
(1989) 04 MAD CK 0026

In the Madras High Court

Case No : Writ Petition No"s. 9138 to 9220 and 10971 of 1986 etc. etc. batch and L.P.A. No"s. 66 to 72 of 1986 etc.

Neyveli Lignite Corporation Ltd.

APPELLANT

Vs

Rangaswamy and Others

RESPONDENT

Date of Decision : 28-04-1989

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Companies Act, 1956 — Section 10, 11, 12, 19, 21
Constitution of India, 1950 — Article 136, 226, 32
Land Acquisition Act, 1894 — Section 18(1), 20, 25, 3, 50

Citation : AIR 1990 Mad 160 : (1989) 2 LW 381

Hon'ble Judges : S. Mohan, O.C.J.; Venkataswami, J; Sivasubramaniam, J

Bench : Full Bench

Advocate : U.N.R. Rao, for M/s. K.R. Tamizhmani, Sathiarao, C. Krishnan, Addl. Central Govt., M.G.R. Prasad, for M/s. Row and Reddy, General assisted by Sundar Anand for A.S. Venkatachalamurthi, Addl. Govt. Pleader, D. Raju, for R. Margabandhu, for the Appellant; R. Doraiswami and V. Sridevan, Addl. Govt. Pleader, V. Krishnan, M.R. Narayanaswami, for K. Sampath, M. Vaidyanathan, R. Doraiswami, S. Subramoniam, M.R. Narayanaswami for K. Venugopal, V.P. Raman, for M/s. P.S. Raman and P.R. Raman and V. Sureshan, for the Respondent

Judgement

Sivasubramaniam, J.—These writ petitions and the Letters Patent Appeals are coming before us on a reference made by one of us, namely,

Venkataswami, J., in the batch of writ petitions Nos. 9138 of 1986 etc. filed by the Neyveli Lignite Corporation Ltd., as the learned Judge felt that

the judgment rendered by a Bench of this Court consisting of S. Natarajan, J., as he then was and Singaravelu, J., in *Indian Rare Earths Limited v.*

Special Collector, Land Acquisition Officer, Padmanabhapuram Thukkalai, Kanyakumari District reported in 1986 WLR 146 requires

reconsideration in view of the later decision of the Supreme Court in *Santosh*

Kumar and Others Vs. Central Warehousing Corporation and

Another, . As the same point is involved in the other writ petitions and Letters Patent Appeals, they have also been heard along with the said writ petitions.

2. In the affidavit filed in W. P. No. 9138 of 1986 batch on behalf of the Neyveli Lignite Corporation Ltd., the following contentions have been

raised. The Neyveli Lignite Corporation Ltd., which shall hereinafter be referred to as the "Corporation" is a Government of India enterprise

incorporated under the Indian Companies Act, 1956. It was formed in 1956 for the industrial and commercial exploitation of the lignite deposits in

certain areas of South Arcot District, Tamil Nadu in open cast mines and to utilise the same for generating electricity in Thermal Power Stations.

Lands were originally acquired for the Mine, the Thermal Power Station, the Ancillary Factories and Township at the request of the Corporation.

For further expansion of the Mines and Power Stations, the Corporation requested the Government of Tamil Nadu to acquire about 5,200 acres

of land from the adjoining villages of Periakurichi, Vadakkuvellur, Veppan-kurichi, Umangalam, Uthangal, Ammeri and Koonankurichi under the

provisions of the Land Acquisition Act. The Land Acquisition Officer, after following the formalities required under the Act, acquired lands from

about 3,000 landowners and awarded compensation to the tune of Rs. 5 crores. The landowners, after receiving the compensation awarded by

the second respondent, applied for reference under S. 18 of the Act to the third respondent on the ground that the compensation awarded by the

Land Acquisition Officer was grossly inadequate considering the potential value of the land, the sub-soil, minerals available, the special adaptability

of those lands acquired and other special circumstances stated in their claims. Out of about 2,100 references made at the instance of the

landowners, 84 references were finalised and judgments were rendered from August 1984 to July 1985 enhancing the compensation substantially.

The enhancement of compensation awarded by the third respondent is 10 to 20 times the amount awarded by the Land Acquisition Officer and the

total enhanced compensation comes to about Rs. 2 crores in the said 84 cases alone. Aggrieved by the unexpected and phenomenal enhancement

of compensation, the corporation requested the Government to prefer appeals

before this Court and accordingly number of appeals have been filed which are pending before this Court. Pending disposal of the said appeals, the Corporation moved for stay of the orders of enhancement.

However, the Corporation was not successful in getting orders of stay and instead a learned, single Judge of this Court directed them to deposit the entire compensation amount with liberty to the landowners to withdraw 50% of the amount without security and the balance with security and the same was confirmed by a Division Bench on appeal. Meanwhile, a Division Bench of this Court in Indian Rare Earths Limited v. Special Collector, Land Acquisition Officer, Padmanabhapuram, Thukkalai, Kanyakumari District reported in 1986 WLR 146 which shall hereinafter be referred to as the Indian Rare Earths case, held that the awards passed by the Civil Court under the Land Acquisition Act are liable to be quashed inasmuch as those awards were passed without giving notice as contemplated under S. 20(b) of the Act to the entity on whose behalf the land was acquired. Taking advantage of the said decisions, the present writ petitions have been filed by the Corporation.

3. In these writ petitions, the following points have been raised by the Corporation:-- (1) Under S. 3(b) of the Act, the Corporation is a person interested in the fixing of the compensation and, therefore, the third respondent ought to have issued notice as required under S. 20(b) of the Act; (2) Since the provisions of S. 20(b) of the Act are mandatory and the third respondent has overlooked the same, the awards are liable to be quashed; (3) No compensation can be fixed or arrived at by the third respondent, a Tribunal acting under the Land Acquisition Act without the presence of the Corporation which is a statutory mandate; and (4) The Corporation has no other effective remedy and, therefore, these writ petitions are maintainable.

4. A counter-affidavit has been filed by the second respondent. But no definite stand has been taken as regards the points raised by the petitioner-Corporation. He has simply referred to the Division Bench Judgment in Indian Rare Earths case, 1986 Writ LR 146. Some of the landowners have filed counter-affidavits. The first respondent in W. P. No. 9183 of 1987 had appeared in person before Venkataswami, J. sitting singly and filed a counter-affidavit. The following contentions have been raised in these counter-

affidavits :-- The petitioner-Corporation has no locus standi to maintain the writ petitions in view of the Division Bench Judgment of this Court in Issardas and S. Lulla Vs. Hair and Others, and apart from that, these writ petitions are liable to be dismissed on the ground of laches, as the awards passed in the year 1984 are being challenged in these writ petitions after a lapse of considerable time. In view of the fact that the Corporation moved the State Government and filed appeals against the awards and having failed to comply with the conditional order of stay granted by this Court in the said appeals, it is not open to the Corporation to file these writ petitions. The Corporation was ordered to be impleaded as appellant in some of the appeals and as respondent in other cases. In view of this position, it is not open to the Corporation to circumvent the orders passed in the appeals by filing these writ petitions. The decision reported in Indian Rare Earths case, 1986 Writ LR 146, will not apply to the facts of the present case. Even assuming that the ratio of the said decision would apply to the facts of the present case, the officers of the petitioner-Corporation appeared before the third respondent and gave evidence as petitioner's witnesses and several documents were produced by them. While passing the awards, the third respondent has considered the entire evidence adduced by them and, therefore, it is not open to the Corporation to say now that they had no opportunity to put forth their case. The opportunity given to the Corporation would amount to sufficient compliance of S. 20(b) of the Act. The first respondent in W. P. No.9183 of 1987 pointed out that the Chairman of the petitioner-Corporation in his communication dated 22-11-1980 has stated that the Corporation has nothing to do with the valuation of the lands. On the above said averments, it was contended that the petitioner-Corporation has acquiesced in the proceedings and the value fixed by the Land Acquisition Officer.

5. Similar questions were raised in the other batch of writ petitions filed by the Tamil Nadu Housing Board and others, and in the proceedings in the appeals which are the subject matter of the present Letters Patent Appeals and hence it is not necessary to refer to the pleadings concerning the same in detail,

6. Coming to the Letters Patent Appeals, we find that aggrieved against the enhanced compensation awarded by the learned Subordinate Judge,

the Land Acquisition Officer preferred appeals in A. S. Nos. 9, 11 to 14 and 16 to 18 of 1986 before this Court. Pending the said appeals the petitioner-Corporation came forward with interlocutory applications in C.M.P. Nos. 1381 to 1388 of 1986 for impleading them as respondent in all the appeals. The landowners opposed the said applications. Shanmukham, J., who heard the petitions, considered the various decisions cited before him and came to the conclusion that the Corporation is a necessary party and it is entitled to be impleaded as a party to any proceeding either in the trial Court or in the appellate Court in so far as the quantum of compensation is concerned. The learned Judge mainly relied on the decision of the Supreme Court in Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's., , and came to the conclusion that the Corporation is a person interested within the meaning of S. 18(1) of the Act and that S. 50(2) of the Act confers a right to a party like the petitioner-Corporation to intervene in the trial stage and adduce evidence and since the appeal is a continuation of the proceeding initiated in the trial Court, the same right will enure to the Corporation even at this stage. In the result, the applications were allowed as against which the present L. P. A. Nos. 66 to 72 of 1986 have been filed.

7. In another batch of appeals in A. S. Nos. 1134 to 1136 of 1986 filed by the Land Acquisition Officer against the judgment of the Subordinate Judge's Court, Cuddalore, the petitioner-Corporation filed C. M. P. Nos. 5079, 5081 and 5083 of 1988 for impleading it as a respondent in the said appeals. When the matters came up before Srinivasan, J., he has again considered the various decisions cited before him in detail and disagreed with Shanmukham, J., and came to the conclusion that the petitioner-Corporation is not a necessary party or a proper party to the appeals. The learned Judge mainly relied on the decision of a Bench of this Court in Kanyaka Parameswari Devasthanam and Charities Vs. Srila Sri Ambalawana Pandara Sannadhi and Another, , and distinguished the decision of the Supreme Court and the decision of the Bench of this Court in Indian Rare Earths case, 1986 Writ LR-146. The learned Judge held that the Corporation is not entitled to be impleaded as a party even under O. 1, R. 10, C.P.C. Against the said orders, the appeals in L.P.A. Nos. 114 to 116 of 1988 have been filed.

8. The writ petitions W. P. No. 9138 of 1986 etc. filed by the Neyveli Lignite Corporation Limited came up for disposal before one of us, namely,

Venkataswami, J. before whom the petitioner relied on the decision in Indian Rare Earths Ltd. v. Special Collector, Land Acquisition Officer,

Padmanabha-puram, Thukkalai, Kanyakumari District, 1986 WLR 146 decided by a Bench of this Court consisting of Natarajan, J., as he then

was and Singaravelu, J. which shall hereinafter be referred to as Indian Rare Earths case, in which it was held that the awards passed by the civil

Court under the Land Acquisition Act are liable to be quashed inasmuch as those awards were passed without giving notice as contemplated under

S. 20(b) of the Land Acquisition Act to the requisitioning body on whose behalf the land was acquired. An objection was taken on behalf of the

respondents stating that the said decision requires reconsideration in the light of the various other decisions of this Court and the Supreme Court

and in any event, on facts, the cases on hand are distinguishable and, therefore, the dictum in Indian Rare Earths case will not apply to the facts of

these cases. Even though Indian Rare Earths case relied on the decision of the Supreme Court in Himalaya Tiles and Marble (P) Ltd. Vs. Francis

Victor Coutinho (dead) by LR's., , which shall hereinafter be referred to as Himalaya Tiles case, learned counsel appearing for the respondents

brought to the notice of the learned Judge the decision of the Supreme Court in Santosh Kumar and Others Vs. Central Warehousing Corporation

and Another, which shall hereinafter be referred to as Santosh Kumar's case wherein the Supreme Court categorically held that the definition of

"person interested" defined in S. 3(b) of the Land Acquisition Act is not capable of the wide interpretation and the question does not really turn on

the meaning of the expression "person interested", but turns on the scheme of the Act and the scope of Sections 25 and 50(2) of the Act. Reliance

was also placed on Kanyaka Parameswari Devasthanam and Charities Vs. Srila Sri Ambalawana Pandara Sannadhi and Another, , which shall

hereinafter be referred to as Sri Kanyaka Parameswari Devasthanam case decided by a Bench of this Court. Further, the decision of this Court in

Rajamannar v. State of Madras, (1965) 1 MLJ 598, was relied upon which held that the petitioner cannot be construed as a person aggrieved as

contemplated neither under S. 3(b) nor under S. 20(b) of the Act and as such the petitioner has no locus standi at all to challenge the award of

compensation. In this background, the learned Judge came to the conclusion that the decision in Indian Rare Earths case decided by a Bench of

this Court requires reconsideration and, therefore, the said writ petition and the other connected matters have been referred to a Full Bench.

9. Mr. U. N. R. Rao, learned counsel appearing for the Neyveli Lignite Corporation, who are the petitioners in these writ petitions, raised three

propositions for the consideration of this Bench. Firstly, he contended that the Sub Court, which decided the reference made by the Land

Acquisition Officer, is only a Special Tribunal and, therefore, it is amenable for jurisdiction under Art. 226 of the Constitution of India. This

submission found favour in the decision in Indian Rare Earths case, (1986 Writ LR 146), and the said decision is squarely relied upon by him.

Further reliance was placed on the decision of the Supreme Court in Mohammed Hasnuddin Vs. State of Maharashtra, . In that case, the question

arose was whether the reference made beyond the period prescribed by the proviso to subsection (2) of S. 18 of the Act is valid and whether the

Court can go behind the reference made by the Collector and the application on which the reference has been made is beyond the period of

limitation prescribed therein. In answering the question, the Supreme Court held that the Collector acting under S. 18 of the Act is nothing but a

statutory authority exercising his own powers under the Section and, therefore, the fulfilment of the conditions particularly the one regarding

limitation, are the conditions subject to which the power of the Collector under S. 18 to make the reference exists. It was further held that the

making of an application for reference within the time prescribed by proviso to S. 18(2) is a sine qua non for a valid reference by the Collector. In

that context, the Supreme Court held 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. It was further observed that in such case the Court is certainly not acting as a Court of appeal and that 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. It was, therefore, held that the

Court has jurisdiction to decide whether the reference was made beyond the period prescribed by the Act. We are unable to understand how the

said decision will be of any use in so far as the points raised in these writ petitions are concerned. In that decision, the Supreme Court has not gone

into the question of right of the persons for whose benefit acquisition proceedings are taken and whether such persons are entitled to challenge the

quantum of compensation awarded by the Court on reference and they are entitled to be served with notice in such proceedings. Secondly, Mr.

Rao submitted that a beneficiary like the petitioner Company is an interested person eligible to participate in the compensation proceedings, and

therefore, it is entitled to invoke the jurisdiction of this Court under Art. 226 of the Constitution to quash the award passed by the Court. Thirdly,

he submitted that such a beneficiary is entitled to file an appeal against the quantum of compensation awarded by the Sub Court as decided by the

Supreme Court in Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's., . In this connection, he referred to the later

decision of the Supreme Court in Toshiba Anand Lamp Ltd. v. Verghes and others, JT 1987 (2) SC 399 : 1987) 3 JT 399 (1) wherein the

Supreme Court simply followed the decision of Himalaya Tiles case and held that it is not possible to sustain the view taken by the High Court that

the appellant had no locus standi to maintain the appeal before the High Court. Further reliance was placed on the decision of the Supreme Court

in Union of India v. Kassappa Madivailappa Kulkarni reported in 1986 (1) Scale 546 wherein the Supreme Court, while dismissing the Special

Leave Petition, made an observation that the view of the High Court was in error in holding that the Union of India for whose benefit the acquisition

was made by the State Government was not entitled to prefer an appeal against the award made by the Civil Judge. We find that in those two

cases, the Supreme Court has not considered the questions raised in these cases, especially in the later case reported in Union of India v.

Kassappa Madivallappa Kulkarni, (1986 (1) Scale 546 the Supreme Court has not referred to any of its other decisions referred to above.

10. Mr. U. N. R. Rao has referred to Ss. 6, 39 and 50 of the Land Acquisition Act and submitted that the petitioner Company is entitled to be

heard in the compensation proceedings before the Sub Court. Further, he contended that the Company being a person interested in the award of

compensation, the Company is entitled to be heard under the principles of audi alteram partem. In this connection, he relied on the decision of the

Supreme Court in National Textile Workers" Union and Others Vs. P.R. Ramakrishnan and Others, wherein the Supreme Court held that the

workers of a Company are entitled to appear at the hearing of the winding up petition whether to support or to oppose it so long as no winding

order is made by the Court and that the workers have a locus to appear and be heard in the winding up petition.

11. Elaborating the abovesaid propo-sitions, Mr. Rao contended that the question that arises for consideration in all these writ petitions is squarely

covered by the Indian Rare Earths case, (1986 Writ LR 146), decided by this Court and the Himalaya Tiles case decided by the Supreme Court.

According to him, there is no substantial difference between the acquisitions made under Part II and Part VII of the Land Acquisition Act and that

for the first time the Full Bench is making a distinction between these two types of decisions. According to him, the Neyveli Lignite Corporation

has to pay the entire compensation and that there is no doubt that the acquisition has been made for a public purpose. Even though the officers of

the Corporation were summoned as witnesses, they had no opportunity to cross-examine the witnesses examined on the side of the claimants.

Therefore, it was submitted that the principles of natural justice require that the party, who is going to pay enhanced compensation, must have an

opportunity to challenge the correctness of the award passed by the Sub Court.

12. The learned Advocate General appearing for the Tamil Nadu Housing Board supported the contentions of Mr. U. N. R. Rao and relied on the

decision in Indian Rare Earths case decided by a Bench of this Court. When it was pointed out to the learned Advocate General about the fact that

the acquisition in these cases was under Part II of the Act and, therefore whether it is open to the beneficiaries to claim right to challenge the

correctness of the compensation determined by the Court, he found it difficult to support the claim of the Housing Board in view of the decision in

Smt. Somavanti and Others Vs. The State of Punjab and Others, wherein the Supreme Court held that the notification made under S. 6 of the

Land Acquisition Act was not invalid on the ground that the amount contributed by the State towards the cost of the acquisition was only nominal

compared to the value of the land. Further it was held that the expression ""partly out of public revenues"" in the proviso to S. 6(1) of the Act did not

necessarily mean that the State's contribution must be substantial; but whether a token contribution by the State towards the cost of acquisition

would be sufficient compliance with the law would depend upon the facts of each case and it was open to the Court in every case which came

before it to ascertain whether the action of the State was a colourable exercise of power.

13. Mr. M. R. Narayanaswami, learned counsel appearing for the respondents in some of these cases submitted that the question whether the

decision by a Bench of this Court in Indian Rare Earths case, (1986 Writ LR 146), referred to above required reconsideration or not has been

already considered by a Bench of this Court consisting of one of us, namely, Mohan, J., as he then was and P. K. Sethuraman, J. in Land

Acquisition Officer v. Pappammal, (1988) 102 MLW 266 wherein the Bench, after considering the decisions of the Supreme Court above

referred to, came to conclusion that a beneficiary in land acquisition proceedings cannot be said to be a person interested. According to him, the

question can be simple answered by applying the test as to whether the owner of lands, who are the claimants in the compensation proceedings,

can have recourse against the Neyveli Lignite Corporation. Since the answer is definitely "no", the Corporation can have no right to question the

correctness of the award passed by the Sub Court. He pointed out that the provisions contained in S. 50 of the Act do not apply to the acquisition

made under Part II of the Act. He then referred to the various provisions found in the Land Acquisition (Company) Rules, 1963.

14. Mr. V. P. Raman, learned counsel appearing for some of the respondents submitted that the awards passed by the Sub Court on reference by

the Land Acquisition Officer became final in so far as the Tamil Nadu Housing Board is concerned, as there was no appeal by the Government in

those cases. Apart from that, he submitted that the Officers of the Neyveli Lignite Corporation participated in the enquiry before the Sub Court

and gave evidence opposing the grant of higher compensation. Therefore, according to him, even on merits, they are not entitled to challenge the

correctness of the award passed by the Sub Court. He has also relied on the decision of the Rangoon High Court in Mandalay Municipal

Committee v. Manng It, AIR 1929 Ran115.

15. Mr. D. Raju, learned counsel appearing for some of the respondents pointed out that in Santosh Kumar and Others Vs. Central Warehousing

Corporation and Another, , the Supreme Court considered the acquisition under Part II and, therefore, it would squarely apply to the facts of the

present case. Mr. V. Krishnan, learned counsel appearing for some of the respondents pointed out that the Officers of the Neyveli Lignite

Corporation participated in the enquiry before the Sub Court and they have given evidence opposing the award of enhanced compensation. Mr.

Subratnani and Mr. Margabhandu, learned counsel also supported the arguments of Mr. M. R. Narayanaswami and Mr. D. Raju, Mr. C.

Krishnan, learned counsel appearing for some of the beneficiaries relied on the definition-given to the term ""person interested"" in Indian Rare Earths

case, (1986 Writ LR 146), and supported the view taken by the Bench in the said decision.

16. Now let us look at the relevant provisions of the Land Acquisition Act in this connection before considering the rival submissions made in this

case. It is relevant to point out at this stage that we are now concerned with the provisions of the Act before the amended Act No. 68 of 1984.

Under S. 3(b) of the Act, the term ""person interested"" has been defined as follows :

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.

Sub-clause(d) of S. 3 defines the expression ""Court"" as a Principal Civil Court of original jurisdiction, unless the appropriate Govern- ment has

appointed a special judicial officer within any specified local limits to perform the functions of the Court under this Act. Coming to S. 5A, we find

that for the purpose of hearing of objections under the said Section, any person interested in any land which has been notified under S. 4, sub-

section(1), as being needed or likely to be needed for a public purpose or for a Company may object to the acquisition of the land or of any land

in the locality, as the case may be. Sub-section (3) of S. 5 says that for the purposes of this section, a person shall be deemed to be interested in

land who would be entitled to claim an interest in compensation if the land were acquired under this Act. Section 9(1) of the Act provides for issue

of a public notice by the Collector stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him. Section 9(3) of the Act contemplates service of notice on the occupier, if any, of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested. Section 10 of the Act confers power on the Collector to require and enforce the making of statements containing the names of persons possessing any interest in the land and of the nature of such interest, and of the rents and profits if any received or receivable on account thereof for three years next preceding the date of the statement. The procedure for enquiry is provided under S. 11 of the Act whereunder the Collector shall enquire into the objections if any which any person interested has stated pursuant to a notice given under S. 9 to the measurements made under S. 8, and into the value of the land at the date of the publication of the notification under S. 4(1), and into the respective interests of the persons claiming the compensation. After due enquiry, the Collector has to pass an award in respect of the area of the land, the compensation and the apportionment of the said compensation on the persons interested. Under S. 12 of the Act, the Collector's is enjoined to file the award in the Collector's office and it shall be final and conclusive evidence as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the appointment of the compensation among the persons interested. Reference TO Court and procedure for she same are found in Part III of the Ad. It enables the persons interested who have not accepted the award to ask for reference to the Court for proper determination of the compensation amount. For that purpose, such persons are required to file a wiitten application to the Collector stating clearly 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. Then comes in section 20 which reads as follows :

The Court shall thereupon cause a notice, specifying the day on which the court will proceed to determine the objection, and directing their appearance before the Court or 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.

Section 21 of the Act restricts the scope of the enquiry to a consideration of the interests of the persons affected by the objection. Section 26(1) of

the Act speaks about the form of awards and sub-clause (2) says that every such award shall be deemed to be a decree and the statement of the

grounds of every such award a judgment within the meaning of Section, Clause (2) and Section 2, clause (9), respectively, of the Code of Civil

Procedure, 1908. Part VII of the Act prescribes the procedure for acquisition of land for Companies, and it covers Sections 38 to 33B of the Act.

Another important section to be noticed in this connection is section 50 of the Act which reads as follows:--

(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.

The Code of Civil Procedure is made applicable to all proceedings before the Court under this Act and there is a provision for appeal u/s 54 of

the Act to the High Court from an award passed by the Court and further appeal to the Supreme Court.

17. The main controversy that arises for consideration in all these cases relates to the expression "person interested" found in Section 3(b) of the

Act as noticed above. A plain reading of the said definition shows that the expression "person interested" refers to the persons interested in

compensation to be made on account of acquisition of land, and therefore there is no scope for holding that the said terms would take in the

persons who are liable to pay compensation and enhanced compensation. This expression should be read along with the expressions used in

section 5A(1) of the Act. That section speaks about the hearing of objections and, therefore, these two sections should be read conjointly, to

understand the real meaning of the expression ""person interested"". As per Section 5A(1) of the Act any person interested in any land which has

been notified u/s 4(1) may object to the acquisition of the land. Therefore notice is expected to be given to the persons who are entitled to raise

objections for the acquisition. Therefore, there are two types of persons interested, one a person who is interested in compensation and, another, a

person interested in the land. There may be cases where a person may not be interested in the land but may be interested in the compensation

alone. We find that the expression ""persons interested"" in compensation is routined to section 5A(3) of the Act. When we look at the subsequent

provisions of the Act, we find that Section 9 of the Act contemplates issuance of notice only on the persons who are interested in the land under

acquisition including the occupier, if any. Statements are required to be given only by the person who have got some interest in the land. The

procedure for an award enquiry u/s 11 contains no provisions for hearing persons for whose benefit lands are sought to be acquired. The Land

Acquisition Officer is not expected to deal with the interest of such persons in the award to be passed by him. It is specifically declared u/s 12 that

the award passed by the Land Acquisition Officer is final between the Collector and the Persons interested in the land and in receipt of the

compensation. Coming to section 18(1) of the Act, we find that right is given under that Section to ask for reference to the Court against the award

passed by the Land Acquisition Officer only to the persons interested in the land and the persons who are entitled to receive compensation.

Therefore if a beneficiary is not treated as a party to the award passed by the Land Acquisition Officer, he cannot be deemed to be a person

interested in. the payment of compensation as is already seen from the provisions of sections 9 to 12 and 18(1) of the Act. Therefore, the entire

scheme of the above said sections deals with only the persons who are entitled to accept the award Or refuse to accept the award passed, by the

Collector as could be seen u/s 18(1) of the Act. Once it is found that the beneficiaries like the petitioner Corporation who are not expected to

accept the award being not a party to the same are not entitled to ask for reference u/s 18 of the Act, they would not come under the definition of person interested"" found in section 3(b) of the Act. A clear indication can be seen from section 19(1) of the Act whereunder the Collector is expected to send a statement to the Court only with reference to the details of the land acquired, the names of the persons who are interested in such land, the amount awarded as compensation and if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined. There is absolutely no scope for considering the claims of the ber(sic) like the petitioner Corporation as to the quantum of compensation. This is followed by Section 20 of the Act which says that after the receipt of the said Statement from the Collector, the Court shall issue a notice to ths person who had asked for reference and all persons in the said objection except such of them as have consented without protest to receive payment of the compensation awarded. The expression all persons interested in the objection in section 20(b) cannot be read in isolation, but on the other hand, it has to be understood in the light of the subsequent expression ""except such (if any of them as have consented without protest to receive payment of the compensation awarded."" Therefore, what is contemplated under this provisions is those persons who have already objected to the acquisition excepting those persons who have received compensation without protest are alone entitled to receive notice. Section 20(c) makes the position clear by stating that if the objection" is in regard to the area of the land or to the amount of the compensation, notice must be given to the Collector. Section 20 has to be read together with section 19 of the Act. If it is understood in the said manner, there is no scope for issuing any notice to anybody else like the petitioner Corporation and other similarly situated persons. To put it in other words, notice is contemplated u/s 20 only to the persons who have raised objection and who are really interested in such objections but not to any other person who was neither interested in the land nor in the compensation and who was not a parry to the award. Only in cases where the quantum of compensation is objected to, notice should go to the Collector who made the award, and not to any other person for whose benefit the lands were acquired. Again we find that the scope of the enquiry u/s 20(1) of the Act conducted on a reference from the Collector is restricted

only to the persons who have raised objection and who are likely to be affected by any decision on such objection.

18. On a consideration of the above said provisions of law, we find that the only right to which the petitioner Corporation and other beneficiaries

are entitled to, is the one given u/s 50(2) of the Act which has been extracted above. Section 50(2) of the Act sets out the rights of the beneficiary

Company in clear and categorical terms. It is to be noticed that this Section occurs after various provisions relating to acquisition for a public

purpose under Part II of the Act and for Companies under Part VII of the Act. As already pointed out, the person interested has been clearly

indicated in the said provisions and nowhere we find that any right has been conferred on the Company to take part in the award proceedings or to

seek a reference to the Civil Court against the award. That position is reiterated in this sub-section, which clearly says that 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. The proviso to this Sub-Section makes the position clear beyond any doubt. It says that no such local

authority or Company shall be entitled to demand a reference u/s 18. When there is such a clear embargo on the rights of the Company, we fail to

understand how the Company can be treated as a party who is entitled to notice in the proceedings arising out of such reference. Taking note of

the fact that the company, for whose benefit the lands are acquired, must have an opportunity to see that there is proper determination of the

compensation amount, an opportunity is provided under this subsection enabling the Company or the local authority, as the case may be, to appear

and adduce evidence for the purpose of determining the amount of compensation. Much has been said about the definition of the word "appear".

We do not think it necessary to go into the final details of the said expressions as we have to interpret the term in accordance with the scheme of

the Act. The word "appear" is introduced for the purpose of giving an opportunity to the Company or local authority to appear by themselves and

adduce evidence on their own right. This does not mean that they are made as parties to the proceedings before the Civil Court. That conclusion is

inescapable from the above referred to proviso to the said sub-section. The principle underlying this provision is the Government is acquiring the

land for the benefit of the Company and they are expected to take care of the interest of the Company or the local authority, as the case may be,

and therefore there is identity of interest between them. As a matter of fact, the lands are acquired by the Government and then only they are

transferred to the Company as per the agreement entered into between them. This conclusion draws support from the provisions contained in the

Land Acquisition (Company) Rules, 1963. We find that there is a provision to the effect that in case of any breach on the part of the Company, the

land acquired shall revert back to the Government. In some of the connected cases an attempt has been made to implead the Neyveli Lignite

Corporation as a party to the proceedings under Order 1 Rule 10 C.P.C. We do not know how such a course can be resorted to . when there is a

specific bar in the Act itself. As we have already noticed, they have no right to be impleaded as a party excepting the right to adduce evidence

relating to compensation. It should be remembered that such a facility is offered to the to supplement the evidence that may be adduced by the

Land Acquisition Officer on behalf of the Government. It is only an option given to the Company and, therefore taken exercise only the limited right

granted to them, under the Act. If that is the position, there is no scope for invoking Order 1 Rule 10 C.P.C. and implead them as parties which in

effect would defeat the very provisions of the Land Acquisition Act. In this connection, we have to take note of the provision contained in section

53 of the Act. It reads as follows:--

Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the CPC shall apply to all proceedings before the

Court under this Act.

Therefore, once it is found that the provision in Order 1 Rule 10 C.P.C. is inconsistent with the provisions under the land Acquisition Act, there is

no scope for invoking the said provision. Therefore considering the scheme of the Act in its entirety, we find no difficulty in coming to the

conclusion that the beneficiaries are not entitled to be impleaded as parties and they have no right to challenge the correctness of the compensation

amount fixed by the Civil Court, by way of appeal or a writ petition.

19. Apart from that, we find that the present acquisition proceedings have taken place under Part II of the Land Acquisition Act. It is admitted that

the Government has contributed a token amount towards compensation to satisfy the provisions contained in Part II of the Act. The position is

very well-settled by now that there are only two parties to the reference in the civil Court and the further proceedings that may be continued

thereafter, the two parties being the Collector and the owner of the property. The person, for whose benefit the land is acquired, has no

independent right either to ask for a reference or to challenge the award passed on such reference. We have already noticed that such a person

cannot be made as a party either before the Collector or before the Court and, therefore, he cannot have the right to challenge the correctness of

the award passed by the Court. The reason being when the Government is a party, they are expected to look after the interest of such persons and

there cannot be dual rights existing in such matters. This position was concerned in one of the earliest cases in *Mandalay Municipal Committee v.*

Maungit AIR 1929 Rang 115 where the meaning of the expression "persons interested" found in section 20 of the Land Acquisition Act was

considered. The Rangoon High Court held that considering the expression "Persons interested" found in Sections 3 and 20 of the Act, the said

definition does not contemplate the case of the person in whose interest the property is acquired. The definition simply means persons interested by

reason of their interest in the land acquired as owners tenants and the like and not persons interested as acquiring the land through the Secretary of

State. The High Court came to the said conclusion on the reasoning that had the intention been otherwise, it would have been perfectly simple to

include such persons in the definition. This question was again considered by a Bench of this Court in *Kanyaka Parameswari Devasthanam and*

Charities Vs. Srila Sri Ambalawana Pandara Sannadhi and Another, above referred to, which categorically held that there are really only two

parties to the reference in the civil Court and the further proceedings that may emanate from it, the two parties being the Collector and the owner

of the property.

20. Before considering the correctness of the decision in *Indian Rare Earths Case* (1986 Writ LR 146) in the light of the two Supreme Court cases

in *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*, and *Santosh Kumar and Others Vs. Central Warehousing*

Corporation and Another, above referred to, let us look at some of the cases decided by this Court on the points raised in these proceedings. In

one of the earliest cases in kottaiyur Nattar's Estate represented by its Receiver v. The Special Land Acquisition Officer 1954 MWN (SN) 78

Rajamannar, C.J., had to consider a civil revision petition to revise the order in which a party for whom the acquisition was made was permitted to

raise a question of jurisdiction and competency of the reference. The learned Judge, considering the provisions of section 50(2) of the Act,

observed as follows:--

In most unambiguous language, it provides that the local authority or company may appear and adduce evidence for one particular purpose,

namely, the purpose of determining the amount of compensation. The learned Judge was therefore wrong in overruling the objection raised on

behalf of the claimant and in permitting the Society to appear and take part in the arguments on the petition.

It was also a case where the Co-operative Society for whose benefit the lands were acquired wanted to participate in the enquiry in a reference u/s

18 of the Act. The learned Chief Justice pointed out the scope and extent of the jurisdiction of the civil court on a reference u/s 18 of the Land

Acquisition Act which was a special jurisdiction conferred for a special purpose. Following the said judgment, a Bench of this Court consisting of

V. Sethuraman, J. and V. Balasubrahmanyam, J., elaborately considered the same question in Kanyaka Parameswari Devasthanam and Charities

Vs. Srila Sri Ambalawana Pandara Sannadhi and Another, . We find that in that case certain properties were acquired under the Land Acquisition

Act for the purpose of providing additional accommodation to S.K.P.D. Boys High School run by the Devasthanam. Certain amount of

compensation was fixed by the Land Acquisition Officer and at the instance of the owner of the land a reference u/s 18 of the Act was made to the

City Civil Court which enhanced the amount. The claimant was not satisfied with the amount of compensation awarded and, therefore, he filed an

appeal in this Court wherein enhanced compensation was fixed. In that appeal, the Collector of Madras alone was made as a respondent.

Thereafter, the Devasthanam came forward with an application under Order 1 Rule 10(2) C.P.C. for impleading the Devasthanam as a party-

respondent and with a prayer for setting aside the decree and judgment passed in the said appeal. A preliminary objection was taken by the

claimant stating that the Devasthanam had no locus standi in filing the said petitions and seeking to come on record and getting the judgment set

aside. It was argued on behalf of the Devasthanam that it was the person which was affected by the judgment, that the provisions of the Land

Acquisition Act envisaged participation in the proceedings by the person for whom the acquisition was made and that the applicant was, therefore,

justified in seeking the several prayers in the respective petitions.

The Bench elaborately considered the position of law after following the judgment of Rajamannar, C. J. above referred to and held as follows (at

pp. 45-46 of AIR):--

The summary of provisions of the Act would clearly indicate that there are really only two parties to the reference in the civil Court and the further

proceedings that may emanate from it, the two parties being the Collector and the owner of the property. The person for whom the land is being

acquired has no locus standi even to demand a reference u/s 18 after the award has been passed and can only appear and adduce evidence for the

purpose of determining the amount of compensation. See section 50(2) and the proviso. But for the provisions of, section 50(2) the entity for

which the land acquisition is made would not be in a position even to appear and adduce evidence for determination of the compensation. Thus,

some special rights are conferred by the statute on the body for whose benefit the acquisition is made. When once it specifically provided that the

rights of the entities for which the acquisition is made are only to appear and adduce evidence in relation to the compensation and does not extend

to demanding reference u/s 18, it would be clear that they are not really parties to the reference in the civil Court and the further proceedings that

may emanate from it, the two parties being the Collector and the owner of the property. When they are not parties even before the Collector, they

cannot seek to interven in the appeal or after the appeal is disposed of to come forward with any application as has been done in the present case.

21. Now we will consider the cases decided by the Privy Council and the Supreme Court in this regard. In *Ezra v. Secretary of State for India*,

(1905) 32 Ind App 93 : ILR 32 Cal 605, the Privy Council held as follows :--

If the Collector making an award was in law making an offer on behalf of the Government, it is difficult to appreciate how the Government or

anyone who could but claim through the Government would be entitled to question the award, apart from fraud, corruption or collusion.

The decision in *Raja Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer and Another*, pointed out that the observations of the

Piivy Council in *Ezra's* case indicate that the Collector, in making an award, acts as agent of the Government, and that the legal character of the

award made by the Collector is that of a tender or offer by him on behalf of the Government. The same decision was again reiterated by the

Supreme Court in *Mohammed Hasnuddin Vs. State of Maharashtra*, . In the decision in *Municipal Corporation of the City of Ahmedabad v.*

Chandulal Shamaldas Patel the Supreme Court held that even though the property was notified for acquisition by the State Government for the use

of the Municipal Corporation after it was acquired by the Government, it did not confer any right in the Municipal Corporation so as to enable it to

file an appeal against the order of the High Court allowing the petition. However, that case did not arise under any reference u/s 18 of the Act. But

the principle decided therein would be of some importance for the purpose of the present cases.

22. We shall now consider the decision of the Supreme Court in *Sunder Lal Vs. Paramsukhdas*, which was mainly relied on by the Bench of this

Court in *Indian, Rare Earths case* (1986 Writ LR 146). There, the Supreme Court considered the scope of the expression "person interested

found in section 3(b) of the Act. In that case, the land of the appellant was acquired under the Land Acquisition Act, 1984 and the compensation

was apportioned between the appellant and his lessee. The appellant claimed that he was entitled to the whole of the compensation while his lessee

claimed a larger share. At their instance, references were made to the Civil Court u/s 18 of the Land Acquisition Act. But, before the references

were made, the respondent, who was a decree-holder against the lessee, attached the lessee's share of the compensation amount in execution of

his decree. Subsequently the respondent withdrew the lessee's share of the compensation amount in execution of his decree. The appellant and

his lessee filed a compromise petition before the Civil Judge and the respondent also applied to be impleaded as party to the References. The Civil

Judge dismissed the respondent's applications. The respondent thereupon filed revision petitions in the High Court. The High Court held : (1) that the respondent was a person interested in the compensation within the meaning of section 3(b) of the Land Acquisition Act and was therefore entitled to claim that he should be allowed to join as a party; and (ii) that the revision petitions were competent. In appeal, the Supreme Court held that the respondent was a person interested within section 3(b) of the Act because he was claiming an interest in the compensation. Further he was also interested in the objections which were pending before the Court in the reference made to it and was a person whose interest would be affected by the objections, within section 21 of the Act. Accordingly, it was held that he was entitled to be made as a party. The Supreme Court came to the said conclusion on the basis that in order to come within the definition of "person interested" u/s 3(b), it is not necessary that a person should claim an interest in the acquired land. It is sufficient if he claims an interest in the compensation to be awarded. The Supreme Court further observed that a person claiming an interest in the compensation would be a person interested in the objections to be determined u/s 20 of the Act, if the objection is to the amount of compensation or the apportionment of compensation, and if his claim is likely to be affected by the decision on the objection. The Supreme Court proceeded to hold that u/s 21, the interests of a person, who is not affected by the objection, are not to be considered, but if he is affected, there is no restriction on the grounds which can be raised by him to protect his interest. Further, it was observed that therefore a person claiming an interest in the compensation is entitled to be heard under sections 20 and 21 of the Act. A careful consideration of the said judgment shows that the Supreme Court was concerned with the case of an attaching decree holder who had attached the compensation amount payable to the judgment-debtor who was a party to the reference and it was only in those circumstances, it was held that though the attaching decree-holder has no interest as such in the land, he had secured a decree against the lessee. It was only in that context that such an attaching decree holder would be a person interested in compensation, even though he may not be an interested person in so far as the land is concerned. As far as the facts of the present cases are concerned, no such interest in the compensation amount is claimed"by the Neyveli

Lignite Corporation or others. Therefore, the said decision is not applicable to the facts of the present cases. But still we find that this was relied on

in Indian Rare Earths case (1986 Writ LR 146) which is under scrutiny before us.

23. Then we come to the decision of the Supreme Court in Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR"s.,

above referred to. In that case, the appellant was a private company carrying on the business of manufacture and sale of artificial marbles and tiles

in Bombay. It moved the Government for acquiring additional land for purposes of the company, and the Government issued a notification u/s 4 of

the Land Acquisition Act followed by a notification u/s 6 of the Act. The acquisition proceedings culminated in an award and possession was

sought to be taken from the owner of the land. At that stage, the owner of the land filed a writ petition in the High Court challenging the Validity of

the entire acquisition proceedings on the ground that the purpose of the acquisition was not a public purpose. The said contention of the owner was

accepted by a single Judge of the Court and the writ petition was allowed quashing the acquisition proceedings. On appeal filed by the company,

under the provisions of Letters Patent, the decision of the single Judge was confirmed on the ground that the company had no locus standi to file

appeal before the Bench as it was not a person interested within the meaning of section 18(1) of the Act. In the SLP filed before the Supreme

Court, it was contended on behalf of the appellant that the High Court was wrong in holding that the appellant was not a person interested and,

therefore, had no locus standi to file an appeal. The Supreme Court held as follows (para 7):--

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 the company 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 a very heavy amount of

money. For this purpose, the company could undoubtedly appear and adduce evidence on the question of the quantum of compensation.

We find that the Supreme Court has relied on- the earlier judgment in *Sunder Lal Vs. Paramsukhdas*, . Even though the said case related to an

attaching decree holder claiming an interest in the compensation on the basis of the attachment, the Supreme Court proceeded on the basis that the

same principle would apply to a case of a company for whose benefit the lands were acquired. On facts, we find that the position of the parties is

quite different and distinct from one another and both cannot be equated for purpose of interpreting the expression ""person interested"". We find

that in all the cases referred to in the said judgment of the Supreme Court, the rights of the beneficiaries, for whose benefit the acquisitions were

made, to lead evidence regarding the claim for compensation, were alone considered and they do not deal with the question of impleading such

beneficiaries as parties to the proceedings. Therefore, we have to proceed on the basis that the question now involved in these proceedings has not

been decided directly in the said case. It is unfortunate that the earlier case of the Supreme Court in *Municipal Corporation of the City of*

Ahmedabad v. Chandulal Shamaldas Patel above referred to was not brought to the notice of the Supreme Court, since the Supreme Court was

concerned about the validity of the acquisition proceedings only. It is significant to note that the Supreme Court did not take note of the language of

the entire section 18(1) of the Act. The words ""who has not accepted the award."" found in the said section were omitted to be considered. As we

have already noticed, section 18(1) of the Act categorically says that any person interested, who has not accepted the award, may by written

application to the Collector seek for a reference being made to a civil Court for enhancement of compensation and for other specified purposes.

Therefore, the expression ""who has not accepted the award"" found after the words ""any person interested"", makes all the difference. It means that

any person interested who has not accepted the award alone can ask for a reference and not by a company for whose benefit the acquisition was

made. Therefore, reliance made on the decision by the Bench of this Court in *Indian Rare Earths case* (1986 Writ LR 146) does not appear to be

correct and, therefore, the petitioners in these cases cannot draw any assistance from the said case.

24. Reliance was placed on the decision of the Supreme Court in *Union of India v. Kassappa Madivallappa Kulkarni*, 1986 (1) Scale 546 We

find that it was an order passed rejecting in limine a SLP filed by the Union of India confirming the fixation of the market value made by the Civil

Judge. While dismissing the Special Leave Petition, the Supreme Court stated that since the acquisition was made for the purpose of the

construction of Civil Aviation, the Union of India, who are ultimately liable to pay compensation, was interested in the fixation of the compensation

amount by the Court and, therefore, they are entitled to prefer an appeal against the award passed by the Civil Judge. However, ultimately, the

Supreme Court dismissed the SLP on the ground that the market value fixed by the Civil Court was reasonable and fair. There is no reference to

the actual provisions under the Land Acquisition Act in the concerned State. The Supreme Court did not go in to the question of the meaning of the

term "person interested". Further reliance was made on the decision of the Supreme Court in *Toshiba Anand Lamp Ltd. v. Verghes and others*

1987 (2) SC 399 : (1987 (3) JT 399 (1)) wherein the Supreme Court passed the following order:--

In view of the decision of this Court in *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead)* by LR's., it is not possible to

sustain the view taken by the High Court that the appellant herein had no locus standi to maintain the appeal before the High Court. The Judgment

and order of the High Court is accordingly set aside and the matter is remanded to the High Court for being restored to file and disposal on merits .

The parties are to bear their respective costs.

The appeals are disposed of accordingly." It is seen that there is absolutely no discussion about the facts on which the said decision was rendered

and there is no reference to the other cases decided by the Supreme Court earlier above referred to. We understand that it is case from Karnataka

where there is a provision for issuing notice to the beneficiaries u/s 20(c) of the Act. In a similar case in *N.G.E.F. Ltd. v. State of Mysore* (Civil

Appeal No. 1045 of 1977 dated 31-7-1980 (reported in 1980 UJ (SC) 805) the Supreme Court considered the Special provisions of section 20

of the Land Acquisition (Mysore Extension and Amendment) Act, 1961 wherein there is a provision for issuing notice to the beneficiaries u/s 20(c)

of the Act. Therefore, these two cases have no relevance in so far as this State is concerned.

25. The Andhra Pradesh High Court had an occasion to consider a similar question. In *The Andhra Pradesh Agricultural University, Rajendranagar*

Vs. Mahmoodunnisa Begum and Another, , a Full Bench of the Andhra Pradesh High Court decided that as per section 3(b) of the Act, only a

person, who is entitled to compensation, can claim an interest in the compensation and not a person, who is liable to pay the same. It has been

further held that the dispute is only between the claimants to the land and the Government and none else. The said High Court came to the definite

conclusion that the person, for whose interest the land had been acquired, has no place in the actual acquisition proceedings, except to the limited

extent of adducing evidence for the purpose of determination of compensation and that the provisions of Order 1, Rule 10 C.P.C. are not

applicable. The Full Bench further decided that irrespective of the fact whether the acquisition is for the Government or for a local authority or

Company, the procedure as found as part II of the Act and the reference to the Court and further proceedings that may arise on the same, would

squarely come under Part III of the Act, in view of the omission of Section 38 of the Act. This decision will squarely apply to the facts of the

present cases.

26. Now we come to the important decision rendered by the Supreme Court in *Santosh Kumar and Others Vs. Central Warehousing Corporation*

and *Another*, . It was a case where a notification u/s 4 of the Land Acquisition Act was made proposing to acquire certain lands belonging to the

appellants. The declaration u/s 6 of the Act was duly made and possession of land was also taken from the appellants. The Collector made awards

u/s 11 of the Act and thereafter the appellants sought a reference u/s 18 of the Land Acquisition Act for enhancement of compensation. When the

references were pending the Central Ware housing Corporation, being aggrieved by the amount of compensation determined by the Collector,

sought for a reference u/s 18 of the Act for reducing the amount. The Collector rejected their request for making a reference on the ground that

such a reference as was sought by the Central Warehousing Corporation, was barred by the proviso to section 50(2) of the Act, Thereupon, the Corporation filed writ petitions under Article 226 of the Constitution in the High Court of Madhya Pradesh challenging the awards. The High Court set aside the awards and itself determined the compensation by a reduced rate. The erstwhile owners of the land filed appeals before the Supreme Court after obtaining Special Leave under Article 136 of the Constitution. The principal question that was raised before the Supreme Court was that the High Court was wholly in error in entertaining the writ petitions to challenge the awards made by the Collector on the ground that the same was excessive and that too not at the instance of the Government, but at the instance of the Corporation at whose request the acquisition was made. It was contended that the award of the Collector constituted, in law, an offer by the Government to pay certain price for the land proposed to be acquired. It was open to the person entitled to accept the determination by the Collector and receive the compensation or to object to the amount determined by the Collector and seek a reference to the Civil Court for proper determination of the compensation. After a detailed consideration of the provisions contained in sections 4, 6, 11, 18, 25 and 50 of the Act, the Supreme Court upheld the contentions of the appellants and allowed the appeals. The Supreme Court held as follows (para 4):--

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. Section 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.

The Supreme Court placed reliance on the decisions in *Ezra v. Secretary of State for India 1905 (32) Ind App 93* *Raja Harish Chandra Raj Singh*

Vs. The Deputy Land Acquisition Officer and Another, and Mohammed Hasnuddin Vs. State of Maharashtra, above referred to. At the earliest

point of time, the Privy Council itself has pointed out that the person for whose benefit the acquisition is resorted to is one who could claim only

through the Government and, therefore, such a person is not entitled to question the award apart from fraud, corruption or collusion. The Supreme

Court approved the above said decisions and held that the legal character of the award made by the Collector is that of a tender or offer by him on

behalf of the Government and, therefore, it is difficult to appreciate how the Government or anyone who could but claim through the Government

would be entitled to question the award, apart from fraud, corruption or collusion. The Supreme Court drew support from the earlier decision in

the Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel and referred to. The Supreme Court pointed out that they

were not satisfied with the definition of the term "person interested" given by the Madhya Pradesh High Court in *Town Improvement Trust,*

Gwalior Vs. Sahajirao Angre and Another, to the effect that the definition is capable of such wide interpretation. It was therefore held that the

question does not really turn on the meaning of the expression "person interested", but turns on the scheme of the Act and the scope of Ss, 25 and

50(2) of the Act. Ultimately, it was held that the High Court was wrong in entertaining writ petitions challenging the awards made by the Collector

under the Land Acquisition Act and claiming that the amount awarded was excessive. It is significant to note that the earlier decision of the

Supreme Court in *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*, was not brought to the notice of the Court.

Therefore, the Supreme Court relied on the earlier decision in *The Municipal Corporation v. Chandulal Shamaldas Patel* above referred to.

27. On a consideration of the various decisions of the Supreme Court, we find that the decision rendered in *Santosh Kumar and Others Vs.*

Central Warehousing Corporation and Another, decided the question on the basis of the scheme of the Land Acquisition Act and not merely on

the definition of the expression "person interested". It is significant to note that the decision of a Bench of this Court in Kanyaka Parameswari

Devasthanam and Charities Vs. Srila Sri Ambalawana Pandara Sannadhi and Another, referred to above is the same as the one rendered in

Santosh Kumar's case. However, we find that the said case has not been referred in the Supreme Court Judgment. We have already explained why the

decisions reported in Union of India v. Kassappa Madivallappa Kulkarni (1986 (1) Scale 546 and Toshiba Anand Lamd Ltd. v. Verghes and

others . 1987 (2) SC 399 : 1987 (3) JT 399 and Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's., cannot be of

any assistance to the facts of the present cases.

28. Coming to the Division Bench Judgment in Indian Rare Earths Case 1986 Writ LR 146 which is the subject matter of the present reference,

we find that the expression "person interested" has not been properly explained and the Division Bench has placed reliance on the definition given

to the said term in some of the cases above referred to, which came to be decided under different circumstances. The Division Bench mainly relied

on the decision reported in Sunder Lal Vs. Paramsukhdas, , N.G.E.F. Ltd. v. State of Mysore (1980 UJ (SC) 805) Mohammed Hasnuddin Vs.

State of Maharashtra, and Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's., . In so far as Mohammed

Hasnuddin's Case is concerned, the Supreme Court in Santosh Kumar and Others Vs. Central Warehousing Corporation and Another,

considered the said decision before rendering a decision as referred to above. In respect of the second case, namely, N.G.E.F. Ltd. v. State of

Mysore, we have already noticed that it arose from the State of Mysore where the State had amended sub-section (2) of Section 20 of the Act

and specifically provided that if the acquisition was not made for Government, then notice should be issued to the authority or the person for whom

it is made. Even after noting this position, the Division Bench of this Court proceeded to say that the Supreme Court in the said case would have

sustained the grievance expressed by the company and allowed the appeal even without the amendment section 20(c) of the Act. We fail to

understand how such a conclusion is possible in view of the specific provisions found in the Land Acquisition Act. As regards Sunderlal's Case, as

we have already pointed out, it was a case where an attaching decree-holder claimed right in the compensation amount and, therefore, he was

treated as a person interested for the purpose of the proceedings under the Land Acquisition Act. As far as facts of the case in Indian Rare Earth's

Case are concerned, no such interest in the compensation amount was claimed as in the present cases and, therefore, the reliance made on

Sundarlal's case by the Bench which decided Indian Rare Earth's case does not appear to be correct. Coming to Himalayan Tiles case, decided

by the Supreme Court, we have already elaborately discussed the same and found that the questions involved in these cases have not been

decided directly by the Supreme Court because the said case in its turn relied on Sunderlal's case. Therefore, the reliance placed on that case by

the Division Bench in Indian Rare Earth's case is not correct.

29. Apart from that, another Division Bench of this Court in Kanyaka Parameswari Devasthanam and Charities Vs. Srila Sri Ambalawana Pandara

Sannadhi and Another, above referred to, has considered an identical question and came to the conclusion that there are really only two parties to

the reference in the civil Court and the further proceedings that may emanate from it, the two parties being the Collector and the owner of the

property. Its categorical decision that the person for whom the land is being acquired has no Locus Standi even to demand a reference u/s 18 of

the Act and can only appear and adduce evidence for the purpose of determining the amount of compensation and that but for the provisions of

section 50(2), the entity for which the land acquisition is made would not be in a position even to appear and adduce evidence for the

determination of the compensation, was noticed by the Division Bench in Indian Rare Earth's Case 1986 Writ LR 146. After having relied on the

said decision, we do not know how different conclusions were possible in Indian Rare Earth's case. The very reliance on Sri Kanyaka

Parameswari Devasthanam's case shows that the Division Bench in Indian Rare Earth's case has approved of the same. If that be so, the very basis

of the decision in Indian Rare Earth's Case goes especially in view of the later Supreme Court's judgment in Santosh Kumar and Others Vs.

Central Warehousing Corporation and Another, .

30. In so far as the maintainability of the writ petitions is concerned, apart from the decision of the Supreme Court in Santosh Kumar and Others

Vs. Central Warehousing Corporation and Another, , we find that this Court in Issardas and S. Lulla Vs. Hair and Others, considered this question

directly and held that such writ petitions are not maintainable. In that case, a writ petition was filed to quash the order of appointment of a Receiver

in a civil suit on the file of the City Civil Court, Madras. In those circumstances, the Bench of this Court decided the following principles :--

Judgments and orders of Subordinate Courts would not form the subject-matter of writs under Article 226 of the Constitution of India, because

the suit or or party aggrieved by such judgments and orders has got remedies by way of appeal and revision as efficacious as the remedy by way

of writs. The jurisdiction to issue writs, whether it is the Supreme Court exercising its powers under Article 32 or whether it is the State High Court

exercising its powers under Article 226 is not the cloak of an appeal in disguise, but the exercise of the jurisdiction is only an original jurisdiction

quite distinct and separate from the the exercise of appellate jurisdiction. No attempt should be made to use the instrumentality of writs to correct

and quash judgments of civil Courts which are capable of being dealt with in the exercise of appellate or revisional powers of Court, competent to

issue writs.

It is not the mere existence of the right of appeal from the orders of an inferior Court to superior Court that can determine the question whether

prerogative writs can be against such orders. So far as writ of prohibition is concerned the Court is no way hampered from issuing the writ by

reason of the availability of an alternative remedy by way of an appeal to the aggrieved suitor. But the immunity of proceedings in civil Courts,

though of limited jurisdiction from prerogative writs, can be inferred from the constitution of such Courts, the multiple remedies of a suitor

aggrieved by prejudicial decisions against him by way of appeals and revisions, the nature of the enquiry or trial proceedings in such Court and

other circumstances like the narrow Scope of a writ procedure compared with the more comprehensive scope of the other available remedies. The

structure of a civil Court with a Scheme of appeals provided for against decisions

of that Court can be destructive of the operation of writs against such a Court.

The provisions found in the Land Acquisition Act also would justify this conclusion. As we have already noticed, there is a definition of "Court" in section 3(d) of the Act according to which it means a principal civil Court of original jurisdiction. u/s 26(2) of the Act. the award passed by the

Court is deemed to be decree and the statement of the grounds of the award, a judgment within the meaning of section 2, sub-clause (2) and

section 2, sub-clause (9) of the Code of Civil Procedure. That is the reason why the above said conclusion was arrived at by this Court in the said

case in Issardas and S. Lulla Vs. Hair and Others, . It is unnecessary to go into the further details on this aspect, since once it is held that the

beneficiaries on whose behalf the lands are acquired are not entitled to be added as parties in the land acquisition compensation proceedings, no

question of issuing notice to them would arise. Therefore, their right to challenge the awards in any manner is curtailed and hence the question of

challenge by them, apart from the right of the Government to file an appeal against such awards, does not arise. This conclusion is inevitable

because what has been specifically prohibited under the Land Acquisition Act cannot be permitted to be urged by way of a writ petition, as it

could defeat the very provisions of the Act itself. Same is the position in so far as the applications under Order 1 Rule 10 C.P.C. are concerned.

The real basis of these conclusions is that such persons are treated as witnesses in the land acquisition proceedings and they are never treated as

parties to those proceedings. There is no complaint in these cases that no witnesses were examined on behalf of the requisitioning bodies and we

find that some of their officers have been examined as witnesses in the compensation proceedings.

31. We are able to draw support from the following decisions of this Court. In Land Acquisition Officer v. Pappammal, (1988) 102 MLW 266

which we have referred to, a Bench consisting of one of us, namely, Mohan, J., as he then was, and P. K. Sethuraman, J., held that a plain reading

of the expression "person interested" found in section 3(b) of the Act can be said to be indicating that the beneficiary cannot claim to be a person

interested under the said provision and further u/s 50(2) of the Act, the local

authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation, but such local authority or Company is not entitled to demand a reference u/s 18.

Further u/s 29(c), if the objection is in regard to the area of the land or to the amount of the compensation, the Collector has to be served with the notice by the Court. In a batch of applications filed under Order 1, Rule 10, C.P.C. which are the subject-matter of the appeals herein, Srinivasan, J., after considering the various decisions, came to the same conclusions, as we have done herein. After the arguments were over, the latest decision of Ratnam, J., dated 7-4-1989 (M/s. Neyveli Lignite Corporation Ltd. represented by its Secretary, Neyveli v. Special Tahsildar, Land Acquisition, Neyveli 2 and another C.R.P. Nos. 1141 to 1341 of 1987 etc., batch) was circulated for reference. We find that the learned Judge also has elaborately considered the entire case law on the point and came to the conclusion that such beneficiaries cannot claim a right to be impleaded as parties under the provisions of Order 1, Rule 10, C.P.C. and further they have no locus standi to challenge the proceedings by way of a writ petition. While so, Shanmukham, J., took a different view in some of the cases under consideration here and we find that the said decision has not laid down the correct law.

32. In the result, we hold, with great respect to the learned Judges who decided the case in *Indian Rare Earth's Limited v. The Sub Collector*, (99 MLW 221 : 1986 Writ LR 146) that it is no longer a good law. Consequently, we hold that the beneficiaries, for whose benefit the lands are acquired by the Government, are not entitled to be treated as parties to the land acquisition proceedings and further appeals arising out of the same excepting the limited right providing under S. 50(2) of the Land Acquisition Act, and therefore the awards passed in all these writ petitions and appeals are not invalid either for want of notice to such beneficiaries or for not having impleaded them as parties. The reference is, therefore, answered in the negative. Consequently, all these writ petitions are dismissed. L.P.A. Nos. 66 to 72 of 1986 filed against the judgment of Shanmukham, J., are allowed and L.P.A. Nos. 114 to 116 of 1988 filed against the judgment of Srinivasan, J., are dismissed. We make no order as to costs in these cases.

33. Petitions dismissed.