
(1994) 05 DEL CK 0088

In the Delhi High Court

Case No : Civil Writ Appeal No. 2740 of 1987

Akhil Sibal

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-05-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1995) ILR Delhi 480

Hon'ble Judges : Usha Mehra, J

Bench : Single Bench

Advocate : R.K. Anand, N.S. Vashisth, K.S. Sidhu, Maldeep, S.K. Mahajan and Ranbir Saroha, for the Appellant;

Judgement

Usha Mehra, J.

(1) Value of agricultural land to its owner and to the peasant alike is as valuable as their life, beside being sentimentally attached to it, such land provides them their livelihood. Therefore, when such a valuable part of their possession is to be taken away or they are to be deprived of the same, the legislature cast a mandatory duty on. the Authority concerned to comply strictly the provisions of the Land Acquisition Act (in short the Act). The said Act lays down various procedures to be followed before depriving a person of his land. First, the appropriate government has to make known to the public its intention to acquire the land and also the public purpose for which it is to be acquired. This intention and the public purpose is conveyed to the public as well as to the person whose land is to be acquired by issuing notification u/s 4(1) of the Act. This notification is a condition precedent to the exercise of any further powers to be exercised by the authority under the Act. After having made known its intention ,the appropriate government will hear the objections, if any, filed u/s 5A of the Act unless the Government is of the opinion that the case is of urgency or of emergency and dispense with the enquiry u/s 5A. Thereafter, declaration u/s 6 may be made, at any time, after the publication of the notification u/s 4 of the

Act, but with an interregnum of atleast one day between, the publication of the said notification and the making of the declaration. Any notification issued or declaration made under the provisions of the Act have strictly, to be construed and complied with. Any serious lapse on the part of the authority would vitiate the proceedings. Such lapse cannot be ignored by the Courts.

(2) That prior to the 1984 amendment of the Act, the declaration u/s 6 of the Act could be made simultaneously with the publication of the notification u/s 4(1) of the Act. But now after the amendment a declaration can be made only after the date of publication, of the notification u/s 4 of the Act. The publication of the notification u/s 4 and 6 of the Act on the same date would be contrary to Section 17(4) of the amended Act and this act on the part of the appropriate authority would render such a declaration u/s 6 of the Act invalid.

(3) In this backdrop, we have to see the challenge made by the petitioner to the declaration made in the instant case u/s 6 of the Act. Interesting legal point has been raised in this writ petition namely; What does "declaration shall be made" means as used u/s 6(1) of the Act. Would it mean, that the (declaration is made on the date it is signed by a Secretary to such Government or of some officer duly authorised to certify it or on the date it is published in the Official Gazette and in two newspapers as provided under sub-section (2) of Section 6 of the Act ?

(4) The facts relevant for the determination of the challenge in this petition are that the petitioner owned agriculture land admeasuring 9 bighas 12 bids was comprised in Khasra No. 1941 and 1942 situated within the revenue estate of Village Malikpur Kohi alias Rangpuri, Tehsil Mehrauli, Delhi. Notification u/s 4 read with Section 17(1) of the Act was issued on 23rd December, 1986 notifying to acquire the land for a public purpose namely "Rehabilitation of the persons displaced or affected by the expansion development of the Palam Airport". Lt. Governor was of the opinion that in the facts of this case and due to urgency to rehabilitate these displaced persons the provision of Section 5A may not be resorted to. Declaration u/s 6(1) of the Act was made on 24th December, 1986. It is on the receipt of the notices u/s 9 and 10 of the Act, by the petitioner asking him to appear before the authority and file claims that he approached this Court, thereby challenging the declaration u/s 6 of the Act, which according to the petitioner was made prior to the publication of the notification u/s 4(1) of the Act. That the declaration being exterior to the notification u/s 4(1) hence the acquisition is bad and the declaration invalid. This declaration has also been assailed being simultaneous with the publication of the notification u/s 4 of the Act.

(5) Mr. R. K. Anand, Sr. Advocate, appearing for the petitioner contended that there was non application of mind by the appropriate authority at the time of making the declaration under the Section 6(1) of the Act. He drew my attention to the office note on the file produced by the counsel for Union of India which show that the Lt. Governor gave approval for issuing notification and declaration u/s 4 & 6 read with Section 17 of the Act on the same date i.e. 12th December,

1986. This according to Mr. Anand, is nothing but non application of mind by the Lt. Governor. Lt. Governor had no opportunity to apply his mind separately before declaration u/s 6 was made which in fact is a pre-requirement of the law. This act on the part of the Lt. Governor is nothing but dereliction of his duties. His granting of the approval for making a declaration simultaneously with the publication of the notification u/s 4 of the Act would render such a declaration illegal and bad in law. That is how serious lapse creped in and Therefore, such a declaration cannot stand the test of law laid down by the Apex Court. To support has argument that notification and declaration were published simultaneously he relied on the letters issued by the Department of Publication dated 11th March, 1992 wherein it has been indicated that the notification u/s 4 and declaration u/s 6 of the Act was made public for sale on 5th February, 1987. However, by a subsequent letter dt. 22nd October, 1992, the Department of Publication informed that those were gazetted on 30th January, 1987. This according to Mr. Anand would again amount to simultaneous as it was made public by sale on that date, which is against the statutory provisions now inserted by amended Act 68 of 1984.

(6) So far as factum of issuing notification u/s 4 dated 23rd December, 1986 and its publication in the two newspapers on 3rd and. 5th June, 1987 and in official gazette on 30th January, 1987 respectively are concerned there is no dispute. Declaration u/s 6 of the Act was made on 24th December, 1986 no dispute. Taking 24th December 1986 as the date for making the declaration u/s 6(1) of the Act, Mr, Anand contended that this declaration is prior in point of time to the publication of the notification u/s 4 of the Act. The date of publication in the official gazette is 30th January, 1987 but even the date when the notification was published in the newspaper i.e. 3rd or 5th June, 1987 is taken still this declaration u/s 6 dated 24th December 1986 is such anterior to the last of the dates of such publication, Therefore invalid.

(7) The answer to the question raised in the petition depends on the interpretation of the words "a declaration shall be made". Will it be made when it is published in the official gazette and in two daily newspapers circulating in the locality in which the land is situate and the Collector cause public notice of the substance of such declaration to be given at convenient place in the said locality. To appreciate the contents the amended provisions inserted in Section 4(1), 6(2) and 17(4) after the amendment of the Act 1984 are reproduced as under :-
"Amended 4(1).-Publication of Preliminary notification and powers of Officers thereupon (1) Whenever it appears to the [appropriate Government] that land in any locality [is needed or] is likely to be needed for any public purpose for for a company], a notification to that effect shall be published in the Official Gazette [and in two daily newspapers circulating in that locality of which at least one shall be in the regional language] and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality [(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of

notification)]". "Amended 6(2),-Declaration that land is required for a public purpose. (2) [Every declaration] shall be published in the Official Gazette, [land in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state] the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be, inspected." "Amended 17(4).-Special powers in case of urgency.- (4) In the case of any land" to which, in the opinion of the appropriate Government I, the provisions of sub- section (1) or sub-section (2) are applicable, the (appropriate Government) may direct that the provisions of Section 5A shall not apply, and, if it does so direct, a declaration may be made u/s 6 in respect of the land at any time [after the date of the publication of the notification] u/s 4, sub-section (1)"

(8) Mr. R. K. Anand, Senior Advocate, contended that making of a declaration is one act whereas publication of the same another. Legislature was conscious of this distinction between "making a declaration" and "publication of declaration". If the declaration made was dependent on the publication the legislature could have very well used the word Publication of Declaration u/s 17(4) of the Act. The last date of publication of the notification u/s 4(1) of the Act, in the instant case, in the official Gazette is dated 30th January, 1987 or at best when the same was published in the two newspapers on 3rd and 5th January, 1987 whereas per respondent's own showing declaration was signed by the Secretary on 24th December, 1986 i.e. before the publication of the notification u/s 4 of the Act. u/s 17(4) of the Act, said declaration is to be made after the date of publication of the notification u/s 4(1). The mode of publication of the notification is prescribed u/s 4 of the Act Legislature nowhere prescribed that the period has to be counted from the date declaration is published. It only gives emphasis to the making of the declaration. Therefore, according to Mr. Anand the date of publication of the declaration u/s 6(2) cannot be the date of "making of the declaration" as stipulated u/s 6(1) of the Act. In fact, the purpose of publication of the declaration u/s 6(2) is only to provide that a declaration made under Sub-Section (1) of Section 6 be given due publicity and also mention the description and particulars of the land to be acquired and a notice to the effect that such a plan may be inspected. The object of particularization of the land envisaged u/s 6(2) of the Act would be negated if it is not possible to locate the precise land. which is covered by the notification, on reading the notification itself and, if necessary, on inspection of the plan if the same has been prepared and if the notification mentions the public place where it can be inspected. But by no stretch of imagination, it can be said that unless such particularisation of the land is not published u/s 6(2), the declaration is not made as stipulated u/s 6(1)

of the Act. Hence, respondent under the garb of publication of declaration cannot overcome the serious lapse committed by it by making the declaration prior in point of time to that of the publication of notification u/s 4 of the Act. Mr. Anand further contended that "declaration shall be made" is distinct from publication of the declaration u/s 6(2). u/s 17(4) a declaration cannot be made before the publication of notification u/s 4. Hence "making of declaration" is one as stipulated u/s 6(1) and not as u/s 6(2). To strengthen his arguments he placed reliance on the following decisions:- Uday Kaushish Vs. The Land Acquisition Collector and Others, , Siva Apperals (India) (P) Ltd. Vs. Delhi Admn. 35 (1988) Dlt 31. He further placed reliance on the following decisions in State of Uttar Pradesh Vs. Radhey Shyam Nigam & Ors, (3), and State of Uttar Pradesh Ors. Vs. Radhey Shyam Nigam and Others, , Umesh Aggarwal V. State of Uttar Pradesh Air 1989 Noc 160, K. Nanjundappa Vs. The State of Karnataka and Another, , Khadim Hussain Vs. State of U.P. and Others, , Dr. Chura Mani V. State of Himachal Pradesh & Ors. Air 1975 HP 19, Asia Tobacco Company Ltd. Vs. Union of India and Others, , Smt. Shakuntala B. Moda V. Union of India & Ors. 21 (1991) Dnj 214, Universal Cans and Containers Ltd. Vs. Union of India, , Uday Kaushik V. The Land Acquisition Collector Air 1988 Delhi 101, Jayanta Kumar Banerjee Vs. State of West Bengal and Others,

(9) Relying on these decisions Mr. Anand contended that in all these cases the Courts after examining the question regarding making of the declaration u/s 6(1) concluded that the publication of declaration u/s 6(2) is distinct from the making of declaration u/s 6(1). In Khadim Hussain's case (Supra) the Supreme Court in no uncertain words after analysing the various provisions of the Act came to the conclusion that Section 4(1) of the amended Act itself makes a distinction between a declaration u/s 6 and a notification u/s 4 of the Principal Act. Therefore, relying On these observations he contended, that the words "making of a declaration" used u/s 6(1) cannot be construed that the declaration will be made only after it is published in the official Gazette and two newspapers. Infact, the relevant dates for the purpose of determining the validity of land acquisition proceedings, the date to be taken into consideration is the date on which Secretary or the competent officer signs the declaration and not the date on which, the declaration is published in the Official Gazette or the newspapers. Allahabad High Court in Umesh Aggarwal's case (Supra) was called upon to determine the date of the declaration and while answering the challenge the High Court after analysing various provisions defined the word "made a declaration" as used in Section 6 of the Act and concluded that it is to be understood in the sense "signed a declaration". The publication of the declaration as envisaged u/s 6(2) is only a procedural act to ensure that the public is put to notice that a particular land for a particular purpose has been acquired.

(10) The legislature was conscious of the amendment brought about in Section 4 as well as u/s 6(2) and Therefore while enacting sub-section 4 of Section 17 used the words "a declaration may be made u/s 6 in respect to the land at any time after the date of publication of the notification u/s 4(1)", Legislature could have

used the word "after notification of the declaration", but that has not been done. Therefore, the Legislature consciously, while substituting Section 17(4) used the words "declaration may be made", whereas for Section 4(1) the word is "after the date of the publication of the notification". Therefore, the legislature was very well aware of this distinction between "publication of the declaration" and "making of notification".

(11) On the other hand Mr. K. S. Sidhu, Senior Advocate, appearing for respondent No. 5, contended that a declaration u/s 6(1) mandatory requires that it shall be made under the signatures of an Officer as specified therein. To effectuate the making of a declaration there is another equally essential requirement which inheres in the ordinary as well as legal meaning of the word "declaration" and the said requirement is that it must be proclaimed or at least communicated to the person or persons concerned or published. After signing such a declaration as required u/s 6(1) the appropriate authority must communicate the same to the effected person or persons, that the authority is satisfied that the particular land belonging to that person or persons is needed for public purposes. Unless that is done, the making of a declaration is not complete. He relied on dictionary meaning of the word "Declaration".

(12) Dictionary of English Law by Earl Jowitt, Vol. I, page 567, defines "declaration" which means "a proclamation or affirmation, open expression or publication or a formal statement intended to create, preserve, assert or testify to a right." According to the Oxford English Dictionary, Vol. III, it means "to declare means to make known or to state publicly, formally or in explicit terms. To make a statement of claim as plaintiff in an action. To make a full and proper statement of or as to goods, liable to duty, as being in one's possession. Therefore, Mr. Sidhu contended that "declaration" necessarily implies to assert a right and communicate it to the person or persons concerned in order to make him aware as to what is asserted in such a declaration. Such a declaration will not become a declaration unless it is published or communicated. The signed document or the declaration u/s 6(1) for all practical purposes requires the government to get the said document published or at least communicated to the person or persons concerned. Therefore, the provisions of Section 6(2) are not procedural but mandatory and a precondition or a prerequisite for the purposes of making of a declaration. If a signed document, the Secretary keeps to himself in his office without proclaiming, publishing or communicating, it will have no relevance. The person or persons if not made aware of the same, such a document would not be called a declaration. Therefore, a signed document by a Secretary has to be published in order to make it public. u/s 6(2) the law requires the Government to state description and particulars of the land to be acquired and a notice to that effect that such a plan may be inspected. Mere communication of such a document to a person or persons concerned without publication in the manner prescribed by Section 6(2) will not clothe such a document with the legal character of being a declaration made for the purposes of compulsory acquisition of the land or for that matter

for proposes of Section 17(4). The use of the word "declaration may be made u/s 6" occurring in section 17(4) has, Therefore, to be discovered from reading of Section 6(2) & (3) and not from Section 6(1) alone. This argument he tried to support by reading Section 11-A of the Act which provides that making of a declaration which is essential for compulsory acquisition of land is the publication of the declaration in terms of Section 6(2) and not in terms of Section 6(1). A declaration made u/s 6(1) serves a limited purposes as specified in the provisions (i) & (ii) of Section 6(1), it cannot be equated with the full fledged "declaration" made and published in the manner prescribed u/s 6(2). Relying on the observations of Himachal Pradesh High Court in the case of Dr. Churamani (Supra) Mr. Sidhu contended that even in that case it was observed that under sub- section (2) of Section 6 the declaration so made is to be published in the official Gazette and it is with effect from the date of publication that the legal consequences follow. That the said declaration will become a conclusive evidence that the land was needed for a public purpose.

(13) Mr. Sidhu further contended that notification u/s 4(1) was issued on 23rd December, 1986 whereas declaration u/s 6(1) dated 24th December, 1986. Unless the said declaration was published it was not a competent declaration. The notification u/s 4(1) and declaration u/s 6(2) were published in the Official Gazette in the same order i.e. on 28th January, 1987 and 29th January, 1987. The public notice and the substance of the notification u/s 4(1) and of the declaration u/s 6 had been given in the locality on 23rd December, 1986 and 24th December, 1986 respectively. The notification u/s 4(1) and declaration u/s 6 in two daily newspapers was published on 4th January, 1987 and 5th January, 1987 respectively. Thus, Mr. Sidhu contended that an interregnum of atleast one day was always maintained by the appropriate authority between the notification u/s 4 and declaration u/s 6. Hence, notification u/s 4 deemed to have been made on 28th January, 1987 being the last of the dates of publication out of the three modes. So far as the declaration u/s 6(1) is concerned, it was signed by the Secretary on 24th December, 1986 and was affixed on the notice board of the appropriate authority and in the convenient place in the locality. But it was published in the newspapers on 5th January, 1987. Thereafter published in the official Gazette. So as the period of limitation of two years prescribed u/s 6(1) it will start running from the date declaration is signed as in the instant case on 24th December, 1986. But this signing of the declaration on 24th December, 1986 will not clothe it with the character of a "declaration made" for the purpose of compulsory acquisition of the land. It acquires such a character only on its publication in accordance with the provisions of Section 6(2), and the said situation came into being on 29-1-87 when it was published last of all in the Official Gazette.

(14) That the "date of publication" of the declaration u/s 6(2), is by legal fiction, the last of the dates of the publication of all the three modes. This legal fiction is applicable only in respect of the full fledged declaration u/s 6(2) and not in respect of the declaration made u/s 6(1). This is made clear by the expression

used of the word "being hereinafter referred to as the date of publication" in Section 6(2). Word "hereinafter" in sub section (2) is significant in as much as the legal fiction as enacted in this sub section if; respect of the meaning of the expression "date of publication of the declaration" is applicable to the text of the enactment posterior to sub-section (2) and not to the text anterior to it. That being so the declaration u/s 6(i) can be made by the authorities concerned by signing it in the manner laid down and thereafter proclaiming or publishing it or communicating to the person or persons concerned. As far declaration u/s 6(2) which is the ultimate declaration to the effect that a particular land is needed for a public purpose, will come into being only by publication in the official gazette and in newspaper. The signing of the declaration. Mr. Sidhu contended, is obviously not enough under law to enable appropriate government to acquire the land. It must come step further and publish the declaration in the Official Gazette and newspapers as specified under the said sub-section. The declaration so published under Sub-Section 2 of Section 6 will be treated a conclusive evidence that the land is needed for public purpose. To support his arguments by referring to sub-Section 3 of Section 6 which according to him makes it clear that the declaration which carry legal consequences for purposes of compulsory acquisition is the declaration which culminates in its publication in the manner prescribed by Section 6(2). Section 6(3) which follows immediately after Section 6(2) enacts that "the said declaration" shall be conclusive evidence that the land is needed for a public purpose and that after making such a declaration the Government may acquire the land in the manner prescribed thereafter in the Act. Hence the declaration made for purposes of compulsory acquisition, is the comprehensive declaration made u/s 6(2). Mr. Sidhu contended that the decision of this Court in Uday Kaushik's case is of no help to the petitioner because in that case declaration was made u/s 6(1) on 11th November, 1986 but was published u/s 6(2) on 20th December, 1986. On that date Along with the publication of this declaration notification u/s 4(1) was published. Court treated the making of declaration as 20th December, 1986, struck down the said declaration being simultaneous. Court did not treat 11th November, 1986 as the date of making of the declaration. Therefore, the Court rightly concluded that the publication. and declaration being simultaneous were bad in law. Observation of the Court regarding making of the declaration u/s 6 as 11th November, 1986 was only by way of obiter. Similarly Supreme Court in State of Uttar Pradesh case (Supra) made it. clear that the making of the declaration will be when it is notified in the official gazette as well as in the newspapers. In that case the Supreme Court took the view that since the declaration u/s 6(2) was made on 22nd May, 1985 i.e. on the last of the dates of its publication and the notification u/s 4 was also published on 22nd May, 1985, Therefore, being simultaneous struck it down. Though the facts which have come on record were that the declaration u/s 6(1) was made on 6th May, 1985. But the Supreme Court did not take that to be the date for the purpose of compulsory acquisition of the land involved therein. Had it been so the Supreme Court would, have struck down the notification on this short ground that the declaration u/s 6(1) was made prior in

point of time to that of the notification u/s 4(1). Therefore, from the reading of the judgment, Mr. Sidhu urged that the Supreme Court took the making of the declaration u/s 17(4) to be the one which was notified on the last of the dates of its publication.

(15) Mr. Sidhu besides justifying the validity of the declaration made u/s 6 took some other preliminary objection regarding the maintainability of the writ petition which, inter alia, are that the petitioners are not a recorded Bhumidar. The acquisition of Bhumidari rights from the original Bhumidar, if any, is void under the provisions of Delhi Land Reforms Act and Delhi Land Revenue Act and the rules framed there under. Secondly, petitioners cannot join together to file one petition. They having separate cause of action ought to have filed separate petitions which is requirement of law. Moreover, petition suffers from non-joinder of the necessary party i.e. Rajpura Society. In this regard he placed reliance on the decision of Dhanyalakshmi Rice Mills and Others Vs. The Commissioner of Civil Supplies and Another, and Revenue Patwaris Union Punjab & Ors. V. State of Punjab through the Chief Secretary, Chandigarh and Ors. Air 1962 P&H 155 wherein it was held that for individual grievance each aggrieved person must file independent petition for relief. Joint petition by several aggrieved persons for a relief although based on a common object does not lie.

(16) Mr. S. K. Mahajan, appearing for the appropriate authority, Central Government, beside reiterating the arguments taken up by Mr. K. S. Sidhu, Sr. Advocate, also urged that the writ petition earlier filed by this very petitioner was dismissed, Therefore, the present petition is not maintainable. This argument that since the earlier petition was dismissed, to my mind, has no force because in that writ petition this ground challenging the declaration u/s 6 was not taken up. This being a fresh ground the petitioner has a right to take up in the second writ petition. This petition cannot be barred by the decision in the earlier writ petition.

(17) In the first flush the argument of Mr. Sidhu appears to be very convincing and tempted to be followed. But when one goes little deeper one relies there are pit holes. The Legislature by amending the Act in 1984 brought about changes in Section 4(1), 6(2) and 17(4) as already pointed out above. Section 17(4) provides that if the appropriate government is of the opinion, that the provision of Sub-section 1 or 2 of Section 17 are applicable i.e. on account of urgency and or emergency then the provision of Section 5A may be dispensed with. It also stipulate that the declaration u/s 6 shall be made after the date of publication of the notification u/s 4(1). The word "a declaration may be made" has been used u/s 6(1) which is reproduced 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 u/s 5-A, sub-section (2) that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a secretary to such Government or of some officer duly authorised 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 u/s 4, sub-section (1), irrespectively of whether one report, or different reports has or have been made (wherever required) u/s 5A, Sub Section (2)]."

(18) Whereas u/s 6(2) the words used are "Every declaration shall be published in the official Gazette and in two daily newspapers" meaning thereby that a declaration must have already been made and in existence before it comes for publication. Therefore, for making of the declaration we have to look to Section 6(1) that is when it is signed by a Secretary or any authorised person in that behalf. The provision of Section 6(2) only envisages the procedural part for giving due publicity to the making of the declaration. This is done in order to make the public at large aware of the particulars of the land to be acquired and for what purpose. So that they may not enter into any transaction qua that land. It is in fact putting the public to notice but by this it cannot be said that declaration was made when public is put to notice. That the declaration was made only when it is published cannot be inferred from the reading of Section 6(1) read with Section 17(4). The intention of the Legislature can be inferred from the words used in the amended Section 17(4). It cannot be said that the drafter of amended Sub Section (4) of Section 17 were not aware about the words "making of a declaration" and "publication of the declaration" and "publication of the notification" u/s 4(1) of the Act. Ignorance cannot be attributed to the drafter of these amended Sections. After all the Legislature choose words in each Section differently Therefore, it can be said that the drafters were aware of the words "declaration made" and "declaration published" and yet decided not to use the word "declaration published" in Section 17(4). Whereas for the purpose of notification u/s 4(1) the date of publication is taken into account.. Once the intention of the legislature is clear we cannot read into it the dictionary meaning. Supreme Court in the case of Deputy Chief Controller of Imports and Exports, New Delhi Vs. K.T. Kosalram and Others, while giving interpretation of statutes observed. "The appropriate dictionary meaning of words possessing variable shades of meanings has not to be arbitrarily selected and mechanically applied. Dictionary meanings, however, helpful in understanding the general sense of the words, cannot control where the scheme of the Statute or the instrument considered as a whole clearly conveys a somewhat different shade of meaning. It is not always a safe way to construe a statute or a contract by

(19) Supreme Court further observed that the words are after all used merely as a vehicle to convey the idea of the speaker or the writer and the words have naturally, Therefore, to be so construed as to fit in with the idea which emerges on a consideration of the entire context. Keeping this in mind Mr. Sidhu's contention that the expression used in Section 17(4) "declaration may be ma" is only a symbol but actually stood for publication of the declaration is without force. This analogy, which Mr. Sidhu wants to draw cannot be inferred from reading of the scheme of this Act as a whole. If what Mr. Sidhu canvasses is

accepted that a full fledged declaration will be made only when it is published, then why the period of limitation as prescribed u/s 6(1) should not be reckoned from the date of publication of such a declaration as prescribed u/s 6(2). But that Mr. Sidhu is not prepared to accept. According to him the period of two years will be counted from the date the declaration is signed but for the purpose of acquisition it should be the date of publication of the declaration in official Gazette. To my mind, if these arguments are accepted it would go against the intention of the Legislature and the scheme of the Act. It will create confusion because for limitation, making of declaration has to be read u/s 6(1) but for acquisition u/s 6(2) what he confesses if accepted that the full fledged declaration is made when published u/s 6(2), then the period of two years shall also be accounted after the declaration is published, but that is not what is envisaged under the Act. The law is well settled and Mr. Sidhu also concedes that the period of two years prescribed u/s 6(1) will be counted only the date the declaration is signed. It is well understood that declaration made u/s 6(1) is distinct from a declaration published u/s 6(2). If it had been one and the same then the Legislature would not have used two different expressions nor would have prescribed the period of two years from the date of making the declaration. The Supreme Court in Khadim Hussain's case (supra) took the same view when it observed that the object of the notification u/s 6 is to ensure that the Government is duly 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 u/s 6(2), set out above, follows and serves only as evidence of the declaration. That the declaration mentioned in Section 6(1) set out above, differs from its notification is shown by the fact that it has to be signed by Secretary or other Officer duly authorised. The declaration is in the form of an order. The notification is its publication and proof of its existence.

(20) The above observation of the Supreme Court fully applies to the facts of present case. As per Government's affidavit, the declaration was signed and made in this case on 24th December, 1986 whereas the publication of the notification u/s 4 out of the three modes prescribed took place in newspapers on 3rd and 5th January, 1987 and in the official Gazette on 28th January, 1987, whereas according to petitioner the official Gazette was made available for sale on 30th January, 1987. Counsel for the petitioner contended that that should be the date of the notification in the official Gazette. Be that as it may, whether it is 28th or 30th January, 1987, but the fact remains that the declaration was made on 24th December, 1987 which is prior in point of time to the publication of the notification u/s 4(1) of the Act. I am also fortified in arriving at this conclusion by the observation of the Allahabad High Court in the case of Umesh Aggarwal (supra) wherein Court interpreted the words "make a declaration" as used in Section 6 of the Act and concluded that it is to be understood in the sense of

"sign a declaration", as distinguished from publication of declaration. It will accordingly be sufficient for the purpose of Section 6 if the declaration has been signed within the statutory period of one year as enjoined upon under that Section and it does not matter that the declaration has not been published in the manner indicated in Sub- Section (2) of Section 6 within the said period. Therefore, in the instant case the fact that the declaration was published in the daily newspaper or official Gazette subsequently to the publication of the notification u/s 4(1) is of no consequence.

(21) The definition of the word "declaration" as propounded by Mr. Sidhu cannot be read in the "declaration may be made" used u/s 17(4). It was neither a change of physiology nor of expression. Legislature used this expression in consonance with and by reference to Sub Section (1) of Section 6. By no stretch of imagination it can be said that reading of Sub-Section 4 of Section 17 suggests that it had a limited content. There may be in the facts of a peculiar case but not in the case in hand because the substantive provision is Section 6(1) which deals with making of a declaration, limitation has also to be counted from the making of such a declaration. Hence, for the purpose of acquiring the land also the date has to be reckoned from the date the declaration is made. Publication of such declaration in the official Gazette or in the newspaper is only a ministerial act to make the public at large know. But by this ministerial act neither the limitation period prescribed u/s 6 can be attracted nor can it validate the action of the appropriate Government if the declaration is made prior in point of time to the publication of the notification u/s 4(1)". In Dr. Churamani case also Court observed that if the Legislature intended that the relevant date should be referred to the publication in the official Gazette then it should have provided so in the like manner. If the Legislature wanted that for the purpose of Section 17(4) it should be the date of publication it could have referred and inserted the same, but that has not been done. Therefore, in my view, the declaration made in the instant case would be when the declaration is signed by the Secretary or authorised Officer and not the date when it is published u/s 6(2). In this regard, reference can be made to the decision of Karnataka High Court in K. Nanjundappa (supra) where the Court observed that Section 6 of the Act provides that no declaration shall be made after expiry of three years from the date of publication of notification u/s 4(1) in the Gazette. It does not say that the publication of declaration in the Gazette should be made within three years from the date of publication of the notification u/s 4(1) of the Act. The relevant date for the purpose of determining the validity of land acquisition proceedings that should be taken into consideration is the date on which the Government makes the declaration and not the date on which declaration is published. The Division Bench of this Court in Uday Kaushik (supra) in no uncertain words expressed the same view when it held that Section 17(4) does not refer to the date of publication of the declaration it only refers to the date on which the declaration is made. Provided that this date is not anterior to the date of publication of Section 4 notification. This observation clearly supports the conclusion I have reached

that declaration made u/s 6(1) is distinct and different from the publication of declaration required u/s 6(2). Section 17(4) only talks about declaration made and not declaration published. Whereas for a notification u/s 4(1) one has to take into account the date of publication of the said notification. Therefore, the contention of Mr. Sidhu I am constrained to say are without merits. Even if the word "hereinafter" is used in Sub-section (2) it does not create any legal fiction in respect of the meaning of expression "the making of publication" to mean that the declaration is not made unless published in the Official Gazette and in the newspapers nor it can be said that making of a declaration u/s 6 is only to enable to fix the time or the limitation". In fact, what Mr. Sidhu suggests if accepted than the very amendment brought about in Section 17(4) will become redundant. It would negate the intention of the Legislature. The Legislature, to my mind, was fully conscious in using of the word "making of a declaration" in Section 17(4). It did not use the word "publication of a notification". Therefore, the word "publication of declaration" cannot be read into Section 17(4) because that would amount to changing the complexion of Section 17(4) and further would amount to redrafting of Section 17(4). The contention of Mr. Sidhu that the observation of the Division Bench in Uday Kaushik's case regarding making of a declaration on 11th November, 1986 was more as an better than laying down the law. This contention is not appreciable if the judgment is read as a whole. In that case declaration u/s 6(1) was made on 11th November, 1986 but was published on 20th December, 1986 on which date notification u/s 4(1) was also published. The Division Bench struck down the declaration being simultaneous. But from the observations made therein, it is clear that the Court was aware of the distinction between "making of declaration" and "publication of declaration". Similarly, in State of Uttar Pradesh case (supra) Supreme Court while affirming the decision of the Allahabad High Court quashed the declaration made u/s 6(1) of the Act. In that case, Section 6(1) declaration was made on 6th May, 1985. It was, however, published on 22nd May, 1985 Along with notification u/s 4(1) of the Act. The High Court found the same to be in violation of Section 17(4) of the Act, Therefore, quashed the declaration made on 6th May, 1985 u/s 6(1) of the Act and not the declaration published on 22nd May, 1985. These facts clearly indicate that the Supreme Court when affirmed the judgment of the High Court was fully aware of the fact that the High Court quashed the declaration made u/s 6(1) and not the one published u/s 6(2). Since in that case notification u/s 4(1) and declaration u/s 6 were published on the same date Therefore treating it to be simultaneous and in violation of Section 17(4) hence declared illegal. Supreme Court in that case observed that it is the job of the Court to interpret the intention of the Legislature by the words used. The words have to be understood in their usual and most non-signification If that be so, then the Legislature must have had some intention in choosing the expression "a declaration may be made u/s 6" in Sub-Section (4) of Section 17 of the Act. Hence it cannot be said that the Supreme Court expressed a different view then expressed by this Court in Uday Kaushik's case or that Supreme Court defined the word "making of a declaration." to mean publication of the declaration u/s

6(2).

(22) Therefore, for the reasons stated above, I am of the considered view that the making of a declaration in this case is anterior to the notification issued u/s 4(1) and Therefore vocative of Section 17(4) of the Act. The declaration u/s 6 being prior in point of time to the notification u/s 4(1) is Therefore rendered illegal and hence quashed.

(23) Before parting I must deal with other objections raised by Mr. Sidhu, these are that-(i) the petitioners have no locus standi. Since, they were not the owners nor the recorded Bhumidars Therefore have no right to file this petition. I am afraid this argument is not borne out from the record placed on this file nor from the admission made by the appropriate Government in its counter affidavit. In view of this admission, regarding the petitioners being recorded owner made by the Central Government in its counter affidavit filed in Civil Writ No. 133/87 this objection has no force. The appropriate Government is in fact in possession of the revenue record and since the appropriate Government has admitted the status of the petitioners then respondent No. 5 to whom appropriate Government transferred the land has no right to challenge the same. Petitioners were recorded owners find support from the Form-4 of the year 1985-86, the copy of which record has been placed on this file. Hence the petitioners have locus standi to file the writ petitions. Moreover, in the award made by the Land Acquisition Collector, petitioners have been shown as claimants, i.e. persons interested. Petitioners being persons interested have a locus standi to file the writ petition challenging an illegal declaration u/s 6 which is in violation of Section 17(4) of the Act.

(24) As regard the objection that petitioners could not file joint petitions or that they ought to have filed separate writ petition, this objection is also without force. Admittedly the land of each of such petitioner has been declared to be acquired by the same declaration. Hence their cause being common they could file joint writs Hence on this ground also this petition cannot fail.

(25) For the reasons stated above, the declaration u/s the Act. It is, however, open to the appropriate Government to 6 of the Act is hereby quashed being vocative of Section 17(4) of proceed with acquisition after issuing fresh declaration u/s 6 of the Land Acquisition Act in accordance with law. Writ petition is accordingly disposed of No order as to costs.