
(2014) 02 MAD CK 0235
In the Madras High Court
Case No : W.P. No. 3618 of 2014

G. Ganapathy

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 14-02-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 11, 12, 12(2), 13A, 14
Limitation Act, 1963 — Section 14

Citation : (2014) 5 MLJ 549 : (2014) WritLR 377

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Judgement

S. Manikumar, J.—The petitioner has sought for a Writ of Certiorarified Mandamus, to quash the proceedings of the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, respondent No. 3, in B1/644/2008, dated 05.01.2012, insofar as it relates to the petitioner, pursuant to Award No. 1 of 2010, dated 15.10.2010 (Sl. No. 24) and consequently, prayed for a direction to respondent No. 3, to amend or modify the reference dated 05.06.2012 by deleting "Section 30", so as to read, as a reference under Sections 18(1) and 31(2) of the Land Acquisition Act, 1894, to enable the petitioner to process the "Payment Out Petition" filed before the learned VI Assistant City Civil Court, Chennai. Record of proceedings shows that on 11.02.2014, this Court has passed the following orders:

Material on record discloses that in W.P. No. 20492 of 2011, when the petitioner therein sought for a Writ of Mandamus, directing the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, the 3rd respondent therein, to refer Award No. 1/2010 dated 15.10.2010, in so far as the petitioner land is concerned, to the Civil Court u/s 18(1) of the Land Acquisition Act, 1894, the then Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, has made a categorical statement that he has made necessary arrangements to

send the cases, referred u/s 18(1) of the Land Acquisition Act, 1894. Recording the same, the writ petition W.P. No. 20492 of 2011, has been disposed of on 13.10.2011. In this context, the Court has perused the letter of the Tahsildar dated 13.09.2011.

2. Material on record further discloses that subsequently, the compensation amount determined by the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, has been deposited in the City Civil Court under Sections 30 and 31 of Land Acquisition Act, 1894. Accordingly, vide letter in B1/644/2008 dated 05.01.2012, the petitioner has been informed. Perusal of the proceedings of the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, dated 05.01.2012, makes it clear that the petitioner/owner of the land in S. No. 3856/38 measuring 1428 sq. ft., has only declined to receive the compensation amount and that there is no dispute over the ownership of the land.

3. When that is the case, it is not known as to how the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, could deposit the amount, by invoking Sections 30 and 31 of the Land Acquisition Act, 1894. As assured earlier, vide letter dated 13.09.2011, reference should have been made u/s 18(1) of the Land Acquisition Act, 1894.

4. Attention of this Court was also invited to the endorsement made by the learned VI Assistant Judge, City Civil Court, Chennai, that when the petitioner sought for payment of 1,08,57,670/-, amount said to have been deposited by the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, by award No. 1 of 2010 dated 15.10.2010, to the credit of LAOP No. 48 of 2012, the request has been denied.

5. According to the petitioner, the reference should have been made only u/s 18 of the Land Acquisition Act, 1894 and that there is a mistake, Mr. K.V. Dhanapalan, learned Additional Government Pleader, is directed to produce the entire records and also to get appropriate instructions on the above aspects.

6. Post on 13.02.2014, in the motion list.

2. On this day, on instructions and by inviting the attention of this Court to Sub-Sections 1 and 2 of Section 31 of the Land Acquisition Act, 1894, Mr. K.V. Dhanapalan, learned Additional Government Pleader, submitted that though on making an Award u/s 11 of the Act, the District 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, in certain circumstances, like in a case, where payment is prevented by someone or for any of the contingencies mentioned in Sub-Sections 1 and 2 of Section 31 of the Act and when the payment of compensation awarded by him, could not be made, then, the District Collector, is empowered to deposit the amount of compensation in the Civil Court, only u/s 31 of the Land Acquisition Act, 1894.

3. Pointing out that one of the contingencies mentioned in Sub Section (2) of Section 31 of the Act, is that, when there is no consent to receive or refusal by the land owners or the persons interested to receive the compensation, the District Collector, is legally obligated to perform his duties, u/s 31(2) of the Act, to deposit the quantum of compensation determined in the Civil Court. Learned Additional Government Pleader submitted that deposit u/s 31 of the Act, is valid. At this juncture, attention of this Court was also invited to Section 18 of the Land Acquisition Act, 1894, which reads as follows:

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 person 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 six weeks of the receipt of the notice from the Collector u/s 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

4. A combine reading of both Sections 18 and 31 of the Land Acquisition Act, 1894, supports the contention of the learned State Counsel that though the District Collector has to make a reference u/s 18 of the Act, on the receipt of an application made by the land owners or the persons interested, ventilating their grievance over the inadequacy of the quantum of compensation payable or the persons to whom it is payable or the apportionment of the compensation among the persons interested, as rightly pointed out by Mr. K.V. Dhanapalan, learned Additional Government Pleader, Section 18 of the Act does not speak about the duties and the powers to be exercised by the District Collector, regarding the deposit of amount, when there is a protest or an application, questioning the inadequacy of compensation amount or in the case of any dispute, as to the apportionment of the amount or the persons to whom the sum determined is payable.

5. Section 18 contemplates reference under the following circumstances:

(1) On the objections as to the extent of land, for which computation is made,

(2) the amount of the compensation,

(3) the persons to whom it is payable, or

(4) the apportionment of the compensation among the persons interested.

6. Section 18 of the Act also states that in a given case, where there is a dispute, as to whom the compensation has to be paid or the dispute is with regard to the apportionment of the compensation among the persons interested or part thereof, the District Collector, has to make a reference to the Court of Competent Civil jurisdiction. But that can be done only on an application. Section 18 of the Act makes it clear that any person interested, who has not accepted the award may, by submitting an application to the District Collector, require the matter be referred by the Collector, for the determination of compensation by the Court. Section 18 of the Act, does not speak about the aspect of deposit.

7. Section 30 of the Act deals with the disputes as to apportionment and the said Section is extracted hereunder:

30. Disputes as to apportionment. When the amount of compensation has been settled u/s 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

8. Section 30 of the Act deals with cases, (1) where there is any dispute as to the apportionment of the amount of compensation settled u/s 11 or any part thereof, or (2) as to the persons to whom the same or any part thereof, is payable and in these circumstances, the District Collector, may refer such dispute to the decision of the Court. As rightly pointed out by the learned Government Pleader, both Sections 18 and 30 of the Act, do not speak about the aspect of deposit of the amount of compensation settled u/s 11 of the Act, when the Collector is faced with any or more of the contingencies stated in Sections 18 and 30 of the Act.

9. The distinction deducible from Sections 18 and 30 of the Act is that, u/s 18 of the Act, any person interested, who has not accepted the award, may submit a written application to the Collector and request the Collector to refer the matter, for determination of the Court, on the objections, as to, (1) measurement of the land; (2) the amount of compensation; (3) the person to whom it is payable; or (4) the apportionment of compensation amount, among the persons interested. The objection not to accept the award may be for one or more reasons, as stated supra. At this juncture, on receipt of a written application, within the prescribed time, the District Collector is obligated to refer the matter to the Civil Court. Thus, Section 18 of the Act envisages the duties to be performed, when there is an objection, on receipt of an application. But Section 30 of the Act empowers the Collector, to make a suo motu reference, if there is any dispute, (1) as to the apportionment of the amount of compensation settled u/s 11 of the Act or any part thereof, or (2) as to the persons to whom the same or part thereof, is payable. In Section 30 of the Act, there is a specific exclusion of any dispute over the quantum of compensation determined.

10. Section 31 of the Land Acquisition Act deals with payment. Section 31 of the

Act obligates the Collector that on making an award u/s 11 of the Act, he shall tender the amount of compensation to the persons interested entitled thereto, according to the award and shall pay it to them, unless prevented by someone or more of the contingencies mentioned in sub-section (2). As per sub-Section (2) of Section 31 of the Act, if the land owners or the persons interested, do not consent to receive the compensation settled u/s 11 of the Act, 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. At this juncture, it should be noted that reference u/s 18 of the Act, is subject to satisfying the requirements of the said Section. If there is any written application, u/s 18 of the Act, submitted within the period prescribed therefore, for any or more of the reasons, stated therefore, the obligation to refer u/s 18 of the Act, to the Civil Court, arises. But the aspect of deposit is dealt with only u/s 31 of the Act. Section 31 of the Act, is extracted hereunder:

(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 the land and competent to contract in respect thereof.

11. As per first proviso to Sub-Section (2) to Section 31 of the Act, any person admitted to be interested, may receive such payment under protest, as to the sufficiency of the amount. Section 31 of the Act recognises the right of the land owners or the persons interested to receive the compensation determined, under protest, as to the sufficiency of the amount. Thus, during the award enquiry, the land owners or the persons interested, can always make objections over the determination of the quantum of compensation, and after the making of an award and it is left to their discretion to receive the compensation under protest. If they have not consented to receive the award, under protest, then the District Collector is obligated to deposit the amount, in the Civil Court, if any reference is required to be made. The second proviso to Section 31 of the Act, states that no person who has received the compensation amount, otherwise under protest, shall be entitled to make an application u/s 18 of the Act. Therefore, the land owner or the person interested can receive the compensation under protest and thereafter, make an application u/s 18 to the Collector, within the prescribed period, requiring him to refer the matter to the Civil Court.

12. As per Section 18 of the Land Acquisition Act, 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. The application shall state the grounds on which objection to the award is taken and the person has to make objections within six weeks from the date of the Collector's award, if he was present or represented before the Collector at the time when he made his award. In other cases, the objections should be within six weeks of the receipt of the notice from the Collector u/s 12, Sub-section (2) or within six months from the date of the Collector's award, whichever period shall first expire.

13. Section 30 is an enabling provision, which states that where there is a dispute as to apportionment of the amount of compensation, the Collector, may refer the matter to the Civil Court. Reading of Section 30 makes it clear that reference of the dispute regarding apportionment of the compensation or any part thereof, has to precede settlement of an award by the Collector, u/s 11 of the Land Acquisition Act. Section 30 deals with only apportionment of the quantum of compensation between the parties, who are entitled to receive the compensation amount, as determined u/s 11 of the Act. The dispute as to the quantum of compensation arrived at by the Collector, has to be raised u/s 18 of the Act.

14. u/s 18 the Land Acquisition Act, written application requiring the matter to be referred by the Collector for the determination of the Court shall be filed within six weeks from the date of the Collector's award if the person making it was present or represented before the Collector at the time when he made his award or within six weeks of the notice from the Collector u/s 12(2) or within six

months from the date of the Collector's award, whichever period shall first expire. There is no such limitation prescribed u/s 30 of the Act. The Collector may at any time, not bound by the period of limitation, exercise his powers to make the reference. The expression the person present or represented before the Collector at the time when he made his award would include within its meaning a person who shall be deemed to be present or represented before the Collector at the time when the award is made.

15. A Hon'ble Division Bench of this Court in *The Revenue Divisional Officer Vs. Athappa Gounder and Others*, , has explained the scope of reference under Sections 18 and 30 of the Land Acquisition Act and the same is extracted hereunder:

10. The requisite of the Reference u/s 18 is well known and Section 18 says that any person interested and who has not accepted the award may, by writing, require the matter be referred to by the Collector for determination of the court as to whether his objection, be it to the measurement of the land, the amount of compensation, the persons to whom it is payable or the apportionment of compensation among the persons interested. Such an application with specified grounds shall be made within six weeks from the date of the Collector's award or within six months if notice is issued u/s 12(2) of the Act. Therefore, the requirements are that the person interested should not have accepted the award and there must be a written application to the Collector requesting him to refer the matter. That application should specify whether the objection is in reference to the determination of the amount, measurement of the land or as to whom it is payable. Thus, it could be seen that the scope of the Reference u/s 18 and the Reference u/s 30 is entirely different.

16. In *P.K. Sreekantan and Others Vs. P. Sreekumaran Nair and Others*, , the Supreme Court held that the reference court derives jurisdiction from the reference made. References u/s 18 and Section 30 are conceptually different from each other. The decree in terms of Section 18 is different from the one in terms of Section 30. At Paragraph 16, it is further held that there is no time-limit for seeking reference u/s 30 of the Act, though it should always be done within a reasonableness of time flows from the need for a finality to judicial proceedings. Reading of the provisions under Sections 18 and 30 of the Act and the decisions stated supra makes it manifestly clear that there is a difference in the scope and ambit of Sections 18 and 30 of the Land Acquisition Act.

17. In the case on hand, when the writ petitioner was not satisfied with the quantum of compensation determined by the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, respondent No. 3, he has filed W.P. No. 20492 of 2011, to refer the Award No. 1 of 2010, dated 15.10.2010, to the Civil Court u/s 18(1) of the Land Acquisition Act, 1894 and in the said writ petition, the learned Additional Government Pleader, has produced the written instructions of the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, dated 13.09.2011. Considering the submission of the learned

Additional Government Pleader, and after extracting the written instructions, dated 13.09.2011, in W.P. No. 20492 of 2011, the following orders have been passed:

4. Learned Additional Government Pleader produced the written instructions of the Land Acquisition Officer/Tahsildar vide Lr. No. B1/644/2008, dated 13.09.2011, wherein, it is stated as follows:

In this connection, it is submitted that the land measuring an extent of 1428 sq. ft. involved in R.S. No. 3856/38 of Mylapore Village including the other lands belonging to the private persons have been acquired for the purpose of widening of Cenotaph Road and Turn Bulls Road. Award has been passed on 15.10.2010 in Award No. 1 of 2010. As the petitioner, who is owner of the land in R.S. No. 3856/38 measuring an extent of 1428 sq. ft. of acquired portion has not consented to receive the compensation, the case has to be referred u/s 18(1) of the Land Acquisition Act, 1894 to the City Civil Court having the jurisdiction. The petitioner has made an application on 23.12.2010 and the same has to be referred u/s 18(1) of the Land Acquisition Act, 1894.

I have joined the post of Tahsildar only two months back. As my predecessor was fully engaged in election work, he has inadvertently failed to send the application of the petitioner to the City Civil Court. After my joining, I am sincerely concentrating in all the Court matters in order to obey and execute them with due diligence. Despite poor availability and dearth of staff in this office, among other public important items of work, I have also made necessary arrangements to send the cases referred u/s 18(1) of the Land Acquisition Act, 1894. In this case, necessary bills have to be prepared and presented to the Pay and Accounts Office (South) Chennai in order to deposit in the Court. It is a routine practice that non-salary bill will be admitted only every month before 15th of the month. Hence, the bill for this case shall be prepared and presented to the Pay and Accounts Office (South) Chennai before 10th of October 2011 and the application of the petitioner shall be referred to the City Civil Court before 31st October 2011. Hence, I kindly request that the above fact may be appraised before the Hon'ble High Court and may be pleased to grant time up to 31st October 2011.

5. In view of the above specific stand taken by the respondent that the application of the petitioner shall be referred to the City Civil Court before 31st October 2011, nothing further survives for consideration in this matter. As the petitioner's relief is considered by the respondent, this writ petition is disposed of recording the statement of the respondent made in his Letter dated 13.09.2011. No costs.

18. Reading of Para. 4 of the order made in W.P. No. 20492 of 2011, dated 13.10.2011, makes it clear that the then Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, has admitted the receipt of the application, dated 23.12.2010, submitted by the Writ Petitioner for reference, u/s 18 of the Act. The Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk,

Chennai, in his letter No. B1/644/2008, dated 13.09.2011, has also categorically stated that he has made necessary arrangements to send the cases referred u/s 18(1) of the Land Acquisition Act, 1894. The Land Acquisition Officer and Tahsildar, in his letter dated 13.09.2011, has also stated that the application of the petitioner shall be referred to the City Civil Court before 31st October 2011. Thus, from the abovesaid letter dated 13.09.2011, it is clear that, a specific assurance has been given by the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, to this Court, that the application dated 23.12.2010, submitted by the petitioner, would be referred u/s 18(1) of the Act.

19. Proceedings in B1/644/2008, dated 05.01.2012 of the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, the cause of action for filing the present writ petition, is extracted hereunder:

Proceedings of the Land Acquisition Officer and Tahsildar,

Mylapore - Triplicane Taluk, Chennai-28 Present: Thiru. R. Bhoovaraghan, B.Sc., B1/644/2008 Dated: 05.01.2012

Sub: Land Acquisition - Chennai District -Mylapore-Triplicane Taluk - Mylapore Village - 18,225 sq. ft. (or) 7 grounds and 1425 sq. ft. Landsacquired for the public purpose to wit, for the formation of foot path and widening of service road and construction of flyover at Cenotaph Road and Turn Bulls Road Scheme - Compensation amount to be deposited the City Civil Court u/s 30 and 31 of Land Acquisition Act, 1894 - sanction orders issued.

Read: 1. Award No. 1 of 2010 dated 15.10.2010

2. Other connected records.

ORDER

The Commissioner, Corporation of Chennai has requested to acquire the lands involved in R.S. No. 3847/10 etc., of Mylapore Village measuring an extent of 7 Grounds 1425 sq. ft. for the formation of footpath and widening of service Road and construction of fly over at Cenotaph Road and Turn Bulls Road, Chennai. On request from the Commissioner, Corporation of Chennai, the lands detailed below was acquired by the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai-28 for the formation of footpath and widening of service in R.S. No. 3847/10, etc., of Mylapore Village. Mylapore-Triplicane Taluk, Chennai District under urgency clause of the Land Acquisition Act, 1894 (Central Act 1/1894). The award was passed and pronounced on 15.10.2010 by the then Land Acquisition Officer and Tahsildar of this office.

In the award pronounced 1st read above, the compensation amount was ordered to be deposited into the City Civil Court, Chennai, u/s 30 and 31 of the Land Acquisition Act, 1894, payable in respect of the lands stated below, as there was dispute in the ownership apportionment and declination to receive the compensation amount.

The compensation amount to be deposited (CCD) is worked out as follows:

(Rupees three crores eighty one lakhs forty three thousand three hundred and twenty seven only)

As there is dispute in ownership, apportionment of compensation amount and declination to receive the compensation amount awarded, it is hereby ordered to be deposit of compensation amount into City Civil Court, Chennai, after deducting the income tax as stated below:

3) The Pay and Accounts Officer, Chennai (South) is requested to issue Cheque for a sum of Rs. 3,42,52,692/- (Rupees three crore forty two lakh(s) fifty two thousand six hundred ninety two only) in favour of the Registrar, City Civil Court, Chennai.

The amount may be debited into the following head of account:-

K-Deposit and Advances (b) deposits not bearing interest 8443-00-Civil Deposited-117-Deposit for work done for public bodies or private Receipts" D.P. Code: 8443 00 117 AA 20 01.

Certified that the amount was not drawn and deposited previously.

Certified that the delay is due to administration reasons only.

Land Acquisition Officer and Tahsildar,
Mylapore-Triplicane. Taluk, Chennai-28.

To: The Registrar, City Civil Court, Chennai.

Copy to: 1. The Pay and Accounts Officer (south), Chennai-600 035.

2. The Accountant General (CA) Chennai-600 001.

3. The Land Owners as above

4. The District Collector, Chennai District.

5. Spare-1

20. From the proceedings in B1/644/2008, dated 05.01.2012 of the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, it is clear that there is no dispute regarding the apportionment of compensation or any part thereof, or as to the persons to whom the same or any part thereof, is payable. Proceedings, 05.01.2012, reflects only the aspect of deposit to be made, u/s 31 of the Act. It is only an order sanctioning deposit of the compensation amount. The request for reference under Sections 30 and 31 of the Act, is absent. Insofar as the petitioner is concerned, there is no reference to the statutory provision, Section 18, though in the subject column, it is stated as follows.

The deposit made, is justifiable, in terms of Sections 31 of the Act.

21. As per reference No. 1 to the said proceedings i.e., Award No. 1 of 2010, dated 15.10.2010, the compensation amount has been ordered to be deposited in the City Civil Court under Sections 30 and 31 of the Act, payable in respect of the lands mentioned in the impugned proceedings. While sanctioning the deposit, the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, has made a mention that there were some disputes in the ownership, apportionment and declination to receive the compensation amount. Insofar as the petitioner is concerned, the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, has recorded that "Mr. K. Gurunatha Mudaliar was the registered holder of the property and after his demise, Thiru. G. Ganapathy (Writ Petitioner herein) has become the interested person in the land. But, Thiru. G. Ganapathy, the petitioner herein, declined to receive the compensation amount. In respect of all other persons mentioned in the proceedings dated 05.1.2012, the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, has clearly mentioned that there is a dispute in the ownership and apportionment of compensation amount. The course of action to be taken by the District Collector in the event of any dispute, regarding the ownership or apportionment of compensation amount or refusal to receive the same, is only to deposit the amount in the Civil Court, as per Section 31 of the Act. Section 31 of the Act does not state that reference u/s 18 of the Act is automatic, but speaks about the requirement of such reference, to be made.

22. On the contra, Sections 18 and 30 of the Land Acquisition Act, 1894, speak about reference to be made by the Collector to the Court of competent civil jurisdiction and they do not speak about the deposit to be made. Therefore, as rightly pointed out by the learned Additional Government Pleader, as per Section 31 of the Act, on making an award u/s 11 of the Act, 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 and if such payment prevented by some one or for any or more of the contingencies mentioned in the sub-section (2) of Section 31 of the Act, he could not make the payment, the amount has to be deposited in the Civil Court, if there is any requirement for reference under Sections 18 or 30 of the Act, as the case may be.

23. As rightly pointed out by the learned Additional Government Pleader, Section 31 of the Act confers powers on the District Collector only to deposit the award amount in the Court of a competent Civil jurisdiction, if the sum determined could not be paid to the land owners or the persons interested under the following circumstances:

- (1) the payment is prevented by someone;
- (2) the land owners are the persons interested fail to give consent to receive the compensation determined;
- (3) there is no person to alienate or if there be no persons to 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.

24. Sub-Section (2) of Section 31 of the Act, indicates deposit in the Civil Court, in respect of cases, falling under said Section, if any reference is required to be made. But the powers of the District Collector to make a reference u/s 30 of the Act, for the reasons stated, is discretionary. At the risk of repetition, Section 30 is extracted hereunder:

30. Disputes as to apportionment. When the amount of compensation has been settled u/s 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

Thus, under the scheme of the Act, reference is permissible, at the instance of the persons interested for one or more of the contingencies in Section 18 of the Act, or on his own by the Collector, in exercise of his powers, u/s 30 of the Act.

25. Though the first proviso speaks about the entitlement of any person admitted to be interested to receive such payment under protest, as to the sufficiency of the amount, in the case on hand, Mr. G. Ganapathy, writ petitioner herein, has refused to receive the compensation amount. At this juncture, in terms of Section 31 of the Land Acquisition Act, 1894, it has to be considered, as to whether, the District Collector is duty bound to deposit the amount in the Court of competent jurisdiction. As stated supra, sub-Section (2) of Section 31 of the Act, speaks about deposit to be made to the Court, if a reference u/s 18 of the Act, is required to be made. When the petitioner has made an application on 23.12.2010, seeking for reference u/s 18(1) of the Act, vide letter No. B1/644/2008, dated 13.09.2011, the Land Acquisition Tahsildar, Mylapore-Triplicane Taluk, Chennai, has assured the Court that he would take necessary arrangements for reference u/s 18(1) of the Act and when the said assurance has been placed on record, in the order made in W.P. No. 20492 of 2011, dated 13.10.2011, as assured, while sanctioning the sum determined, in the case of the writ petitioner, a reference u/s 18 of the Act, ought to have been made. At this juncture, it is to be noted that the impugned proceedings is only an order, sanctioning the deposit and in my humble opinion, it cannot be treated as any requisition or reference, either u/s 18 or 30 of the Act.

26. Perusal of the proceedings, dated 05.01.2012, shows that while sanctioning the deposit of the award amount, when there were other disputes, over the ownership or apportionment of compensation amount, including the declination on the part of the petitioner to receive the compensation amount determined, the writ petitioner was found to be the only person, entitled to receive the compensation, for the lands acquired from his father and there was no dispute, as regards the apportionment of the compensation or as to the ownership. In all other cases, dispute as regards ownership and apportionment of compensation has been noticed. Insofar as the petitioner is concerned, the only reason for depositing the amount into the Court was refusal on the part of the writ

petitioner, to receive the compensation amount determined u/s 11 of the Act, as the petitioner was not satisfied with the quantum of compensation. As stated supra, when an application, dated 23.11.2010, u/s 18 of the Act was pending on the file of the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, reference ought to have been made by the District Collector, Chennai, u/s 18 of the Act. Insofar as the case of the petitioner is concerned, there is clear omission on the part of the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, in not making a reference u/s 18 of the Act. Though the submission of the learned State Counsel, is acceptable, insofar as, invoking the powers u/s 31 of the Land Acquisition Act, 1894, to deposit the amount, on the refusal by the petitioner, when there is a requirement for reference u/s 18 of the Act, still, in the opinion of this Court, there is an inadvertent mistake, on the part of the Land Acquisition Tahsildar, as stated supra. While depositing the amount to the Court of competent civil jurisdiction, in a case, where there is a refusal on the part of the land owner or the persons interested to receive the compensation, a reference can be made only u/s 18 of the Act and not u/s 30 of the Act, as it is abundantly clear that, there is no dispute as regards the ownership or the apportionment of compensation amount, insofar as the lands acquired from the writ petitioner or his father, as the case may be.

27. As stated supra, Section 18 of the Act also empowers the Collector to refer the matter to the Civil Court, for other contingencies stated in Section 18 of the Act and it is not confined only to the quantum of compensation. A reference can be made either on receipt of a written application u/s 18 of the Act, within the period prescribed u/s 18 of the Act, for one or more contingencies, mentioned in Section 18 of the Act, or reference can be made, suo moto by the District Collector, for reasons mentioned in Section 30 of the Act. As between Sections 18 and 30 of the Act, it could be noticed that an outer time limit is prescribed in Section 18 of the Act, for submitting an application by any persons interested, seeking for reference, for one or more of the contingencies mentioned in Section 18 of the Act, whereas, in Section 30 of the Act, for the reasons stated therein, if the Collector decides to exercise his powers, for reference, no time limit is prescribed.

28. Thus, proceeding, dated 05.01.2012, also makes clear that insofar as the petitioner is concerned, the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, has committed an error, in not stating anything about the reference, which the Collector was required to be made, u/s 18 of the Act.

29. At this juncture, Mr. K.V. Dhanapalan, learned Additional Government Pleader pointed out that the award, dated 15.10.2010, passed by the Land Acquisition Tahsildar, Mylapore-Triplicane Taluk, Chennai it self, requires correction, in the sense that in the award made, the competent authority ought to have mentioned about the valuation of the land and other factors, required to be taken, while determining the quantum of compensation, in the Award, dated 15.10.2010, and also to consider, whether it is required to be referred, u/s 18 of the Act. When an

award is made by the District Collector or the Land Acquisition Tahsildar, contemplates reference only under the circumstances, stated supra. But the Land Acquisition Tahsildar, taking note of the refusal to receive the compensation amount or for any objections, as to the method or manner, in which, the quantum of compensation, is determined, either on receipt of written application or oral statement, may record the same. But, insofar as the petitioner is concerned, it required a reference u/s 18 of the Act, and not u/s 30, which is applicable to others. Attention of this Court was invited to Section 13A of the Act, where the Collector is empowered to correct the award, before any reference is required to be made u/s 18 of the Act. Section 13A of the Land Acquisition Act, 1894, reads as follows:

13A. Correction of clerical errors, etc. -(1) The Collector may, at any time but not later than six months from the date of the award, or where he has been required u/s 18 to make a reference to the Court, before the making of such reference, by order, correct any clerical or arithmetical mistakes in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority:

Provided that no correction, which is likely to affect prejudicially any person, shall be made unless such person has been given a reasonable opportunity of making a representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered as an arrear of land revenue.

30. The aspect, as to when the Civil Court has the powers to take up a reference, either u/s 18 or 30 of the Act, requires consideration.

31. In Mohammed Hasnuddin Vs. State of Maharashtra, , the Apex Court was called upon to decide an important question, as to whether, a court in dealing with a reference under s. 14, Sub-s. (1) of the Hyderabad Land Acquisition Act, 1309 Fasli, corresponding to s. 18, sub-s. (1) of the Land Acquisition Act, 1894, can go behind the reference made by the Collector, if the application on which the reference has been made is beyond the period of limitation prescribed therein. The material facts, which gave rise to the appeal before the Apex Court, are as follows:

The case arises from that part of the erstwhile princely State of Hyderabad, known as Marathwada, which merged in the State of Bombay under the States Re-organisation Act, 1956. The land belonging to the appellant admeasuring 2057 sq. yards in the city of Aurangabad, has been acquired by the State Government under s. 5 of the Hyderabad Land Acquisition Act for the

construction of a building for the medical college at Aurangabad. The Government published a Notification under s. 3(1) on the 28th of February, 1958. On the 13th of January, 1962 the Land Acquisition officer, Aurangabad made an award directing payment of Rs. 1,318,11P. inclusive of 15 per cent solatium as compensation to the appellant at the rate of 37 np. per sq. yard, as against his claim for payment of compensation at the rate of Rs. 10/- per sq. yard. The said award was communicated to the appellant on the 20th of January, 1962. The appellant instead of making an application for reference under s. 14, sub-s. (1) of the Act, filed an application for review before the Land Acquisition officer on the 5th of February, 1962 requesting him to revise the award" stating further that in case it was not revised he would seek his remedy in a court of law. The Land Acquisition officer obviously felt that the amount fixed by him was too low and accordingly on the 17th of February, 1962 made a recommendation, through the Collector, to the Secretary to the State Government that the award be reconsidered. But, the Collector by his order dated the 23rd of March, 1962 declined to forward the same and informed the appellant that he must seek his remedy in a court of law. Eventually, on the 14th of May, 1962 the appellant made an application for reference under s. 14, sub-s. (1) of the Act and prayed that the period spent in the proceedings for the review before the Land Acquisition Officer subsequent to the date of the award be excluded while considering the question of limitation under s. 14 of the Limitation Act. A reference was made u/s 14, sub-s. (1) of the Act to the District Court of Aurangabad. The Assistant Collector, Aurangabad, who was the Land Acquisition officer, while making a reference made no expression of his opinion whether the application was time-barred or not, evidently taking the view that the point should be left for the decision of the court. He, however, while making the reference gave a complete narration of facts and left the question open. A preliminary objection was raised by the Government that the reference was incompetent, the application being time-barred. This objection prevailed and the contention of the appellant based on s. 14 of the Limitation Act was negated both by the Civil Judge, Senior Division Aurangabad by his order dated the 28th of June, 1962, and by the High Court of Bombay by its order dated the 5th of February, 1968 holding that the time taken between the 5th of February, 1962 and the 23rd of March, 1962 could not be excluded while computing the period of limitation prescribed under s. 14, sub-s. (1) of the Act inasmuch as s. 14 of the Limitation Act was not applicable to the proceedings, and further, that even if it applied the appellant was not entitled to the benefit of s. 14 of the Limitation Act, stating that good faith, which is also a necessary ingredient under s. 14, was not established.

The short question that arose for determination in the appeal was whether the court can go into a question that the application for reference was not made to the Collector within the time prescribed in s. 18, sub-s. (2) of the Land Acquisition Act; and if so, can it refuse to entertain the reference if it finds it to be barred by time. There was at one time a great divergence of judicial opinion

on the question. But almost all the High Courts have now veered round to the view that the court has the power to go into the question of limitation. It not only has the power but also the duty to examine whether the application for reference was in accordance with law i.e., whether it was made within time prescribed under the proviso to sub-s. (2) of s. 18 of the Act or not. The view taken by them is that a Collector's jurisdiction is circumscribed by the conditions laid down in s. 18, sub-s. (1), that if he makes a reference even though the application for reference was not in accordance with the provisions of s. 18, the court acquires no jurisdiction to hear the reference and that it can refuse to hear it if it was made on a time-barred application. The Apex Court, after considering a catena of judgments, at Paragraphs 22 to 31, held as follows:

22. The word "requires" in s. 18 of the Act implies. It carries with it the idea that the written application makes it incumbent on the Collector to make a reference. The Collector is required to make a reference under s. 18 on the fulfillment of certain conditions. The first condition is that there shall be a written application by a person interested who has not accepted the award. The second condition is as to the nature of the objection is which may be taken, and the third condition is as to the time within which the application shall be made. The power of the Collector to make a reference under s. 18 is thus circumscribed by the conditions laid down therein, and one condition is the condition regarding limitation to be found in the proviso.

23. The conditions laid down in s. 18 are "matters of substance and their observance is a condition precedent to the Collector's power of reference", as rightly observed by Chandavarkar, J. in *re Land Acquisition Act* (supra). We are inclined to the view that the fulfillment of the conditions, particularly the one regarding limitation, are the conditions subject to which the power of the Collector to make the reference exists. It must accordingly be held that the making of an application for reference within the time prescribed by proviso to s. 18. Sub-s. (2) is a sine qua non for a valid reference by the Collector.

24. From these considerations, it follows that the court functioning under the Act being a tribunal of special jurisdiction, it is its duty to see that the reference made to it by the Collector under s. 18 complies with the conditions laid down therein so as to give the court jurisdiction to hear the reference. In view of these principles, we would be extremely reluctant to accept the statement of law laid down by the Allahabad High Court in *Abdul Karim's case* (supra).

25. Every tribunal of limited jurisdiction is not only entitled but bound to determine whether the matter in which it is asked to exercise its jurisdiction comes within the limits of its special jurisdiction and whether the jurisdiction of such tribunal is dependent on the existence of certain facts or circumstances. Its obvious duty is to see that these facts and circumstances exist to invest it with jurisdiction, and where a tribunal derives its jurisdiction from the statute that creates it and that statute also defines the conditions under which the tribunal can function, it goes without saying that before that tribunal assumes jurisdiction

in a matter, it must be satisfied that the conditions requisite for its acquiring seisin of that matter have in fact arisen. As observed by the Privy Council in *M.I.A. 134* (Privy Council), wherever jurisdiction is given to a court by an Act of Parliament and such jurisdiction is only given upon certain specified terms contained in that Act it is a universal principle that these terms must be complied with, in order to create and raise the jurisdiction for if they be not complied with the jurisdiction does not arise.

26. If an application is made which is not within time, the Collector will not have the power to make a reference. In order to determine the limits of his own power, it is clear that the Collector will have to decide whether the application presented by the claimant is or is not within time, and satisfies the conditions laid down in s. 18. Even if a reference is wrongly made by the Collector the court will still have to determine the validity of the reference because the very jurisdiction of the court to hear a reference depends on a proper reference being made under s. 18, and if the reference is not proper, there is no jurisdiction in the court to hear the reference. It follows that it is the duty of the court to see that the statutory conditions laid down in s. 18 have been complied with, and it is not debarred from satisfying itself that the reference which it is called upon to hear is a valid reference. It is only a valid reference which gives jurisdiction to the court, and, therefore, the court has to ask itself the question whether it has jurisdiction to entertain the reference.

27. In deciding the question of jurisdiction in a case of reference under s. 18 by the Collector to the court, the court is certainly not acting as a court of appeal; it is only discharging the elementary duty of satisfying itself that a reference which it is called upon to decide is a valid and proper reference according to the provisions of the Act under which it is made. That is a basic and preliminary duty which no tribunal can possibly avoid. The court has, therefore, jurisdiction to decide whether the reference was made beyond the period prescribed by the proviso to sub-s. (2) of s. 18 of the Act, and if it finds that it was so made, decline to answer reference.

28. Beaumont C.J., delivering the judgment of the Division Bench in *Mahadeo Krishna Parkar Vs. The Mamlatdar of Alibag*, agreed with the view of Chandavarkar, J. and observed:

It seems to me that the Court is bound to satisfy itself that the reference made by the Collector complies with the specified conditions, so as to give the Court jurisdiction to hear the reference. It is not a question of the Court sitting in appeal or revision on the decision of the Collector; it is a question of the Court satisfying itself that the reference made under the Act is one which it is required to hear. If the reference does not comply with the terms of the Act, then the Court cannot entertain it. I have myself some difficulty in seeing on what principle the Court is to be debarred from satisfying itself that the reference, which it is called upon to hear, is a valid reference. I am in entire agreement with the view expressed by Chandavarkar, J. that it is the duty of the Court to see

that the statutory conditions have been complied with.

29. The same view has been reiterated by almost all the High Courts except the Allahabad High Court: *G.J. Desai Vs. Abdul Mazid Kadri and Others*, ; *Ananta Ram Banerjee Vs. Secretary of State*, ; *Kana Navanna Navanna Narayanappa Naidu Vs. Revenue Divisional Officer, Sivakasi*, ; *State of Rajasthan Vs. L.D. Silva and Others*, ; *Sheikh Mohommad and Another (Defendants) Vs. Director of Agriculture, Madhya Pradesh*, ; *Ramdeyal Singh Vs. State of Bihar*, ; *Anthony D'Silva and Others Vs. Kerala State, Swatantra Land and Finance Private Ltd. Vs. The State of Haryana*, and *Swami Sukhanand v. Samaj Sudhar Samiti* (AIR 1962 J. & K. 59) This is also view expressed by a Full Bench of the Lahore High Court in AIR 1950 299 (Lahore) .

30. The view to a contrary effect taken by the Allahabad High court in *Secretary of State v. Bhagwan Prasad* (supra), *Panna Lal v. The Collector of Etah* (supra) and *State of U.P. v. Abdul Karim* (supra) and by a Single Judge of the Madras High Court in *Venkateswaraswami v. Sub- Collector, Bezwada* (supra) and by a Single Judge of the Punjab High Court in *Hari Krishan Khosla v. State of Pepsu* (supra) clearly do not lay down good law and these decisions are therefore, overruled.

32. In *State of Mizoram Vs. Biakchhawna*, , pursuant to a notification, an award was passed. The land owner/respondent before the Supreme Court received the compensation, under protest and filed an application. The Collector did not make any reference to the Civil Court u/s 18 of the Act. The respondent preferred a Civil Suit in the Court of the Deputy Commissioner, which endorsed for disposal to the Additional District Magistrate. After the receipt of the notice, the State of Mizoram objected to the jurisdiction of the Civil Court in entertaining the suit. The Additional District Magistrate, overruled the objections and determined the amount. Before the High Court, by way of First Appeal, the State challenged the validity and jurisdiction of the Civil Court. The High Court dismissed the appeal. Testing the correctness of the judgment and decree, the State moved the Apex Court.

33. Before the Apex Court, it was contended for the appellant that under scheme of the Act when the claimant received the compensation under protest, he should specifically seek for reference u/s 318 of the Act. Since he did not seek for reference, the Collector was not under any obligation to make a reference u/s 18 of the Act. Instead of filing a Writ Petition under Article 226 directing the Collector to refer the dispute, the respondent had chosen to file the Civil Suit which the Civil Court had no jurisdiction to take cognizance and grant a decree as confirmed by the Appellate Court.

34. In reply, it has been contended that what the Court has to see is the substance of the matter. It was also argued that the Governor had issued the Notification adopting the Assam Autonomous Districts (Land Acquisition) Regulation, 1951 under Sub-section 3 of Section 2. Sub-section 3 of Section 2 of

the said Regulation referred to is reproduced:

Any court or authority may construe the provisions of the Land Acquisition Act, 1894 (Act No. 1 of 1894) and of any rules and orders made thereunder with such modifications not affecting substance as may be necessary or proper to adopt them to the matter before that court or authority.

35. The Apex Court in *State of Mizoram Vs. Biakchhawna*, held as follows:

7. It is true that in the State of Mizoram, the Dist. Magistrate and the Addl. Dist. Magistrate, have the jurisdiction both on executive side and the civil side. But the one cannot be fused for the other. When the statute indicated that the action be taken was to be in a particular manner, it must be done in that manner and in no other way. u/s 11 of the Act the Collector after making an Award is enjoined to tender payment after giving notice of making the award and on receiving the notice any interested person present at the time of making the award or on receipt of the notice, is not only entitled to receive the compensation under Sections 18 & 31 of the Act under protest but also is entitled to make an application in writing requiring the Collector to refer the matter and the Collector is enjoined u/s 18 of the Act to make a reference of the objection made by the claimant as an interested person, objecting to either (a) the measurement of the land, (b) for the amount of compensation, or (c) the person to whom it is payable or the compensation among the interested person. The application should be made within the prescribed period mentioned in Sub-section 2 of Section 18 of the Act. The Collector acts as an agent of the Govt. under s. 11 and while making a reference u/s 18, he acts as a statutory authority exercising his own power u/s 18. Making an application within limitation in writing is sine quo non for making a valid reference. The court is a special tribunal under the Act having special jurisdiction and has power and duty to see that the reference made u/s 18 is in compliance with the conditions laid down therein so as to give to court the jurisdiction to hear the reference. The court u/s 3(d) is not only the Principal Civil Court of original jurisdiction but also a special judicial officer specially appointed by, the Govt. A valid order of reference u/s 18 is sine qua non for a civil court of original jurisdiction or special judicial officer specially appointed to take cognizance of the objection. Though an application was made within six weeks as seen hereinbefore, no reference u/s 18 was made by the Collector. The Collector is enjoined, while making a reference, to make a statement "in writing under his hand" u/s 19 of the Act, with particulars enumerated therein. The Collector has to state, to the Court all the information on: -

(a) the situation and extent of the land, with particulars of any trees, building or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount awarded for damages and paid or tendered under Sections 5 and

17, or either of them, and the amount of compensation awarded u/s 11;

(cc) the amount paid or deposited under Sub-section (3A) of Section 17 and

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

He should append the schedule giving particulars in that behalf as enumerated in Sub-section 2 of Section 19 of the Act. On receipt of such a valid reference with the statement, the Court shall u/s 20 "thereupon" cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:

(a) the applicant;

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and

(c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

8. Thus, the scheme of the Act envisages that on making an application u/s 18, in the manner prescribed u/s 19 the Court is mandatory and is sine quo non for the Court to proceed "thereupon" since it gets jurisdiction to issue a notice to the persons enumerated hereinbefore specifying the day to appear before them. The Court then is enjoined to determine compensation in the manner prescribed in part III of the Act. On such determination, it shall pass a decree and the award u/s 26 and in the form and manner specified therein. The Award is a decree and the statement of grounds a judgment under Sub-section 2 of Section 26 of the Act for the purpose of appeal u/s 54. Since this is a special procedure provided in the Act, by necessary implication, the civil Court u/s 9 of the CPC 1908 has been prohibited to take cognizance of the objections arising under the Act for determination of the compensation for the land acquired under the Act.

9. Therefore, at the time of disposing of the award proceeding, the Land Acquisition Collector or the Court on reference u/s 18 of the Act are required by statutory commendations to follow the substance of the provisions of the Land Acquisition Act as contained in para. 3 of the Notification issued by the Governor on 13th August, 1987. It is seen that the procedure prescribed in para. 3 of the Notification is not in derogation of the mandatory compliance under Sections 18 to 20 and Civil Court does not get valid and legal jurisdiction to take cognizance of the objection for higher compensation unless the procedure prescribed in Sections 18, 19, 20 and 31 are complied with and adhered to.

10. The High Court and Civil Court committed a clear and manifest error of law in decreeing the suit. The impugned Judgments and decrees are set aside as being a nullity. However the Collector is directed to make a reference to the Civil Court as the application with the requisite particulars was filed in writing with the

objections raised by the respondent on September 29, 1988. The Civil Court shall dispose of the matter as expeditiously as possible. The appeal is allowed.

36. In *Ajjam Linganna and Others Vs. Land Acquisition Officer, Revenue Divisional Officer, Nizamabad and Others*, , after an award was passed, the first appellant before the Apex Court was the only person, who filed an application before the Land Acquisition Officer seeking a reference u/s 18. By that date, a reference under Sections 30 and 31 was pending before the civil Court. The Land Acquisition Officer did not take any action on the application filed by Ajjam Linganna, seeking for a reference u/s 18. Thereafter, the said claimant filed an application in the Court seeking reference u/s 18 and for amendment of the existing reference under Sections 30 and 31. This was allowed by the reference Court on 16.12.1993. Subsequently, other appellants in these appeals, also made applications, to the reference Court on 10.12.1993 and obtained orders of impleadment on 25.01.1994, and proceeded to seek enhancement of compensation. Distinguishing the case of the first appellant, *Ajjam Linganna and others*, the Apex Court, at Paragraphs 4 and 5, held as follows:

4. In our view, it was not open to the appellants (other than Ajjam Linganna) to have applied directly to the reference Court for impleadment and to seek enhancement u/s 18 for compensation. The only person for whom some consideration can be shown is Ajjam Linganna who had atleast filed an application on 14-9-93 before Land Acquisition Officer seeking reference.

5. In the above facts and circumstances, these appeals preferred by the various appellants except Ajjam Linganna are liable to be set aside inasmuch as it was not open to reference Court to implead the said appellants in the reference Court without their having approached the Land Acquisition Officer seeking reference earlier.

37. In the above reported case, though there was no reference u/s 18 of the Act, by the Collector, the Apex Court upheld the decision of the Civil Court, allowing the application for an amendment of the existing reference made under Sections 30 and 31 of the Act. But on the facts and circumstances of this case, the Land Acquisition Tahsildar, Mylapore-Triplicane Taluk, Chennai, in W.P. No. 20492 of 2011, dated 13.10.2011 himself, has already assured before this Court, that a reference would be made u/s 18 of the Act. At this juncture, this Court deems it fit to consider a judgment of the Apex Court in *Steel Authority of India Ltd. Vs. S.U.T.N.I Sangam and Others*, , wherein, the land acquisition officer had assured the landowner that a reference shall be made. But the promise was not kept. In the said circumstances, a writ petition was filed. On the facts and circumstances of the case, the Apex Court held that the Land Acquisition Officer is a Collector, within the meaning of Section 3(C) of the Act and therefore, he is bound by his promise and he is bound by the principles of promissory estoppel, and hence, he is bound to fulfill the promise.

38. In *Prayag Upnivesh Awas Evam Nirman Sahkari Samiti Ltd. Vs. Allahabad*

Vikas Pradhikaran and Another, , an award was passed. The Land Acquisition Officer referred the matter u/s 30 of the Act. It was registered as Reference case. When the matter was pending, the Additional District Judge, Allahabad, sent a communication on 11.8.1992, to the Special Land Acquisition Officer (in short "SLAO"), stating that on perusal of the case file, an application filed u/s 18 of the Act by the appellant herein, namely, Prayag Upnivesh Awas Evam Nirman Sahkari Samiti Ltd., was found in the file and that no mention had been made regarding that application in the letter of Reference. A clarification, therefore, was sought by the Addl. District Judge. Pursuant to this communication, SLAO sent a reply stating that such an application was also attached and due to an error, the same was not mentioned in the letter dated 12.10.1987. After the receipt of this letter, the 11th Addl. District Judge impleaded the appellant-Samiti and proceeded in the matter as if there was a proper Reference u/s 18 of the Act. It was held by the Addl. District Judge that for the land acquired by the Government, the market value shall be Rs. 1,400/- per square yard. Seventy five per cent of the compensation was directed to be paid to the appellant-Samiti and the balance twenty five per cent was directed to be paid to the State Government. The award passed by the Addl. District Judge was challenged by the sponsoring authority, viz., Allahabad Development Authority (ADA) as well as the State. ADA urged before the High Court that there was no proper Reference u/s 18 of the Act for enhancement of the compensation and that the Addl. District Judge had no jurisdiction to grant enhancement of compensation. It was submitted that the appellant-Samiti did not participate in the acquisition proceedings and therefore, they were not entitled to file Reference application u/s 18 of the Act. The High Court accepted the contentions raised by the ADA and the State and held that there was no proper reference u/s 18 of the Act and enhancement of compensation ordered by the reference court was set aside. However, the finding on Issue No. 2 that the Samiti will be entitled to get seventy five per cent of the compensation amount and the balance twenty five per cent shall be given to the State, was affirmed. The judgment of the Division Bench of the High Court was challenged before the Supreme Court. On behalf of the appellant-Samiti, it was submitted that the SLAO, by his subsequent letter, clarified that an error had been committed in not mentioning about the application submitted by the appellant-Samiti in the Reference letter, although such application itself had been sent along with the Reference file by the SLAO to the Additional District Judge. It was also submitted that there was proper Reference u/s 18 of the Act and, therefore, the award passed by the Civil Court was proper and valid and was not liable to be quashed by the High Court. Per contra, the respondents therein submitted that there was no proper Reference u/s 18 and as there was no such Reference, the Addl. District Judge lacked jurisdiction and, therefore, the award passed by the learned Addl. District Judge is non est and has rightly been set aside by the High Court. On the above pleadings and submissions, the Supreme Court framed a question, as to whether the SLAO had made a reference u/s 18 of the Act? On the aspect, as to whether, the Additional District Judge, can seek for any clarification on the basis of the

application, which was found in the file, the Supreme Court, at Paragraph 5, held as follows:

5. In the Reference letter sent by the SLAO on 12.10.1987, nothing has been stated regarding the claim for enhancement of compensation put in by any of the parties. It is also pertinent to note that in the reference letter, the appellant Samiti is not shown as a party. The first claimant is one, Shiv Narain Lal Chaudhary and there are six other claimants. The Reference letter of the SLAO clearly shows that the appellant Samiti was not a party to such Reference. It is surprising as to how the learned Addl. District Judge could seek a clarification on the basis of an application which was found on the file and if such an application was made by any party, naturally there would have been a Reference u/s 18 of the Act and it would have been specifically mentioned in the Reference letter. It is equally surprising that even though the appellant was not a party to the reference case and was allegedly not having knowledge of the proceedings, how and at whose instance the clarification was sought by the Addl. District Judge. It is also pertinent to note that the clarification issued by the SLAO subsequent to the letter from the Addl. District Judge, cannot be construed as Reference u/s 18 of the Act. The letter from SLAO reads as follows:

This is with reference to your letter dated 11.8.1992 whereby you have enquired as to whether in the reference forwarded on 12.10.1987 entitled as State Government vs. Shiv Narayan Chaudhary and Ors., the reference of Prayag Upnivesh Sahkari Samiti, u/s 30/18 was also made? In this connection it is submitted that in the file of the office, the reference of Prayag Upnivesh Sahkari Samiti Ltd., is also attached. Probably, due to error in the previous reference letter dated 12.10.1987 the same was not mentioned.

6. The letter quoted above by itself is not sufficient to make it as a Reference purported to have been made u/s 18 of the Act. The learned Addl. District Judge clearly erred in assuming that there was a Reference u/s 18 of the Act. The subsequent impleadment of the Samiti as a party to the Reference, which was pending u/s 30 of the Act, and the conversion of the same also as a Reference u/s 18, were illegal and has rightly been quashed by the High Court.

7. It is well established that the reference court gets jurisdiction only if the matter is referred to it u/s 18 or 30 of the Act by the Land Acquisition Officer and that civil court has got the jurisdiction and authority only to decide the objections referred to it. The reference court cannot widen the scope of its jurisdiction or decide matters which are not referred to it. This question was considered by various judicial authorities and one of the earliest decisions reported on this point is AIR 1930 64 (Privy Council) . This was a case where the claimant sought a Reference u/s 18 of the Act. In the application filed by the claimant, he raised objection only regarding the valuation of the land. The claimant did not dispute the measurements of the land given in the award. Before the reference court, the claimant raised objection regarding the measurements of the land and sought for fresh measurements. This was refused and the claimant applied to the High

Court for revision of this order, but without success. Again, in the appeal, the claimant raised the same objection regarding measurements and the High Court rejected it. The Judicial Committee of the Privy Council held thus:

Their Lordships have no doubt that the jurisdiction of the Courts under this Act is a special one and is strictly limited by the terms of these sections. It only arises when a specific objection has been taken to the Collector's award, and it is confined to a consideration of that objection. Once therefore it is ascertained that the only objection taken is to the amount of compensation, that alone is the "matter" referred, and the Court has no power to determine or consider anything beyond it.

8. In another case, namely, Mohammed Hasnuddin Vs. State of Maharashtra, , this Court observed:

Every tribunal of limited jurisdiction is not only entitled but bound to determine whether the matter in which it is asked to exercise its jurisdiction comes within the limits of its special jurisdiction and whether the jurisdiction of such tribunal is dependent on the existence of certain facts or circumstances. Its obvious duty is to see that these facts and circumstances exist to invest it with jurisdiction, and where a tribunal derives its jurisdiction from the statute that creates it and that statute also defines the conditions under which the tribunal can function, it goes without saying that before that tribunal assumes jurisdiction in a matter, it must be satisfied that the conditions requisite for its acquiring seisin of that matter have in fact arisen. As observed by the Privy Council in 6 M.I.A. 134 (Privy Council) , wherever jurisdiction is given to a court by an Act of Parliament and such jurisdiction is only given upon certain specified terms contained in that Act, it is a universal principle that these terms must be complied with, in order to create and raise the jurisdiction for if they be not complied with the jurisdiction does not arise.

10. In K. Kankarathnamma and Others Vs. State of Andhra Pradesh and Others, , the Land Acquisition Officer made a reference u/s 30 for the apportionment of the compensation amount amongst the various claimants. Six of the appellants did not accept the award of the Land Acquisition Officer and made application to him for referring the matter for determination by the court, but no reference was made by him pursuant to this application. When the matter came up before the court, it proceeded on the footing that the reference made to it was not merely limited to the apportionment of compensation but also with respect to the amount of compensation. No objection, however, was raised by the State before the reference court regarding the absence of reference. When the matter came up before the High Court, the Govt. Pleader raised this objection. Though the High Court allowed the plea to be raised before it, but ultimately it negatived the plea. The appellants contended before the High Court that pursuant to the failure of the State to raise the plea before the Subordinate Judge as to the absence of a reference, the State must be deemed to have waived the point. Rejecting this contention, this Court held:

..the matter goes to the court only upon a reference made by the Collector. It is only after such a reference is made that the court is empowered to determine the objections made by a claimant to the award. Section 21 restricts the scope of the proceedings before the court to consideration of the contentions of the persons affected by the objection. These provisions thus leave no doubt that the jurisdiction of the court arises solely on the basis of a reference made to it. No doubt, the Land Acquisition Officer has made a reference under s. 30 of the Land Acquisition Act but that reference was only in regard to the apportionment of the compensation amongst the various claimants. Such a reference would certainly not invest the court with the jurisdiction to consider a matter not directly connected with it. This is really not a mere technicality for as pointed out by the Privy Council in *Nusserwanjee Pestonjee & Ors. v. Meer Mynodeen Khan Wullud Meer Sudroodeen Khan Bahadoor* wherever jurisdiction is given by a statute and such jurisdiction is only given upon certain specified terms contained therein it is a universal principle that those terms should be complied with, in order to create and raise the jurisdiction, and if they are not complied with, the jurisdiction does not arise. This was, therefore, a case of lack of inherent jurisdiction and the failure of the State to object to the proceedings before the court on the ground of an absence of reference in so far as the determination of compensation was concerned cannot amount to waiver or acquiescence. Indeed, when there is an absence of inherent jurisdiction, the defect cannot be waived nor can be cured by acquiescence.

10. In a recent decision of this Court in *Ajjam Linganna and Others Vs. Land Acquisition Officer, Revenue Divisional Officer, Nizamabad and Others*, , it was held that the Reference court has no power to convert the Reference u/s 30 into one u/s 18 of the Act at the instance of those who did not apply for reference earlier.

11. In the instant case, there was no Reference by the SLAO u/s 18 of the Act and the appellant-Samiti was not before the SLAO. Even the application allegedly filed on 12.10.1987 has rightly been characterized as suspicious as no mention has been made by the SLAO in the Reference letter dated 12.10.1987. In the absence of a proper Reference, the Additional District Judge had no jurisdiction to decide the question of enhancement of compensation. When such an objection was not referred to the court, there was complete lack of jurisdiction. In our view, the decision of the High Court is correct and requires no interference. The appeal is without merits and is accordingly dismissed with costs.

39. Reading of *Mohammed Hasnuddin Vs. State of Maharashtra*, , makes it clear, unless and until, a specific reference is made, u/s 18 of the Act, the Court has no jurisdiction to consider a case for enhancement of compensation. As on today, admittedly, there is no reference u/s 18 of the Act, by the Land Acquisition Tahsildar, Mylapore-Triplicane Taluk, Chennai. Therefore, the jurisdiction of the Court is confined only to the reference sought for, and while doing so, the Court is also empowered to see, whether the reference made u/s 18 of the Act,

satisfies the statutory conditions. Applying the ratio decidendi, in Mohammad Hasnuddin's case, to the case on hand, the Civil Court, to which, reference u/s 30 of the Act, has been made and numbered as L.A.O.P. No. 48 of 2012, does not have any jurisdiction, to consider the case of the petitioner.

40. In Prayag Upnivesh Awas Evam Nirman Sahkari Samiti Ltd. Vs. Allahabad Vikas Pradhikaran and Another, , the Apex Court held that the civil Court has no power and authority to suo moto take cognizance of any reference u/s 18 of the Act, even if there is any application for reference in the file, sent to the Court and that the jurisdiction to take cognizance of any reference u/s 18 of the Act, is conferred on the Court, only if there is any valid reference, by the Collector, satisfying the requirements u/s 18 of the Act. In sum and substance, the Apex Court held that if the Collector chooses not to make any reference u/s 18 of the Act, the Court cannot suo motu, adjudicate any dispute over the quantum of compensation, unless and until, a suitable direction is issued.

41. Reading of the judgments, cited supra, makes it clear that unless there is a valid reference, u/s 18 of the Act, by the Collector, the Civil Court has no jurisdiction to adjudicate a case for enhancement of compensation. Even a suit filed for the said purpose cannot be entertained. Applying the abovesaid judgments to the facts of the present case, it could be seen that when a mere sanction for depositing the award amount has been made, incorporating Section 30 of the Act, the Civil Court cannot assume jurisdiction to adjudicate the matter, as if, there was a reference u/s 18 of the Act. As declared by the Apex Court, the Civil Court is a Special Tribunal, under the Act, having special jurisdiction, has the power and duty to see that the reference made u/s 18 is in compliance with the conditions laid down therein. A valid order of reference u/s 18 of the Act, is sine qua non, for a Civil Court of Original jurisdiction to take cognizance of the dispute.

42. At this juncture, this Court deems it fit to extract Section 19 of the Act, as what information the District Collector has to furnish, while making a reference and they are as follows:

(1) In making the reference, the Collector shall state for the information of the court, in writing under his hand -

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded u/s 11;

(cc) the amount paid or deposited under sub-section (3A) of section 17; and

(d) if the objection be to the amount of the compensation, the grounds on which

the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested respectively.

43. As per Section 23 of the Act, in determining the amount of compensation to be awarded, the Court shall take into consideration, first, the market-value of the land at the date of the publication of the notification u/s 4, sub-section (1); secondly, the damage sustained by the person interested, by reason of the taking of any standing crops trees which may be on the land at the time of the Collector's taking possession thereof; thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of serving such land from his other land; fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings; fifthly, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change, and sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration u/s 6 and the time of the Collector's taking possession of the land.

44. In exercise of the powers conferred by sub-Section (1) of Section 55 of the Land Acquisition Act, 1894 (Central Act I of 1894), the Government of Tamil Nadu has made the following amendments to the rules published with the Revenue Department Notification No. 12 of 1923, dated 21st December, 1923, at Page 16 of Part 1 of Fort St. George Gazettee, dated 1st January, 1924, as subsequently amended the same, having been previously publised, as required by sub-Section (2) of the said Section 55.

45. As per Rule 7, the award shall be in the prescribed Form. The Collector need not fill up this Form in his own hand, but he shall sign it. A copy of the order shall be furnished free of charge to the person interested. As per Rule 8, if the Collector is satisfied that all the persons interested in the land, who appear before him, have agreed in writing on the matters to be included in his award, he shall execute an agreement in Form "C" and he may, without making further enquiry, make an award according to the terms of such agreement. As per Rule 9(1) If the correction of any clerical or arithmetical mistakes in the award or the errors arising therein, proposed to be made by the Collector with reference to Section 13A of the Act, is likely to affect prejudicially any person, he shall be given a notice in Form "D" for making a representation in the matter. (2) If any correction has been made in the award, the Collector shall cause notice to be issued in Form "E" to all the persons interested with reference to sub-Section (2) of Section 13A.

46. As per Section 53 of the Act, save in so far as they may be inconsistent with anything contained in this Act, the provisions in the Code of Civil Procedure, 1908 (V of 1908) shall apply to all proceedings before the Court under this Act. As per G.O.Ms. No. 2014, Rev., dated 04.09.16., G.O.Ms. No. 1400, Rev., dated 09.06.47, B.P. Press 20, dated 25.07.47, the award should be drafted carefully and it should contain a summary of the evidence and the reasons on which it is based. The Officer who makes an award must, therefore, record the fullest possible information as to the market value of the land and all other matters to be considered in determining the compensation. The statement of each witness should be separately recorded and all documents should be proved and properly exhibited except the statistics of sales obtained from the Sub-Registration offices. These statistics need not be judicially proved by examining witnesses or getting copies of sale deeds, but it is necessary that the Land Acquisition Officer should be acquainted with any sales on which parties are likely to rely in Court and should have considered their bearing on his award. Section 11 of the Act allows a Collector to base his award on the reports of subordinate officers. In cases in which the Collector adopts this course, the report should be regularly filed in the course of enquiry. If the report requires elucidation, the officer who sent the report should be examined as a witness. In cases in which the Collector arrives at his conclusion independently of any report, he should see that the award is full and detailed enough to dispense with the necessity for filing any report in Court. The Collector should maintain a careful and detailed record of enquiry conducted by him in the case of each award. In any land acquisition case, it may eventually become necessary to make a reference to the Civil Court u/s 18, if any of the persons interested asks for such a reference. It is, therefore essential, in order that the interests of the Government may not suffer, that the record of every land acquisition case should contain an order sheet (on lines similar to those in criminal cases and civil suits) which should be maintained by the Collector under his signature or initial in which should be described shortly, but clearly against each date of hearing what the Collector has done at each stage at each hearing. The award must be in the form prescribed in Appendix XII, Form 8. He must ensure the correctness of the entries in the form and sign. He should also, at the same time, record in a separate order his reasons for arriving at the findings noted in the award.

47. As per the procedure, all awards are to be reported to the District Collector with particulars as to the area soil rate per acre and total amount in each case with adequate explanation whenever the awards exceed the preliminary valuation in case the total cost of land acquisition is within the powers of the Land Acquisition Officer. In all other cases, since the awards are to be approved by the Collector/Commissioner of Land Administration before pronouncement, the authority will generally ensure that awards do not exceed the preliminary valuation. (2) The Land Acquisition Officer should get the approval of the District Collectors when the award is up to Rs. 20 lakhs and the Commissioner of Land Administration, if it exceed Rs. 20 lakhs.

48. If the land owner desires a judicial decision as to its value or rival claimants as to title, he can obtain it by requiring the matter to be referred by the Collector to the Court u/s 18. The Collector can also of his own motion refer disputes of titles to the Civil Court u/s 30 and should do so in all difficult cases. The application for referring to the Court u/s 18 for a decision on the value of the land fixed by the Collector, the application shall state:

(a) the grounds on which the objection to the award is taken; and

(b) if it relates to the enhancement of compensation, the exact amount required to be enhanced. The Applicant shall on such application relates to the amount of compensation and if the acquisition is not made for the Government, the requisitioning body also as a party in such application. The name of the person or authority to be impleaded as a party in the proceedings of the Court should also be indicated by the Collector.

A register of application received for reference u/s 18 of the Land Acquisition Act to the Sub-Court should be maintained in the form appended. The dates of receipt reference made to the Sub-Court should be entered and attested by the Land Acquisition Officer (Appendix XII Form 25)

49. Reverting back to the case, the contention of the learned Additional Government Pleader, as to whether, there is any error in the award requires examination. While preparing the award, apart from determination of the amount of compensation, the Land Acquisition Officer, is also required to record, as to whether, there is any need for reference u/s 18 or 30 of the Act, as the case may be and accordingly, make the award. Therefore, refer the dispute to the Court of Civil jurisdiction, subject to satisfying the conditions in Sections 18, 30 and 31 of the Act. In proceedings, dated 05.01.2012, the Land Acquisition Tahsildar, has stated that in the award pronounced on 15.10.2010, the compensation amount was ordered to be deposited into the City Civil Court, under Sections 30 and 31 of the Land Acquisition Act, 1894, as there was dispute in the ownership, apportionment and declination to receive the compensation. In view of the above discussion, the deposit in the Civil Court u/s 31 of the Act, is justifiable. On 15.10.2010, there was no application for reference. But it is evident that the petitioner has protested over the compensation amount and refused to receive the amount. He has made an application only on 23.12.2010. Therefore, it cannot be said that there is any prima facie mistake in the award. As stated supra, the petitioner has requested to make a reference u/s 18 of the Act. W.P. No. 20492 of 2011, has been disposed of, on 13.10.2011 itself, much earlier to the impugned proceedings, dated 05.01.2012, by which, sanction has been accorded for depositing the amount. In exercise of the powers u/s 13A of the Act, where the Collector is required u/s 18 of the Act, to make a reference, before making of such reference, he can correct any clerical or arithmetical mistakes in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority. Though proviso to Section 13A contemplates that no correction, which is likely to affect prejudicially

any person, to make unless such person has been given a reasonable opportunity of making a representation in the matter, in the case on hand, a situation of giving any opportunity to the petitioner, does not arise. Admittedly, a reference u/s 18 of the Act, has not been made, insofar as the writ petitioner is concerned. Therefore, in the event of any mistake in the award, the District Collector can still, in exercise of his powers u/s 13A of the Act, can order for correction of the award. What is evident from the material available on record, is that there is no reference u/s 18 of the Act and the Civil Court cannot take up the reference on its own and order payment out. As the proceedings, dated 05.01.2012, is in terms of Section 31 of the Act, there is no need to set aside the same, insofar as the petitioner's concerned.

50. If the original award had been filed in the civil Court and if any correction is required, the District Collector, is directed to file an application to the Civil Court, for return of the award, dated 15.10.2010, for making necessary correction and resubmission to the civil Court, after making necessary corrections in the award, in exercise of his powers, u/s 13A of the Act. A certified copy of the award filed in the Court, be retained by the Court. The District Collector or the competent authority, shall file necessary affidavits in the Civil Court, undertaking to resubmit the corrected award. After making necessary corrections, the District Collector shall seek reference, u/s 18 of the Act, on the application, dated 23.12.2010 to the Court of competent civil jurisdiction. Earlier, the petitioner has not given consent for withdrawal of the amount and hence, the amount has been deposited in the Court. Now, the petitioner wants to withdraw the same. Refusal on the part of the petitioner to receive the amount, at the time, when it was tendered, would not amount to waiver of his right under the proviso to Section 31(2) of the Act. Still he is eligible to receive the same. As regards the difficulties expressed by the petitioner in withdrawing the amount already determined and now lying in the deposit of L.A.O.P. No. 48 of 2012, on the file of the learned VI Assistant City Civil Court, Chennai, on instructions, from the Department, learned Additional Government Pleader submitted that the respondents have no objection for the amount being withdrawn by the writ petitioner. Submission of the learned State Counsel is placed on record. Material on record discloses that when the petitioner filed an Interlocutory Application, for a direction under Rule 160 of the Civil Rules of Practice to order payment out of Rs. 1,08,57,670/- deposited by the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, vide Award No. 1 of 2010, dated 15.10.2010, to the credit of L.A.O.P. No. 48 of 2012, on the file of the learned VI Assistant City Civil Court, Chennai, pending disposal of the above L.A.O.P. No. 48 of 2012, the civil Court has made the following endorsement:

The reference made under Sections 30 and 31 of the Land Acquisition Act, 1894, to decide the ownership of the acquired land. Explain how the petition is maintainable, when L.A.O.P. No. 48 of 2012 is pending.

In the light of the decisions of the Apex Court, this Court is of the view that the

Civil Court has not committed any manifest illegality. The learned Judge is right in returning the application, as there was no reference u/s 18 of the Act.

51. The said application has been made on 07.06.2013. Mr. C. Franco Louis, learned counsel for the petitioner submitted that the only petition returned by the Court has not been re-presented to the said Court. According to him, unless and until the operative portion of the impugned order, depositing the amount u/s 30 of the Act, made in respect of the petitioners land is quashed or set aside, the City Civil Court would not permit withdrawal and that is why, the petitioner was constrained to prefer this present writ petition. It is now clarified that the deposit has been made u/s 31 of the Act, but without making a reference u/s 18 of the Act. Having regard to the submissions of the learned State counsel, on instructions, from Mr. Sathiaprasad, Superintendent, "J Section", Collectorate, Chennai, presumably on the directions of the District Collector, the petitioner is permitted to resubmit the returned application filed u/s 160 of the Civil Rules of Practice, along with the copy of this order.

52. A reference u/s 18 of the Act, shall be made within a period of four weeks from the date of receipt of a copy of this order. Along with the corrected award, if required, the District Collector or the competent authority is directed to seek for a reference, u/s 18 of the Act, insofar as the petitioner's case, is concerned. No sooner, a reference is made, the Civil Court gets the jurisdiction to adjudicate the claim for enhancement. The learned City Civil Judge, is directed to number the LAOP, separately, insofar as the case of the petitioner is concerned, and then, order for payment out. Learned Additional Government Pleader as well as Mr. Sathiaprasad, Superintendent, "J Section", Collectorate, Chennai, who is present in the Court, shall communicate the order of this Court to the Land Acquisition Officer and Tahsildar, Mylapore-Triplicane Taluk, Chennai, as well as to the District Collector, Chennai District, to take suitable action as per the directions, as stated supra.

53. Before parting with the case, this Court records the fair submission of Mr. K.V. Dhanapalan, learned Additional Government Pleader. With the above directions, the writ petition is allowed, as indicated above. No costs.