two years. He may also in such a case question the continuance of the acquisition proceeding in court. Thus no prejudice will be caused to the person interested in the land. At the same time it would not be open to a person interested in the land to get rid of the acquisition proceeding by avoid service of notice issued by the Collector within the prescribed period. We are of the view that under Section 11-A of the Act the words "the Collector shall make an award ... within a period of two years from the date of the publication of the declaration" mean that the Collector is empowered to make an award till the expiry of the last date of the period of two years irrespective of the date on which the notice of the award is served upon the persons interested in the land. "To make an award" in this section means 'sign the award'. This is the ordinary meaning to be ascribed to the words 'to make an award'. An extended or a different meaning assigned to the words 'the date of the award' by this Court in Raja

*Harish Chandra case cannot be applied in this case since such an extended or different meaning is neither warranted by equity nor will it advance the object of the statute. Similarly under the proviso to Section 11-A of the Act, the Collector is empowered to make an award within two years from the date of commencement of the Land Acquisition (Amendment) Act, 1984 irrespective of the date on which the notice of award is served on the person concerned. We do not find any analogy between Section 11-A and Section 18 of the Act insofar as the above question is concerned."*

29. The Apex Court in **STATE OF U.P AND OTHERS vs RAJIV GUPTA AND ANOTHER [(1994) 5 SCC 686]** has held as under:-

*"Its bare reading indicates and emphasises the limitation within which the award should be made and has been statutorily determined, namely, the Collector shall make an award within a period of two years from the date of the publication of the declaration. It is common knowledge that after declaration was published, years used to roll by to*

make the award and the owners of the lands were put to great hardship. Parliament intended to relieve the owners of the lands from this hardship and pegging of the price prevailing as on date of publication of Section 4(1) notification. It is, therefore, a mandatory duty cast on the Land Acquisition Collector to make the award strictly in accordance with the limitation under Section 11-A. If no award is made within that period, the entire proceedings for the acquisition of the land shall lapse. In other words, on expiry of two years from the date of the publication of the declaration unless the proviso is attracted, if no award is made in the meantime, in the eye of law the proceedings initiated under Section 4(1) of the Act culminated in the declaration made under Section 6 shall stand lapsed and no proceedings, in the eye of law thereafter do exist, to take further action.

Section 11 postulates of conducting an enquiry and making the award by the Collector. The first proviso envisages that "no award shall be made by the Collector under sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may



authorise in this behalf". It is common knowledge that exercising the power under the first proviso, the appropriate Government made rules or statutory orders or instructions whatsoever be the nomenclature, they have statutory operation giving authorisation to the Land Acquisition Collector to make an award up to a particular pecuniary limit without prior approval either of the appropriate Government or an officer authorised by the appropriate Government in that behalf. If the award exceeds the limit, prior approval of the State Governments or authorised officer is mandatory. Any award made in violation thereof, renders the award non est and void as it hinges upon the jurisdiction of the Land Acquisition Collector or Officer."

30. The Apex Court in the case of **GOVERNMENT OF TAMIL NADU AND ANOTHER Vs. VASANTHA BAI** reported in **1995 (Supp) 2 SCC 423** observed as under:

"Parliament enacted Section 11-A with a view to prevent inordinate delay being made by the Land Acquisition Officer in making the award. The price

to be paid for the land acquired under compulsory acquisition is the prevailing price as on the date of publication of Section 4(1) notification. The delay in making the award deprives the owner of the enjoyment of his property or to deal with the land whose possession has already been taken, and delay in making the award, would subject the owner of the land to untold hardship. With a view to relieve hardship to the owner or person interested in the land and to remedy the lapses on the part of the Land Acquisition Officer in making the award, Section 11-A was enacted which enjoins making of award expeditiously. So, outer limit of two years from the last of the dates of publications, envisaged in Section 6 of the Act was fixed. If he failed to do so, all the acquisition proceedings under the Act would stand lapsed and the owner of the land or person interested in the land is made free to deal with the land as an unencumbered land. Cognizant to the fact that the acquisition proceedings are questioned in a Court of law, Parliament enacted Explanation to Section 11-A declaring that the period during which action or proceedings taken in pursuance of the declaration under Section 6 is



stayed by an order of the Court, the same "shall be excluded".

The Court emphasized the fact that Section 11-A was enacted with a view to prevent inordinate delay being made by Land Acquisition Officer in making the award which deprived owners of the enjoyment of the property or to deal with the land whose possession has already been taken. Delay in making the award subjected the owner of the land to untold hardship. The objects and reasons for introducing Section 11-A into the Act were that "the pendency of acquisition proceedings for long periods often causes hardship to the affected parties and renders unrealistic the scale of compensation offered to them" and "it is proposed to provide for a period of two years from the date of publication of the declaration under Section 6 of the Act within which the Collector should make his award under the Act". The emphasis, therefore, was on the Collector making his award within the period prescribed. However, the legislature was also aware of the reality of the situation and was not oblivious of the fact that in many cases acquisition proceedings were stalled by stay orders obtained






from courts of law by interested parties. It, therefore, became imperative that in computing the period of two years, the period during which an order of stay operated, which prevented the authorities from taking any action or proceeding in pursuance of the declaration, must be excluded. If such a provision was not made, an acquisition proceeding could be easily defeated by obtaining an order of stay and prolonging litigation thereafter. Explanation to Section 11-A was meant to deal with situation of this kind. The explanation is in the widest possible terms which do not limit its operation to cases where an order of stay is obtained by a land-owner alone. One can conceive of cases where apart from landowners others may be interested in stalling the land acquisition proceeding. It is no doubt true that in most of the reported decisions the party that obtained the stay order happened to be the owner of the land acquired. But that will not lead us to the conclusion that the explanation applied only to cases where stay had been obtained by the owners of the land. There may be others who may be interested in obtaining an order of stay being aggrieved by the acquisition proceeding. It may be that on account of




development of that area some persons in the vicinity may be adversely affected, or it may be for any other reason that persons in the locality are adversely affected by the project for which acquisition is being made. One can imagine many instances in which a person other than the owner may be interested in defeating the acquisition proceeding. Once an order of stay is obtained and the Government and the Collector are prevented from taking any further action pursuant to the declaration, they cannot be faulted for the delay, and therefore, the period during which the order of stay operates must be excluded. In a sense, operation of the order of stay provides a justification for the delay in taking further steps in the acquisition proceeding for which the authorities are not to blame."

31. The Apex Court in the case of **VIJAYADEVI NAVALKISHORE BHARTIA AND ANOTHER vs LAND ACQUISITION OFFICER AND ANOTHER [(2003) 5 SCC 83]** held as under: -



*"From the scheme of the Act, it is seen that the power of inquiry under Section 11 vests with the Collector who has to issue notice to the interest person and hear the interested persons in the said inquiry. He also has to determine the measurements of the land in question and on the basis of the material on record decide the compensation which in his opinion should be allowed for the land and if need be, he can also apportion the said compensation amongst the interest persons. The nature of inquiry which statutorily required the interested parties of being heard and taking a decision based on relevant factors by the Collector shows that the inquiry contemplated under Section 11 is quasi-judicial in nature, and the said satisfaction as to the compensation payable should be based on the opinion of the Collector and not that of any other person. Section 11 under the Act has not provided an appeal to any other authority as against the opinion formed by the Collector in the process of inquiry conducted by him. What is provided under the proviso to Section 11(1) is that the proposed award made by the Collector must have the approval of the appropriate Government or such*



officer as the appropriate Government may authorise in that behalf. In our opinion, this power of granting or not granting previous approval cannot be equated with an appellate power. Black's Law Dictionary, 6<sup>th</sup> Edn., defines "approval" to mean an act of confirming, ratifying, assenting, sanctioning or consenting to some act or thing done by another. In the context of an administrative act, the word "approval" in our opinion, does not mean anything more than either confirming, ratifying, assenting, sanctioning or consenting. It will be doing violence to the scheme of the Act if we have to construe and accept the argument of the learned counsel for the respondents that the word approval found in the proviso to Section 11(1) of the Act under the scheme of the Act amounts to an appellate power. On the contrary, we are of the opinion that this is only an administrative power which limits the jurisdiction of the authority to apply its mind to see whether the proposed award is acceptable to the Government or not. In that process for the purpose of forming an opinion to approve or not to approve the proposed award the Commissioner may satisfy himself as to the material relied upon by the Collector but he cannot reverse the finding as if he is an Appellate


Authority for the purpose of remanding the matter to the Collector as can be done by an Appellate Authority; much less can the Commissioner exercising the said power of prior approval give directions to the statutory authority in what manner he should accept/appreciate the material on record in regard to the compensation payable. If such a power of issuing directions to the Collector by the Commissioner under the provision of law referred to hereinabove is to be accepted then it would mean that the Commissioner is empowered to exercise the said power to substitute his opinion to that of the Collector's opinion for the purpose of fixing the compensation, which in our view is opposed to the language of Section 11 of the Act. Therefore, we are of the opinion that the Act has not conferred an appellate jurisdiction on the Commissioner under Section 15(1) proviso of the Act. The conclusion of ours is further supported by the scheme of the Act and Section 15-A of the Act which is also introduced in the Act simultaneously with the proviso to Section 11(1) under Act 68 of 1984. By this amendment, we notice that the Act has given a power akin to the appellate power to the State Government to call for any records or proceedings of the Collector before



*any award is made for the purpose of satisfying itself as to the legality or propriety of any finding or order passed or as to the irregularity of such proceedings and to pass such other order or issue such direction in relation thereto as it may think fit."*

32. The Apex Court interpreting this provision in the case of **SMT. BAILAMMA (DEAD) & ORS Vs. POORNAPRAJNA HOUSE BUILDING CO-OPERATIVE SOCIETY & ORS** reported in **2006 AIR SCW 689** held as under : -

*"The Collector is required to hear the persons interested and enquire into the objections, if any, raised by them on the points which he is required to determine. It is possible to conceive that he may hear the objections on several dates having regard to the number of objectors and the nature of the dispute that may arise, where after he must make up his mind and prepare his award. It is not expected of him that he should prepare his award in presence of the persons interested, since the Collector may take some time to make up his mind on the matters he is required to incorporate in his award. Thereafter, he is required to send his award*



to the Government for approval. The approval of the award may take some time, and it is not known to the Collector as to when the Government will approve the award. However, after the award is approved, if there is not alteration in the award, he is required to notify the parties concerned about the award. He may do so by fixing date on which the parties may be required to appear for pronouncement of the award, or he may inform them by giving them written notice of the award. This is because an award is in the nature of an offer and must be communicated to the persons to whom the offer is made. There is nothing in Section 11 which expressly requires the Collector to announce his award in the presence of the persons interested, though there is nothing which prevents him from declaring the award on a date fixed by him for the purpose. However, having regard to the provisions of Section 12(2) of the Act, he must give immediate notice to such of the persons interested as are not present personally or by their representative when the award is made. Thus viewed, there can be no doubt that after the award is approved the same becomes an offer to be made to the persons interested, and this can be done by

either giving notice to the persons interested of the date on which he may orally pronounce the award, or by giving written notice of the award to the persons interested. The question of limitation for filing a reference under Section 18 or Section 30 of the Act has to be determined by reference to the date on which the award was either pronounced before the parties who were present, or the date of the receipt of notice of the award by those not present. The mere fact that the Collector did not pronounce the award after notice in the presence of the parties interested will not invalidate the award, though it may have a bearing on the question of limitation in the matter of seeking a reference under Section 18 or 30 of the Act. The award which has already been signed by the Collector becomes an award as soon as it is approved by the Government without any alternation. At best the appellants can contend that it becomes an award when notice is given to the parties interested. Viewed from any angle, having regard to the fact that there is no dispute that the Government granted its approval on 16-11-1992 and notices were issued under Section 12(2) of the Act on November 20, 1992, it must be held that the award was made within the





*period prescribed by Section 11A of the Act. There was really no necessity for the Collector to sign the award again, nor does Section 11 require that for the purpose of pronouncing the award notice should be given by the Collector to the persons interested. Section 11 requires notice to be given for the purpose of hearing objections. After the objections are heard, the Collector has to apply his mind to all the relevant facts and circumstances and prepare an award whereafter he is required to send it to the Government for approval. There is nothing in Section 11 which requires him to give notice to the persons interested of the date for pronouncement of award, though, as we have observed earlier, there is also nothing which prevents him from giving such notice. We agree with the finding of the High Court that once it is shown that the award was made and signed the approved by the Government within the period prescribed by Section 11A of the Act an award is validly made."*

33. Section 11 of the Act postulates conducting an enquiry and making the award by the Collector. The award under Section 11 of the Act is a decision of the Collector



reached by him after holding an enquiry as prescribed by the Act. It is a decision, *inter alia*, in respect of the amount of compensation which should be paid to the person interested in the property acquired. But, legally the award cannot be treated as a decision. Therefore, award is a tender or offer made by the Collector on behalf of the Government to the owner of the property for his acceptance. The Collector acts in the matter of the enquiry and the valuation of the land only as an agent of the Government and not as a judicial officer. Though the Government is bound by his proceedings, the persons interested are not concluded by his finding regarding the value of the land or the compensation to be awarded. Tender once made is binding on the Government and the Government cannot question the value fixed by its own officer acting on its behalf, before the Civil Court. Therefore, the award made by the Collector, is in law no more than an offer made on behalf of the Government, to the owner of the property.

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34. The first proviso envisages that "no award shall be made by the Collector under sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf". The award which has already been signed by the Collector becomes an award as soon as it is approved by the Government. Once it is shown that the award was made and signed and the approval by the Government within the period prescribed by Section 11A of the Act, an award is validly made.

35. The approval of the award may take some time, and it is not known to the Collector as to when the Government will approve the award. However, after the award is approved, he is required to notify the parties concerned about the award. He may do so by fixing date on which the parties may be required to appear for pronouncement of the award, or he may inform them by giving them written notice of the award. This is because an award is in the nature of an offer and must be communicated to the persons to whom the offer is made.



However, having regard to the provisions of Section 12(2) of the Act, he must give immediate notice to such of the persons interested as are not present personally or by their representative when the award is made. The mere fact that the Collector did not pronounce the award after notice in the presence of the parties interested or there is any delay in giving notice under Section 12 (2) of the Act will not invalidate the award.

36. The acquisition proceedings are initiated and held by the Deputy Commissioner as an agent of the State Government and that the compensation that he fixes in his award is an offer made on behalf of the Government. If the owner accepts the offer no further proceeding is required to be taken; the amount is paid and compensation proceedings are concluded. If, however, the owner does not accept the offer, Section 18 gives him the statutory right to get the amount determined by Court. A party who is aggrieved by the award made by the Land Acquisition Officer, has got his remedy under



Section 18 of the Act by praying for a reference, so that the amount of compensation should be judicially fixed by a competent Court. The judicial determination of compensation is required to be made by the District Court in case the owner of the property to be acquired declines to accept the offer and applies for a reference under Section 18 of the Act. It is the amount of compensation which the court may determine that would bind both the owner and the Collector. In that case it is on the amount thus determined judicially that the acquisition proceedings would be concluded. When the Land Acquisition Officer makes the award, the law does not provide any remedy to the State Government to challenge the compensation awarded under the award for the simple reason that the award is an offer of compensation on behalf of the State Government.

37. Under Section 11A of the Act, the Collector/Deputy Commissioner is empowered to make an award before the expiry of the period of two years from the date of the publication of the declaration under Section 6 of the Act. The words "the

Collector shall make an award within a period of two years from the date of the publication of the declaration” mean that the Collector is empowered to make an award till the expiry of the last date of the period of two years irrespective of the date on which the notice of the award is served upon the persons interested in the land. ‘To make an award’ in this section means ‘sign the award’. A mandatory duty is cast on the Land Acquisition Officer to make the award strictly in accordance with the limitation under Section 11-A. If no award is made within that period, the entire proceedings for the acquisition of the land shall lapse.

38. The proviso to Section 11A is intended as an equitable measure to safeguard the rights of the State. If acquisition proceedings were stalled by stay orders obtained from Courts of law by interested parties the acquisition proceedings could be easily defeated and thus public interest would suffer. Explanation to Section 11A is meant to deal with such a situation. The explanation makes it clear that once the

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order of stay is obtained and the Government and the Collector are prevented from taking any further action pursuant to the declaration, they cannot be faulted for the delay. The period during which the order of stay operates must be excluded. The operation of the order of stay provides justification for the delay in taking further steps in the acquisition proceeding for which the authorities are not to blame.

**POINT NO. (1)**  
**AWARD BARRED BY TIME**

39. From the aforesaid judgments and the statutory provisions it is clear that, an award under Section 11 of the Act has to be passed within a period of two years from the date of publication of the declaration. If no award is made within that period, the entire proceedings for the acquisition of the land shall lapse. The lapsing of the acquisition is by operation of law. This provision was enacted by the Parliament with a view to prevent inordinate delay being made by the Land Acquisition Officer in making the award. The delay in making the award deprives the owner of the land the enjoyment of his property or



to deal with the land whose possession has already been taken and subject the owner of the land to untold hardship. Therefore, Section 11-A was enacted which enjoins making of award expeditiously. Outer limit of two years from the last of the dates of publications, envisaged in Section 6 of the Act was fixed. If he failed to do so, all the acquisition proceedings under the Act would stand lapsed and the owner of the land or person interested in the land is free to deal with the land as an unencumbered land. This is a provision made for the benefit of the land owners. They are to be paid compensation in view of the acquisition of the land. However, the legislature was also aware of the reality of the situation and was obvious of the fact that in many cases acquisition proceedings were stalled by stay orders obtained from courts of law by interested parties. Operation of the order of stay provides a justification for the delay in taking further steps in the acquisition proceeding for which the authorities are not to blame. Therefore, it became imperative that in computing the period of two years, the period during which an order of stay operated, which prevented the





authorities from taking any action or proceeding in pursuance of the declaration, must be excluded. If such a provision was not made, an acquisition proceeding could be easily defeated by obtaining an order of stay and prolonging litigation thereafter. Explanation to Section 11-A was meant to deal with situation of this kind. The explanation is in the widest possible terms which do not limit its operation to cases where an order of stay is obtained by a land-owner alone. Once an order of stay is obtained and the Government and the Collector are prevented from taking any further action pursuant to the declaration, they cannot be faulted for the delay. Therefore, at whose instance an order of stay was granted is not material. The question is, is there an order of stay which prevents the authorities from proceeding with the acquisition proceedings.

40. In the light of the aforesaid legal position when we look at the facts of this case, it is clear that the final declaration under Section 6 was made on 11.9.1984. It was published in the gazette on 22.11.1984. The two years period is to be



computed from the date of publication of the declaration. The word "publication of the declaration" is explained in Section 6(2) of the Act where it is stated that, every declaration shall be published in the official gazette 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). Therefore, though the declaration under Section 6(1) is dated 11.9.1984 as it was published in the gazette on 22.11.1984, the two years period prescribed under Section 11A of the Act is to be computed from the date of publication of the declaration, i.e., the day on which the final notification was published in the official gazette, i.e., 22.11.1984. The said acquisition proceedings was challenged by the petitioners in W.P.No. 6309/1985 and an order of stay



came to be passed in the said Writ Petition on 18.4.1985. The said interim order reads as under : -

*"The operation of notification dated 19.3.1983 in No. LAQ (3) SR 16/82-83 issued by respondent No.2 and the notification dated 11.9.1984 in No. RD.200/AQB 84 issued by respondent-1 be and the same shall hereby stayed".*

41. Therefore, the stay order was not confined only to the land of the petitioners in the said Writ Petition. The entire declaration was stayed which included the land of one of the petitioner-Sri T.Krishna Reddy. In other words both proceedings in respect of Sy. Nos. 50, 57 and 59 which is the subject matter of these proceedings were stayed. Though Sri T.Krishna Reddy did not challenge the notification by virtue of the aforesaid stay granted, even in respect of the land of Sri. Krishna Reddy, no further proceedings could have been continued. Sri T.Krishna Reddy did not move the Court for vacating the interim order in so far as his land is concerned.



The said Writ Petition after contest came to be dismissed on 4.2.1991. Thereafter, the award was prepared on 5.6.1992 and it was submitted for approval to the Special Deputy Commissioner on 7.7.1992 and the award was approved by the Special Deputy Commissioner on 7.9.1992. The award was approved by the Special Deputy Commissioner with certain modifications which was communicated to the Land Acquisition Officer on 25.9.1992. Accordingly, on 30.7.1993 the Land Acquisition Officer carried out the modifications. If the date of approval, namely 7.9.1992 is taken into consideration as the date of the passing of the award, admittedly the award is passed and approved within two years from the date of publishing declaration under Section 6(2) of the Act.

42. The argument is, when the Special Deputy Commissioner modified the award on 7.9.1992 while granting approval when the modification was communicated to the Land Acquisition Officer on 25.9.1992 and when the Land Acquisition Officer carried out the modification on 30.7.1993 and affixed his



signature that would be the date of passing of the award. From the aforesaid facts it is clear the Special Deputy Commissioner while approving the award has suggested certain modifications. It is the duty of the Special Land Acquisition Officer to carry out the said modifications. The modifications carried out by the Special Land Acquisition Officer is only consequential. After carrying out such modifications nothing more remains to be done as the award is already approved with modification on 7.9.1992. Therefore, either the date of communication of the modification suggested by the Special Deputy Commissioner or carrying out the modification by the Land Acquisition Officer would have no relevance in finding out on what day the award is approved. Therefore, once the Land Acquisition Officer prepares a draft award and submit the same for approval of the appropriate Government or such officer as the appropriate Government may authorise in this behalf and once the approval is granted the draft award submitted by the Land Acquisition Officer acquires the character of award as it is or with modifications and therefore the day on which the approval is



given by the appropriate Government or such officer of the appropriate Government may authorize is the date of making the award. Therefore, I do not see any substance in the contention that the award is made beyond two years, as such the entire acquisition proceedings is vitiated and is liable to be set aside.

43. The Apex Court in the case of **STATE OF U.P AND OTHERS vs RAJIV GUPTA AND ANOTHER [1994 (5) SCC 686]** interpreting Section 11A held as under : -

*"6. .... Any award made in violation thereof, renders the award non est and void as it hinges upon the jurisdiction of the Land Acquisition Collector or Officer. No doubt, Mr. Markandeya is right that the State had not produced before us rules or orders issued under the first proviso to section 11 that the Land Acquisition Officer shall not make an award exceeding one crore of rupees without prior approval of the Commissioner, namely, Commissioner, Board of Revenue. But nonetheless, there is a statutory inhibition by first*

*proviso to Section 11 that the prior approval either of the appropriate Government or of an officer which the appropriate Government authorises in that behalf, is mandatory for making an award. It is a condition precedent."*

44. From the aforesaid judgment it is clear any award made in violation of Section 11 renders the award non-est and void. The requirement of law is prior approval either of the appropriate Government or an officer which the appropriate Government authorises in this behalf is mandatory for making an award. Therefore when award is submitted to the authority for its approval unless the authority accords approval in law there is no award. Once the authority accords the approval without modifications or with modifications the statutory requirement provided under Section 11 is complied with and the proposal becomes a valid award. Even if any modifications are suggested, the Land Acquisition Officer only has to carry out such modifications. After carrying out such modifications it is not necessary to obtain one more approval, because the



approval is granted subject to modification as suggested. Therefore, it is the date of approval of the award with or without modifications is the date of the award and anything done after the date of approval is only clerical in nature, consequential and those dates are of no relevance.

45. A Division Bench of this Court in the case of **RAMACHANDRAPPA AND OTHERS vs STATE OF KARNATAKA AND OTHERS [1996 (7) KAR.LJ 242** had an occasion to consider the meaning of the word "*making of the award*" and the factual position of the publication and the making of the award. "*To make an award*" has been interpreted to mean "*to sign the award*". In the case of **KALIYAPPAN vs STATE OF KERALA AND OTHERS [(1989) 1 SCC 113** interpreting Section 11A of the Act it was held as under: -

*"Under Section 11-A of the Act the Collector is empowered to make an award before the expiry of the period of two years from the date of the publication of the declaration under Section 6 of the*

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Act and in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 before the expiry of the period of two years from the date of its commencement. If an award is not made within the prescribed period of two years in either case, it is open to the person interested in the land to approach the Collector and tell him that the acquisition proceeding should be dropped unless the Collector is able to produce before him an award made by him within the period of two years. He may also in such a case question the continuance of the acquisition proceeding in court. Thus no prejudice will be caused to the person interested in the land. At the same time it would not be open to a person interested in the land to get rid of the acquisition proceeding by avoiding service of notice issued by the Collector within the prescribed period. We are of the view that under Section 11-A of the Act the words "the Collector shall make an award ... within a period of two years from the date of the publication of the declaration" mean that the Collector is empowered to make an award till the expiry of the last date of the period of two years irrespective of the date on which the notice of the

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award is served upon the persons interested in the land. 'To make an award' in this section means 'sign the award'. This is the ordinary meaning to be ascribed to the words 'to make an award'. An extended or a different meaning assigned to the words 'the date of the award' by this Court in *Raja Harish Chandra* case cannot be applied in this case since such an extended or different meaning is neither warranted by equity nor will it advance the object of the statute. Similarly under the proviso to Section 11-A of the Act, the Collector is empowered to make an award within two years from the date of commencement of the Land Acquisition (Amendment) Act, 1984 irrespective of the date on which the notice of award is served on the person concerned. We do not find any analogy between Section 11-A and Section 18 of the Act insofar as the above question is concerned."

46. Therefore, when the Collector signs the award it amounts to making an award. When the award is submitted to the authority for its approval and the authority accords the approval, with or without modifications, the statutory



requirement provided under Section 11 is complied with and the proposal becomes a valid award. Therefore, it is the date of approval of the award with or without modification is the date of the award. If the award is approved with modification, after such approval, the Collector is under an obligation to carry out the modifications in the original award made by him. In such an event the date of incorporating the modifications or even if separate award is made with such modifications, those dates have no relevance. The date of the award is the date on which the appropriate authority accords approval with or without modifications.

**POINT NO. (2)**

**DELAY IN ISSUING NOTICE U/S 12(2) OF THE ACT**

47. The award is passed on 7.9.1992, the notice of the passing of the award was issued belatedly in the year 2003. On account of delay and laches, whether the entire acquisition proceedings is vitiated?

Section 12 reads as under:-



**"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".

48. A reading of the aforesaid provision makes it clear that once the award is passed with the prior approval either of the appropriate Government or an officer which appropriate Government authorises and is filed in the Collector's office, it is final and conclusive evidence as between the Collector and the person interested. It is immaterial whether the person interested appeared before the Collector or not. However, sub-section (2) mandates that 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. Having regard to the provisions of Section 12 (2) of the Act, the Collector must give immediate notice to such of the persons interested as are not present personally or by their representatives when the award is made. After the award is approved the same becomes an offer to be made to persons interested and this can be done by either giving notice to the persons interested of the day on which he may orally pronounce the award or by giving written notice of the award to the persons interested. The award which is already been signed by the Collector becomes an award as soon as it is approved by the Government with or without any alteration. The date of notice of the award or receipt of the notice of the award assumes importance in the context of Section 18 of the Act which prescribes the period of limitation for seeking reference to the Civil Court. Beyond that, the said date has no significance. When the legislature thought it fit to introduce Section 11A by Act 68/1984 declaring that if an award is not made within a



period of two years from the date of publication of the declaration it shall lapse, no such provision is made in the event of the award notice is not immediately served on the person interested. Therefore, merely because there is a delay in issue of notice under Section 12(2) the acquisition of the land would not lapse. Reliance is placed on the judgment of the Apex Court in the case of **RAM CHAND AND OTHERS vs UNION OF INDIA AND OTHERS [1994 (1) SCC 44]** where it was held as under : -

*"14. The Parliament has recognised and taken note of the inaction and non-exercise of the statutory power on the part of the authorities, enjoyed by the provisions of the Act to complete the acquisition proceedings within a reasonable time and because of that now a time-limit has been fixed for making of the award, failing which the entire proceedings for acquisition shall lapse. But, can it be said that before the introduction of the aforesaid amendment in the Act, the authorities were at liberty to proceed with the acquisition proceedings, irrespective of any schedule or time-frame and to complete the same as and when they*

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desired? It is settled that in a statute where for exercise of power no time-limit is fixed, it has to be exercised within a time which can be held to be reasonable. This aspect of the matter can be examined in the light of second proviso to Article 31-A of the Constitution, which is clear and unambiguous terms prohibits making of any law which does not contain a provision for payment of compensation at a rate, which shall not be less than the market value thereof. The Act is consistent with the second proviso to Article 31-A, because it provides for payment of compensation at the market value of the land acquired....."

Further, they went on to hold that,

"16. .... That is why this Court has been resisting attempts on the part of the landholders, seeking quashing of the acquisition proceedings on ground of delay in completion of such proceedings. But, can the respondents be not directed to compensate the petitioners, who were small cultivators holding lands within the ceiling limit in and around Delhi, for the injury caused to them, not by the provisions of the Act, but because of the

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*non-exercise of the power by the authorities under the Act within a reasonable time?"*

49. Therefore, the Supreme Court did not declare that the acquisition proceedings shall lapse on account of the delay in issue of award notice which is a statutory requirement. If the delay is not justifiable certainly the landholders could be compensated by directing payment of interest for the delay. Reliance is also placed on the judgment of the Apex Court in the case of **MAN SARAM vs S.P.PATHAK AND OTHERS [1984 (1) SCC 125]** where the Apex Court held as under : -

*"12. .... when the power is conferred to effectuate a purpose, it has to be exercised in a reasonable manner. Exercise of power in a reasonable manner inheres the concept of its exercise within a reasonable time. .... Where power is conferred to effectuate a purpose, it has to be exercised in a reasonable manner and the reasonable exercise of power inheres its exercise within a reasonable time. This is too well established to need buttressing by a precedent. ..."*



50. There cannot be any quarrel with the aforesaid well settled legal position. The question is, what is the legal consequences if a power is not exercised within a reasonable time. As pointed out in the earlier judgment of the Apex Court, in the absence of a specific provision as contained in sub-section (2) of Section 11A, if the power to issue notice expeditiously is not exercised within a reasonable time, acquisition of the land would not lapse, but the person interested in the land would be entitled to compensation for the injury caused to him for delay in exercise of a statutory power. Therefore, the contention that because of delay in issue of a statutory notice as contained in Section 12(2) of the Act, the acquisition of the land lapses is without any substance.


**POINT NO. 3**

**WHO IS COMPETENT TO PASS AWARD**

51. It was contended the award is passed by the Special Deputy Commissioner who is incompetent to pass the award. According to the learned counsel it is the Deputy Commissioner who has to pass the award under the Act. In Section 3(c) –

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definition clause, the expression "Collector" means the Collector of a district and includes a Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act. Under Section 11 of the Act enquiry into measurements, value and claims and award are to be made by the Collector. In other words they are the functions to be performed by a Collector under the Act. It is of common knowledge generally the Deputy Commissioner of the District or the Collector who is entrusted the responsibility of running the administration in the District concerned is not burdened with the functions under the Land Acquisition Act. Therefore, notifications are issued appointing the Land Acquisition Officer as the Deputy Commissioner under the Act or the Special Deputy Commissioner of the District is vested with such powers. Therefore, merely because in the instant case the award is not passed by the Deputy Commissioner of the District but is passed by the Special Deputy Commissioner would in no way affect the validity of the award.



52. By a Karnataka Amendment in clause (c) for the words 'Deputy Commissioner', the words 'Assistant Commissioner in charge of the Sub-Division of the District' has been substituted. Dealing with this question, the Apex Court in the case **of STATE OF MYSORE AND OTHERS vs HUTCHAPPA AND ANOTHER [AIR 1977 SC 2030]** held as under:-

*"3. ... .. It is easy to see from a bare reading of Section 3(c) that the expression 'Deputy Commissioner' has been expressly made to include an 'Assistant Commissioner' in charge of a Sub Division; only other officers are required to be specially appointed by the Government to perform the functions of a Deputy Commissioner....."*

53. Therefore, the contention that the Deputy Commissioner alone has to pass award under the Act and the instant award passed by the Deputy Commissioner is invalid is without substance as the Special Deputy Commissioner fall within the expression 'Collector' by virtue of the notification



issued under Section 3(c) of the Act. Therefore, there is no substance in the said contention.

**POINT NO. 4**  
**EFFECT OF MULTIPLE NOTIFICATION**

54. The argument is after the issue of preliminary notification proposing to acquire 4 acres 31 guntas in Sy. No. 57 and 4 acres 35 guntas in Sy. No. 50, the Bangalore Development Authority acquired 1 acre 15 guntas in Sy. No. 57 and 36 guntas in Sy. No. 50 which are the subject matter of the acquisition proceedings for the public purpose of formation of Outer 150 Ring Road and industrial sites. Two separate awards dated 2-11-1990 has been passed by the B.D.A, possession of the aforesaid extent of land is taken and the land is fully utilised for the project of Outer Ring Road and formation of Industrial sites. Therefore, the earlier acquisition proceedings has been superceded by the subsequent acquisitions. In support of their contention, reliance is placed on the judgment of the Apex Court in the case of **RAGHUNATH AND OTHERS vs**

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**STATE OF MAHARASHTRA AND OTHERS [1988 (3) SCC 294]**

wherein the Apex Court held as under : -

“9. Before concluding we must refer to one circumstance which was brought to our notice by learned counsel for the petitioners and which has also been noticed in the judgment of the High Court. It appears that, between the date of withdrawal of the earlier writ petition (namely, August 23, 1983) and the issue of the second declaration under Section 6 (namely, April 4, 1985), the Government had issued a fresh notification under Section 4 for the acquisition of certain lands. The lands in the two notifications under Section 4 do not completely overlap but it appears that some fields are common in both. No declaration under Section 6 appears to have been issued in furtherance of the second notification under Section 4 when the High Court heard the matter. Learned Counsel for the petitioner points out that, at least in respect of such of the lands comprised in the Section 4 notification dated June 22, 1982 as are also covered by the subsequent notification under Section 4, it is legitimate to infer that the State

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*Government has superseded the earlier notification by the later one. This contention is clearly well founded. We would, therefore, like to make it clear that in respect of the lands covered by the first notification under Section 4 which are also covered by, or comprised in, the second notification under Section 4, further proceedings regarding acquisition should be taken, in accordance with law, only in pursuance of the later notification and the proceedings initiated in respect of such lands by the first notification dated June 22, 1982 should be deemed to have been superseded".*

55. There is no quarrel with the aforesaid legal position. In the instant case, the notification issued in this case and the notification issued by the BDA are overlapping to a small extent. Following the aforesaid judgment of the Apex Court in respect of such overlapping the acquisition proceedings were completed in terms of the subsequent notification issued for the benefit of BDA. In the second notification issued only a portion of the land which was notified under earlier notification is included. Therefore, that portion of



the land which is not the subject matter of the acquisition in the second notification is the subject matter of these proceedings, in respect of which the acquisition proceedings were completed by passing an award. No award has been passed in respect of that land which was the subject matter of the earlier proceedings which is also the subject matter of the subsequent notification and therefore the said contention that the land covered under the earlier notification to the entire extent lapsed is without any substance.


#### **FINAL CONCLUSION**

56. The subject matter of the writ petition in W.P.No.4536/04 is land bearing No.59 measuring 3 acres 13 guntas situated in Jaraganahalli Village, Uttarahalli Hobli, Bangalore South Taluk. The said land was notified for acquisition in No.LAQ (3) SR 16/82-83 dated 19.03.1983 which was published in Karnataka Gazette on 31.03.1983. The final declaration was issued on 11.09.1984 which was published in Karnataka Gazette on 22.11.1984. Admittedly, the owner of the



land T. Krishna Reddy did not challenge the said acquisition proceedings. On the contrary, he appeared before the Land Acquisition Officer and sought for payment of market value. However, because of the order of stay granted in W.P.No.6309/85, the award proceedings were not concluded. It is only on 04.02.1991 when the said writ petition was dismissed, the award came to be passed. For the reasons set out above, the award which is passed is within time. Therefore, the challenge to the award on the ground of limitation is without any substance.

57. The material on record discloses that, suppressing the aforesaid acquisition proceedings, Sri T.Krishna Reddy filed an application before the Deputy Commissioner (Urban), Bangalore seeking conversion of the land situated in Sy. No. 59. Mischievously, the Revenue Inspector of Sarakki Village sent a report specifically stating that the said land was not the subject matter of any acquisition. Similarly, the Tahsildar, Bangalore South Taluk also has submitted a report stating that the schedule land was not the subject matter of any acquisition.





On the basis of the same, the concerned case worker prepared office note, placed it before the authority, who in turn put up note on that basis and placed before the Deputy Commissioner for orders. As is clear from the affidavit filed by the Deputy Commissioner, without proper application of mind, without looking into the records, without verifying the records, he has proceeded to grant an order of conversion. Therefore, the said order of conversion is based on the basis of suppression of true facts, mis-representation and fraud. It is well settled legal position that fraud vitiates everything from the inception. Therefore, merely because an order of conversion came to be passed would not enure to the benefit of the petitioner, who is a party to the fraud, as clearly set out in the affidavit of the Deputy Commissioner. Therefore, the acquisition is valid and in no way suffers from any infirmity and accordingly there is no merit in this writ petition.

58. In so far as W.P.No.4990/04 is concerned, the petitioners have challenged the notification notifying Sy.No.57



and 58 for acquisition, by filing W.P.No.6309/85. The interim order staying of the said notification came to be issued on 18.04.1985 which was in force till 04.02.1991 on which date the writ petition came to be dismissed. It is thereafter, the award proceedings continued and the award came to be passed. For the reasons aforesaid, that the award is passed within time, this second writ petition filed again challenging the preliminary notification, final notification, award notice and the award is without any merit. Therefore, there is no merit in this writ petition also.

**59. For the reasons aforesaid, both these writ petitions are dismissed.**

*The Interim order granted in these writ proceedings stand vacated.*

*Parties to bear their own costs.*

**Sd/-  
JUDGE**

Ia/ksp/ckl/-