
(2003) 09 AP CK 0090

In the Andhra Pradesh High Court

Case No : WA No. 1742 of 2001 and WP No's. 6182, 11745 and 15913 of 1991, 3752 of 1992 and 20280 of 2000

District Collector and Others

APPELLANT

Vs

P. Nagabhushana Rao and Others

RESPONDENT

Date of Decision : 19-09-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 31(2)

Citation : AIR 2004 AP 1 : (2003) 6 ALD 48 : (2003) 6 ALT 353 : (2003) 3 APLJ 357

Hon'ble Judges : Devinder Gupta, C.J.;V.V.S. Rao, J;A. Gopal Reddy, J

Bench : Full Bench

Advocate : Government Pleader for Land Acquisition in WA No. 1742 of 2001, B.D. Maheswara Reddy, in WP No. 6182 of 1991, L. Narasaiah, in WP No. 11745 of 1991, M.S.R. Subrahmanyam, in WP No. 15913 of 1991, D. Govardhana Chary, in WP No. 3752 of 1991 and B. Ravindernath Reddy, in WP No. 20280 of 2000, for the Appellant; Government Pleader for Land Acquisition in WP Nos. 3752, 11745 and 15913 of 1991 202800, Government Pleader for Revenue in WP No. 6182 of 1991 and G.V. Shivaji in WA No. 1742 of 2001, for the Respondent

Judgement

Devinder Gupta, C.J.—The facts giving rise to the reference before the Full Bench in the writ appeal may be stated in nutshell as follows:

2. Respondents are agriculturists and were deprived of their agricultural property in the month of April, 1991 by the State for the purpose of digging canal for Yeleru Reservoir. According to the respondents, they were dispossessed from their lands without due process of law and, as such, had to approach this Court by filing W.P. No. 24993 of 1995 assailing the action of the authorities in having deprived of them of their property and not paying any compensation to them. Interim order was passed in the writ petition directing the authorities to make payment of 80% of the market value of the land and in order to legalise possession to initiate proceedings under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"). The writ petition was disposed of

finally on 30.3.1998 with a direction to the Collector (Land Acquisition) to proceed to make award under the provisions of the Act. The Collector passed award No. 1 of 1999 on 30.1.1999. Notices u/s 12 of the Act were issued in the first week of February, 1999. The amount of compensation as offered in the award was paid to the respondents whereafter they submitted applications u/s 18(1) of the Act within the prescribed period of limitation seeking reference to the Civil Court for determination of the amount of compensation. Respondents in the applications stated that at the time the amount of compensation was offered to them, they had orally expressed their intention that they are receiving it under protest. They were misguided by the concerned officials that protest in writing has to be made in the application addressed to the Collector (LA) u/s 18 of the Act. Therefore, the applications were filed within the period of limitation before the Collector (LA) seeking reference to the Civil Court. When no steps were taken to forward the references, the respondents approached this Court and filed writ petition seeking direction to the Collector (LA) to forward the reference to the Court in accordance with law for determination of the amount of compensation. The writ petition was vehemently opposed on the ground that since the respondents had received the amount without any protest, therefore, it was not permissible to make any reference. Learned Single Judge decided the writ petition by order dated 29.3.2001 placing reliance upon the decision of the Division Bench of this Court in *Special Deputy Collector, Land Acquisition, Medak Vs. N. Sangaiah and others*, wherein it was held that since the claimants had filed their application within time, that itself would show that they were not satisfied with the amount awarded by the LAO and their protest is obvious. The learned Single Judge thus set aside the order of the LAO in not forwarding the reference and a mandamus was issued to forthwith refer the matter u/s 18 of the Act to the Competent Court of civil jurisdiction. Feeling aggrieved, the appeal was filed by the State.

3. At the time of admission of the appeal before the Division Bench, various decisions were cited on the question. The Bench observed that there is divergence of opinion in the decisions rendered by this Court, therefore, the appeal was admitted on 12.11.2001 and the matter was referred to the Full Bench. The precise question on which reference is made is contained in the order admitting the appeal. It reads:

Having regard to the submission that there is a divergence of opinion in the decisions rendered by this Court and having regard to the question as to whether the claimants who failed to protest at the time of receiving the compensation can file application within the stipulated time seeking a reference to the Civil Court and whether acceptance of the amount without protest amounts to waiver of the right to seek reference u/s 18 of the Land Acquisition Act, 1894, we are of the view that the matter should be heard by a Full Bench.

4. Subsequently, the other writ petitions wherein similar question arose for consideration were also directed to be tagged on to this appeal.

5. Section 18 of the Act enables the persons interested to seek reference and lays down the conditions and limitation in seeking reference and in making application. The Section in its application to the State of Andhra Pradesh as amended by A.P. Act No. 20 of 1959 reads:

18. Reference to Court :--(1) Any person interested, who has not accepted the award may, by written application to the Collector require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made-

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

(b) in other cases, within two months from the date of service of the notice from the Collector u/s 12, Sub-section (2).

6. A bare reading of the aforementioned provision would show that reference can be sought; (1) by any person interested who has not accepted the award, (2) by a written application made to the Collector, (3) for determination as regards objection to the measurement of the land, the amount of compensation, and the person to whom it is payable and also apportionment of compensation among persons interested. Sub-section (2) of Section 18 further requires that the applicant must state the grounds on which the objection to award is taken. Application has to be made within a period of six weeks from the date of award, if the person making the application was present or represented before the Collector at the time of making award. In other cases, application can be made within a period of two months from the date of service of notice from the Collector u/s 12(2) of the Act. In addition to these positive requirements, there is an embargo contained in the second proviso to Sub-section (2) of Section 31 of the Act, which says that no person who has received the amount otherwise than under protest shall be entitled to make any application u/s 18. Section 31 of the Act reads as follows:

31. Payment of compensation or deposit of same in Court :--(1) On making an award u/s 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the

compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference u/s 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application u/s 18.

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of the Appropriate Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

7. Result of conjoint reading of the second proviso to Sub-section (2) of Section 31 and Section 18 of the Act is that an application seeking reference u/s 18 of the Act for determination of the amount of compensation can be made by any person interested, who has not accepted the award and who has not received the amount otherwise than under protest. The second proviso to Sub-section (2) of Section 31 is couched in negative form and disables a person from seeking reference u/s 18 of the Act in case the amount of compensation is received by him otherwise than under protest. However, the Act nowhere lays down the method, manner or form in which protest has to be lodged by a person receiving the amount of compensation. On one hand right is conferred by Section 18 of the Act "on any person interested", who has not accepted the award to seek reference to the Court for determination of the amount of compensation, provided application is filed by him within the prescribed period. On the other hand, there is an embargo placed not by the same provision but by the second proviso to Sub-section (2) of Section 31 of the Act on such a person, who has received the amount of compensation otherwise than under protest from making such an application for reference u/s 18 of the Act. Divergence of views in some of the decisions referred to in the reference order and in various other decisions cited before us is based upon number of grounds. In some of the decisions the view expressed is that unless a person has in writing lodged his protest, at the time of receiving the amount of compensation, he cannot ask for reference. The other decisions hold the view that the protest must be expressly made at the

time of making reference. Some other decisions even go to the extent of saying that even if a person has not accepted the award and has filed an application seeking reference within the period of limitation but has received the amount without lodging a protest in writing, he is debarred from making reference.

8. The second, proviso to Subsection (2) of Section 31 of the Act in other words can be said to be based upon the principle of estoppel. In the absence of any form or manner or method of lodging protest and the time of making protest, the proviso will have to be interpreted by us in that manner. We will now proceed to deal with the decisions referred to before us.

9. In *Special Deputy Collector, Land Acquisition Unit-III, Singur Project v. N. Sangaiah* (supra) a Division Bench of this Court placing reliance on the decision of the Supreme Court in *Ajit Singh and Others Vs. State of Punjab and Others*, , held that no specific procedure or form is provided for recording the protest and the very fact of filing an application by the interested person u/s 18 of the Act within the stipulated period of limitation will lead to an inference of fact that the interested persons never accepted the compensation without protest and the protest is very much inherent. Right to file a petition for proper assessment of the market value of the land acquired is inherent in the right of ownership of a person to the property that is sought to be acquired by the State which is the only protection granted to the owner of land. On a hyper-technical ground that express protest was not made, the State cannot deny the landowner the right to seek reference to the Civil Court for a reasonable compensation. Fair administration of the State demands that they bestow objective approach to such a situation and citizens are not deprived of their property, just for hyper-technical reasons.

10. Before the Division Bench, on behalf of the State reliance was placed on another decision of the Supreme Court in *Wardington Lyngdoh and others Vs. The Collector, Mawkyrwat*, decision of the Kerala High Court in *Kantian v. Land Acquisition Officer 1997 (2) LACC 317 (Ker.)* and on a Division Bench decision of this Court in *S.M.A. Somasundaram Mudaliar Vs. District Collector Chittoor and Another*, .

11. Referring to the judgment in *Wardington's* case, the Division Bench observed that the decision was rendered in the said case in the peculiar facts and circumstances of that case and the question in that case was whether there was in fact a protest or not. The question whether the protest was express or implied did not fall for consideration before the Supreme Court. Similarly, the Division Bench in *N. Sangaiah's* case observed that before Kerala High Court in *Kannan's* case also same question was not before the Court and it was found that protest had been lodged. The Division Bench further observed that the law laid down by the Division Bench in *Somasundaram's* case cannot stand to scrutiny of law in the light of the law later laid down by the Supreme Court in *Ajit Singh's* case.

12. In *Somasundaram's* case, a Division Bench of this Court was dealing with a

situation where a person interested had received a bill drawn on treasury for the amount of compensation awarded. At the time of receiving the bill no protest in writing was lodged by the person interested. It was asserted that bill was received under protest. The Bench with reference to Board's Standing Orders observed that standing orders provide for payment in cash or by an order on the treasury or by money order. There being different forms in which payment is made, the Bench held that the very act of the receipt of a bill representing the amount tantamount to receiving the amount in cash. It was further held that protest is contemplated at the time of receipt of payment. Therefore, it was held that in case protest was not lodged at the time when bill, representing the amount of compensation was accepted, but was lodged at the time of receiving the amount in cash from the treasury, it will not be sufficient since Section 18 postulates tender of payment of compensation awarded by the Land Acquisition Officer and the second proviso to Sub-section (2) of Section 31 contemplates acceptance of the tender by receipt of payment under protest or otherwise. The second proviso postulates the effect of acceptance of the tender without protest. Accordingly, the Bench held that the intendment and the scope of the proviso is clear that protest must necessarily be made to the Land Acquisition Officer when he tenders payment of compensation.

13. Another Division Bench of this Court in *Government of Andhra Pradesh v. Displaced Ryots Association of Pothunuri Veera Brahmendra Reservoir* 1999 (1) LACC 139, held that the persons who receive the amount of compensation without any demur and protest cannot seek reference for determination of the amount of compensation by the Civil Court. The question, which has arisen before us, was not the subject-matter in the said decision.

14. Barring, these two decisions in *Somasundaram's* case and in *Displaced Ryots Association's* case, more or less, view expressed in other decisions is almost same but for different reasons. However, in *C.S. Ramachandra Rao Vs. Land Acquisition Officer, Visakhapatnam and Another*, , the question before the Division Bench was slightly different. Same view was taken as in *Somasundaram's* case by the Division Bench rejecting the contention that the person entitled can protest at any time even after receiving the first instalment of payment without protest so as to entitle him to file an application u/s 18 of the Act.

15. A learned Single Judge of this Court in *Smt. Suram Ramakka Vs. The Dist. Collector, Karimnagar and another*, , held that the law does not prescribe any particular mode of protest and then proceeded to hold that even an oral protest is a valid protest under law. In *Sode Pentaiah v. Land Acquisition Officer* 1996 APHN 298, also the same view was taken.

16. A Division Bench of this Court in *LAO-cum-RDO, Kamareddy v. D.P. Balavva* 1996 (1) ALD 186, by making reference to various decisions of this Court and what was held in *Ajit Singh's* case (supra) by the Supreme Court proceeded to take the view that no mode or manner of protesting to the award and the receipt

of the amount of compensation is prescribed, therefore, a person who is alleged to have received the amount of compensation without protest will be one who knew the implications of the award of the Collector u/s 11 of the Act and that he had a right to claim higher compensation and seek reference to a Civil Court. In other words, it should be a conscious and deliberate decision of receiving compensation and not protesting against it in any manner whatsoever. It was thus held that the intention that the amount of compensation is not acceptable can be inferred from the objection and demand of reference to the Court. The Division Bench opined that the view, which was, being taken by it was not in conflict with the view which had earlier been taken by this Court in C.S. Ramachandrarao's case supra.

17. In Kotipalli Chitti Vs. Special Deputy Collector, Land Acquisition for ONGC, , another learned Single Judge relied upon the decisions of the Supreme Court in Ajit Singh 's case and proceeded to hold that even in the absence of an express protest at the time of receiving compensation, a person interested will be entitled to maintain a reference u/s 18(1) of the Act since reference had been sought immediately after receiving the amount under receipt of notice u/s 12(2) of the Act, It was held that an application filed by claimant for reference itself would manifest the intention of the claimants to accept the amount under protest.

18. A learned Single Judge of this Court in N. Sangaiah and others Vs. Special Deputy Collector, Land Acquisition Unit-III, Singur Project, Medak District, , analysed number of earlier decisions of this Court and held that the legal position that clearly emerges is:

(a) There is no particular mode, method and manner for expressing protest by a claimant at the time of receiving of compensation awarded u/s 11 of the Act by the Collector;

(b) The protest could be either oral or written;

(c) The application, if any, filed for reference u/s 18 of the Act, within the period of limitation provided under the Act, itself, would manifest the implied protest of the claimants at the time of receiving the compensation;

(d) If there is no application filed within the period of limitation, the matter cannot be referred by the land Acquisition Officer; and

(e) The third parties cannot ask for any reference u/s 18 of the Act. It is only the claimants who are entitled to ask for reference, after receiving the amounts under protest and such protest may be either express or implied.

19. This decision of learned Single Judge was challenged before the Division Bench in appeal. The Division Bench in its decision in Sangaiah's case (supra) followed Ajit Singh's case to which a reference has already been made in earlier part of this judgment.

20. In Ajit Singh's case by notification issued u/s 4 of the Act on October 4,

1978, land was acquired for public purpose. The Land Acquisition Collector awarded compensation. Not being satisfied with the same applications for reference u/s 18 were filed. Reference was made to the Civil Court, which enhanced the compensation only in favour of those who had received the amount of compensation as per the award of the Collector with protest. To those who had received the amount of compensation without any protest enhancement was denied. The matter ultimately landed in Supreme Court and one of the questions before the Apex Court was about maintainability of applications u/s 18 of the Act by those interested persons who had received the compensation otherwise than under protest. The Supreme Court held:

Inasmuch as the appellants have filed an application for reference u/s 18 of the Act that will manifest their intention. Therefore, the protest against the award of the Collector is implied notwithstanding the acceptance of compensation. The District Judge and the High Court, therefore, fell into patent error in denying the enhanced compensation to the appellants.

21. In Wardington 's case, the Collector had made his award on 17.5.1989. On 5.7.1989 the persons interested received the amount of compensation under an agreement signed by them and the Collector. On 8.8.1989 the persons interested objected to the amount of compensation and claimed reference u/s 18 of the Act. They were asked to appear before the Collector. They appeared on 29.8.1989 and reiterated their request for reference. At that stage, objection was raised that they had received the compensation without protest. This is how the matter came up before the Supreme Court. The question before the Supreme Court was that since persons interested had objected to the award though after receiving the compensation, the reference was valid. Needless to add that the application seeking for reference was not filed within the period of limitation. The Supreme Court held that the receipt of the amount under protest is a condition precedent to make an application u/s 18 of the Act and that also within the limitation prescribed under the proviso to Sub-section (2) of Section 18 of the Act. Whatever has been held in this decision does not go counter to what the Supreme Court in Ajit Singh's case supra held as regards the form, mode and manner of protest.

22. Reference was also made to another decision of the Supreme Court in Land Acquisition Officer Vs. Shivbai and others, . In this case also application seeking reference was not made within the period of limitation. There was an objection that the application was barred by limitation and the reference was obtained fraudulently with the connivance of the Land Acquisition Officer. The Supreme Court directed production of the acquittance registers. It was found that on the day when the award came to be passed the claimants were present and they received the amount without protest. Two of the claimants, who were not present on the date received compensation two days thereafter. Question before the Supreme Court in the said case was that whether it was necessary on the part of the Collector to have served notices u/s 12(2) of the Act on the claimants. It was

held that the date of award and date of receipt of compensation being the same, it must be presumed that the persons interested were present when award was made. The compensation was received without protest. Under these circumstances, it was held that the interested persons were not entitled to seek reference. The Supreme Court also observed that the position in law was clear that the claimants who receive the compensation under protest and who makes application u/s 18(1) of the Act alone is entitled to seek reference. In this case also, the question as to the manner, form and mode of lodging protest was not the subject-matter.

23. We have already observed earlier that neither Section 18 of the Act nor Section 31 of the Act or any other provision in the Act provide for the method, form and manner of lodging protest when the claimant is not satisfied with the compensation awarded. Even the second proviso to Sub-section (2) of Section 31 does not prescribe the time of lodging protest, that whether the protest as to the receipt of the amount of compensation has to be made simultaneously while receiving the amount or prior to or subsequent thereto. It also nowhere postulates that the protest must be in writing. We must bear in mind the purport and purpose of reference to the Civil Court. An award of the Collector made u/s 11 of the Act is nothing but an offer on behalf of the Government of the amount of compensation payable to a person, who is deprived of his property. In a Welfare State, under the State's right of eminent domain a person so deprived of his property is entitled to have fair and reasonable amount of compensation with reference to the true market value of the land as on the date of issuance of Section 4(1) notification and the same should not be denied on mere technical pleas.

24. It would be appropriate at this stage to refer to the decision of a Constitution Bench of the Supreme Court in *Bhag Singh and Others Vs. Union Territory of Chandigarh* through the land acquisition collector, Chandigarh, wherein it was held that a person who is deprived compulsorily of his property by the State under the provisions of the Act is entitled to receive fair amount of compensation. The State should not take up a technical plea and defeat the legitimate and just claim. P.N. Bhagawati, CJ., speaking for the Bench observed thus:

... but where land is acquired under the Land Acquisition Act, 1894, it would not be fair and just to deprive the holder of his land without payment of the true market value when the law, in so many terms, declares that he shall be paid such market value. The State Government must do what is fair and just to the citizen and should not, as far as possible, except in cases where tax or revenue is received or recovered without protest or where the State Government would otherwise be irretrievably be prejudiced, take up a technical plea to defeat the legitimate and just claim of the citizen.

25. Law gives a right, to such deprived citizen, in case such a person is not satisfied with the amount of compensation so offered, to seek reference for

determination of the amount of compensation by a Civil Court, for which limitation is provided u/s 18 of the Act. In a situation where an interested person within the period of limitation seeks reference for determination of compensation and the law nowhere lays down in clear and explicit terms the time, the method and manner of lodging protest, there is no reason that why to such a case the ratio laid down in Ajit Singh's case will not be applicable. The Supreme Court held that the very fact of seeking reference by the person interested within the limitation would imply lodging of protest and an inference that the amount offered by the Collector on behalf of the State has been received subject to his right to have the correct amount of compensation determined by a Civil Court, in accordance with law. After all what the Civil Court will do, when a reference is made? It will have to determine the amount which is payable under the provisions of the Act with reference to the provisions of Section 23 of the Act, namely, the true market value of the land as on the date of issuance of the notification u/s 4(1) of the Act.

26. The intention of the Legislature to pay fair and reasonable compensation to all interested persons on the basis of the true market value of the land is very much evident when amendment was made to the provisions of Land Acquisition Act by Land Acquisition Amendment Act, 1984 by inserting Section 28-A of the Act making a provision for re-determination of the amount of compensation on the basis of the award of the Court passed in respect of similar land covered by the same notification. The scope and object in incorporating Section 28-A is to remove inequality in payment of compensation for the same or similar acquisition of land arising on account of poor people not being able to take advantage of the right of reference to Civil Court u/s 18 of the Act. Section 28-A nowhere restricts the right of the interested person to seek for re-determination of the amount of compensation and does not debar even those who had even received the amount of compensation without protest. Any person interested aggrieved by the award can make an application to the Collector for re-determination of the amount of compensation provided that application is filed within the period of limitation from the date of the award of the Court made under the provisions of the Act. Section 28-A of the Act enables the Court to grant compensation in excess of the amount of compensation awarded by the Collector on the basis of the award of the Court passed in respect of similar lands covered by the same notification subject to the condition that the land is covered by the same notification u/s 4(1) of the Act and application is filed within three months from the date of award. The Supreme Court in Union of India (UOI) and Another Vs. Hansoli Devi and Others, , held that even those persons who received the compensation without protest and who had filed application for reference u/s 18 can also seek reference for re-determination of the compensation u/s 28-A of the Act. It was held:

Coming to the second question for reference the receipt of compensation with or without protest pursuant to the award of the Land Acquisition Collector is of no consequence for the purpose of making a fresh application u/s 28-A, if a

person has not filed an application u/s 18 of the Act to make a reference, then irrespective of the fact whether he has received the compensation awarded by the Collector with or without protest, he would be a person aggrieved within the meaning of Section 28-A and would be entitled to make an application when some other landowner's application for reference is answered by the reference Court. It is apparent on the plain language of the provisions of Section 28-A of the Act. Otherwise, it would amount to adding one more condition, not contemplated or stipulated by the Legislature itself to deny the benefit of substantial right conferred upon the owner.

27. The second proviso to Section 31 being in the nature of estoppel, necessarily, it will be for the person raising a plea of estoppel to establish before the Court necessary facts on which the rule of estoppel is to be applied. Therefore, it will be for the Collector or the State to point out any material, which will lead to an inference that the compensation was not received under protest. In the absence of any such material, when it is not expressly stated by the person interested that he was accepting the award or was accepting the amount of compensation without protest and an application is made u/s 18(1) of the Act within limitation, protest is implied. Invariably in land acquisition matters, persons interested are those who are illiterate and poor agriculturists. There is an implied obligation on the part of the Collector that he must apprise the persons interested of their right to have the amount of compensation determined by the Civil Court in case they are not satisfied with the amount of compensation awarded. In the event of their not exercising their right and agreeing to accept the award or amount of compensation without protest, an express acknowledgement must be obtained. Experience has shown that usually compensation offered by the State to the persons interested are deprived of their property is not adequate and invariably on reference being made to the Civil Court, the amount is enhanced. Under these circumstances, unless it is positively shown that the persons interested were made aware of their right to have the compensation determined by a Civil Court and they accepted the amount without any demur, only in such a circumstance, an inference can be drawn that they never intended to seek reference. If a person interested is debarred from exercising his right conferred on him u/s 18 of the Act on the ground that he has not expressly stated that he is accepting under protest, the very purpose for which such right was conferred by the statute would become nugatory and illusory. We are, therefore, of the considered view that the law having laid down period of limitation within which reference can be sought and when an application is filed within the prescribed period of limitation, a very valuable right to seek reference for determination of the compensation cannot be taken away merely on a technical plea raised by the State who has deprived the said person of his right to hold the property.

28. In the view we have taken, we answer the reference holding that in the absence of any manner of protest having been specified in the Act and the time when protest is to be lodged, act of filing of an application seeking reference to Civil Court within the period of limitation prescribed u/s 18 of the Act will

impliedly infer that the claimant/person interested had accepted the amount with protest. Not expressly lodging protest at the time of receiving amount in such circumstance would not amount to waiver of the right to seek reference u/s 18 of the Act.

29. The reference is answered accordingly. The Registry is directed to place the writ appeal and the writ petitions before the appropriate Benches for disposal on their own merits and in accordance with the principle laid down in this judgment.