

(1987) 05 DEL CK 0051

In the Delhi High Court

Case No : Civil Writ No"s. 1639, 1682 and etc. of 1985, 75, 77, 78, 80 to 83 and etc. of 1986 and 417 of 1987

Balak Ram Gupta

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 27-05-1987

Acts Referred:

Land Acquisition Act, 1894 — Section 17, 4, 5A, 6

Citation : AIR 1987 Delhi 239 : (2005) 117 DLT 753

Hon'ble Judges : S. Ranganathan, J;N.N. Goswamy, J;H.C. Goel, J

Bench : Full Bench

Advocate : R.S. Narula and B.R. Iyengar, N.S. Vashist, A.S. Chadha, D.S. Narula, K.L. Rathee, Subhash Mittal, Mukul Rohtagi, S. Vidyalingam, A.M. Singhvi, C. Mukhopadhyay, S.C. Dhamija, Hemant Malhotra, Arvind Minocha, S.C. Nanda and Sunil Malhotra, for the Appellant; R.K. Anand S.P. Sharma, U.L. Watwani, Rajinder Dutt, Ajay Chander, Adish Aggarwal, Prahlad Dayal, G.S. Sharma, H.P. Sharma, Reva Khetrapal, Pranav Sabharwal, Ashok Bhasin, Usha Kumar, A.S. Chandhiok, Kadamini Sharma, Ashoka Jain, R.C. Gupta, K.C. Dua and S.K. Chaudhary, for the Respondent

Judgement

S. Ranganathan, J.—A large number of writ petitions have been filed in this Court challenging the validity of certain declarations u/s 6, Land Acquisition Act (1 of 1894), hereinafter referred to as "the Act" on the ground that they had been made after the expiry of the period prescribed Therefore under the said section. C.W. 1639/85 and 15 others of these petitions were heard by Yogeshwar Dayal and S.B. Wad, JJ. in November, 1985 and judgment was reserved. In the meanwhile, R.N. Aggarwal and Malik Sharief-ud-din, JJ. had heard CW 2850/1985 involving the same issue and delivered judgment on 25.8.1985 upholding the validity of the declaration u/s 6. Since Yogeshwar Dayal and Wad, JJ. were inclined to take a different view, they suggested that the issue may be decided by a Larger Bench, and hence the constitution of this Full Bench. As many as 73 writ petitions have been listed before us and, when we heard these matters, we found that the petitioners in all these cases have also raised several

contentions other than the main one referred to above. The result is that, if we decide the above principal issue in favor of the petitioners, all the writ petitions can stand allowed but a decision by us against the petitioners on the main issue will necessitate the hearing of each one of petitioners on merits in regard to the other contentions that have been raised therein. With these preliminary observations, we proceed to deal with the contentions urged before us on the above issue first.

2. It is a well-known fact that, commencing from 1959, huge tracts of land in and around the city of Delhi have been acquired by the Government under the Act for facilitating the "planned development of Delhi". We are concerned here with two notifications issued u/s 4 of the Act, one on 5.11.1980 and the other on 25.11.1980. Under the former, the Government notified its intention to acquire the entire land comprised in the villages of Tughlakabad, Tigri, Deoli, Khanpur, Said-ul-Ajaib, Neb Sarai, Hauz Khas and Khirki. By the latter was notified the intention to acquire the entire lands situated in the revenue estates of the villages of Chattarpur, Satbari, Maidan garhi, Sayoorpur and Rajpur Khurd.

3. The notification of an intention to acquire any land u/s 4 of the Act has to be followed up by an inquiry u/s 5A on objections from persons interested in the land (except in cases falling u/s 17) and then a declaration that the land is needed for a public purpose. Originally, the Act did not prescribed any period of limitation for the issue of the declaration. This created problems. A person whose land is eventually acquired is entitled to receive compensation computed on the basis of the market value of the land as on the date of the notification u/s 4 and, since land value in India has been steadily escalating since the fifties, any delay in the issue of a declaration u/s 6 worked greatly to his prejudice. On the other hand, Governments stood to gain by such delay in the sense that they could take possession of lands by paying compensation Therefore at its much lower market value on the date of Section 4 notification and it was found that there was inordinate delay, for one reason on the part of Governments in issuing declarations u/s 6. The inequities of the situation were pointed out by the Supreme Court in *State of Madhya Pradesh and Others Vs. Vishnu Prasad Sharma and Others*, . The Legislature thereupon intervened by issuing the Land Acquisition (Amendment and Validation) Ordinance on 29.1.1967, followed up by an Act (XIII of 1967) of the same name on 12.4.1967. These inserted the following as the first proviso in Section 6(1):

"Provided that no declaration in respect of any particular land covered by a notification u/s 4, Sub-section (1), published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967, shall be made after the expiry of three years from the date of such publication."

It was also provided in Section 4(2) of Act XIII of 1967 that no declaration u/s 6 of the Act in respect of any land which had been notified u/s 4 before the commencement of the Ordinance shall be made after the expiry of two years from the commencement of the Ordinance. Stopping here, it may be pointed out

that this amendment provided for all situations. In respect of notifications u/s 4 issued after 29.1.1967, it prescribed a three year period for the making of declarations u/s 6. And, no notification u/s 4 prior to 29.1.1967, however old, became infructuous merely because considerable time had elapsed after its issue, so long as the declaration u/s 6 was made by 28.1.1969.

4. One more relevant aspect of the 1967 amendment may be touched upon here as some point was sought to be made of it. Prior to the above amendment, the position was that, where a notification u/s 4 was made in respect of certain lands, the declaration u/s 6 had also to be made in respect of all such lands together if it was desired to acquire all of them. It was not permissible for the Government to issue declaration u/s 6 piecemeal from time-to-time in respect of some of the lands covered by Section 4 notification. It was so held by the Supreme Court in *State of Madhya Pradesh and Others Vs. Vishnu Prasad Sharma and Others*, . The 1967 amendment altered this position. It amended Section 6(1) to provide that "different declarations u/s 6 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)."

5. As we have mentioned earlier, Section 4 notifications with which we are concerned were issued on 5.11.1980 and 25.11.1980. They should have been followed up by declarations u/s 6 by the end of November, 1983 by virtue of the 1967 amendment. There was no declaration u/s 6 by that date and, had there been no further development, any declaration u/s 6 after 4.11.1983 and 24.11.1983 would have been declared invalid. But there were developments in that Parliament decided to bring in comprehensive amendment to the Act so as to ensure that the process of acquisition of land became more equitable and expeditious. So far as is material to the present controversy, amendments were proposed in two directions. One was to assuage a feeling that acquisition proceedings were getting unduly prolonged and that separate limits of time should be prescribed for the issue of a Section 6 declaration as well as for the making of an award in such a way that the entire process of acquisition could be completed within 3 years of Section 4 notification. With this end in view, the interval of three years between a Section 4 notification and a Section 6 declaration prescribed by the 1967 amendment was reduced from three years to one year and a fresh time-limit of 2 years between the date of declaration and the date of award/possession prescribed. The other need for amendment arose out of the practical experience that, often, the expeditious issue of Section 6 declarations or making of awards was rendered difficult, if not impossible, because parties went to Court challenging Section 4 notification or other steps in pursuance thereof and obtained stay orders pending the disposal of the proceedings in Court restraining the Government from going ahead. It was Therefore considered necessary to provide that the period during which there was such Court restraint should be excluded in the computation of the period of limitation either for the declaration u/s 6 or for the award u/s 12. In order to achieve these results amendments to the Act had originally been proposed in an

amendment bill introduced in Parliament on 30.4.1982 but that bill was withdrawn. Amendments were eventually made by the Land Acquisition (Amendment) Act, 1984 (68 of 1984), which came into force on 24.9.1984. It amended Section 6 by substituting a new first proviso in the place of the old one and adding an Explanation in the following terms:

"Provided that no declaration in respect of any particular land covered by a notification u/s 4, Sub-section (1)-

(a) 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 after the expiry of the three years from the date of the publication of the notification; or

(b) published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of the publication of the notification:

xxx xxx xxx

Explanation 1 : In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued u/s 4, Sub-section (1), is stayed by an order of a Court shall be excluded."

Similar provisions were introduced, in respect of the making of awards, by inserting Section 11A and in respect of the period for which interest was payable by Government by inserting Section 23(1A). Section 30 of the Amendment Act, entitled "transitional provisions", provided that the insertion of Section 23 and the amendments to Sections 23(2), 28 and 34 "shall apply and shall be deemed to have applied" to proceedings pending on or initiated after 30.4.1982, to awards made, originally or in appeal after that date and to interest in cases where the compensation was not deposited until that date though possession had been taken earlier and in cases where possession was taken after that date without depositing compensation u/s 31.

6. In the cases before us, the declarations u/s 6 were made on 27.5.1985, 6.6.1985, 7.6.1985 and 26.2.1986 (the individual details of which need not be set out here. This is clearly beyond a period of three years from the dates of the notification u/s 4, viz. 5.11.1980 and 25.11.1980. They are clearly barred by limitation under the proviso to Section 6(1) unless the period can be got extended by invoking the terms of the Explanation newly substituted in 1984 (which is the attempt of the respondents here).

7. The first, and rather disingenuous argument put forward on behalf of the petitioners is that since, under the Act as it stood amended in 1967, the declaration should have followed within three years of the notifications u/s 4, the petitioners had acquired, by 4.11.1983 or 24.11.1983, a vested right against their lands being acquired in pursuance of the notifications of 1980 u/s 4. The

amendments of 1984 cannot at all, it is said, touch the case of the petitioners since they came into effect only on 24.9.1984 and could only operate prospectively. We are not impressed by this argument. It is no doubt true that any legislation on substantive matters is normally prospective in its operation and no retrospectivity can be presumed. But the scope and effect of a piece of legislation has to be judged on its terms and its language. It can be made specifically retrospective. For instance, the amendments to Section 23A, Section 28 and Section 34 of the Act have been expressly made retrospective by a provision that it shall apply and shall be deemed to have applied to certain past situations. Such retrospective effect can also be necessarily implicit in the clear and unambiguous language of the statute in question. We have Therefore to consider the language, scope and effect of the proviso read with the Explanation .We cannot just stop at the proviso and say that, since the three years period had expired by 1983, no declaration u/s 6 subsequently is permissible.

8. To understand the scope of the new proviso and Explanation ,it is necessary to envisage the various situations that could have existed. We may first start only with the proviso leaving the Explanation out of account. The object of the proviso was to curtail, w.e.f. 24.9.1984, the interval between Sections 4 and 6, to one year from three years. It could have simply read w.e.f. 24.9.1984 thus:

"Provided that no declaration u/s 6 shall be made beyond the expiry of a period of one year from the date of publication of the notification u/s 4(1)."

Such a provision would have led to doubts and difficulties as to whether the new provisions would apply only in respect of notifications issued after 24.9.1984 or whether it would apply even in respect of Section 4 notifications prior to the date. In the latter event, notifications u/s 4 published before 25.9.1983 would become ineffective and Section 6 declarations in respect of notifications u/s 4 issued after 25.9.1983 and before 24.9.1984 would have had to be hastened. The proviso, Therefore, following the pattern of the amendment of 1967, decided to make it clear that the one year period would apply only in respect of notification u/s 4 after 24.9.1984 and that the three-year period would continue in respect of the notifications issued prior to that date. To do this alone, the proviso could easily have said, as did the 1967 amendment:

Provided that no declaration in respect of any particular land covered by a notification u/s 4, Sub-section (1), published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of such publication."

If the proviso had stopped at this, the effect would have been that no lineation?s u/s 4 prior to 24.9.1984 would have had to be followed up by declarations within three years and those after that date within one year.

9. Now, we come to the Explanation. Before proceeding to construe the Explanation ,we must remember that though an Explanation added to a statutory

provision is not a substantive provision, nevertheless, its object, as explained by the Supreme Court in *S. Sundaram Pillai and Others Vs. `R. Pattabiraman and Others*, may be one of the four things-

"(a) to explain the meaning and intendment of the Act itself,

(b) where there is any obscurity or vagueness in the main enactment, to clarify the same so as to make it consistent with the dominant object which it seems to subserve,

(c) to provide an additional support to the dominant object of the Act in order to make it meaningful and purposeful,

(d) an Explanation cannot in any way interfere with or change the enactment or any part thereof but where some gap is left which is relevant for the purpose of the Explanation ,in order to suppress the mischief and advance the object of the Act it can help or assist the Court in interpreting the true purport and intendment of the enactment, and right with which any person under a statute has been clothed or set at naught the working of an act by becoming a hindrance in the interpretation of the same."

We have, Therefore, to construe the Explanation with a view to see how far it clarifies certain ambiguities that may be there otherwise and how far it provides additional support to the dominant objects of the amendment Act so as to make it meaningful and purposeful.

10. Now we turn to the Explanation .This provides for an extension of the period of one year or three years by excluding the period covered by stay orders. If the proviso had stood as indicated above and the Explanation had been added, that would perhaps have had the effect of extending the period of limitation only in cases of notifications issued after 24.9.1984 and those issued before that date but in respect of which the period of three years had not expired by 24.9.1984. Where the notification had been issued prior to 25.9.1981, it could perhaps have been said that, as the period of three years had expired by the time the proviso came into effect on 24.9.1984 and there was nothing in the proviso or Explanation to suggest that any retrospective operation was intended, the Explanation would not help the Government to issue a declaration after three years.

11. But the Legislature did not stop with a simple proviso and Explanation as indicated above. It has made the proviso very elaborate and made the Explanation applicable to the computation of "any of the periods referred to in the first proviso." Now, let us look at the proviso in the context of four situations:

(i) Notification u/s 4 issued before 29.1.1967;

(ii) Notification u/s 4 issued after 28.1.1967;

(iii) Notification u/s 4 issued after 25.9.1981 and before 24.9.1984; and

(iv) Notification u/s 4 issued after 23.9.1984.

If the object of the Legislature had been to confer the benefit of the Explanation only to situations (iii) and (iv), it could have enacted the proviso as indicated earlier and added an Explanation that, in computing the period of limitation, periods covered by stay orders would be excluded. The Legislature need not have at all referred to situation (ii) above. But the Legislature also wanted to make it clear that the Explanation would apply in respect of notifications u/s 4 issued prior to 25.9.1981 as well. In doing so, the provisions could well have taken into account event. Section 4 notifications issued prior to 29.1.1967 for it was quite conceivable that, though the two-year period for following these up with declarations u/s 6 had elapsed by 28.1.1969, the failure to make a Section 6 declaration may have been the consequence of a stay order from a Court. But the Legislature decided to exclude this category from the provision for extension ;n the Explanation ,and decided to confine itself to all notifications u/s 4 made after 29.1.1967. This is very important and the manner in which Clause (a) of the proviso is worded so as to cover all notifications after 29.1.1967 and before 24.9.1984 and before 24.9.1984 precludes the contention urged on behalf of the petitioners seeking to limit the operation of the Explanation .This contention is that the amendments of 1984 can at best only affect cases in which the three-year period prescribed in 1967 had not expired by 24.9.1984. In other words, the argument is that only cases covered by notifications u/s 4 issued after 25.9.1981 can be affected by the amendments and have the benefit of the extended period contemplated in the Explanation .This contention is clearly unacceptable. It runs counter to the entire scheme of the proviso (which specifically takes in all the period after 29.1.1967) and the Explanation (which is specifically made applicable to both the clauses of the proviso). We are, Therefore, of opinion that the period of exclusion mentioned in the Explanation should be taken into account in the cases of all notifications issued after 29.1.1967 whether or not the period otherwise limited under the proviso for a follow-up declaration u/s 6 in respect thereof had expired or not. We, Therefore, reject the contention urged on behalf of the petitioners.

12. It was contended on behalf of the petitioners that the 1984 amendment has been worded in the above manner, not with a view to bring in all post-1967 notifications under its purview, but only because Parliament, in making the amendments, had to keep in view certain earlier amendments that had been made by certain State Legislatures. We see no force or relevance in this contention. It is true that there were several State Amendments enacting an "exclusion clause" between 1968 and 1972 on the same lines as the present Explanation .The Karnataka Legislature by Act X of 1968 - passed in the wake of a State Amendment Act of 1967 - had introduced an Explanation excluding periods during which "any action or proceeding to be taken in pursuance of the notification issued under subs. (1) of Section 4 is held up on account of stay or injunction by order of a Court". The Maharashtra Legislature had enacted a more elaborate provision by an Amending Act (XXXIX of 1972) which provided that

"where a declaration u/s 6 could not be made before the expiry of the specified period due to stay or injunction by order of a Court in respect of any land notified u/s 4(1) such declaration could be made before the expiry of one year from the date of commencement of the Amendment Act in cases where such stay or injunction had been vacated before such commencement and with one year from the date on which the stay or injunction is vacated, where such order is vacated after such commencement. Tamil Nadu has provided for a like exclusion of the period of stay or injunction holding up action or proceedings to be taken in pursuance of Section 4(1) notification, by an amendment Act of 1981 (Act XLI of 81) made with retrospective effect from 20.1.67. The U.P. State Legislature, by Act XXVIII of 1972 excluded, with full retrospective effect, "the time during which the State Government was prevented by or in consequence of any order of any Court from making such declaration." But we are unable to see how the existence of these provisions have any relevance to the language, or any bearing on an interpretation, of the 1984 Amendment with which we are concerned and the scope of which we have discussed above.

13. It was, however, contended on behalf of the petitioners, that we should not interpret the proviso and Explanation so liberally and widely. It is suggested that such an interpretation runs contrary to all can one of statutory interpretation. The argument proceeds in three steps: (1) Before the introduction of Explanation, the statute contained no provision to exclude the period of operation of stay orders in computing the three-year period of limitation prescribed by the proviso. Such exclusion is permissible only in cases governed by Section 15, Limitation Act. But as the present situation is not covered by the said provision, the rule of exclusion was not available. This is clear from the decisions in *A.S. Krishnappa Chettiar and Others Vs. Nachiappa Chettiar and Others*, and *K. Venkateswara Rao and Another Vs. Bekkam Narasimha Reddi and Others*, . The proviso thus was in the nature of a mandatory provision; (2) That being so, Counsel argues, time starts running without any suspension from the date of the Section 4 notification (see *Ramakrishna Naidu Vs. Srinivasalu Naidu*, and "the moment the three-year threshold" "from the date of the notification u/s 4" "was crossed, the power to issue a notification u/s 6 would be exhausted" vide *Radhey Sham Gupta and Others Vs. State of Haryana and Others*, . Consequently, it is said, the land owners covered by the said notifications acquired a vested right that no declaration u/s 6 could be issued in respect of their lands on the expiry of the above period in 1983 and hence the Explanation introduced in 1984 should not be so broadly interpreted as to take away that vested right. In support of this plea, Counsel referred to certain observations in *Hoosein Kasam Dada (India) Ltd. Vs. The State of Madhya Pradesh and Others*, Counsel contended, on the basis of the statements of objects and reasons and the Minister's speech in Parliament while introducing the 1984 Bill, that the object of the 1984 amendments was to confer a benefit on land owners by curtailing the time taken in finalising acquisition proceedings and in other ways. It was, Therefore, a beneficial piece of legislation. Based on these steps, it was

contended that the insertion of the proviso in 1967 and its substitution in 1984 were intended to be a remedial, beneficial and mandatory piece of welfare legislation and can admit of no exception or exclusions on considerations of implied intention. In support of this contention, learned Counsel cited certain observations from the decisions in *Alembic Chemical Works Co. Ltd. Vs. The Workmen*, ; *Regional Provident Fund Commissioner Vs. Shibu Metal Works*, ; *The Works Manager, Central Railway Workshop, Jhansi Vs. Vishwanath and Others*, , AIR 1941 72 (Federal Court) , *Lalappa Lingappa and Others Vs. Laxmi Vishnu Textile Mills Ltd.*, ; and *Sharif-ud-din Vs. Abdul Gani Lone*, .

14. This argument is untenable. So far as the first step in the argument is concerned, though it is correct to say that the provisions of Section 15, Limitation Act are not attracted to an interpretation of the proviso, there is a reported decision of a Full Bench of the Madras High Court based on the language of the pre-1984 proviso where, applying the principle of the maxim "*actus curiae neminem gravabit*" and applying the decision in *The Director of Inspection of Income Tax (Investigation), New Delhi and Another Vs. Pooran Mal and Sons and Another*, , the Court excluded the period of operation of a stay order in computing the period for a declaration u/s 6 (*Chinnathambi Counter v. Government*, AIR 1980 Mad 251, and followed in *C. Kamatchi Ammal Vs. Kattabomman Transport Corporation Ltd. and Others*, . This decision goes against the petitioner's contention (though it was in a case in which the very petitioner who obtained the stay order that sought to take advantage of the time-limit set by the proviso). Counsel, relying on certain earlier decisions of the same High Court, contended that the Full Bench decision needs reconsideration. It is argued that the principle, "*actus curiae nannies gravabit*" ("*an act of the Court shall prejudice no man*"), can be taken advantage of only by or against a party to the suit or proceeding in which the order is passed and not by or against a third party. Reference is made to a passage from *Broom's Legal Maxims* (10th Edn. page 73) and *Mulla CPC* (14th Edn. Vol. 1 p. 785). We do not think we are called upon to go into this question. The respondent's case is based not on an equitable principle of general law but on the specific provision of the statute which has to be interpreted in the background, context and setting in which it was inserted.

15. The limb of the argument is, in our view, unacceptable. The observations in *Hoosein Kasam Dada (India) Ltd. Vs. The State of Madhya Pradesh and Others*, relied on by learned Counsel are actually to the effect that ".....a vested right cannot be taken away except by express enactment or necessary intendment. An intention to interfere with or to impair or imperil such a vested right cannot be presumed unless such intention be clearly manifested by express words or necessary implication". In our opinion, reading together the words used in the proviso and the Explanation ,the conclusion is inescapable that the exclusion envisaged in the Explanation is available in respect of all notifications issued between 29.1.1967 and 24.9.1984. We have given elaborately our reasons for coming to this conclusion and, hence, we overrule this contention urged on

behalf of the petitioners.

16. In regard to the third step in the argument the cases cited by Counsel do not hold them. The cardinal principle of these decisions is only that, in construing a statute, particularly an amending one, Courts should prefer that interpretation of it which would further the object and policy of the amendments and remove or mitigate what the Legislature presumably regarded as a mischief which ought to be remedied. If a statute is intended to confer benefit on any class of persons clearly a beneficial interpretation would subserve if the object. But here, as we have pointed out earlier, the Amendment Act had a twin object in view. One was no doubt beneficial to land owners, viz., to curtail the period for a Section 6 declaration in future from 3 years to one year. But there was another object which was equally important, viz., to remove certain hurdles faced by the State viz., inability to issue a Section 6 declaration because of stay orders. Attempt was made to derive some support for the petitioner's line of approach from the statement of objects and reasons attached to the Amendment Bill and the speech made by the Hon^{ble} Minister while moving the Bill for the consideration of the House. While the former lays emphasis on the need felt to ensure payment of realistic compensation to persons whose lands are acquired, inter alia, by placing time-limits for the various stages of acquisition, the latter refers to the aspect now material. The Minister, touching upon some of the important provisions of the Bill, said:

"While the timeframe within which the Collector has to give his award is unalterable, there is no guarantee that interested parties will not go to the Court of law seeking its intervention before the award of the Collector. This may lead to the prolongation of the proceedings beyond the mandatory period about which the Collector or the implementing authority can do precious little. This additional period is not to be counted towards the two-year time-limit provided for the Collector to make his award. It is hoped that considering the rational provisions made in the Bill to obviate avoidable delay and the resultant hardship to interested parties, it should be possible to avoid, in most cases, litigation in the Court of law before the award of the Collector."

This passage is applicable, mutates mutants, to the time-limit specified in Section 6. It indicates, if at all, that one of the objects of the Bill was clearly to exclude period of delay in land acquisition proceedings consequent on stay orders from Courts. There were thus two objectives of the amending statute and no interpretation, Therefore, of the amendment would be correct unless it keeps both these objects in view and facilitates of an achievement of both the objects insofar as the express words would permit. We have already pointed out that the proviso and Explanation are expressed in the broadest terms possible and we see no justification for confining or restricting their scope in the manner suggested by Counsel for the petitioners.

17. Some argument was sought to be built on the language used in respect of certain other amendments introduced by the same Act of 1984. Attention was

invited to the language of Section 30(2) of the said Act, which has been earlier referred to. Reference was made to the similarly worded Explanation introduced in Section 11A. It was pointed out that a like Explanation occurs in Section 23(1A) of the Act which has to be read with Section 30(1) of the amending Act and it submitted that, if the respondents' contention here were to be adopted there also land owners will be deprived of interest on compensation amounts for substantial period of time. Such result, it is said, will work gross injustice and should be avoided.

18. We do not think much help can be derived from the provisions referred to in the present context. Sections 30(2) and (3) are transitional provisions, resulting from a situation created by the fact that an Amendment Bill of 1982 had to be withdrawn and a fresh Bill introduced in 1984. These transitional provisions have been considered by the Supreme Court in *Bhag Singh and Others Vs. Union Territory of Chandigarh* through the land acquisition collector, Chandigarh, but it is stated at the Bar that the issues have been referred to a larger Bench. We may only point out that Section 11A carves out a new period of limitation and, in respect of declarations made before 1984, it starts running only from 25.9.1984. The retrospective effect of the Explanation is thus very limited. Section 23(1A) creates a right in an owner of land to receive interest on the market value of land from the date of the Section 4 notification to the date of award or date of taking possession whichever is earlier and there can be nothing unjust, in principle, if the Explanation seeks to avoid payment of interest by Government for periods of delay for which it is not responsible. We do not, however, think that it will be relevant or useful to discuss the scope and effect of those other provisions here. We would only like to read that the setting and language of the proviso and Explanation to Section 6(1) are totally different and lend themselves only to one possible interpretation.

19. We now come to a consideration of the real difficulty in the case which is in regard to the interpretation of the words, "the period during which any action or proceeding to be taken in pursuance of the notification u/s 4, Sub-section (1), is stayed by an order of Court." The respondents' contention is that they were not able to take any action or proceeding in pursuance of the notifications u/s 4 dated 5.11.1980 and 25.11.1980 because such action or proceedings were stayed by certain orders passed by this Court. The answer of the petitioners is that no such stay orders were passed in any writ petition filed by any of the petitioners. It appears that there are some writ petitions pending in this Court where a challenge to the Section 6 declarations has been put up by the very petitioners who had asked for and obtained stay of further proceedings in writ petitions challenging the Section 4 notification but those writ petitions, it seems, are not listed before us. The petitioners here urged that, whatever may be the position in the case of such petitioners, none of the present petitioners can be prejudicially affected by any stay order that may have been passed in suits or petitions to which they were not parties.

20. It may be useful here to refer to the stay orders which the respondents rely on to bring the Section 6 declarations within the scope of the Explanation .In Munni Lal v. Lt. Governor (CW 426 of 1981), wherein the validity of the notification dated 25.11.1980 was challenged by certain residents of village Satbari, the following interim order was passed in CM 668/81 on 18.3.1981:

"....Case for 27.4.1981. In the meanwhile, respondents 1 and 2 are restrained from issuing any declarations u/s 6...."

The above interim order was made absolute on 4.5.1981, when the writ petition was admitted:

"....Stay order passed on 18.3.81 made absolute till further order with liberty to the appropriate authorities of the respondents to take action according to law if the existing conditions and requirements of the Master Plan and Zonal Plan, if any, are breached or violated by the petitioners."

This writ petition was dismissed on 15.11.1983 (see 2nd (1985) 1 Del 469: AIR 1984 NOC 230. In Laguna Farms (P) Ltd. v. Lt. Governor, (CW 1251/81) also, the petitioner challenged the validity of the Section 4 notification dated 25.11.80. The writ petition was admitted on 26.5.81 when an interim order in the following terms was also made in CM 1717/81:

"Notice for 29.7.1981. In the meanwhile, we stay further proceedings consequence of the impugned notification u/s 4 and declaration u/s 6, Land Acquisition Act."

This order was made absolute on 29.7.1981 and this C.W. along with a number of other CWs. was disposed of on 15.11.83 along with C.W. 426/81. In Gogia v. Lt. Governor, (CW 175/82 the writ petition was admitted on 21.1.82. An interim order was made in CM. 250/82 on the same date staying "further proceedings in pursuance of the impugned notification dated 25.11.1980...." This order was made absolute on 4.3.82 "with liberty to the respondents to move this Court for variation of the order, if so advised." This C.W. was also disposed of on 15.11.83 along with C.W. 426/81 (though the list of cases given at the top of the judgment in C.W. 426/81 contains a mention of C.W. 175/81, apparently by oversight. An order similar in terms to that set out above was made on 11.2.82 in CM 4514/81 in Ansal Housing & Estates Pvt. Ltd. v. Lt. Governor, (CW 2451/81); Vijay Narain v. Lt. Governor, (CW 2450/81); Smt. Bheroo Dugzal v. Lt. Governor, (CW 2648/81); Daryao Singh v. Lt. Governor, (CW 2135/82). Except the last, others were disposed of on 15.11.83 with C.W. 426/81.

21. The operation of the notification dated 5.11.1980 was stayed in similar terms by orders dated 30.9.81 and 11.2.82 in CM 4226/81 in CW 2263/81 (Bishamber Dayal v. Lt. Governor), a writ petition filed by some of the residents of the village of Tughlakabad following similar order in Om Prakash v. Lt. Governor, (CW 1250/81). These writ petitions were also disposed of on 15.11.83. But this list is not exhaustive and it appears, there are other writ petitions pending in this Court

today in which the stay order passed continues to be in force (e.g. CW 861/82).

22. Reference has also been made on behalf of the petitioners to certain order in CW 1203/82 (Budh Vihar Welfare Society v. Lt. Governor), though that was a writ petition which challenged the validity of a Section 4 notification dated 31.12.1981. In that case, the Court had granted an interim order on 23.4.82 "restraining the respondents from taking further proceedings in consequence of the impugned notification" and this was, apparently, later made absolute till disposal of the writ petition. The petitioners thereafter moved CM. 315/84 on 24.1.1984 alleging that "the respondents are misinterpreting the aforesaid stay order and are saying that the aforesaid stay order is in respect of the entire village of Rithala" and praying, Therefore, that as the petitioners had prayed for stay only in respect of their lands, the Court should be pleased "to clarify the order dated 23.4.1982 to the effect that the stay is only in respect of the petitioner's land, Khasra Nos. of which have been mentioned in the writ petition". The above position was contested by the Union of India which urged that the stay order had been granted qua notification u/s 4 and was not in respect of a particular land. After hearing both parties, the Court passed the following order on 24.2.1984:

"...We do not understand what clarification is needed. The prayer in CM 1759/82 was in respect of the petitioners' land. It follows necessarily that the interim order we passed was in regard to the petitioners. No further order is, Therefore, necessary."

22A. The petitioners also seek to derive support from an order passed by this Court on 7.8.1985 in CCP 153/85 in CW 861 of 1982 (Manakvala v. Chaudhary). That contempt petition was moved because the respondents had made a declaration u/s 6 in respect of some lands covered by the notification u/s 4 dated 25.11.1980 during the subsistence of a stay order at the request of some petitioners who had challenged the said notification. The Court observed:

"It is no doubt true that there was stay of other proceedings but in land acquisition matters it is really the possession which is of consequence. Apart from this position, a large number of other lands were obviously the subject matter of notification under Sections 4 and 6 and it could not be expected that the authorities should delay further acquisition proceedings in regard to them.

Mere notification u/s 6 may be technically not right qua the petitioners but we cannot agree that it amounts to contempt calling for any action.

Of course, as long as stay order stands, dispossession of the petitioner cannot take place.. ..and no one has passed the order ordering dispossession. Dismissed."

23. In the context of these proceedings, the petitioners urge, placing strong reliance on Cumbum Roadways (P) Ltd. Vs. Somu Transport (P) Ltd. and Others, , that the various stay orders of this Court should be read as confined to

stay of further proceedings in respect only of the lands of such of those earlier writ petitioners as had asked for and obtained stay and that they did not, and do not, stand in the way of the respondents issuing the declarations u/s 6 or taking further proceedings in respect of the lands of the petitioners, who were not parties to the earlier writ petitions. In particular, it is submitted that no writ petitions had at all been filed by any person in respect of some of the villages and it is submitted that merely because some residents of some of a large number of villages covered by a notification u/s 4 challenged it and got a stay order, the residents of other villages should not be prejudicially affected by conferring the benefit of the Explanation to the Government even in respect of the lands in those other villages belonging to petitioners who had not moved any Court for any stay of proceedings.

24. It is no doubt true that generally speaking, an order made on an interim application in a suit or a writ petition is intended only to protect the interests of the parties to the suit or writ petition and will not ensure to the advantage, or operate to the prejudice, of any person not a party to the said proceedings. Counsel for respondent submits, however, that this rule is not of universal application. He submits that this would depend upon the nature of the proceedings and the terms of the stay order. He cites certain decisions in this context. In AIR 1944 155 (Nagpur) it was held, in the context of Section 15, Limitation Act, that "where the order staying the execution of the decree is not restricted as against a particular judgment-debtor or in respect of money recoverable under the decree, the stay is in respect of the whole decree and it prevents the decree-holder from executing the decree against other judgment-debtors also and from recovering possession of the property. It is not necessary that the order should be a valid one or that it should be proper *Hulas Singh and Others Vs. Data Ram and Others*, involved an interpretation of Section 6, U.P. Encumbered Estates Act (25 of 1934) and Section 15, Limitation Act. An application had been made by the mortgagors before the Collector on 6.6.1936 u/s 6 of the Act, 25 of 1934. This was forwarded under the Act to the Special Judge who dismissed it on 10.8.1937. The mortgagee filed a suit against the mortgagors on 17.9.1937 on the basis of mortgage dated 10.7.1925 a suit which would have got barred under the normal law by 10.7.1937. The mortgagee, however, claimed that he was entitled to exclude the period from 6.6.1936 to 10.8.1937 and this claim was upheld by the Court. After pointing out that Section 15 had been held to apply to cases where a plaintiff is debarred from filing a suit whether as direct or indirect consequence of an order of a Court, the Court proceeded to hold that, as under the statute, the order of the Collector u/s 6 operated as a complete bar to a suit by the creditor, the plaintiff was entitled to exclude the period between the date of the Collector's order and the eventual dismissal of the application by the Special Judge. This decision was followed in *Umrao v. Behari Lal*, AIR 1947 All 187. These decisions indicate that in considering whether the provisions analogous to Section 15, the question is whether the delay is the result of a prohibition of such action that flows from an

order of Court is directly or indirectly and irrespective of whether the order in the terms in which it is made can be said to be proper or not.

25. Counsel for the respondents also relied strongly on the decision in *Anandilal and Another Vs. Ram Narain and Others*, . The question in this case was whether the decree-holder, in computing the period of limitation u/s 48, C.P.C. was entitled to exclude the period during which an Appellate Court had passed a stay order to the effect that "until further orders the properties attached in execution shall continue to remain under attachment but further proceedings for the sale thereof shall remain stayed". Reviewing the decisions on the topic and affirming the decision of a Full Bench of the M.P. High Court, the Supreme Court observed:

"11. Agreeing with the Full Bench, we are inclined to the view that the word "execution" in Section 15(1) embraces all the appropriate means by which a decree is enforced. It includes all processes and proceedings in aid of, or supplemental to, execution. We find no rational basis for adopting a narrow and restricted construction on a beneficent provision like the one contained in Section 15(1). There is no reason why Section 15(1) should be given a restricted meaning as allowing the benefit to a decree-holder where there is a complete or absolute stay of execution and not a partial stay, i.e., a stay which makes the decree altogether inexecutable. Nor can we subscribe to the proposition that in cases of partial stay, the benefit u/s 15(1) can be had only where an execution application is directed against the same judgment-debtor or the same property, as against whom an execution was previously stayed. Stay of any process of execution is Therefore stay of execution within the meaning of the section. Where an injunction or order has prevented the decree-holder from executing the decree, then irrespective of the particular stage of execution, or the particular judgment-debtor against whom execution was stayed, the effect of such injunction or order is to prolong the life of the decree itself by the period during which the injunction or order remained in force. The majority view to the contrary taken by some of the High Courts overlooks the well settled principle that when the law prescribes more than one modes of execution, it is for the decree-holder to choose which of them he will pursue."

On the strength of these decisions, Counsel for the respondents contends that the language of the Explanation which is analogous to that of Section 15, should be interpreted liberally and broadly so as to cover all cases where an order of Court makes it difficult, if not impossible, for the Government to proceed further with the process of acquisition.

26. Learned Counsel for the petitioners is to some extent right in his contention that broad as the above observations are, these cases are slightly different in that they all dealt with the effect of the operation of stay order only vis-a-vis one of the parties to the litigation in which the stay order is passed. But we are of opinion that these decisions are of guidance as to the proper approach to such a question. In the first place, they show that a stay of execution of a decree can be pleaded as ground for conclusion of the period of stay even by a judgment-

debtor who did not seek the stay. To that extent, the insistence by the petitioners that the exclusion can operate only against the party who obtained the stay order would not be correct. Secondly, these decisions show that the prohibition on action need not be the direct effect of stay order of a Court. Thus, in the present cases, even if in terms the Court be held not to have stayed a declarations in other cases, such was the indirect effect of the stay order in these cases. Thirdly, they lay down that we should not interpret a provision of this type rigidly but should give it an interpretation that gives effect to the object of the Legislature.

27. We, Therefore, think that, in proceeding to interpret the scope of the Explanation, we should keep in mind the nature of the proceedings under the Land Acquisition Act and the nature of the proceedings in which stay orders are obtained. So far as the first of these aspects is concerned, while it is possible for the Government to issue notification u/s 4 in respect of each plot of land sought to be acquired, it is not feasible or practicable to do so, particularly in the context of the purpose of many of the acquisitions at the present day. It is common knowledge that in Delhi, as well as many other capital cities, vast extents are being acquired for "planned development" or public projects. The acquisition is generally part of an integrated scheme or plan and, though, technically speaking, there can be no objection to individual plots being processed under Sections 5A, 6, 9, 12, etc., particularly after the amendment of 1967, the purpose of acquisition demands that at least substantial blocks of land should be dealt with together at least up to the stage of the declaration u/s 6. To give an example, if a large extent of land is to be acquired for the excavation of a canal, the scheme itself cannot be put into operations unless the whole land can be eventually made available. If even one of the land owners anywhere along the line applies to Court and gets a stay of the operation of the notification u/s 4, in practical terms, the whole scheme of acquisition will fall through. It is of no consolation to say that there was no stay regarding other lands covered by the scheme. To compel, the Government to proceed against the other lands (by refusing the benefit of the Explanation in such a case on the ground that there is no stay order in respect thereof) would only result in waste of public expenditure and energy. If, ultimately, the single owner succeeds in establishing a vitiating element in the Section 4 notification and in getting it quashed by the Supreme Court, the whole proceeding of acquisition will fail and the Government will have to retrace the steps they may have taken in respect of other lands (see *Shenoy and Co., Represented by its Partner, Bele Srinivasa Rao Street, Bangalore and Others Vs. Commercial Tax Officer, Circle II, Bangalore and Others*, and *Maj. Genl. A.S. Gauraya and Another Vs. S.N. Thakur and Another*, . Assuming that where such final order is by a High Court the position is not free from difficulty, the debate as to whether, in law, the quashing of the order ensures only to the benefit of the party who filed the writ petition and obtained the order is futile, for the moment the Government seeks to enforce the acquisition against the other, they would come up with similar petitions which cannot but be allowed. In other words, in

many of the present day notifications, the acquisition scheme is an integral one and the stay or quashing of any part thereof is a stay or quashing of the whole. This aspect should not be lost sight of.

28. It is true that the object of having contiguity of all plots sought to be acquired may fail for various reasons. For instance, there may be items of properties exempt from acquisition in between. Again, it may happen that a particular person may have been able to stave off acquisition of his land for one reason or other, particularly since dates of declarations u/s 6, awards and taking of possession may vary from plot to plot. Moreover, it is not in all cases that the object of acquisition needs a number of contiguous plots and may be workable even without some of the intervening lands. However, in considering a question of interpretation, one should not go only by one particular situation but must consider all eventualities to the extent possible. It is only on a broad perspective of the scheme of present-day acquisitions in large measure that we say that any hurdle in regard to any one plot of land can hold up an entire acquisition, all promptness and expedition on the part of the Government notwithstanding.

29. It was sought to be urged that the interpretation sought to be placed by the respondent would result in equating an interim order with a final judgment and the final judgment in a land acquisition case to a judgment in rem and in this context reference was made to Section 41, Evidence Act and to a Passage in Woodroffe on Evidence (14th Edition, Vol. 2) at page 1225. We do not think this analogy is correct. If the final order can operate to the benefit of all the parties, there is no reason why the interim order cannot also affect them. Moreover, we are considering the nature and effect of an injunction passed by the Court against one of the parties thereto who has to act in the same capacity not only in the acquisition of the plot of land the owner of which has obtained a stay order but in all proceedings consequent on or in pursuance of same notification that is challenged in that petition.

30. Secondly, the nature of proceedings in which stay orders are obtained are also very different from the old pattern of suits confined to parties in their scope and effect. Section 4 notifications are challenged in writ petitions and it is now settled law that in this type of proceedings, the principle of locus standi stands considerably diluted. Any public spirited person can challenge the validity of proceedings of acquisition on general grounds and when he does this the litigation is not inter parties simplicity : it is a public interest litigation which be nothing personal to the particular landholder but are, more often than not, grounds common to all or substantial blocks of the land owners. In fact this group of petitions now listed before us raise practically the same contentions just as the previous batch of writ petitions challenging the notifications u/s 4 raised certain common contentions. To accept the contention that the challenges and interim orders in such petitions should be confined to the particular petitioners and their lands would virtually provide persons with common interests with a second innings. If the initial challenge succeeds, all of them benefit; and, if for

some reason that fails and the second challenge succeeds on a ground like the one presently raised, the first batch of petitioners also get indirectly benefited because of the impossibility of partial implementation of the scheme for which the acquisition is intended.

31. We have, Therefore, to give full effect to the language of the section and the stay orders in question, in the above context and background. The use of the word "any" in the Explanation considerably amplifies its scope and shows clearly that the Explanation can be invoked in any case if some action or proceedings is stayed. It may be a complete stay of the operation of the entire notification or may even be a partial stay - partial in degree or in regard to persons or lands in respect of whom it will operate. The words used in the Explanation are of the widest amplitude and there is no justification whatever to confine its terms and operation only to the cases in which the stay order is actually obtained.

32. On behalf of the petitioners, it is contended that the words used in the Explanation should be read in the context of the other provisions. Emphasis has been placed on the use of the words "land", "the land", "any land" used in Sections 4 to 12 to make out an argument that though a notification u/s 4 may comprise a number of plots, the requirements of the state are to be completed in respect of each plot of land discreetly. It is no doubt true that declarations, awards, etc., may be made in respect of various plots comprised in the notification u/s 4. This, however, does not detract from the considerations we have discussed earlier. On the other hand, the language of Section 4 lends some support to our conclusion. For, under the statute, it is possible for the Government while issuing a Section 4 notification not to specify any particular lands in the locality but to simply say that lands in a particular locality are likely to be needed for a public purpose and it is open to interested persons u/s 5A to object to the acquisition of any land in the locality. Where such an objection is put forward by an interested person or some other writ petitioner on general grounds, any stay order passed on such objection cannot be limited in operation to the owner of, or person interested in, any particular land only. It will affect the interests of all persons in all the lands proposed to be acquired.

33. The terms of some of the stay orders, set out earlier are also couched in wide language. One of them stays the issue of any declaration u/s 6. Another stays all proceedings pursuant to the notification. Another restrains the respondents from taking further proceedings in consequences of the notification. Though, in a sense, it may be correct to say that this order was passed at the request of a petitioner and should, despite the general wording, be confined to him and his land we should not read the order literally but assess its practical effect. Suppose, despite this order, the Government had proceeded with inquiries u/s 5A in respect of another's lands, it would have taken him just a few hours to file another writ petition and obtain a similar stay. The interpretation suggested, we think, overlooks the practical consequences of interim or final order passed in such a litigation and if accepted would only encourage multiplicity of litigation.

That is why we are unable to attach much weight to the attempt of learned Counsel for the petitioners to make a distinction between interim and final orders in seeking to distinguish between. a case where a notification u/s 4 is finally quashed on the petition of one land owner on general grounds (which, admittedly, would render further action pursuant to the notification impossible) and a case where the order is only of an interim nature.

34. We may, while on the question of interpretation of the proviso and Explanation point out that the interpretation contended for on behalf of the petitioner involves, so far as Clause (a) of the proviso is concerned, the substitution of the words "published on or after 25.9.1981" in place of the words "published after.....1967" and, so far as the Explanation is concerned, the insertion of the words. "against the person in respect of whose lands the declaration is sought to be made" after the words "any action or proceedings to be taken". It is true, as pointed out by the Supreme Court in *Tirath Singh Vs. Bachittar Singh and Others*, , that it is well established rule of interpretation that: "Where the language of a statute, in Its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words and even the structure of the sentence."

But for reasons which we have already discussed in detail no such situation exists in the present case. On the other hand, as pointed out by us earlier, it is the interpretation advocated by the respondents which furthers the intention of the amendment and avoids hardship and injustice to the States" interests flowing from stay orders over the language, scope or effect of which they have no control and the type of restructuring of the words of the statute that the petitioners contend for cannot be justified on any principle of statutory interpretation.

35. Learned Counsel next contended, relying on the decision of the Supreme Court in *Supdt. of Taxes, Dhubri and Others Vs. Onkarmal Nathmal Trust and Others*, , that, even assuming that the respondents could claim the benefit of the Explanation or of the general principle that no Court order should be allowed to prejudice the rights of a party, the respondents cannot take advantage of the mere fact that a stay order had been passed in some cases; they should be able to go further and say that, as a result of the stay order, it had become impossible for them to issue a declaration u/s 6. That cannot be said unless the respondents had tried every remedy in their power to have the stay order modified, clarified or vacated. It was always open to them to have applied to the Court that granted the stay (and some of the stay orders specifically permitted them to apply for variation) pointing out that the stay this, they took no steps to proceed further in respect of lands not covered by stay orders. order (according to them) was impeding them from issuing a Section 6 declaration in respect of other lands that, in view of the statutory period of limitation prescribed Therefore, the stay

order should be modified or clarified to make possible such action on their behalf in respect of the lands of others.

36. The decisions of the Supreme Court in the Supdt. of Taxes, Dhubri and Others Vs. Onkarmal Nathmal Trust and Others, is a very interesting one. There was a difference of opinion on the issue relevant for our purposes, Mathew and Khanna, JJ. dissenting from Ray, C J. and Beg and Chandrachud, JJ. The discussion is found in paras 17,47-49, 57-59 and 63-65. We think, however, it is not necessary to set out extracts from the judgment, as, in our opinion, the decision is not of direct assistance here, it should be noticed that the decision of the Supreme Court was rendered in the context of a statute which did not contain a provision analogous to Section 15, Limitation Act, or the Explanation in the present case, and was concerned with a general principle of equity. It is in that context that the Court held that a person who seeks the aid of such a principle should show that he had done all that he could to avoid such a situation. Where there is a statutory provision like Section 15, on the other hand, the Courts have emphasised the necessity to interpret the provision liberally and beneficially. This is clear from the decision in Anandilal and Another Vs. Ram Narain and Others, discussed earlier. We do not see why a similar liberal interpretation should not be given to the Explanation which is almost on the same terms. That apart, even if the test laid down in Supdt. of Taxes, Dhubri and Others Vs. Onkarmal Nathmal Trust and Others, is to be applied to the present situation, the position will be the same for, if we are correct in our interpretation of the scope of the stay order passed in the various petitions, it was impossible for the respondents to make any declaration u/s 6 in respect of any part of the lands covered by the Section 4 notifications.

37. Some sort of estoppel is sought to be raised against the respondents by Counsel for petitioners by reason of their conduct in the following respect:

(a) Being fully aware of the position that any stay order in a litigation) was confined to the parties therein, the respondents could and should have proceeded under Sections 5A, 6, 9, 12, etc. of statute in respect of lands of parties who had not obtained stay orders; they failed to do so.

(b) If they thought somehow that the stay order stood in the way of their further proceedings even in other cases, they should have moved the Court for clarification or for varying it so as to restrict the stay order only to the party who obtained it. They did not do this, in spite of the fact that this Court in some cases referred to earlier) gave them liberty to seek a variation of the orders, if so advised.

(c) When some of the petitioners moved the Court for clarification that the stay order was of restricted scope, the respondents contested the position and their stand was rejected (in CM 315/84). Despite this, they took no steps to proceed further in respect of lands not covered by stay orders.

(d) When the petitioners moved for contempt against the respondents for issuing

a declaration u/s 6 in respect of some lands in CW 816/82, this Court pointed out that declaration u/s 6 technically be "not right qua petitioners". This also explained the scope of the order and still the respondents remained indifferent regarding further proceedings.

38. In our opinion, these arguments do not help the petitioners. The Explanation does not postulate any such requirement as we have already indicated while considering the decision of the Supreme Court in the Supdt. of Taxes, Dhubri and Others Vs. Onkarmal Nathmal Trust and Others, . The Explanation only directs the exclusion of a certain period in computing the period of limitation prescribed for a declaration. That is the period during which any action or proceeding in pursuance of Section 4 notification is stayed. If, as we have held above, the terms of the Explanation are wide enough to cover the present cases, what the respondents may or may not have done would be totally irrelevant and they cannot be denied the benefit of the proviso and the Explanation .But, we may point out, their stand throughout so far has been consistent with the above interpretation and cannot by any stretch of imagination preclude them from putting forward that as the correct interpretation of the statutory provision.

39. We have, for the reasons stated above, come to the conclusion that the period during which stay orders were in force should be excluded in computing the validity of the declaration u/s 6. So far as the notification dated 25.11.80 is concerned, we find that the latest of the Section 6 declarations was on 26.2.86. The stay order (in C.M.P. 668/81) was in operation from 18.3.81 to 15.11.83 i.e. for a period of 2 years, 7 months and 27 days. They are Therefore in time having been issued within three years plus 2 years 3 months, i.e., 5 years 3 months of the Section 4 notification. So far as the notification dated 5.11.1980 is concerned, we find that the latest of the Section 6 declaration was issued on 7.6.1985, i.e., 4 years 7 months after the Section 4 notification. The stay order (in CMP 4226/81) was operative from 30.9.1981 to 15.11.1983, i.e., for 2 years and 11/2 months. If this period is excluded the declaration is within time. We answer the principal issue debated before us accordingly.

40. We have dealt with the principal contention. This having been answered against the petitioner other contentions sought to be urged need to be dealt with. Some of these are, it seems, covered by Munni Lal's case AIR 1984 NOC 230 (CW 426/81) and may have to be dealt with on that basis. Some petitioners have contended that there is no Master Plan applicable to Delhi at present and that the proposed acquisitions do not fit in with the Second Draft Master Plan issued on 6.4.1985. It is, Therefore, contended that the declarations are bad as it cannot be said that the lands are now required for the planned development of Delhi. Yet others contend, relying on the decision in Collector (District Magistrate) Allahabad and Another Vs. Raja Ram Jaiswal, , that the power of acquisition is being exercised mala fide and in a colourable manner and hence liable to be quashed. We are of opinion that it will not be convenient or possible for the Full Bench to consider and pronounce the numerous contentions that may

be raised in each one of the 73 petitions now. We have no option but to direct that all these writ petitions be listed before the Division Bench for hearing on the other contentions. We express no opinion on the other contentions which the petitioners will be at liberty to urge before the Bench hearing the matters finally to the extent they have been raised or are permitted to be raised.

41. We may also, at this stage, touch upon an aspect adverted to in the course of the arguments before us. It is argued that, if in truth, the respondents really believed and believe that the stay in one case operates as a stay of the whole notification, they could not have issued Section 6 declaration in respect of the petitioners' lands even in May-June, 1985 as they have done because some stay order or other in respect of the notifications u/s 4 dated 5.11.1980 and 25.11.1980 continues to be in force even till today. We do not know whether this is factually so, though it seems that some stay orders may perhaps be in force. But, assuming this to be correct, what follows. The stark fact is that it will be the petitioners who will stand to lose by quashing the present declarations and holding that they can be issued only some more years later, after each and every single stay order is vacated, for whatever the date of the Section 4 declaration, the petitioners will get compensation based only on the market value of the lands in 1980. Though the recent amendments have increased the solarium and liberalised the interest provisions, the petitioners may find it preferable to have the lands taken possession of and the compensation paid, if otherwise the acquisition proceedings are legal now rather than a few years hence. We leave it to the petitioners to consider this aspect of the matter and put forward such contentions as they may consider advisable, when the writ petitions come up before the Division Bench for final disposal.

42. Before we conclude, we would like to place on record our appreciation of the assistance given to us by Sarvashri R.S. Narula, K.L. Rathee, B.R.L. Iyengar, N.S. Vashisht, Mukul Rohatgi, A.M. Singhvi and Sunil Malhotra appearing on behalf of the petitioners, Sri R.K. Anand appearing on behalf of the Union of India and Shri K.C. Dua appearing on behalf of the D.D.A.

43. We dispose of the reference as above indicated. The writ petitions may now be listed before the appropriate Division Bench for further arguments.