SUPREME COURT OF INDIA

Meher Rusi Dalal

Vs

Union of India

Appeal (Civil) 5422-5423 of 1998

(S. N. Variava and H.K.Sema)

05/05/2004

JUDGMENT

S. N. VARIAVA, J.

These Appeals are against a Judgment of the Bombay High Court dated 6th July, 1998.

Briefly stated the facts are as follows:

One Jerbano Cursetji and Dr. K. J. Cursetji were granted a lease in perpetuity by the Municipal Authority of Bombay in the year 1932. On 11th January, 1938 the property was taken over by the Defence Department for war purposes. The Defence Department paid a sum of Rs. 1, 903/- per annum and such payments have been made till 1994. In 1980 a notice to quit out was given to the Defence Department. Thereafter in 1982 a Writ Petition No. 919/1982 was filed for directions that the property be acquired or the possession be handed back. In that Writ Petition a statement was made, on the basis of the written instructions received from the Union of India, that the land would be acquired. On this statement the Writ Petition was withdrawn. The land was still not acquired. Therefore on 8th June, 1994 Jerbano Cursetji filed Writ Petition No. 1733/1994 for directions that in compliance with the statement made earlier the land be acquired or the possession be handed back. After this Writ Petition was filed, on 3rd November, 1994, Jerbano Cursetji died. It must be

mentioned that her husband Dr. K. J. Cursetji had died earlier to the filing of the Writ Petition.

The Government now invoked urgency clause under Section 17 of the Land Acquisition Act and a Notification under Section 4 was published on 31st December, 1994. Section 6 Notification was published on 23rd February, 1995 and an Award came to be passed on 30th May, 1995. In that Award the compensation was fixed at Rs. 9, 20, 51, 175/-. The Appellants, who were the Legal Representatives of Mrs. Jerbano Cursetji and Dr. K. J. Cursetji, applied that the amount of compensation be paid to them. Since there was no response they filed Notice of Motion bearing No. 156/1996 in pending Writ Petition No. 1733/94 that the amount be paid to them. On 24th June, 1996 the High Court directed the Special Land Acquisition Officer to deposit the amount in Court.

On 24th July, 1996 the Union of India filed Writ Petition No. 1603/1996 challenging the Award as excessive. Union of India took out the Notice of Motion No. 279/96 for extension of time to deposit the amount. On 30th August, 1996 the Writ Petition taken out by the Union of India was rejected. However Union of India was granted time till 1st October, 1996 to deposit the amount.

The Union of India now files a S.L.P., in this Court, against the Order dated 24th June 1996. On 2nd September, 1996 the S.L.P. was dismissed with the following observation:

*"The Award of the Collector is an offer made on behalf of the State and, therefore, under law, the State cannot question the correctness of the award determined by the Land Acquisition Officer. The State is bound by the same. Under these circumstances, they cannot impeach the award of the Collector as being excessive of the prevailing market value as on the date of the notification. There is no law applicable to the Petitioners that they are entitled to seek any reference under Section 18 as regards the rate of compensation determined under Section 23(1) of the Act. Only in the State of U.P. by a local amendment, such a right to the State to seek reference under Section 18(3) was conferred upon the Commissioner. No such similar law is existing under Act 1 of 1874." **

"It would be open to them to agitate the remedy in that behalf in an appeal filed against that order in the Writ Petition or in any appropriate proceedings arising thereunder, we do not find any illegality in the impugned order

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*The special leave petition is accordingly dismissed." **

The Union of India again applied to the High Court for extension of time. The High Court by its Order dated 1st October, 1996 refused to extend the time. Union of India now files an S.L.P. against Order dated 30th August 1996. This S.L.P. also came to be rejected by this Court, but time to make deposit was extended till 25th October, 1996. On 25th October 1996 Union of India orally applied to this Court for permission to withdraw from the acquisition proceedings. This was not granted by this Court. The Union of India then filed an application before the Special Land Acquisition Officer seeking permission to withdraw from acquisition and to set aside the award. This was not granted. On 4th April, 1997, the Union of India took out Notice of Motion No. 101/97 in Writ Petition 1733/94 seeking permission of the High Court to withdraw from acquisition. The High Court by its

Order dated 25th July, 1997 held as follows:

*"In our judgment, Respondents No. 1 and 2 cannot be permitted to resile from their statements earlier made that the property in question will be acquired. As far as withdrawal from acquisition is concerned, the Award in question has already been passed and possession is already with Respondents No. 1 and 2. After passing of the award, nothing further was required to be done in order to obtain possession. Land has thus vested in the government. Respondents No. 1 and 2, in the circumstances, are not entitled to withdraw from acquisition in terms of Section 48(1) of the Act." **

*"Hence, Respondents No. 1 and 2 are not, at this belated stage, entitled to withdraw from acquisition. In the circumstances we find that present notice of motion is devoid of merit and the same is dismissed with costs." **

The Union of India again filed a S.L.P. before this Court against the rejection of the Notice of Motion. This Court inquired whether Union of India is willing to hand back possession. This Court was informed that Union of India was not willing to hand back possession. This Court therefore declined to interfere and directed the Union of India to file an undertaking affirming that the payment would be made. On 1st September, 1997 the Joint Secretary in the Ministry of Defence, New Delhi filed an affidavit of undertaking in the following terms:

"..I, on behalf of the Government of India undertake to deposit with the Special Land Acquisition Officer, Maharashtra Housing & Area Development Authority, Bombay a sum of Rs. 9, 20, 51, 175/- (Rupees nine crore, twenty lacs, fifty one thousand one hundred and seventy five only) as awarded by the said Land Acquisition Officer on 30.5.1995 in respect of acquisition of plot No. 53-A, Worli, Bombay in proceedings No. LAQ/SR-I/94 on or before 21-9-97. The said amount will be paid over to the Claimants after steps are taken by the SLAO for vesting the property absolutely in Government of India.

I respectfully submit that the above said deposit will be without prejudice to the rights of either party to initiate/take any proceedings arising out of in respect of or relating to the said land or acquisition thereof in accordance with law. It is, however, submitted that in view of the above undertaking contempt of court proceedings No. 5/97 in Bombay High Court on account of failure to deposit the above said amount is liable to be dropped.

*I say that the statement made above are true to my knowledge." **

This Court kept this undertaking on file and disposed of the S.L.P. in the following term:

"We are not inclined to interfere with the impugned order. The undertaking filed on behalf of the Petitioners is kept on record. On the prayer of learned ASG appearing for the Union of India, time to deposit money in High Court is extended by 21st September, 1997. It is submitted by Mr.

*Nariman, Learned senior counsel appearing for the Respondents that in view of the assurance given that the money will be deposited by 21st September, 1997 the respondents will not press the Contempt Petition. The S.L.P. stands disposed of." **

The Contempt Petition mentioned in this Order is a contempt petition which had been filed by the Appellants before the High Court on 12th December, 1996. Now the Union of India files an application before the Land Acquisition Officer for apportionment of their share under Section 30 of the Land Acquisition Act. The Land Acquisition Officer rejects this application by his Order dated 26th September, 1997, wherein it is mentioned that no claim had been made by the Defence Department or the Union of India in the land acquisition proceedings, even though their representatives were present at the time of hearing. It is also held that they had given an undertaking to this Court that they would make the payment and in that undertaking there was no mention of claim for apportionment.

The Union of India then filed Writ Petition No. 1929/97 challenging the aforesaid order of the Special Land Acquisition Officer. The Petitioner filed Contempt Petition in this Court on 21st January, 1998 as the Union of India had not permitted payment to be made to the Petitioner. A notice was issued by this Court in the Contempt Petition on 20th February, 1998.

On 6th July, 1998 the Bombay High Court allowed the Writ Petition filed by the Respondents and directed the Special Land Acquisition Officer to make a reference under Section 30 of the Land Acquisition Act. The High Court has held (a) that it was not disputed that the Respondents were tenants paying yearly rent, (b) that under Section 11 of the Land Acquisition Act a duty is cast upon the Special Land Acquisition Officer to inquire and consider the interest of the Respondents and to apportion the compensation irrespective of whether they had appeared or not. It is held that as the Land Acquisition Officer had not enquired into and considered apportionment of compensation amongst all persons interested in the land, in spite of the fact, that he had information that the Respondents were tenants they were entitled to claim reference (c) that the Respondents are not entitled to claim a reference under Section 18 of the Land Acquisition Act and thus the only remedy was to claim a reference under Section 30 or file a Civil Suit. (d) that the application for apportionment is not barred by res-judicata or on principles analogous to res-judicata. It is this Judgment which has been impugned in these Appeals.

In these Appeals, by an interim order dated 30th October, 1998 the Appellants have been permitted to withdraw 50% of the amount deposited subject to the outcome of the Appeal. The Contempt Petition taken out by the Petitioners was also directed to be heard along with these Appeals. Hence the Contempt Petition is also on board today.

In our view, the High Court has clearly erred in setting aside the order of the Special Land Acquisition Officer declining a reference. It is settled law that in land acquisition proceedings the Government cannot and does not acquire its own interest. The interest which is acquired in land acquisition proceedings are interest of 3rd parties. This Court has as far back as in 1955, in the case of The Collector of Bombay vs. Nusserwanji Rattanji Mistri & Ors. Reported in, negatived a contention that when land is acquired valuation is made of all interest thereon including the interest

of the Government. This Court held as follows:

"We are unable to accept his contention. When the Government acquires lands under the provisions of the Land Acquisition Act, it must be for a public purpose, and with a view to put them to that purpose, the Government acquires the sum total of all private interests subsisting in them. If the Government has itself an interest in the land, it has only to acquire the other interests outstanding therein, so that it might be in a position to pass it on absolutely for public user. In In the Matter of the Land Acquisition Act: The Government of Bombay v. Esupali Salebhai (1909 (34) ILR(Bom) 618 , 636) Batchelor, J. observed :

*"In other words Government, as it seems to me, are not debarred from acquiring and paying for the only outstanding interests merely because the Act, which primarily contemplates all interests as held outside Government, directs that the entire compensation based upon the market value of the whole land, must be distributed among the claimants". **

There, the Government claimed ownership of the land on which there stood buildings belonging to the claimants, and it was held that the Government was bound to acquire and pay only for the superstructure, as it was already the owner of the site. Similarly in Deputy Collector, Calicut Division v. Aiyavu Pillay 1911 (9) IC 341, Wallis, J. (as he then was) observed:

*"It is, in my opinion, clear that the Act does not contemplate or provide for the acquisition of any interest which already belongs to Government in land which is being acquired under the Act, but only for the acquisition of such interests in the land as do not already belong to the Government". **

With these observations, we are in entire agreement. When Government possesses an interest in land which is the subject of acquisition under the Act, that interest is itself outside such acquisition, because there can be no question of Government acquiring what is its own. An investigation into the nature and value of that interest will no doubt be necessary for determining the compensation payable for the interest outstanding in the claimants, but that would not make it the subject of acquisition. The language of section VIII of Act No. VI of 1857 also supports this construction. Under that section, the lands vest in the Government "free from all other estates, rights, titles and interests", which must clearly mean other than those possessed by the Government. It is on this understanding of the section that the award, Exhibit P, is framed. The scheme of it is that the interests of the occupants are ascertained and valued, and the Government is directed to pay the compensation fixed for them. There is no valuation of the right of the Government to levy assessment on the lands, and there is no award of compensation therefor.

Faced with this situation Mr. Goswami relied upon the Judgment of this Court in the case of Inder Parshad vs. Union of India reported in 4. In this case the Government had given a lease of the land. That land was then acquired. This Court recognized the principle that the Government is not enjoined to acquire its own interest in the land. This Court held that however where the Collector determined the compensation without taking into consideration that the private party is only entitled to leasehold interest, then the compensation would have to be apportioned between the Government

and the private party. There can be no dispute with this preposition. In the present case it is to be seen that the land belonged to the Municipality of Bombay. In the Award the Collector has apportioned the compensation between the Municipality and the Appellants herein. Therefore, this authority can be of no assistance to the Respondents who are not claiming the land as owners. They are now claiming on the basis that they are protected tenants under the Bombay Rent Act and that as such tenants they are entitled to share in the compensation. As is being pointed out later no such claim was made before the Collector and it cannot be made at this stage. Mr. Goswami also relied upon the case of Ratan Kumar Tandon vs. State of U.P. reported in 9 . In this case, by virtue of the Urban Land (Ceiling and Regulation) Act excess land stood vested in the State. In the Reference under Section 18 the State pointed out that no compensation could be paid in respect of the excess land as it already stood vested in the State. This Court held that the claimants would only be entitled to compensation for the land which remained with them after the application of the Urban Land (Ceiling and Regulation) Act. This authority is of no assistance to the Respondents. If anything this authority is against the Respondents inasmuch as it also recognizes that the Government does not acquire its own land and that when compensation is being fixed it is only in respect of the interest of the third party claimants.

Of course if the Respondents had a right as tenants they would be entitled to share in the compensation. However such a claim, if any, was in respect of a pre-existing right and should have been made before the Land Acquisition Officer in the land acquisition proceedings. From the Award it is clear that the Respondents were represented before the Land Acquisition Officer. They had been given notice. No claim of tenancy had been made before the Land Acquisition Officer. The High Court in its earlier Judgment dated 30th August 1996 has itself observed as follows:

"..Admittedly by the petitioners have not contended before the land acquisition officer that they were yearly tenants protected under the Bombay Rent Act." *

The Special Land Acquisition Officer has also in his decision dated 26th September 1997 pointed out that Respondents were represented in the acquisition proceedings but had made no such claim. The High Court has also failed to notice that even the Respondents do not assert that they had made any such claim in the acquisition proceedings. The High Court is thus in error in observing that the Land Acquisition Officer was aware of such a claim. We are unable to subscribe to the view of the High Court that it was the duty of the Land Acquisition Officer to enquire into and ascertain their interest in the land whether or not they were present. The Special Land acquisition Officer may have been aware that they were in possession. But merely because a party is in possession does not lead to an inference that the party is in possession under a right. It must be remembered that the possession had been taken during the war for defence purposes and that the notice to quit had been given in 1980. Therefore, if any claim to tenancy was to be made it had to be specifically raised and then only it could have been determined. If a party is present and makes no claim the Special Land Acquisition Officer is under no duty to make an enquiry. Once a party is represented and makes no claim it would be a reasonable inference that it is claiming no rights. It is clear that the claim of tenancy, now put forth, is an afterthought. Having failed in all their efforts to frustrate payment, through the gamut of litigations set out hereinabove, now this attempt.

Even otherwise, we find that the High Court has clearly erred in not noticing that it has already been held by this Court that the Respondents are not entitled to a reference under Section 18 of the Land

Acquisition Act. What is the scope of Sections 18 and 30 has been set out by this Court in the case of G. H. Grant vs. State reported in 1965 (3) SCR 756 . It has been held as follows:

*"There are two provisions ss. 18(1) and 30 which invest the Collector with power to refer to the Court a dispute as to apportionment of compensation or as to the persons to whom it is payable. By sub-s. (1) of s. 18 the Collector is enjoined to refer a dispute as to apportionment, or as to title to receive compensation, on the application within the time prescribed by sub-s. (2) of that section of a person interested who has not accepted the award. Section 30 authorises the Collector to refer to the Court after compensation is settled under s. 11, any dispute arising as to apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof is payable. A person shown in that part of the award which relates to apportionment of compensation, who is present either personally or through a representative, or on whom a notice is served under sub-s. (2) of s. 12, must, if he does not accept the award, apply to the Collector within the time prescribed under s. 18(2) to refer the matter to the Court. But a person who has not appeared in the acquisition proceeding before the Collector may, if he is not served with notice of the filing, raise a dispute as to apportionment or as to the persons to whom it is payable, and apply to the Court for a reference under s. 30, for determination of his right to compensation which may have existed before the award, or which may have developed upon him since the award. Whereas under s. 18 an application made to the Collector must be made within the period prescribed by sub-s. (2) cl. (b), there is no such period prescribed under s. 30. Again under s. 18 the collector is bound to make a reference on a petition filed by a person interested. The Collector is under s. 30 not enjoined to make a reference : he may relegate the person raising a dispute as to apportionment, or as to the person to whom compensation is payable, to agitate the dispute in a suit and pay the compensation in the manner declared by his award." **

*"..The Collector is not authorised to decide finally the conflicting rights of the persons interested in the amount of compensation : he is primarily concerned with the acquisition of the land. In determining the amount of compensation which may be offered, he has, it is true, to apportion the amount of compensation between the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have appeared before him. But the scheme of apportionment by the Collector does not finally determine the rights of the persons interested in the amount of compensation : the award is only conclusive between the Collector and the persons interested and not among the persons interested. The Collector has no power to finally adjudicate upon the title to compensation, that dispute has to be decided either in a reference under s. 18 or under s. 30 or in a separate suit. Payment of compensation therefore under s. 31 to the person declared by the award to be entitled thereto discharges the State of its liability to pay compensation (subject to any modification by the Court), leaving it open to the claimant to compensation to agitate his right in a reference under s. 30 or by a separate suit." **

This Court has again in the case of Sharda Devi vs. State of Bihar reported in very succinctly dealt with the provisions of Sections 18 and 30 and on an analysis of the provisions and the various authorities held as follows:

"26. The scheme of the Act reveals that the remedy of reference under Section 18 is intended to be available only to a 'person interested'. A person present either personally or through representative

*or on whom a notice is served under Section 12(2) is obliged, subject to his specifying the test as to locus, to apply to the Collector within the time prescribed under Section 18(2) to make a reference to the Court. The basis of title on which the reference would be sought for under Section 18 would obviously be a pre-existing title by reference to the date of the award. So is Section 29, which speaks of 'persons interested'. Finality to the award spoken of by Section 12(1) of the Act is between the Collector on one hand and the 'persons interested' on the other hand and attaches to the issues relating to (i) the true area, i.e. measurement of the land, (ii) the value of the land, i.e. the quantum of compensation, and (iii) apportionment of the compensation among the 'persons interested'. The 'persons interested' would be bound by the award without regard to the fact whether they have respectively appeared before the Collector or not. The finality to the award spoken of by Section 29 is as between the 'persons interested' inter se and is confined to the issue as to the correctness of the apportionment. Section 30 is not confined in its operation only to 'persons interested'. It would, therefore, be available for being invoked by the 'persons interested' if they were neither present nor represented in proceedings before the Collector, nor were served with notice under Section 12(2) of the Act or when they claim on the basis of a title coming into existence post award. The definition of 'person interested' speaks of 'an interest in compensation to be made'. An interest coming into existence post award gives rise to a claim in compensation which has already been determined. Such a person can also have recourse to Section 30. In any case, the dispute for which Section 30 can be invoked shall remain confined only (i) as to the apportionment of the amount of compensation or any part thereof, or (ii) as to the persons to whom the amount of compensation (already determined) or any part thereof is payable. The State claiming on the basis of a pre-existing right would not be a 'person interested', as already pointed out hereinabove and on account of its right being pre-existing, the State, in such a case, would not be entitled to invoke either Section 18 or Section 30 seeking determination of its alleged pre-existing right. A right accrued or devolved post award may be determined in a reference under Section 30 depending on Collector's discretion to show indulgence, without any bar as to limitation. Alternatively, such a right may be left open by the Collector to be adjudicated upon in any independent legal proceedings. This view is just, sound and logical as a title post award could not have been canvassed upto the date of the award and should also not be left without remedy by denying access to Section 30. Viewed from this angle, Section 18 and 30 would not overlap and would have fields to operate independent of each other." **

*"36. To sum up the State is not a 'person interested' as defined in Section 3(2) of the Act. It is not a party to the proceedings before the Collector in the sense, which the expression 'parties to the litigation' carries. The Collector holds the proceedings and makes an award as a representative of the State Government. Land or an interest in land pre-owned by State cannot be subject-matter of acquisition by State the question of deciding the ownership of State or holding of any interest by the State Government in proceedings before the Collector cannot arise in proceedings before the Collector (as defined in Section 3(c) of the Act). If it was a government land there was no question of initiating the proceedings for acquisition at all. The Government would not acquire the land, which already vests in it. A dispute as to pre-existing right or interest of the State Government in the property sought to be acquired is not a dispute capable of being adjudicated upon or referred to the Civil Court for determination either under Section 18 or Section 30 of the Act. The reference made by the Collector to the Court was wholly without jurisdiction and the Civil Court ought to have refused to entertain the reference and ought to have rejected the same. All the proceedings under Section 30 of the Act beginning from the reference and adjudication thereon by the Civil Court suffer from lack of inherent jurisdiction and are therefore a nullity liable to be declared so." **

It is thus clear that persons who have notice of acquisition proceedings would have to apply for a Reference under Section 18. To be noted that under Section 18 Reference could be in respect of the measurement of the land and/or the amount of compensation and/or in respect of persons to whom it is payable and/or for apportionment of compensation amongst persons interested. Section 30 merely deals with apportionment of compensation when the amount of compensation has been settled. Thus, as set out in the above mentioned cases, Section 18 is to be invoked when a person claiming a pre-existing right has notice of the acquisition proceedings, whereas Section 30 comes into play only if a person had no notice of the acquisition proceedings or the rights came into existence after the acquisition proceedings. It is clear that the **person who had notice of the acquisition proceedings and who, by virtue of Section 50, is debarred from filing a Reference under Section 18 cannot be allowed to apply for a Reference under Section 30. In this case, this Court has already held that the Respondents were not entitled to apply for a Reference under Section 18. This meant that they were not entitled to seek a Reference not just in respect of the compensation but also for apportionment of the compensation. Once it has been held that they had no right to move under Section 18 there was no question of their being permitted to move under Section 30. To permit a party, who cannot apply under Section 18, to apply under Section 30 would be to render Section 50 nugatory. #**

The High Court has also erred in holding that the claim for apportionment was not barred by principle of res-judicata or principles analogous thereto. As has been set out hereinabove the Respondents had filed Writ Petition No. 1603/96 challenging the Award as excessive. One of the grounds for claiming the Award as excessive was as follows:

*"Petitioners submit that thus while assessing or determine the compensation the Special Land Acquisition Officer - Respondent No. 4 ought to have considered the share of the tenants/lessees/documents including the Ministry of Defence on the basis of hiring and as to that extent the compensation ought to have been reduced." **

Thus in that Writ Petition they had already claimed that their share as tenants/lessees should have been taken into consideration. That Writ Petition came to be dismissed. The S.L.P. filed against that Writ Petition was withdrawn by them. To claim apportionment on the ground that they had share as tenant or lessee is in fact nothing else but an attempt to reduce the compensation. The prayer asked for now is identical to the prayer made earlier.

Even otherwise, it is settled law that in every proceeding the whole of the claim which a party is entitled to make should be made and where a party omits to sue in respect of any portion of the claim he cannot afterwards sue for the portion so omitted. Explanation 4 to Section 11 C. P. C. also provides that any matter which might or ought to have been made a ground of defence or attack in a former proceeding will be deemed to have been a matter directly and subsequently in issue in that proceeding. Therefore, clearly the claim now made was barred on principle of res-judicata or principles analogous thereto. There is one other reason why the High Court should not have allowed the Writ Petition. Under Section 18 if a party wants to claim a Reference it is to be done within a particular period. The Proviso to Section 18 reads as follows:

“Provided that every such application shall be made –

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

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

Undoubtedly under Section 30 no such time limit has been prescribed. However, it is clear that any such application must be made within a reasonable time. What is the reasonable time will depend upon the facts and circumstances of each case. In a case like present, the reasonable time would be the time as allowed under Section 18. This Court has in the case of Gujarat vs. Raghav reported in considered the provisions of Sections 65 and 211 of the Bombay Land Revenue Code, 1879. It was noticed that Section 211 did not prescribe a time limit within which the Commissioner could revise an order under Section 65. It was however held as follows:

"It is true that there is no period of limitation prescribed under s. 211, but it seems to us plain that this power must be exercised in reasonable time and the length of the reasonable time must be determined by the facts of the case and the nature of the order which is being revised.

It seems to us that s. 65 itself indicates the length of the reasonable time within which the Commissioner must act under s. 211. Under s. 65 of the Code if the Collector does not inform the applicant of his decision on the application within a period of three months the permission applied for shall be deemed to have been granted. This section shows that a period of three months is considered ample for the Collector to make up his mind and beyond that the legislature thinks that the matter is so urgent that permission shall be deemed to have been granted. Reading ss. 211 and 65 together it seems to us that the Commissioner must exercise his revisional powers within a few months of the order of the Collector" ***

Even in Sharda Devi's case (supra) this Court has held that even though no limitation is provided for making a reference under Section 30 the power had to be exercised within a reasonable period. This Court has held that what is the reasonable period would depend upon the facts of each given case. It appears to us that in cases where the parties have notice of the acquisition proceedings, even presuming, they can apply for a reference under Section 30, the reasonable time would be the period prescribed under Section 18. We immediately clarify that where parties do not have notice of the acquisition proceedings and/or their rights come into existence subsequent to the acquisition proceedings the starting point of limitation may be postponed but the reasonable time would be the time set out in Section 18 from the date of the knowledge or from the date they acquire rights, whichever is later.

For all the above reasons, it will have to be held that the impugned Judgment cannot be sustained and is hereby set aside. The Writ Petition filed by the Respondents stands dismissed. We **affirm the order of the Land Acquisition Officer dated 26th September, 1997 and hold that the Respondents cannot claim a Reference under Section 30 nor claim apportionment. #**

In our view, the Respondents have by adopting multifarious proceedings delayed the payment of amount for a number of years. We therefore direct that the Appellants shall be entitled to withdraw the balance amount deposited in the Court without any further delay.

The Appeals stand disposed of. There will be no order as to costs.