

(1991) 01 AHC CK 0091

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No's. 22107 and 17 to 26, 50 to 61, 111 to 131, 18 to 196, 2658 to 2672, 7151 to 7186, 7188 to 7194, 10301 and 10295 to 10300 of 1987

Gorakhpur Development Authority Gorakhpur

APPELLANT

Vs

District Judge, Gorakhpur and others

RESPONDENT

Date of Decision : 11-01-1991

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, 110, 96

Constitution of India, 1950 — Article 226

Land Acquisition Act, 1894 — Section 11, 18, 19, 20, 25

Citation : AIR 1991 All 241 : (1991) RD 382

Hon'ble Judges : B.P. Jeevan Reddy, C.J.; V.N. Mehrotra, J

Bench : Division Bench

Advocate : P.P. Srivastava and B.D. Mandhyan, for the Appellant; Standing Counsel and S.P. Srivastava, for the Respondent

Final Decision : Disposed Of

Judgement

B.P. Jeevan Reddy, C.J.

A common question arises in this bunch of writ petitions. It is whether the company or the authority for whose benefit a land is being acquired by the Government is entitled to apply for impleading itself in a reference u/s 18 of the Land Acquisition Act and whether it can be so impleaded by the civil court.

2. At the instance of the writ petitioner, the Gorakhpur Development Authority, Gorakhpur, the Government notified certain lands in village Rampur and other villages u/s 4 of the Land Acquisition Act. Proceedings were accordingly taken and award passed. Possession of the land was also taken and delivered to the Authority. Not satisfied with the compensation awarded by the Land Acquisition Officer, the owners of the land applied for making a reference to the civil court u/s 18 of the Act, which was done. One of such reference is L.A. Reference No. 67/87 (concerned in C.M.W.P. No. 22107 of 1987). In this reference, the

Gorakhpur Development Authority applied for impleading itself as a party-respondent. Its case was that since the land is being acquired for its purpose and also because whatever compensation is payable has to be paid by it, it is a necessary party to the said reference and accordingly be impleaded as such. It also stated in its application that the development work was actually in progress on the land acquired. This application was opposed by the land-owner. According to him, the land is being acquired by the Government, and not by the Authority and it has no right to be impleaded in the said reference. Whatever compensation is determined by the court will be paid by the Government to him and the Authority does not come into the picture. It was submitted that Order I, Rule 10, C.P.C. does not apply in view of sub-section (2) of Section 50 of the Land Acquisition Act. The application for impleadment has been dismissed by the learned District Judge, against which the present writ petitions have been filed.

3. The learned counsel for the Gorakhpur Development Authority, the petitioner herein, submitted, on the strength of the decision of the Supreme Court in *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*, that the Authority for whose benefit the land is being acquired and who has ultimately to bear the burden of paying the entire compensation amount is a "person interested" within the meaning of the said expression as defined in clause (b) of Section 3 of the Land Acquisition Act and is, therefore, entitled to be impleaded in the pending reference. He brought to our notice that Section 53 of the Act applies the provisions of the CPC to the proceedings before the Court under the Act, and, therefore, Order 1, Rule 10, C.P.C. is available and attracted. He relied upon certain decisions of this Court and of the Supreme Court in support of the said proposition.

4. On the other hand, Sri Srivastava, learned counsel for the respondent-land owners opposed the petition. His reasoning runs as follows :

5. No doubt, Section 53 of the Act applies the provisions of the CPC to a reference u/s 18, but the said application is a qualified one, namely, to the extent its application is not excluded by the context of the Land Acquisition Act. Subsection (2) of Section 50 read with Sections 18 and 30 of the Act excludes the application of Order 1, Rule 10, C.P.C. by necessary implication. The decision of the Supreme Court in *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*, was not rendered with reference to the provisions of the Land Acquisition Act, but with reference to a writ proceeding. In any event, the principle enunciated in the said decision is directly in conflict with an earlier decision of a co-ordinate bench of the Supreme Court in the *Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel* . A Full Bench of the Punjab and Haryana High Court has considered this conflict and held by a majority, that the principle enunciated in the *Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel* is the correct one and ought to be followed (vide *Indo Swiss Time Limited Vs. Umrao and Others*, . None of the decisions relied upon by the petitioner's counsel deals with

proceedings under the Land Acquisition Act, nor does any of them lay down that Order 1, Rule 10, C.P.C. is applicable to proceedings under the Act. The only right of the petitioner is the one provided by sub-section (2) of Section 50, and no more. The learned counsel for the respondent-land owner also relied upon certain decisions in support of his reasoning.

6. The following questions arise for our consideration:--

(i) Whether the company or the authority for whose benefit the land is being acquired (hereinafter referred to as the beneficiary) and who has to bear the entire burden of compensation is a "person interested" within the meaning of the said expression as defined in clause (b) of Section 3 of the Act?

(ii) Whether Order 1, Rule 10, C.P.C. applies to the proceedings u/s 18 of the Land Acquisition Act; and

(iii) Whether the civil court has jurisdiction to implead any person in a reference u/s. 18 whether such person is a person interested within the meaning of Section 3(b) of the Act or not?

Relevant provisions of Law :

7. Section 3(b), which defines the expression "Person interested", reads:--

"(b) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;"

Section 18 entitled a person who has not accepted the award to apply to the Collector to refer the matter to the Court both with respect to the quantum of compensation as well as apportionment thereof. Section 19 specifies the information which the Collector should send along with the reference. One of the matters, which he must specify is mentioned in clause (d) of sub-section (1) thereof, namely:--

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

Section 20 then says that the Court shall send notices to (a) the applicant, (b) all persons interested in the objection, and (c) the Collector and thereupon proceed to dispose of the matter. Section 50, which occurs in "Part VIII Miscellaneous", contains a provision, which is very relevant for our purpose, namely, sub-section (2). For the sake of completeness, however, we may set out the entire Section 50:--

"50. Acquisition of land at cost of a local authority or Company.-- (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such

fund or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation :

Provided that no such local authority or Company shall be entitled to demand a reference u/s 18."

Section 53 says:--

"Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings before the Court under this Act."

Section 54 provides for an appeal against the order of the Court to the High Court and from the decree of the High Court to the" Supreme Court. It reads:--

"54. Appeals in proceedings before Court.-- Subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the provisions contained in Section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof."

8. Shorn of authority, we may consider the correctness of the submissions made by the learned counsel for the respondent-landowners. In short, the question is whether Order I, Rule 10, C.P.C. applies to proceedings u/s 18 of the Act before the Court. Section 53 of the Act does apply the provisions of the CPC to all proceedings before the Court under this Act. (The expression "Court" is defined in clause (d) of Section 3 to mean a principal Civil Court of original jurisdiction unless the appropriate Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act). The question is whether Order 1, R. 10, C.P.C. is inconsistent with any of the provisions contained in the Act. This question has to be answered on a consideration of Sections 18, 30 and 50. Section 18, as it stood on the relevant date in this State, entitled a person to ask for a reference to the Civil Court if he is dissatisfied with the award. Section 30 provides for reference of a dispute relating to apportionment of compensation to the Court. As explained in the decision of Andhra Pra-desh High Court in Govindu Venkata Reddy Vs. K. Krishna Rao and Another, , Section 30 entitles a person, who has not appeared before or participated in the proceedings before the Collector, to ask for a reference if he claims any part or whole of the compensation awarded. Section 50 confers a specific right on the beneficiary. It says that the local authority or the Company for whose benefit the land is being acquired is entitled to "appear and adduce evidence for the purpose of

determining the amount of compensation." At the same time, it bars such beneficiary from demanding a reference u/s 18. What do the above provisions indicate? In our opinion, though the proceeding before the Court u/s 18 is not an appeal, as held by the Supreme Court in *Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Another*, , at the same time, it is not like a civil suit. The matter comes before the Court on a reference being made by the Collector either u/s 18 or u/s 30. The civil Court cannot take cognizance of the dispute as an original court by itself. A person whose case is not referred by the Collector u/s 18 or Section 30 cannot appear before the Court and claim either a share in the compensation or for enhancement of the compensation. If such a thing is permitted, the very purpose of including a proviso relating to limitation in Section 18 would be defeated. As stated above, the Act provides for a reference being made at the instance of a person who has appeared or participated in the award proceedings before the Collector u/s 18, but this must be done within the period prescribed. u/s 30, no doubt, even a person who has not appeared before the Collector can ask for a reference, without any limitation of time, but this is confined only to a dispute of apportionment. Even this provision indicates how a party must approach the Court; he cannot go directly, but through Collector again. Above all, so far as the beneficiary is concerned, sub-section (2) of Section 50 specifically provides for a limited right in his favour. It says that the local authority or the Company for whose benefit the land is acquired "may appear and adduce evidence for the purpose of determining the amount of compensation". (The expression "Company" is defined in clause (e) of Section 3 in a rather expansive sense.) This right given to the beneficiary is akin to the right given to a person by Order 1 Rule 10, C.P.C. though somewhat lesser in its content though undoubtedly the right given by sub-section (2) of Section 50 extends not only to appear and lead evidence in support of its case but also to cross-examine the witnesses produced by the claimants. Since its only interest is in ensuring that excessive compensation is not awarded, the right given to it by Section 50(2) is adequate to safeguard the said interest. The main difference appears to be that if the beneficiary is impleaded as a party, it can file an appeal u/s 54 as a matter of right, but where it is not impleaded as such and exercise the right given by Section 50(2), it has to apply for leave to file an appeal. Normally speaking, no appellate Court would refuse to grant such leave to the beneficiary, who has appeared and adduced evidence in the reference proceedings. Indeed, even where the beneficiary has not so participated, it may well be entitled to ask for such leave. But, so far as the beneficiary, who has so participated, is concerned, he would stand on a much surer footing.

9. Be that as it may, it must be said in the above state of law that Order 1, Rule 10, C.P.C. is excluded by the context of the Act. To put it differently, O.1, R. 10, C.P.C. is inconsistent with the provisions contained in the Act. The right of the beneficiary to participate in a reference is only that as is recognised by Section 50(2), and no more.

10. Before, however, we express any opinion fully, we must notice the decisions

of the Courts including those of Supreme Court.

Case Law: In *Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel*, the facts were the following:

Certain lands were notified for acquisition u/s 4 (for school and neighbourhood work). A writ petition was filed in the High Court of Gujarat, impugning the validity of the said notification as well as of the declaration made u/s 6. In the writ petition, Municipal Corporation of the City of Ahmedabad, for whose benefit the land was being acquired, was impleaded as the fourth respondent, but no relief as such was prayed for against it, nor was granted against it. The writ petition was allowed, holding that the notifications issued by the Government were not valid in law. Against the judgment of the High Court, Corporation preferred an appeal to the Supreme Court, wherein a preliminary objection was raised as to maintainability of the appeal on the ground that the Corporation could not be said to be an aggrieved person so as to enable it to file appeal. This objection was upheld in the following words:--

"The Municipal Corporation was impleaded as the fourth respondent before the High Court but no relief was claimed against the Municipal Corporation. The property, it is true, was notified for acquisition by the State Government for the use of the Municipal Corporation after it was acquired, but that, in our judgment, did not confer any interest in the Municipal Corporation so as to enable it to file an appeal against the order of the High Court allowing the petition. Substantially the grounds on which the petition was filed were that the notifications were invalid on account of diverse reasons. Some of these reasons have been upheld and some have not been upheld but all those grounds related to the validity of the Notifications issued by the Government of Bombay and the Government of Gujarat. Not even an order of costs has been passed against the Municipal Corporation of the City of Ahmedabad. We fail to see what interest the Municipal Corporation has which would sustain an appeal by it against the order of the High Court allowing the writ petition filed by the first respondent."

What is noticeable is that in this decision, there is absolutely no discussion as to the meaning of the expression "person interested" defined in Section 3(b). The preliminary objection was that the Municipal Corporation could not be said to be an aggrieved party and hence could not file an appeal. The Court was of opinion that the Corporation did not have "interest" which could enable it to file an appeal.

11. The facts in *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*, are almost identical, Himalaya Tiles, a company registered under the Companies Act, moved the Government to acquire certain additional land for its purposes. The Government accordingly issued a notification under S. 4 followed by the declaration under S. 6. In pursuance thereof, an award was made and published. The purpose of acquisition, as mentioned in the notification, was "public purpose for which the land is needed for Himalayan Tiles & Marble

(Pvt.) Ltd." The acquisition was challenged by way of a writ petition in the High Court of Bombay, mainly on the ground that an acquisition for the purposes of a company could not have been made as if for a public purpose under S. 4. The writ petition was allowed by a single Judge and the land acquisition proceedings were quashed. Thereupon, the Himalaya Tiles filed a Letters Patent appeal, which was dismissed mainly on the ground that the company had no locus standi to file an appeal since it was not a person interested within the meaning of S. 18(1). That order was questioned before the Supreme Court. The first contention urged there was that the company must be held to be a "person interested". The Court referred, in the first instance, to the language in sub-sec. (1) of S. 18, which empowered any person interested who has not accepted the award to request the Collector to refer the matter to the Court and observed as follows (Para 7 of AIR):--

"It seems to us that the definition of "a person interested" given in S. 18 is an inclusive definition and must be liberally construed so as to embrace all persons who may be directly or indirectly interested either in the title to the land or in the quantum of compensation. In the instant case, it is not disputed that the lands were actually acquired for the purpose of the company and once the land vested in the Government, after acquisition, it stood transferred to the company under the agreement entered into between the company and the Government. Thus it cannot be said that the company had no claim or title to the land at all. Secondly, since under the agreement it had to pay the compensation, it was most certainly interested in seeing that a proper quantum of compensation was fixed so that the company may not have to pay very heavy amount of money. For this purpose, the company could undoubtedly appear and adduce evidence on the question of the quantum compensation."

The Court then referred to an earlier decision of its own in *Sunder Lal Vs. Paramsukhdas*, and to the decisions of the Punjab and Haryana, Calcutta and Madras High Courts in *The Hindustan Sanitary-ware and Industries Ltd. and Another Vs. The State of Haryana and Others*, , *Comilla Electric Supply Ltd. Vs. East Bengal Bank Ltd. and Others*, and *Kuppuswami v. Special Tahsildar* (1967) 1 Mad LJ 329 respectively and approved their reasoning, while disagreeing with the view taken by Orissa High Court in *State of Orissa Vs. Amarandra Pratap Singh and Another*, . The Supreme Court proceeded to say that the preponderance of judicial opinion seems to favour the view that the definition of the "person interested" must be liberally construed so as to include a body, local authority or a company for whose benefit the land is acquired and who is bound under an agreement to pay the compensation. The Court was of the opinion that this view accords with the principles of equity, justice and good conscience. How can it be said, the Court asked, that a person for whose benefit the land is acquired and who is to pay the compensation is not a person interested even though its stake may be extremely vital? For instance, the land acquisition proceedings may be held to be invalid and thus a person concerned is completely deprived of the benefit which is proposed to be given to him. Similarly if such a person is not

heard by the Collector or a Court he may have to pay a very heavy compensation, which, in case he is allowed to appear before a Court, he could have satisfied it that the compensation was far too heavy having regard to the nature and extent of the land. The Court was satisfied that such a person is vitally interested both in the title to the property as also in the compensation to be paid therefore because both these factors concern its future course of action and if decided against him, seriously prejudice his rights. In view of the definition of the said expression, in an earlier decision (*Sunder Lal v. Paramsukhdas*), the Court held that the company was, undoubtedly, a person interested as contemplated by S. 18(1).

12. This decision does refer to the definition of the expression "person interested" occurring in S. 3(b), which expression is also used in S. 18(1). It does not, however, refer to or take notice of S. 50(2) or S. 53. What is significant, however, is that it treats the beneficiary as a person interested, who is vitally interested in the acquisition proceedings. 13. A Full Bench of this Court in *Shri Gaurdham Housing Co-operative Society Ltd. v. Behari Lal* 1980 All CJ 345 was concerned with the question whether the beneficiary can file an appeal under S. 54 of the Land Acquisition Act against the judgment and decree awarded by a Civil Court on a reference under S. 18. It has also considered the question whether such beneficiary can be treated as a person interested. The attention of the Full Bench was not invited to either of the two Supreme Court decisions referred to above, namely, *Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel and Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*, . Indeed, we find that the decision of the Full Bench was delivered on 5th November, 1976, by which date Himalaya Tiles was not available. The Full Bench held that the beneficiary is a person interested within the meaning of S. 3(b) and must be permitted to file an appeal by leave of the Court. It referred to the circumstance that S. 54 of the Act is in pan material with S. 96 of the CPC and, therefore, a person who is not a party to the proceedings but is affected by the decision, can file an appeal with the leave of the Court.

14. In *National Thermal Power Corpn. Vs. Raghunath Pd. and Others*, , a Division Bench of this Court was again concerned with the question whether the beneficiary can file an appeal under S. 54 of the Act. It held that the beneficiary is a person interested as defined in the Act and is entitled to take part in the proceedings before the District Judge on a reference under S. 18 and also to file an appeal under S. 54. It is significant to notice that the attention of the Division Bench was invited to both the decisions of the Supreme Court, namely, *Municipal Corporation of the City of Ahmedabad* (*supra*) and *Himalaya Tiles* (*supra*) and it was urged that since there is a conflict between two decisions the earlier one should be followed. The said argument was dealt with by the Bench in the following words (Para 22) :--

"It is settled principle of law that if there is conflict in two decisions of the

Supreme Court comprising of equal number of Judges, the later decision should prevail (See U.P. State Road Transport Corporation Vs. The State Transport Appellate (Tribunal), U.P. Lucknow and Others, . It is, however, not necessary for us to express any final opinion on the question of maintainability of appeal as by our order dated 7-10-1980 while granting leave to appeal to the appellant, we have already directed that the question of maintainability of appeal should be considered at the time of the hearing of the appeal."

15. In Santosh Kumar and Others Vs. Central Warehousing Corporation and Another, , the Supreme Court again considered this question. The land was acquired for the purpose of Central Warehousing Corporation. The Land Acquisition Officer made awards under S. 11. The land owners sought references under S. 18, which were made. Meanwhile, the beneficiary (Central Warehousing Corporation), feeling aggrieved by the amount of compensation determined by the Land Acquisition Officer (Collector) sought a reference under S. 18 for reducing the amount. This request was rejected, whereupon it filed writ petitions in the High Court of M.P. The High Court set aside the awards and itself determined the compensation at a reduced rate, against which the owners of the land filed appeals before the Supreme Court. The main contention urged before the Supreme Court was that the undertaking could not challenge the awards made by the Land Acquisition Officer (Collector) by way of a writ petition and as such the writ petitions ought not to have been entertained. The Court referred to the scheme of the Act and in particular sub-sec. (2) of S. 50 and S. 25 (which provides that the compensation awarded by the Court shall not be less than the amount awarded by the Collector under S. 11) and observed thus (Para 4 of AIR) :--

"In our view, there cannot be any possible doubt that the scheme of the Act is that, apart from fraud, corruption or collusion, the amount of compensation awarded by the Collector under S. 11 of the Act may not be questioned in any proceeding either by the Government or by the company or local authority at whose instance the acquisition is made. S. 50(2) and S. 25 lead to that inevitable conclusion. Surely what may not be done under the provisions of the Act may not be permitted to be done by invoking the jurisdiction of the High Court under Art. 226. Art. 226 is not meant to avoid or circumvent the processes of the law and the provisions of the statute. When S. 50(2) expressly bars the company or local authority at whose instance the acquisition is made from demanding a reference under S. 18 of the Act, notwithstanding that such company or local authority may be allowed to adduce evidence before the Collector, and when S. 25 expressly prohibits the Court from reducing the amount of compensation while dealing with the reference under S. 18, it is clearly not possible for the company or local authority to invoke the jurisdiction of the High Court under Art. 226 to challenge the amount of compensation awarded by the Collector and to have it reduced."

It is evident that the ratio of this decision is that since the beneficiary claims

through the Government it can have no higher right than the Government and since the Government cannot ask for a reference under S. 18 asking for reduction of the compensation, the beneficiary cannot also do that. It was also observed that what cannot be done directly under S. 18 cannot be done indirectly by resorting to Art. 226 of the Constitution. Reliance was mainly placed upon the provisions of S. 50(2), which say that the beneficiary is not entitled to demand a reference under S. 18. This decision refers with approval to the earlier decision of the Supreme Court in *Municipal Corporation of the City of Ahmedabad* (supra), but its attention was not invited to the later decision in *Himalaya Tiles* (supra).

16. Lastly, we may refer to a recent decision of the Supreme Court in *Neelagangabai and another Vs. State of Karnataka and others*, . This was a case from Karnataka where by a local amendment, S. 20 of the Land Acquisition Act was amended. As amended by the Karnataka Amendment Act, S. 20 provided that on a reference being made under S. 18 of the Act, the Court shall send notices to (a) the Deputy Commissioner, (b) all persons interested in the reference, and (c) if the acquisition is not made for the Government, the person or authority for whom it is made. Having regard to the said provision, it was held that the beneficiary was entitled to be heard before the reference could be determined. In the light of the said provision, the Court did not think it necessary to go into the question whether the beneficiary can be treated as a "person interested" within the meaning of S. 20 as amended by Karnataka Amending Act.

17. There does appear to be a certain divergence of opinion between two decisions of the Supreme Court in *Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel and Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's*, . This divergence has been referred to in the decision of a Division Bench of this Court in *National Thermal Power Corpn. Vs. Raghunath Pd. and Others*, . The Bench was of the opinion that in case of such a conflict, the later decision should be followed. This divergence has been considered by a Full Bench of Punjab and Haryana High Court in *Indo Swiss Time Limited Vs. Umrao and Others*, . The majority was of the opinion that in case of a conflict between two decisions of the Supreme Court rendered by co-ordinate Benches, it is open to the High Court to follow the one which it thinks represents the correct view. Adopting this approach, the majority chose to follow the earlier decision in *Municipal Corporation of the City of Ahmedabad* (supra) whereas the dissenting Judge (Learned Chief Justice) chose to follow the later decision in *Himalaya Tiles* (supra). Fortunately for us, however, we are not confronted with the said divergence of one in this case. As pointed out by us, neither of the said two decisions deals with the applicability of O.1, R. 10, C.P.C. to reference proceedings under the Land Acquisition Act. Neither decision refers to sub-sec. (2) of S. 50 or for that matter S. 53. No doubt, there are certain observations in *Himalaya Tiles*, which appear to support the petitioners' point of view, but we are of the opinion that the said decision must be understood in the facts of that case. It would not be reasonable to extend the principle of the said

decision to the controversy arising before us. It is well-settled that a decision of a Court is an authority for what it decides. Similarly, earlier decisions of this Court, referred to above also do not deal with the question at issue before us. Accordingly, and for the reasons given hereinbefore, we hold that O. 1, R. 10, C.P.C. has no application to reference proceedings u/s 18 of the Land Acquisition Act. Its application is excluded by the context of the Act, that is, by necessary implication. A beneficiary (local authority or company for whose benefit the land is being acquired and who is ultimately liable to bear the burden of paying the compensation) cannot apply for impleading, nor can it be impleaded as a party -- respondent under O.1, R. 10, C.P.C. read with S. 53 of the Land Acquisition Act. Its right is only the one recognised by S. 50(2) of the Act. It can appear in such a reference and adduce evidence in support of its case and also to contradict the evidence produced by the claimants. It can also cross-examine the witnesses produced by the claimants. It cannot either ask for a reference under S. 18, nor can it file an appeal against the judgment and award of the Civil Court as a matter of right under S. 54 of the Act. It can file such an appeal with the leave of the Court and, as observed hereinbefore (see F.B. decision of this Court in Gaurdham (1980 All CJ 345) (supra). Such leave should, normally, be granted to a beneficiary, who has appeared and participated in the reference proceedings. Even where it did not so appear and participate, it may well be entitled to apply for such leave and the Court should consider such a request sympathetically for the simple reason that the ultimate burden of paying the compensation falls upon such beneficiary.

18. In the circumstances, it is held that while the learned District Judge was not wrong in rejecting the application for impleadment filed by the petitioner, Gorakhpur Development Authority, he ought to have clarified that the petitioner could avail of the right provided by sub-sec. (2) of S. 50. The writ petitions are accordingly disposed of with the clarifications contained in this and the preceding paragraphs. There shall be no order as to costs.

19. Order accordingly.