RAJASTHAN HIGH COURT

Jagrup Singh

Vs.

State, (Rajasthan)

Civil Writ Petn. No. 1873 of 1990
(Rajesh Balia, J.)

18.02.1993

JUDGMENT

Rajesh Balia, J.

1. This petition pertains to ac-question of the petitioner's land situated at Chuck 2-e Chhoti Tehsil and District Sri-ganganagar. This is second time that the petitioner has come before this Court chal-lenging the notification dated 9th September, 1987, issued under Section 4 of the Central Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'), annexed along with the petition as Annexure 4, and declaration under Section 6 of the Act, dated 10-9-1987 (published in Gazette Extraordinary dated 11-9-1987), covering the land comprised in the noti-fication Annexure 4, which has been annexed as Annexure 5, to the writ petition. The public purpose for which the land in question is sought to be acquired, so stated to be in these annexures, is that the land in question is required for construction of sewerage plant and strips, within the Municipal Council, Sriganganagar. In the first instance, after publication of notification under Section 4 of the Act, which was published on 11-9-1987, in the Official Gazette; the petitioner's co-licensee received a notice dated 11-9-1987 on 25-9-1987, purported to have been issued by the Land Acquisition Officer, Sriganganagar under Section 9 of the Act. The petitioner filed writ petition, number - - *Brij Mohan Narain v. Land Acquisition Officer*[1] and others; challenging the acquisition proceedings. After filing of the writ petition, the declaration dated 10-7- 1987 under Section 6 read with Section 17(4) of the Act, was published in the Official Gazette, on 8-10-1987. The earlier writ petition was filed on 3-10-1987. In the said writ petition, a prayer was made that the respondents may be restrained from publishing the declaration under Section 6 in pursuance of notification under Section 4 of the Act of 1894.

2. The aforesaid writ petition along with other writ petitions came to be decided by a Division Bench of this Court, by a common judgment dated 2-8- 1988. It was held that notice under Section 9 having been issued before publication of the declaration under Section 6, was invalid. Until decision of the writ petition, declaration under Section 6 was published only in the Official Gazette dated 8-10-1987, and had not been published in the two daily newspapers circulating in the locality in which the land was situated, of which at least one had to be in the regional language and the Collector had also not caused public notice of the substance of such declaration, to be given at convenient places in the locality in which the land was situated. On a statement having been made on behalf of learned counsel for the respondents, that before proceeding further in the acquisition matter, the publication of the declaration shall be carried out in terms of Section 6(2) of the Act and it is only after compliance with the provisions of Section 6 that the land in question will be acquired. The Court disposed off the matter, by quashing the notice under Section 9 of the Act, issued by the Collector, as noticed above, and directed the respondents to comply with the provisions of Section 6(2) of the Act, concerning publication of declaration within 2 months. The publication of declaration under Section 6 was not made within 2 months' period, as fixed by the aforesaid judgment but ultimately, the declaration was published on 15th January, 1990, in a Hindi daily "Sima Sandesh" and in an another local daily "Lok Sammat".

3. The petitioner has filed this writ peti-tion challenging land acquisition proceedings once again. In the writ petition, the petitioner has raised very many grounds, challenging the issuance of notification under Section 4 of the Act as well as declaration under Section 6 of the Act of 1894.
The principal contentions raised by learned counsel for the petitioner are as under :

> (1) That the acquisition proceedings have been resorted to for the fulfillment of a public purpose namely construction of a sewerage plant. Said public purpose does not exist inasmuch as the scheme, for the implementation of which the land is being sought to be acquired has not yet been framed, therefore, no notification under Section 4 could have been published. The issuance of notification is clearly colorable exercise of powers. For this proposition, learned counsel relied on ***State of Tamil Nadu v. A. Mohammed Yousef, (1991) 4 SCC 224*** and a decision of this Court rendered in ***S. B. Civil Writ Petition No. 6399***

of 1991 - Bapiya v. State of Rajasthan, dated 15-10-1992.

(2) That the alleged scheme for which the land in question is being acquired is against the Master Plan approved for Sriganganagar and, therefore, the land could not have been acquired for the implementation of the pur-ported purpose disclosed in the notification. For this reason also re-course to acquisition proceedings in the present case is colorable exercise of power. Learned counsel in support of his contention relied on *Doman Paswan v. State of Bihar,* [2]

(3) That the publication of declaration having not been made in accordance with the provisions of Section 6(2) either within the time prescribed by the Court in its judgment dated 28-8-1988 or, within the time prescribed by Statute under Section 6(1) of the Act; the acquisition proceedings stand lapsed and a belated compliance of Section 6(2) cannot revive the already lapsed acquisition pro-ceedings.

(4) That, at any rate, the public purpose for which the land is being acquired, do not now exist, and, therefore; the land acquisition proceedings must be quashed.

4. Learned counsel for the respondent, Mr. N. P. Gupta, raised a preliminary objection as to the maintainability of the writ petition. He contended that the validity of notification under Section 4 as well as declaration under Section 6 was in challenge in the earlier writ petition filed by the petitioner and all the contentions which have been raised or ought to have been raised as to the validity of notification under Section 4 and declaration under Section 6, cannot now be permitted to be raised again, in view of earlier decision of this Court in which only partial relief was granted to the petitioner by quashing notice under Section 9 of the Act and by giving direction to the respondents to comply with the provisions of Section 6(2) regarding publication of notice within one month. He relied on decision in *Brij Mohan v. State of Rajasthan* [3]

5. So far as the preliminary objection is concerned, it holds good as far as contentions Nos. 1 and 2 are concerned, which to the validity of initiating land acquisition pro-ceedings at all, by publishing notification under Section 4 of the Act. In Brij Mohan's case (supra), it has already been held in. a writ petition arising out of these very land acquisi-tion proceedings, that in view of decision dated 22-8-1988, the petitioner is precluded from raising issues concerning validity of notification under Section 4 or of declaration under Section 6 of the Act of 1894. However, that is only in relation to the stage of proceedings, so far as it is preceding the stage of compliance of provisions of Section 6 is concerned. Since, compliance of Section 6 was not made and the Court

has directed the respondents to proceed further after com- plying with the provisions of Sub-Section (2) of Section 6 in accordance with law; it cannot be said that whether the provisions of Section 6 have been complied with in accordance with law or not, were subject matter of decision in earlier writ petition. Since it was common ground that the compliance of provisions of Section 6 were not complete at the relevant time; the question whether the provisions of Section 6 have been complied with and whether the alleged compliance of the pro-visions of Section 6 is in accordance with law or not could neither have been raised nor decided at that stage.

6. The contention No. 3 raised by learned counsel for the petitioner very much survive for decision. Learned counsel for the re-spondents put reliance on Brij Mohan's case (supra), for the purpose of persuading this Court not to entertain the contention No. 3 as well. I am afraid, this contention of learned counsel for the respondent cannot be ac-cepted; firstly - the decision in Brij Mohan's case (supra) is not binding on the present petitioner. It cannot also be of any assistance to the respondents as a precedence as it appears from the judgment that the conten-tions which have been raised presently before me, were neither raised nor decided in Brij Mohan's case (supra). Therefore, the conten-tion No. 3 will have to be examined and decided on merits.

7. Coming to the merits of the case, learned counsel for the respondent Mr. N. P. Gupta, urged that there is no requirement of law that publication of declaration under Section 6 should be made within the year of the publication of notification under Section 4 of the Act, as stipulated under Section 6(1) of the Act. He contends that the publication of declaration under Section 6 is relevant only for the provisions succeeding Section 6(2) and have no relevance to Section 6(1). In this context, he further contended that what is required by Section 6(1) is that a declaration has to be made under the signature of the Secretary to the Government within 1 year of the publication of notification under Section 4 and it does not require that declaration should be published within 1 year. He contends that there difference between 'mak-ing'of a declaration and 'publication' of a declaration. According to learned counsel, 'making of declaration' is complete as soon as it is signed by the Secretary to the Govern-ment. In the present case, the signature of the Secretary was, undoubtedly, placed on the declaration within 1 year of the date when notification under Section 4 was published and, therefore, the proceedings cannot be held to have lapsed merely because the 'publication' as required by Section 6(2), was made after lapse of 1 year

from the relevant date. He further contended that Section 6(2) envisages publication of declaration by 3 different modes, namely - (i) in the official Gazette, (ii) in two daily newspapers, one of which must be in the regional language in the locality; and (iii) by Collector causing the public notice of the substance of such de-claration, to be given at convenient places at the said locality. The 'publication' in any one mode is sufficient compliance for the purpose of Section 6(1), even if it he held that making of a declaration within its ambit includes its publication. It is apparent that the declara-tion was published in the Official Gazette on 8-10-1987, that is to say, within the time prescribed under Section 6(1) and merely because the 'publication' through other modes was carried out beyond period of one year from the relevant date, will not invalidate the land acquisition proceedings. He places reliance on *Umesh Aggarwal v. State of U.P.,* [4] Lt. *K. Padmadas v. State of Kerala,* [5] and on *Shivgonda Balgonda Patil v. The Director of Resettlement,* [6] He also referred to *Mangal Singh v. State of Haryana, reported in* [7]

8. Learned counsel for the petitioner Mr. K. N. Joshi, joins issue with learned counsel for the respondent about the aforesaid con-tention. He contends that 'publication of a declaration' in accordance with provisions of Section 6(2) is integral part of 'making of a declaration', and, it cannot be read in isola-tion and independent of provisions of Section 6(1). He contends that unless a declaration is published in accordance with the statutory provisions, it cannot be considered a declara-tion at all and, therefore, a declaration can be said to have been 'made', only when it is signed by the Secretary to the Government, as required by Section 6(1) and is made public by publication in accordance with the provisions of Section 6(2). According to Section 6(2), date of publication is the last of the dates of its publication and giving of public notice. Undisputedly, the last of the dates of publication in the present case fall much beyond the period of 1 year from the date of notification under Section 4, even after excluding the period during which the proceedings re-mained pending in this Court and further proceedings were stayed by the orders of this Court. In support of his proposition, learned counsel for the petitioner relies on a decision of Supreme Court in The Collector *(Distt. Magistrate), Allahabad v. Raja Ram, Jaiswal,* [8] *The State of Madhya Pradesh v. Vishnu Prasad Sharma,* [9] *Mahendra Lal Jaini v. State of Uttar Pradesh* [10] and *Babu Barkya Thakur v. State of Bombay (now Maha-rashtra),* [11]

9. Since the controversy revolves round the true import of provisions of Section 6, it would be apposite to re-produce here relevant portion of Section 6 of the Act of 1894,

as it stood when the impugned notification Annx. 4 and declaration Annx. 5 were issued, which reads as under:

> "6. Declaration that land is required for a public purpose.
> (1) Subject to the provisions of Part VII of this Act, when the appropriate Government is satisfied, after considering the report, if any, made under Section 5A, Sub-Section (2), that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders, and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under Section 4, Sub-Section (1), irrespective of whether one report or different reports has or have been made (wherever required) under Section 5-A, Sub-Section (2) :
> Provided that no declaration in respect of any particular land covered by a notification under Section 4, Sub-Section (1), -
> (i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of Land Acquisition (Amendment) Act, 1984, shall be made from the date of publication of notification; or
> (ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of publication of the notification :
> Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.
> (2) Every declaration shall be published in the Official Gazette, and in two daily news-papers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of publication of the declaration), and such declaration shall state the district or other territorial division in which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.
> (3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such

declaration, the appropriate Government may acquire the land in manner hereinafter appearing."

10. It would be relevant and necessary to notice the scheme of the acquisition proceed-ings, as it stood originally and, as the same have come to stand after relevant legislative amendments from time to time; in order to understand the inter-relation of various pro-visions of the Act, how the matter stood before the amendment, and what was the mischief for which the earlier provision did not provide any remedy which was provided by the amendments

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11. The acquisition proceedings com-mences with the publication of a notification under Section 4 of the Act whenever it appears to the appropriate Government that the land in any locality is needed or is likely to be needed, for any public purpose. Such notification was required to be published in two modes only, before the amendment of Section 4 by the Land Acquisition (Amend- ment) Act, 1984, came into force. The modes provided for publication were - publication in the Official Gazette and publication of substance of the notification in any con-venient part of the locality. The notification under Section 4 authorizes any officer of the Government, who is generally or specially authorized by the Government in this behalf; to carry out preliminary investigation about the land in respect of which notification under Section 4 is issued. It also gives an opportunity to those persons who are having interest in the land covered by such notification to raise objections, if any, to the acquisition of their land before the appro-priate authority. The next step in the acquisi-tion proceedings is hearing of objections of any person interested in any land which has been notified under Section 4 by the Collector and submission of Collector's report to the appropriate Government for its decision in terms of Section 5-A of the Act. After decision of the appropriate Government on objections, the stage is reached where, if the appropriate Government is satisfied after considering the report, if any, made under Section 5-A that any particular land is needed for a public purpose or for a Company; a declaration is to be made to that effect under the signature of a Secretary to such Govern-ment under Section 6(1) of the Act. Such declaration is required to be published in the Official Gazette and the Collector is required to cause public notice of the substance of such declaration to be given at the convenient places in the said locality in which the land is situated. Such declaration is to be treated conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be, as per the provisions or Section 6(3) of the Act. Thereafter, the Collector,

after obtaining orders from appropriate Government to acquire the land under Section 7, and giving notice to persons interested, is to pass an award under Section 11, determining the compensation. The Gov-ernment could proceed to acquire a land only after declaration under Section 6(1) has been made. After the declaration under Section 6 has been made, notice under Section 9 is required to be issued to the persons in-terested, stating that the Government intends to take possession of the land, that claim for compensation for all interest may be made to the Collector. Such notices are required to be issued to the occupant of the land as well as to any person who has been found to be a person interested in land during the land acquisition proceedings carried out hereinbefore, and the Collector is also required to issue a public notice to that effect. After the notices under Section 9 have been issued under Section 11 of the Act, the Collector is required to inquire into the objections, if any, which any person interested may have in pursuance of notice under Section 9 to the measurements made under Section 8 and, into the value of the land, on the date of publication of notification under Section 4; and into the respective interests of the persons claiming compensation and, the Collector was to make an award under his hand. It may be noticed that in terms of Section 11 read with Sections 23(1) first and Section 24 seventhly of the Act, the date of publication of notification under Section 4 is the relevant date for the purpose of determining the market value of the land for the purpose of making an award about the compensation to be paid to the persons interested in the land.

12. It may also be noticed that the provisions of the Land Acquisition Act initially did not provide any time limit for making of a declaration under Section 6, after notification under Section 4 was published, and it also did not provide any time limit for making of an award, after declaration under Section 6 had been published. At the same time, once notification under Section 4 was published, in terms of provisions of Section 11 read with Section 23 of the Act, the compensation to be determined under the Act was pegged at the level of market price prevailing on the date of publication of notification under Section 4; irrespective of any time-lag between the notification under Section 4 and the actual acquisition, the determination and payment of compensation. This anomaly leads to many judicial pro-nouncements that though delay in making of declaration under Section 6 after publication of notification under Section 4 and making of award after publication of declaration under Section 6 by itself does not invalidate the land acquisition proceedings, but is by itself or coupled with other circumstances may lead to inference that the issuance of notification under

Section 4 followed by inordinate delay in completion of land acquisition proceedings was a colorable exercise of powers to peg down the price of the land for the purpose of determining compensation at some future date; though no real need of acquiring the land existed, for initiating land acquisition proceedings, which may lead to striking down of the land acquisition proceedings. However, burden of proving that delay in completion of acquisition proceedings was inordinate and unjustified and responsibility rests with the Government, lay on the person who chal-lenges the acquisition proceedings on that ground.

13. In *State of Madhya Pradesh v. Vishnu Prasad Sharma,* [12] the issue of inordinate delay in completing the land acquisition proceedings in pursuance of notification under Section 4 came up before their Lordships of Supreme Court, in a matter where for a parcel of land, which was notified for acquisition under Section 4, successive declarations under Section 6 were made for acquiring different pieces of the parcel of land covered by notification under Section 4, Wanchoo, J. speaking for himself and on behalf of Mudholkar, J., observed (paras 13 and 14) :

> ".....The importance of a notification under Section 4 is that on the issue of such notification the land in the locality to which the notification applies is in a sense freezed. This freezing takes place in two ways. Firstly, the market value of the land to be acquired has to be determined on the date of the notification under Section 4(1) : (See Section 23(1) firstly). Secondly, under outlay or improvements on or disposal of the land acquired commenced, made or effected without the sanction of the Collector after the date of publication of the notification under Section 4(t) cannot be taken into consideration at all in determining compensation : (See Section 24, seventhly).
> .....Two things are plain when we come to consider the construction of Sections 4, 5-A and 6. The first is that the Act provides for acquisition of land of persons without their consent and though compensation is paid for such acquisition; the fact however remains that land is acquired without the circumstances which must be borne in mind when we come to consider the question raised before us. In such a case the provisions of statute must be strictly constructed as it deprives a person of his land without his consent. Secondly, in interpreting these pro-visions the Court must keep in view on the one hand the public interest which compels such acquisitive and on the other interest of the person who is being deprived of his land without his

> consent.....On the other hand, as the compensation has to be determined with reference to the date of the notification under Section 4(1) the person whose land has to be acquired may stand to lose if there is a great delay between the notification under Section 4(1) and the notification under Section 6 in case prices have risen in the meantime....."

(emphasis supplied)

Sarkar, J., in his concurring judgment repelling the contention that successive declarations under Section 6 can be made so as not to put extra cost on the Government Exchequer, observed (para 3) :

> "....If it is a justification of saying that a number of declarations can be made under Section 6 because otherwise the Government may have to pay more, it seems to me that it is at least an equal justification for saying that such declarations cannot have been contem-plated by the Act because that would mean an avoidable deprivation of the owners of their beneficial enjoyment of lands till such time as the Government is able to make its plan. As the Act is an expropriatary Act, that inter-pretation of it should be accepted which puts the least burden on the expropriated owner....."

In *Krishna Iyyer v. State of Madras,* [13] relying on the observations made in State of M.P. v. Vishnu Prasad (supra), learned Judge of the High Court came to the conclusion that though Statute does not prescribe any time limit for issuing declaration under Section 6(1), after notification under Section 4(1) or far passing of an award at a subsequent stage; it does not deprive the aggrieved party of a remedy where undue prolongation of the proceedings has operated in an oppressive manner on the owner of the land. Similar view was taken by the High Courts of Gujarat, and Punjab and Haryana.

14. With the aforesaid back-drop, for the first time, through Land Acquisition (Amendment and Validation) Act, 1967 (hereinafter, called 'the Act of 1967'), before the existing proviso to Section 6(1), the proviso in the following terms was inserted :

> "....

> Provided that no declaration in respect of any particular land covered by a notification under Section 4, Sub-Section (1), published after the commencement of the Land Ac-quisition (Amendment and Validation) Or-

dinance, 1967, shall be made after the expiry of three years from the date of such publication.
Provided further that....."

By the above quoted proviso, the Act prohibited any declaration under Section 6 to be made after the expire of three years from the date of publication of notification under Section 4. The Act of 1967 did not further provide any time limit to complete the stage subsequent to making of declaration. In that state of affairs, the relevancy of declaration under Section 6 remained as serving con-clusive proof of the fact that the Government is duly satisfied, after an enquiry at which parties concerned are heard, that the land in consideration is really needed for public purpose. In that view of the matter, the anomaly, for removing of which the amend-ment was made, remained unaffected.

In the scheme of the Act, as it came to exist after the Act of 1967, while interpreting the provision, of Section 6(1), as amended, it was held that no time-limit has been prescribed for notification under Section 6 of the principal Act and what has been prohibited is confined to declaration, 'made' been and the specified period.

15. Thereafter, the land Acquisition Act was further amended, through the Land Acquisition (Amendment) Act, 1984 (herein-after called 'the Act of 1984'), which brought amendments in the provisions of Sections 4, 6, and 11 and also inserted Section 11-A, all of which have vital bearing on the question of scope of Section 6 in the light of the Scheme of -the Act, as it exists now. For the present purpose, it would be necessary to analyze the provisions, as they existed before the Act of 1967; as they existed after the Amendment Act of 1967 but before the Act of 1984, and as they exist now; after the commencement of Act of 1984 - in comparable manner.

16. The principal change in the Land Acquisition Act, which has been brought about by the amendments, for the present purposes, is that the Land Acquisition Act before the Amendment Act of 1967, did not provide any time- frame within which pro-ceedings of acquiring the land and determining the compensation were to be completed, though the compensation amount was pegged to the prices prevailing on the date of issuance of notification under Section 4, which resulted in undue long delays in completion of land acquisition proceedings, to harassment and oppression of

the owners, whose land was being acquired compulsorily. When the an-omalous situation and inherent potentiality of abuse came to fore, through various decisions of the courts, to suppress the mischief due to lack of any provision about time-limit for completing the acquisition proceedings, which resulted in oppressive operation of statute due to pegging down the compensation payable to the market value existing on the date of notification under Section 4; in the first instance, the Legislative intervened and amended Section 6, by prohibiting making of any declaration after 3 years of the publication of notification under Section 4 of the Act. However, still no time-frame for completing the land acquisition proceedings after a declaration under Section 6 was made, was provided; not the relevance of prescribing a date which should be deemed to be date of publication of declaration under Section 6 was felt necessary to be provided. Declaration under Section had only one relevance of providing conclusive proof of existence of need for acquiring land for public purpose. It carried no relevance for the purpose of having a time-frame for completion of acquisition proceedings, culminating in passing of an award in respect of land sought to be acquired. The mischief intended to be suppressed, continued.

17. In order to suppress that mischief, comprehensive amendment was made in 1984, by the Act of 1984, providing separate time lag for each stage of proceedings within which land acquisition proceedings are to be completed, in culmination making of an award. The time frame provided under the present provisions is that a declaration under Section 6 is to be made within one year of the publication of notification under Section 4 and, thereafter, an award has to be made within a period of 2 years from the date of publication of the declaration. Consequence, in either case, is fatal to the land acquisition proceedings, about which there is no dispute.

18. A comparison of the relevant pro-visions, as they govern the acquisition proceedings from time to time would make it clear that while notification under Section 4 continues to remain the starting point for preliminary investigation and laying the foundation for acquisition proceedings, and the relevant date for determining the com-pensation for the purpose of arriving at the market price of the land under acquisition and excluding the improvement and additions to the structures from being included in determination of compensation, remains the date of publication of notification under Section 4; there has been change in the mode of publication of declaration under Sections 4, and 6, there is change in the relevance of declaration under Section 6 from being confined to the mere proof of existence of public purpose;

provision has been made as to what shall be the date of publication, as more than one mode of publication were being prescribed and, a time limit was also pre-scribed under Section 11-A of the Act for making an award under : Section 11, after making of declaration under Section 6 of the Act.

19. The relevance of declaration under Section 6 which was confined to serve proof of existence of public purpose for the ac-question of land in question was extended to provide a starting point of limitation for making an award in a total time frame provided for completing the land acquisition proceedings, starting from the point of publication of notification under Section 4, until passing of an award under Section 11. The making of a declaration under Section 6 now serves 3-fold purposes, under the Scheme of the Act - (a) it furnishes a conclusive evidence that the land is needed for public purpose; (b) it is only after making of such declaration that the appropriate Government may acquire the land, in the manner provided thereafter, that is to say, in the manner provided under the Act, succeeding Section 6 (as per Section 6(3)), and (c) the declaration also furnishes a starting point for limitation within which an award of compensation is to be made.

20. It is in the light of aforesaid back-drop of the changing scheme of the Act from time to time that provisions of Section 6 as are existing today after the Amendment Act of 1984, has to be construed and, in my opinion, any precedent which have dealt with the provisions of Land Acquisition Act, before the Act of 1984, does not directly cover the issue raised in this petition.

21. It is well known principle of con-struction for interpreting provisions of such remedial provisions of Statute, that courts are to make such construction as shall suppress the mischief and advance the remedy and also suppress subtle intervention and evasions in continuance of the mischief.

22. In Heydon's case (1584) 3 Co. Rep. 7-a, it was resolved by the Barons of the Exchequer "that for the sure and true inter-pretation all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law) four things are to be discerned and considered : (1st). What was the common law before the making of the Act. (2nd). What was the mischief and defect for which the common law did not provide. (3rd). What remedy the Parliament hath resolved and appointed to cure the disease of the com- monwealth. And, (4th). The true reason of the remedy; and then the office of all the Judges is always to make such construction as shall suppress the

mischief, and advance the remedy, and to suppress subtle intervention and evasions, for continuance of the mischief, and pro privato commondo, and to add force and life to the cure and remedy, according to true intent of makers of the Act, pro bono publico."

This dictum has since then acquired the statuts of classic on the subject.

23. The principle has been quoted with approval by the Constitution Bench of Supreme Court in *Bengal Immunity Co. Ltd. v. State of Bihar*[14] The principle has since been reiterated in a catena of decisions of Supreme Court in succeeding reports. *Recently, in Good-year India v. State of Haryana* [15] Mukerjee, J. observed (at p. 789 of AIR):

> "In my opinion, the High Court correctly noted in the said decision that the provisions of constitutional change have to be construed, and such problems should not be viewed in narrow isolationism but on a much wider spectrum and the principles laid down in Heydon's case (1584) 3 Co-Rep 7a) are instructive....., and find out what was the mischief that was sought to be remedied and then discover the true rationale for such a remedy. In *Black-Clawason International Ltd. v. Papierwerke Waldhof-Aschaffenburg Ag.*[16] Lord Reid observed as follows (All England Reporter p. 814) :"One must first read the words in the context of the Act as a whole, but one is entitled to go beyond that. The general rule in construing any document is that one should put one self 'in the shoes' of the maker or makers and take into account relevant facts known to them when the document was made. The same must apply to Acts of Parliament subject to one qualification. An Act is addressed to all the lieges and it would seem wrong to take into account anything that was not public knowledge at the time. That may be common knowledge at the time or it may be some published information which Parliament can be presumed to have had in mind.
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> It has always been said to be important to consider the 'mischief' which the Act was apparently intended to remedy. The word 'mischief' is traditional. I would expand it in this way. In addition to reading the Act you look at the facts presumed to be known to Parliament when the Bill which become Act in question was before it, and you consider whether there is disclosed some unsatisfactory state of affairs which Parliament can properly be supposed to

have intended to remedy by the Act."

24. The principle, that reasonable con-struction should be followed and literal construction should be avoided, if that defeats the manifest object and purpose of the Act, was further reiterated with approval, in *Hotel Balaji v. State of Andhra Pradesh*, [17]

25. Keeping the above well-settled prin-ciples of interpreting a statute, I may examine the present case by considering how the matter stood immediately before the amend-ment in various provisions of the Act, having inter-relation, came into force; what was the mischief - for which the earlier provisions did not provide and, remedy which should be provided by the amendment, to cure the mischief.

26. It has been discussed above, that the amendments in Sections 4, 6 and 11 have been brought and Section 11-A has been inserted, to suppress the mischief that may be caused due to prolonged delay in completion of land acquisition proceedings, which resulted in undue harassment of citizens, who were being deprived of their land compulsorily by peg-ging the market value of land to the date of notification under Section 4 for the purpose of determining compensation under the Act; by providing a time-frame for completion of each stage. If the contention raised by the respondents is to be accepted, it would result in that event after providing for time-frame, for making a declaration under Section 6 after publication of notification under Section 4, and further time-limit for making an award after publication of declaration under Section 6; the period between signing of declaration and its publication, remain unprovided by any time limit and the resultant position would be the same, that after signing of the declaration it may not be published at all or, is published after considerable long period, without affecting the validity of the land acquisition proceedings.

Not only that, even in cases where publica-tion of declaration under Section 6 is made in one or more modes, provided under Section 6(2), but not in all the modes provided under Section 6(2) and such publication is kept in abeyance for indefinite period so as to keep the time limit for completion of award also in abeyance, for indefinite period, inasmuch as, Section 6(2) clearly provides that last of the dates of such publication and giving of such public notice shall be the date of publication of declaration; and, the limitation for making of an award is stated to be from the date of publication of declaration under Section 6. Section 6(2) provides 3 modes of publication of declaration, namely, publication in Official Gazette, publication in two daily papers circulating in the locality in which the land is situated and of which at least one shall

be in the regional language; and lastly, the Col- lector shall cause public notice of the sub-stance of such declaration to be given at the convenient places in the said locality. All the publications are not required to be simultaneous, that is to say, publication in different modes can be at different times. Last of the dates of such publication is to be treated the date of publication of declaration. Accepting the contention of the respondents would mean that it would be possible for the administration to sign a declaration, publish in one or two modes and keep publication of one mode in abeyance indefinitely and, thereby, making of an award be put in abeyance inasmuch as limitation for making of an award under Section 11-A, according to the respondents, would not commence at all until publication in all the modes have not been made. This would be nullifying the very object for which the amendments have been brought to suppress the mischief.

27. The only exception to the principle of Heydon's case (1584-3 Co. Rep. 7a), as approved by their Lordships of Supreme Court, is that in applying the principle of Mischief Rule, in interpreting the statute, it must always be borne in mind that foremost and primary rule of construction is that the intention of Legislature must be found in the words used in the legislature itself. If the words used are capable of one construction only, then it would not be open to the courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. The words used in the material provision of the Statute must be interpreted in their plain grammatical meaning and it is only when such words are capable of two con-structions, that the question of giving effect to the policy of or object of the Act can legitimately arise. When the material words are capable of two constructions, one of such is likely to defeat or impair the policy of the Act while the other construction is likely to assist the achievements of said policy, the courts would prefer to adopt the latter construction. *[see Kanai Lal Sur v. Param-nidhi Sadhu Khan,* [18]

28. Can it be said that the only possible construction of the language used in Section 6(1) is one suggested by the respondents on the basis of difference in the meaning of words "made" and "published". In this connection, it is to be noticed that a scrutiny of Section 6(1) goes to show that first part of Section 6(1) envisages the satisfaction of the appropriate Government after considering the report, if any, made under Section 5-A(2), that any particular land is needed for a public purpose. Once this satisfaction is arrived at by the Government, a declaration of having reached such satisfaction is to

be made under the signatures of Secretary to such Government or of other officer duly authorized certified orders. Now, the crucial words are - "declaration shall be made". The words "shall be made", cannot be divorced from the word "declaration". "Shall be made", is a verb, whose object is a "declaration", as to the satisfaction of the Government that the land is needed for a public purpose. It is to be noticed that the words used are not, making of an 'order' by the appropriate Government. The interpretation of Section 6 cannot be based merely on the word "made". Therefore, before inter-prating the word "shall be made", in contradiction to "published", it would be necessary to see what the object "declaration", which is a 'noun' means, in its plain grammatical form. It may also be said that "declaration" is a noun and its corresponding verb is "to declare".

29. For meanings of words "declaration" and "to declare", in Webster's Third New International Dictionary (Unabridged); the meaning of "declaration" has been said to be :

> "the act of declaring, proclaiming, or publicly announcing : explicit assertion : formal proclamation".

The word "declare" has been stated to mean :

> "to make known publicly; announce, pro-claim or publish, especially by a formal statement or official pronouncement; com-municate to others".

According to Oxford English Dictionary, Vol. III, "declaration" means :

> "announcing openly, explicitly or for-mally, positive statement or assertion; an assertion, announcement or proclamation in emphatic, solemn, or legal terms."

Likewise, the verb "declare" stated to mean :

> "To make known or state publicly, for-mally, or in explicit terms; to assert, proclaim, announce or pronounce by formal statement or in solemn terms."

Likewise, the Random House Dictionary of the English Language (The Unabridged

Edition), also gives the similar meaning to the term "declaration" and "declare". According to it, "declaration" means :

> "a positive, explicit, or formal statement, proclamation : something that is announced avowed, or proclaimed : a document em-bodying an announcement or proclamation."

A verb "declare" is stated to mean :

> "to make known clearly, especially in explicit or formal terms : to announce offi-cially; proclaim : to manifest; reveal; show : aver, asseverate, state : making something known emphatically, openly or formally; to make known, sometimes in the face of actual or potential contradiction."

The Black's Law Dictionary, Fifth Edition, at p. 368, explains the word "declare" as under :

> "To make known, manifest, or clear. To signify, to show in any manner either by words or acts. To publish, to utter; to announce clearly some opinion or resolution.."

30. Thus, even according to literal dictionary meaning of word "declaration", as noticed above, it includes the act of making known or proclaiming the contents of such declaration for the purpose of making it known to others. In the context of statutory declaration, like the one contemplated under Section 6 of the Act, it appears to be the only appropriate meaning. The plain literal mean-ing 'proclaiming' is also to announce or to declare, in an official or formal manner, or, to announce or declare publicly or officially. If, keeping in view the above literal meaning of term "declaration", the language of Section 6 is read in terms of its meaning :

> "a declaration shall be made to that effect under the signatures of Secretary to such Government or....."

would literally read in its synonymous terms :

> "when the appropriate Government is satisfied.....that any particular land is

needed for a public purpose or for a Company, such satisfaction shall be made known or pro-claimed under the signatures of Secretary 20 such Government or of some other officer duly authorized to certify its orders.(Emphasis supplied)."

Thus, literal meaning of the phrase - "declaration shall be made to such effect", would, necessarily include within its ambit, not only the act of signing the document but also making it known officially or publicly by some form of announcing or publication.

31. If that be the literal interpretation of Section 6(1), of the phrase "declaration shall be made", Section 6(2). merely provides the modes of "making known or proclaiming officially to general public" about the satis- faction of the Government regarding any particular land being needed for the public purpose. This interpretation conforms to the rule of literal interpretation, without violating the plain language used by the Legislature. In my opinion, this interpretation also fulfils the object of suppressing the mischief for which the amendment brought about by the Act of 1984, inasmuch as, it does not leave any gap unprovoked for by the time limit within which the land acquisition proceedings have to be completed.

32. In support of his proposition that the language of Sub-Sections (1) and (2) of Section 6 suggests two steps, to be taken - the first step, which is to be taken by the appropriate Government, is to make a declaration to that effect that the land is needed for a public purpose and; the second step is, to cause a declaration to be published; and, that law does not require the stage of publication of declaration to be completed within one year of the publication of notification under Section 4 but requires merely signing of a declaration within the time prescribed; learn-ed counsel for the respondent relied on *Umesh Aggrawal v. State of U.P.* [19] and *Shivgonda Balgonda Patil v. The Director of Resettlement,* [20] No doubt these two decisions support the contention raised by learned counsel for the respondent, However, I respectfully regret my inability to agree with the view expressed in the two decisions, for the reasons discussed above. It appears that it was not brought to the notice of learned Judges of the respective High Courts that the literal meaning of 'making of a declaration' within its ambit includes 'the act of making it known with announcement or proclamation' and, nor it was brought to the notice that the interpretation suggested on behalf of the State, would defeat the object with which the amendment in the Land Acquisition Act was brought about by the Act of 1984. Mangal Singh's case (1990 LACC 363), is besides the issue raised in the present case. It dealt with a case in which a corrigendum was issued,

correcting certain discrepancies in the 1st declaration under Section 6. The question arose, as to which should be taken to be date of publication of declaration - of the first declaration, or, of the corrigendum. No such issue is involved in the present case.

33. The relevancy of publication of de-claration under Section 6, under the existing scheme of the Act, prior to amendment of 1984, was considered to be only for the purpose of providing proof of the existence of declaration for the purpose of raising pre-sumption of conclusiveness as to the existence of public purpose for acquiring the land. The decision of their Lordships of Supreme Court in *Khadim Hussain v. State of U.P.,* [21] also does not help the cause of the respondents, inasmuch as, that was the decision rendered in the scheme of the Act, as it existed before the amending Act of 1984 came into force and, in the then existing scheme, the relevancy of publication of declaration under Section 6 was held only to provide conclusive proof of the existence of need to acquire the land for public purposes in terms of Section 6(3). While considering the Act, as amended by the Act of 1967, the Apex Court held (Paras 25 and 26) :

> "It is clear from the provisions set out above that the object of the notification under Section 6 is to ensure that the Government is satisfied, after an enquiry at which parties concerned are heard, that the land under consideration is really needed for a public purpose and that the declaration is to operate as conclusive evidence to show that this is so. The conclusiveness of this declaration cannot be questioned anywhere if the procedure dealing with its making has been observed. The notification which takes place under Section 6(2), set out above, follows and serves only as evidence of the declaration.

(Emphasis supplied)..

> .....In fact, Section 4(2) of the Amendment Act of 1967, set out above, itself makes a distinction between a "declaration" under Section 6 and its "notification" under Section 4 of the principal Act. It does not say that no notification under Section 6 of the principal Act can take place beyond the time fixed. The prohibition is confined to declaration made beyond the specified period. If the case of the appellant could be that no declaration was made within the prescribed time, it was his duty to prove it. He has not discharged that onus."

It may be noticed that the Apex Court has interpreted the relevant provisions of the Land Acquisition Act in Khadim Hussain's case (supra), with reference to the object, with which the relevant provisions were associat-ed.

34. As I have discussed above, the sole purpose of declaration under Section 6, under the existing scheme of the Land Acquisition Act, is not merely to serve the purpose of furnishing conclusive evidence to show that the land under consideration is really needed for the public purpose, but, is also essential part of the time-frame within which the land acquisition proceedings up to making of an award of compensation, has to be completed. It also clears the way for taking order of the Government by the Collector concerned to acquire the land and proceed in the manner provided under Section 7 and thereafter. The decision in Khadim Hussain's case (supra), was founded on the finding that sole purpose of declaration under Section 6 was to furnish conclusive evidence of the fact that land is needed for public purpose, in a case arising out of proceedings which took place before the commencement of the Act of 1984. Hence, that decision is clearly distinguishable and ratio thereof is not ap-plicable in the present case.

35. The object, with which the amend-ments in Sections 4 and 6 were made and Section 11-A was inserted, was to provide a time-frame within which the proceedings of acquiring land up to amount of compensation payable to the person interested, is deter-mined, and is made available to them. This time- frame is of three years period, from the date of publication of notification under Section 4, by providing different time limits for completing the intermediate stages.

36. If interpretation, as suggested by learned counsel for the respondents, which is based on difference of meaning between the words "made" and "published", is accepted; then, the phrase "declaration shall be made" would defeat the very purpose of the Act, by leaving an interim stage, to be completed without any time limit. This will make the Act susceptible to abuse by subtle intervention and evasion, for continued mischief.

Since the present case is covered by the provisions of the Act, as it exists, after the amendment came into force by the Act of 1984; the ratio of aforesaid decision cannot be made applicable, *ipso facto*, in the present case.

37. Apart from what has been discussed above, my conclusion is not rested on gram-

matical meaning of word "declaration", alone. It will be noticed that in Section 6(1), the phrase used is "declaration shall be made" and, in Sub- Section (3) of Section 6 also, the phraseology of "making such declaration" has been used. To be precise, Sub-Section (3) provides - "after making such declaration, the appropriate Government may acquire the land in the manner hereinafter appearing". If making of a declaration does not partake within its ambit, making it known to others, in the manner provided under Section 6(2); then it would result in a very anomalous situation. In that event, in terms of Section 6(3), as soon as the declaration is made, the appropriate Government may acquire the land in the manner hereinafter appearing; that is to say, it can put into execution the provisions of the Land Acquisition Act, commencing from Section 7 onwards, as soon as a document of satisfaction about need for acquisition was signed by the Secretary to the Government or by any other officer autho-rised in this behalf; without there being publication of the declaration in the manner provided under Sub-Section (2) of Section 6. It is nobody's case, rather it is an admitted premise; that publication of declaration in all the modes is necessary before it becomes operative and it is the case of the respondents also that the phraseology of Sub-Section (2) suggests that the date of publication is relevant for the purpose of the provisions of the Act, appearing after Section 6(2). If the contention advanced on behalf of the respondents is to be accepted, the date of publication referred after Section 6(2) is relevant only for Section 11-A, as the phrase "from the date of publication of declaration", finds place only in Section 11-A. Sub-Section (3) of Section 6 also does not use the word "publication", but uses the word "making such declaration", that is to say, verb "make" has been used for "declaration" in both the provisions, of Section 6, Sub-Sections (1) and (3). If the "making of a declaration", within its ambit does not include the "publication of such declaration ", then. it would be contradiction terms, to say that, publication of declaration in all the modes is mandatory require-ment, before further proceedings can be taken in terms of declaration but the statute authorizes to take further proceedings for acquiring the land in the manner appearing after Sub-Section (3) of Section 6, as soon as the declaration is made; as distinguished from "declaration is published". Naturally, accept-ing the contention on its face will exclude the provisions of Sub-Section. (2) of Section 6 for the purpose of putting into action the ac-question proceedings after "making" such declaration. The acceptance of interpretation suggested by the respondents would mean that even before the publication of a declaration in the modes prescribed by the Act, the land may be acquired in the manner appearing in the provisions of the Act succeeding Sub-Section (3) of Section 6, rendering the provisions of Section 6(2), which are admitted to be

mandatory, wholly nugatory. If, on the other hand, it is suggested that while for the purposes of Section 6(1), making of a declaration has a different meaning than for the purpose of Section 6(3), inasmuch as, making of such declaration under Section 6(3) would include its publication as well, then it strengthen conclusion that at best, the phrase "declaration shall be made", is capable of more than one meaning. In that event, it would be a requirement of principle enunciated in Heydon's case (1584-3 Co Rep 7a) (supra), to accept that interpretation which effectuates the object and purport of Law and suppress the mischief for which it has been brought into existence in preference to that, which would leave room for subtle intervention and invasion for continuance of the mischief. The interpretation which I have accepted leaves no period from the date of publication of notification under Section 4 until the date of making of an award, unprovoked for by a time-frame and would further the object of the amendments by suppressing the mischief of prolonged delay for want of any provision in the Act providing for a time-frame to complete the land acquisition pro- ceedings.

38. The word "declaration" used under Section 6(1), cannot be in the Scheme, as it presently exists, be treated to be an order of acquisition by the appropriate Government, as suggested by learned counsel for the respondent. Sub-section (3) of Section 6 provides that after making such declaration, the appro-priate Government may acquire the land in the manner hereinafter appearing, that is to say, in the provisions succeeding Section 6 of the Act.

39. Section 7 of the Act envisages that whenever any, land have been so declared to be needed for a public purpose or for a Company, the appropriate Government or some officer authorized by the appropriate Government in this behalf, shall direct the Collector to take order for the acquisition of the land. This clearly indicates that an order of acquisition of the land has to be made after a declaration under Section 6 has been made. Therefore, the requirement that the declaration shall be made when the Government is satisfied that any particular land is needed for the public purpose is not by itself an order of acquisition and, purposely the term "declaration" has been used in a sense, different from the "order", in Section 6(1) of the Act.

40. In this connection, it may also be noticed that can it be said that, but for the provisions of Section 6(2), no publication in any form is required to be made, of the declaration made under Section 6(1) ? In my opinion, even if Sub- Sec. (2) did not exist, a declaration in order to come into force, for any purpose of the Act, had to have

been made known or published in a reasonable manner, though such manner may not have to be in con-formity with any particular mode. Even in the absence of Sub-section (2), a declaration that the appropriate Government is satisfied that any particular land is needed for the public pur-pose, or for a Company, could have been complete and effective only if it has been made known or published in some manner and only then it could have been a 'conclusive evidence' of the fact that the land sought to be acquired for, is needed for a public purpose and thereafter, it could have been brought to a situation where particular provisions, succeeding Section 6 could have been invoked in terms of Sub-section (3) of Section 6.

41. It may be relevant, in this connection, to refer to the observations made by the Apex Court in the Collector *(District Magistrate), Allahabad v. Raja Ram Jaiswal,* [22] with reference to Section 4(1) of the Act, as under :

> "It could not be urged that since the underlying purpose behind publication of a notice in the locality is to give an op-portunity to the person interested in the land to object to the acquisition, where in a case, the purpose is achieved as in the instant case the petitioner having filed his objections, the failure to publish the substance of the notification in the locality need not be treated fatal and cannot invalidate the proceedings. The submission as presented is very persuasive and but for binding precedents. The Supreme Court would not whittle down a mandate of legislation recognized by a long line of decisions solely depending upon the facts of a given case. Further the submission is pre-dicated upon an assumption that the sole purpose behind publication of substance of notification in locality is to make require-ments of Section 5-A functionally effective. The assumption is not well founded."

Their Lordships further went on to observe as under (Para 16) :

> "Assuming that a notification in the Of-ficial Gazette is a formal expression of the decision of the Government, the decision of the Government is hardly relevant unless it takes the concrete shape and form by publication in the Official Gazette. Where a decision of the Government to be effective and valid has to notified in the Government Gazette, the decision itself does not become effective unless a notification in the Official Gazette follows. Therefore, assuming that notification is a formal expression of a decision of the Government to acquire

land, unless the decision is notified in the Government Gazette by an appropriate Government notification, the proceedings for acquisition cannot be said to have been initiated and the decision would remain a paper decision."

No doubt, these observations of Hon'ble Supreme Court have made in reference to Section 4 of the Act, but the analogy is fully applicable to the provisions of Section 6, as far as the question - when the declaration under Section 6 can be said to have been made effective ?

42. In Raja Ram Jaiswal's case (supra), it has been stated in no uncertain terms that the decision of the Government is hardly relevant, unless it takes concrete shape and form by its publication, and, where a decision of the Government in order to be effective and valid, has to be published, for, an effective decision is made, only when it is published.

43. If the provisions of Section 6 are read in the frame-work of the Scheme of the acquisition proceedings; under the Act, in my opinion, it leaves no room of doubt that making of declaration under Section 6(1) as well as under Section 6(3), envisages within its ambit, the act of making it known in the formal manner and that formal manner of making it known, has been provided by Section 6(2).

44. It has also been argued, in this connection, that Sub-section (2) of Section 6 states that last of the dates of such publication and giving of such public notice (hereinafter referred to as 'the date of publication of declaration'), is suggestive of the fact that the date of publication is relevant only, for the purpose of provisions appearing after Section 6(2) and, is not relevant or related to provisions of Section 6(1), which precedes Section 6(2). The use of the expres-sion "hereinafter", according, to learned counsel, is significant and is clearly indicative that the definition of the "last of the dates of publication", is for the purposes of sub-sequent provisions of the Act and not for the preceding provisions, including Section 6(1) of the Act. For this submission, learned counsel relied on Umesh Aggrawal's case (1989 LACC 675) (All) (supra) and Lt. K. Padmadas's case (supra). In Umesh Aggarwal's case, the Court observed as under :

"The relevant portion of Sub-Section (2) of Section 6 is "the last of the date of such publication and the giving of such public notice, being hereinafter referred

to as the date of publication of the declaration." The use of the word 'hereinafter' is significant. No such words as 'in this Section' or 'in this Act' or 'herein-before'. There is no provision that the publication of the declaration in the Official Gazette and two newspapers and the giving of public notice, all are to be done before the expiry of one year from the date of publication of notification under Section 4. In our opinion, the contention of the learned counsel for the petitioner has no force and it is not required by law that the declaration under Section 6 should have been published in the Official Gazette and two newspapers and public notice of the declaration should have been given in the locality before the expiry of one year from the date of publication of the notification under Section 4."

In Lt. K., Padmadas's case (supra), his Lordship of High Court of Judicature for Kerala, observed as under (at p. 162 of AIR) :

"It is evident from the parenthesis, which is relevant, that any reference in the subsequent provisions of the Act, to the date of publication of the declaration is to be taken as the last of the dates of publication and the giving of public notice. The use of the expression "hereinafter referred to" makes it clear that the definition of the last date of publication is for the purpose of the subsequent provisions of the Act. It is not possible to project it back for the purpose of Sub-section (1)....."

45. After giving considerable thought, I have not been able to persuade myself to fall in line with the above decisions, Firstly; because, in my opinion, as discussed above, making of declaration includes the act of making it known by announcement or pro-collimation officially and, therefore, the mode of publication provided under Sub-section (2) of Section 6, is only the mode of making known or proclaiming the declaration officially there-fore, there cannot be different dates of making of declaration and publication of declaration. Secondly; the fact that for brevity's sake, if the Act has provided that 'hereinafter last of the dates of such publica-tion shall be referred to as the dates of publication', it does not mean the date of publication for different parts of the Act, would be different. There is no basis in confining the meaning of 'date of publication' only for later part of the Act and not for the purpose of whole Act. If that be so, being a necessary implication or expression; inter-pretation of the very same provision cannot be different for the purposes of different provisions of the same enactment. It cannot be held that for the purpose of Section 6(1), the date of

publication shall be different than for the purpose of Section 11-A. When Section 6(2) explicitly states that last of the dates of publication of such declaration shall be the date of publication of declaration, when a declaration is to be published in various/different modes and, publication by all the modes is mandatory. In that view of the matter, there can only be one date of publication for all purposes under the Article. Therefore, merely the fact that by one of the modes, publication was effected within a period of one year of publication of notification under Section 4, will not save the land acquisition proceedings from being lapsed, if the publication by all the modes have not been effected within one year. There is no dispute between the parties that, publication by all the modes is mandatory, and the declaration under Section 6 was not published in all the modes within one year of publication of notification under Section 4.

46. As a result of this conclusion, it necessarily follows that publication of decla-ration under Section 6 in the manner provided under Section 6(2), only makes the declaration effective; that is to say, a publication in all the modes prescribed under Section 6(2) have to be made for completing the 'making of declaration' envisaged under that Section.

47. Thus, viewing from any angle, whether applying the test of plaint literal dictionary meaning to the language used in the Act or, applying the test of Mischief Rule of interpreting the Statute, or looking from the point of view of legislative intention, the conclusion is irresistible that the act of 'making declaration' by the appropriate Government that any particular land is needed for public purpose, include the act of making it known public, in official manner and, that act has to be performed within a period of one year from the date of notification under Section 4(1). The act of making declaration known in official manner has been pre-scribed under Section 6(2) of the Act. The principle is well settled that where any statutory provision provides a particular manner for doing particular act, then, that thing or act must be done in accordance with the manner pre-scribed. Therefore, the act of making declaration of Government's satisfaction in regard to the requirement of the particular land for any public purpose is complete only when the same is made known by publishing the said satisfaction in the manner prescribed under Section 6(2), for the purpose of further proceedings in the matter of land acquisition, in terms of the other provisions of the Act. It is only after the publication of the declaration in the manner prescribed under Section 6(2) that it becomes a declaration which is conclusive proof of the fact that land is needed for public purpose and it is only 'making of such declaration', which

furnishes conclusive proof of such satisfaction that authorizes the appropriate Government to acquire land in the manner thereafter provided under the Act. It is only after making such declaration that the appropriate Government can issue directions to the Collector to take orders for acquisition of land under Section 7 of the Act. It is only after making of such declaration which includes publication thereof also, that provisions of Section 11-A becomes effective in sup-pressing the mischief for which it has been enacted.

48. Summing up of aforesaid discussion, is that making of a declaration under Section 6(1) within its ambit includes the act of making the document of declaration known or published officially. Sub-section (2) of Section 6 provides only the modes of publication of declaration, which is a part of the act of making of a declaration and the publication of declaration in all the modes prescribed under Section 6(2) has to be made within the period prescribed under Section 6(1).

49. Coming to the last point urged by learned counsel for the petitioner, that the public purpose, even if it was existing at the time of notification under Section 4, has now ceased to exist and, therefore, the land acquisition proceedings should be quashed, though in terms of my conclusion on contention No. 3, this contention need not be decided, yet it would be sufficient to state that the contention of learned counsel for the petitioner is not well founded. If the public purpose existed at the time when the land acquisition proceedings commenced, the fact that particular public purpose for which the land was sought to be acquired after declaration under Section 6 has been made, as a result of subsequent cessation of that public purpose; the land which has been acquired for one public purpose, may ultimately be used for other public purpose, without affecting the validity of acquisition proceedings of the land. Therefore, any land acquisition proceedings, which have been validly carried out, are not invalidate as a result of subsequent cessation of declared public purpose.

50. As a result of above discussion, the petition succeeds. Since, admittedly, publication of declaration under Section 6 in all the modes have not been made within a period of one year from the date of publication of notification under Section 4, even after excluding the period during which the proceedings remain-ed stayed by the orders of the Court; the land acquisition proceedings could not validly have been continued after lapse of one year from the date of publication of notification under Section 4. Hence, the impugned land acquisition proceedings, in their entirety are

quashed.

There will be no order as to costs

Petition allowed.

Cases Referred.

1. S.B. Civil Writ Petition No. 2420/87
2. AIR 1988 Pat 341
3. (S. B. Civil Writ Petition No. 1922/90), decided by this Court on 14-9-1992
4. 1989 LACC 675 (All)
5. AIR 1992 Ker 158
6. AIR 1992 Bom 72
7. 1990 LACC 363 (Punj and Har)
8. AIR 1985 SC 1622
9. AIR 1966 SC 1593
10. AIR 1963 SC 1019
11. AIR 1960 SC 1203
12. AIR 1966 SC 1593
13. (1967) 2 Mad LJ 422
14. 1955 SC 661
15. ((1990) 2 SCC 71)
16. (1975 (1) All England Reporter 810)
17. (1992) 6 JT (SC) 182
18. AIR 1957 SC 907
19. (1989 LACC (All) 675)
20. AIR 1992 Bom 72
21. (1976) 1 SCC 843
22. AIR 1985 SC 1622