
(1972) 08 P&H CK 0014

In the Punjab And Haryana At Chandigarh

Case No : Letter patent Appeal No's. 114 and 115 of 1972

The Amritsar Central Co-Operative Store Ltd.

APPELLANT

Vs

Ram Kishan Mehra and Others

RESPONDENT

Date of Decision : 10-08-1972

Acts Referred:

Constitution of India, 1950 — Article 217(2)
Defence of India (Requisitioning and Acquisition of Immovable Property) Rules, 1963
— Rule 10, 11, 12, 13, 14
Defence of India Act, 1962 — Section 29, 29(1), 30, 35, 37
Limitation Act, 1963 — Article 120, 2
Northern India Canal and Drainage Act, 1873 — Section 15

Citation : AIR 1973 P&H 342

Hon'ble Judges : Harbans Singh, C.J; Bal Raj Tuli, J

Bench : Division Bench

Judgement

1. This judgment will dispose of L. P. As Nos. 114 and 115 of 1972. Dr. Ram Kishan Mehra and others filed C. Ws. Nos. 351 and 352 of 1971 which were allowed and certain reliefs were granted to them by the learned Single Judge. Both the writ petitions were disposed of by one judgment and that is the reason why these two Letters Patent Appeals are being disposed of by one judgment. The facts pleaded in both the cases are the same.

2. On April 26, 1963. Shri P. N. Bhalla, District Magistrate, Amritsar being of the opinion that it was necessary and expedient to requisition the property detailed in the schedule to the order for securing the maintenance of supplies essential to the life of the community, requisitioned the said building for the period of Emergency and six months thereafter but not exceeding three years from the date of possession, whichever was earlier. This requisition was made in exercise of the powers under S. 29 of the Defence India Act, 1962. The property requisitioned was the ground floor of the building of respondents 1 to 11 situate on Cooper Road, Amritsar. On May 25, 1963 for the same reason the second storey of that building was requisitioned by the District Magistrate. The

Possession of both the storeys of the building was delivered to the appellant which had to start a consumers' store therein. Copies of the two orders are annexures "B" and "C" to C.W. 352 of 1971. Hereafter the reference will be to that writ petition and its annexures.

3. The relevant provisions of the Defence of India Act, 1962 are S. 29, under which the requisition is made. Section 30, which makes provision for determination and payment of compensation and Section 35, providing for the release from requisition. For facility of reference these sections are reproduced hereunder:--

"29 Requisitioning of Immovable property--

(1) Notwithstanding anything contained in any other law for the time being in force, if in the opinion of the Central Government or the State Government it is necessary or expedient so to do for securing the defence of India, Civil Defence, public safety, maintenance of public order or efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community that Government may immovable property and may make such further orders as appear to that Government to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof which is exclusively used by the public for religious worship shall be requisitioned.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the Central Government or the State Government, as the case may be, to be the owner or person in possession of the property and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required or any of the purposes mentioned in that sub-section.

30 Payment of Compensation.--Whenever in pursuance of S. 29, the Central Government or the State Government as the case may be requisitions any immovable property, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely--

(i) the rent payable in respect of the property or if no rent is payable the rent payable in respect of similar property in the locality:

(ii) if in consequence of the requisition of the property the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

(ii) such sum or sums, if any, as may be found necessary to compensate the person interested for damage caused to the property on entry after requisition or during the period of requisition, other than normal wear and tear:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government or the State Government as the case may be for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government as the case may be may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation. It shall be referred to an arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation--In this section and in Section 37 the expression "person interested" in relation to any property includes all persons claiming or entitled to claim an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act.

35. Release from requisition.--(1) Where any property requisitioned u/s 29 is to be released from such requisition, the Government by which or under whose authority the property was requisitioned or any person generally or specially authorised by it in this behalf may, after such inquiry, if any, as it or he may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person who appears to the Government or. as the case may be the person authorised as aforesaid to be entitled to the possession of the property at the time such order is made.

(2) The delivery of possession of the property to the person specified in the order under sub-section (1) shall be a full discharge of the Government from all liabilities in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is delivered."

In exercise of the powers conferred by Section 38 of the Defence of India Act, the Central Government framed rules, called the Defence of India (Requisitioning and Acquisition of Immovable Property) Rules, 1962. The relevant rules are rules 7 (release from requisition). 8 (compensation). 9 (application for arbitration). 10 (appointment of arbitrator). 13 (the award) and 15 (payment). These rules are as under:--

"7(1). Where any person to whom the possession of any property to be released from requisition is to be given, fails to accept delivery of the property or cannot be found and has no legal agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be served by registered post at the last known address of such person and a copy of such notice shall at the same time be fixed on some conspicuous part of the property and a purport of the notice

shall also be proclaimed by beat of drum or otherwise as the competent authority may consider sufficient. Such property shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to the possession thereof and the Central Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(2) Where any requisitioned property or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempests, flood or violence of any army or of a mob or other irresistible force, the property or any such part thereof, shall, at the option of the competent authority be deemed to have been released from requisition and the Central Government shall not be liable to restore the same in as good a condition as it was at the time of requisition.

8. The competent authority shall as soon as may be after the property has been requisitioned, released from requisition or acquired as the case may be determine the compensation payable under S. 30 or S. 37 of the Act and shall also apportion it where necessary among the persons known or believed to be interested in the property of whom or of whose claim to compensation he has information. Such determination shall be communicated by the competent authority to the person or persons in whose favour the determination has been made.

9. (1) A person aggrieved by the amount of compensation determined by the competent authority shall, within thirty days of the receipt of the communication of such determination make an application in writing to the competent authority for referring the matter to an arbitrator stating therein the reasons for his being aggrieved by the amount of compensation so determined.

(2) Where no such application is made within the period of thirty days aforesaid and the amount of compensation as determined by the competent authority has not been accepted by the person or persons in whose favour the determination has been made or where there is dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation competent authority may deposit the amount with the Court.

10. (1) On receipt of the application for reference to arbitration or where there is a dispute as to the title to receive the compensation or as to the apportionment of the amount thereof, the competent authority shall appoint as arbitrator a person who is qualified under clause (2) of Article 217 of the Constitution for appointment as a Judge of a High Court.

(2) Any such arbitrator shall complete the arbitration proceedings and give his award within four months:

Provided that the Central Government may, if it thinks fit enlarge the period for

making the award whether the time for making the award has expired or not.

13. After taking into consideration matters with regard to the reference and after making such enquiry as the arbitrator may consider necessary and just, the arbitrator shall make in writing and sign the award, setting forth the grounds for his decision of the amount of compensation which in his opinion should be allowed for the property and of the apportionment of the said compensation among all persons known to be interested in the property. The arbitrator shall at the same time deliver or send by registered post to all parties to the reference and to the competent authority a copy of each of the award together with the ground on which the award is based.

15. (1) The compensation determined in accordance with clause (i) of Section 30 of the Act shall be payable on the expiry of every three months in respect of a building or an urban land and on the expiry of every six months in respect of rural land.

(2) Where, in the opinion of the competent authority there is likely to be delay in determination of the compensation or where the person interested in aggrieved by the amount of compensation determined by the competent authority, the competent authority, may at his discretion, make "on account" payment after taking such security as that authority thinks fit up to eight per cent of the amount which in his opinion is likely to be determined as compensation and such "on account" payment as relates to compensation referred to in sub-rule (1) shall as far as may be, be made in accordance with the provisions of that sub-rule."

From Section 30 and rule 8, set out above it is clear that it was the duty of the District Magistrate to determine the compensation for the requisitioned building but no order was ever passed determining compensation for the portion of the building requisitioned by order dated May 25, 1963. An order dated September 14, 1965 (copy annexure "H") was passed fixing the monthly rent of the portion requisitioned by order dated April 26, 1963 at Rs. 260.00 by way of compensation. It is stated by the owners of the property (respondents 1 to 11) that this order was never communicated to them and they came to know of it about the middle of July, 1966 and on July 28, 1966 they submitted an application under Ss. 30 and 35 of the Defence of India Act 1962 wherein it was stated that the period of three years had since expired and that the possession of the premises had not been restored to them which was required to be done u/s 35 *ibid*. A request was made to deliver back the possession of the property to them. In para 6 of the application, it was stated that--

"the sum of Rs. 260/- that was notified to be paid as fair compensation per month is most inadequate and is not its fair compensation. No amount of compensation at that rate even has been paid by the occupants or by the competent authority. Under the provisions of law that compensation is payable to the owners as is determined by an arbitrator, appointment of whom has to be

made by the State Government the matter of fixation of fair compensation has to be referred to the said arbitrator. The applicants, therefore also pray that the matter of payment of fair compensation for the requisitioning of the said property for the period for which it remains under requisition to be referred to an arbitrator to be appointed by the State Government under the provisions of Section 30 of the Defence of India Act 1962. The name of the arbitrator so appointed be also kindly communicated so that the matter can be represented to him for his award.

No reply was received to this application by the owners of the building because the District Magistrate took proceedings for requisitioning the said property under the provisions of Punjab Requisition and Acquisition of Immovable property Act, 1953 (hereinafter referred to as the Punjab Act). On July 13, 1966, a notice was issued by the District Magistrate Amritsar, being the competent authority under the Punjab Act, to the owners of the building stating that he was of the opinion "that the property described in schedule hereto annexed is needed for a public purpose, viz., office/residence of a Government officer/official being a purpose of the State and that the said property should be requisitioned." The owners were called upon to show cause within fifteen days of the date of the service of the notice as to why the said property should not be requisitioned. The property mentioned in the schedule was the ground-floor and the second storey of the building of the owners on Cooper Road which had been requisitioned by the District Magistrate earlier under the Defence of India Act. The owners of the building submitted their objections to the requisitioning of the property but the District Magistrate passed the order requisitioning the said property on August 29, 1966 and ever since it has remained in the possession of the appellant. The owners of the building have been paid compensation for the ground-floor at the rate of Rs 260.00 per mensem for some years. Their requests for the derequisitioning of the property and delivery back of the possession to them did not find favour with the District Magistrate or the State Government. On September 27, 1969, the owners of the building moved the Supreme Court by means of C. W. 112 of 1969 impugning the requisition proceedings but withdrew that petition on August 10, 1970, with permission to move the High Court. On January 27, 1971, C. W. Nos. 351 & 352 of 1971 were filed in this court which were decided by the learned Single Judge by order dated January 31, 1972. The present appeals have been filed under clause 10 of the Letters Patent by the Amritsar Central Co-operative Consumers Store Limited Amritsar.

4. It is not necessary to discuss all the points involved in the case as all of them have not been argued. The first point to be decided in these appeals is whether the requisition made under the Punjab Act by order dated August 29, 1966, was valid. The learned Single Judge has held it to be invalid on the ground that after the requisition made under Defence of India Act, the requisitioned property was never released from requisition and its possession was not delivered back to the owners. In these circumstances the State Government could not requisition the same property under the Punjab Act. We find, however that the requisition under

the Punjab Act was illegal ultra vires and mala fide because the purpose of requisition was stated to be office/residence of a Government Officer/official being a purpose of the State but it is admitted that no office of the Government was ever located in the requisitioned property remained in the possession of the appellant for which it had been requisitioned premises nor did any Government Officer/official reside therein. The requisitioned property remained in the possession of the appellant for which it had been requisitioned in 1963. This property could not be requisitioned for the appellant under the Punjab Act and the learned Single Judge has therefore, rightly quashed that order. In this situation, the question arises whether the requisition has continued under the Defence of India Act in spite of the expiry of the of the maximum period of three years fixed in the order of requisition dated April 26, 1963 and May 25, 1963. We are of the opinion that the requisition has continued under the said orders because after the expiry of three years, the requisitioned property was not released from requisition nor was its possession delivered back to the owners. Under the Defence of India Act and the Rules no maximum period of requisition has been prescribed. The period of three years was prescribed only in the orders of requisition and that period shall be deemed to have been extended because of the refusal of the District Magistrate to release the property from requisition on the expiry of those three years. We, therefore, hold that the requisition of the property has continued under the Defence of India Act and the Rules. These two appeals have therefore to be decided according to the provisions of the said Act and the Rules.

5. The learned Single Judge passed an order directing the District Magistrate to release the property from requisition and deliver its possession to the owners within two months. After filing the appeals a stay order was obtained. We find no reason for the State Government to continue the property under requisition because the Emergency, for the duration of which the premises were requisitioned, expired in 1968 and the maximum period of three years prescribed under the orders of requisition also expired in 1966. The State Government did not require the premises for the maintenance of essential supplies to the community after August 29, 1966 on which date the same premises were requisitioned for the accommodation of a Government Office or the residence of a Government Officer/official. We, therefore, hold that the District Magistrate is liable to release the property from requisition and deliver back its possession to its owners. The order of the learned Single Judge directing the issue of a writ of mandamus requiring the competent authority to derequisition the property and restore its possession to the owners thereof, is upheld.

6. The only other question requiring determination in the case is how to determine the compensation and for what period. It has been urged by the learned counsel for the appellant that the owners of the building cannot claim compensation for more than three years and in support of that submission reliance has be placed on Mt. Amar Kaur v. Secy. of State AIR 1939 Lah 583 which in our opinion, has no applicability to the facts of this case. In that case,

the plaintiff brought a suit for compensation amounting to Rs. 300.00 alleging that the Sub-Divisional Officer, Canals, had removed earth from her land for repairing the canal banks and had promised compensation to her for the same, but inspite of repeated requests no compensation had been awarded for the earth taken. The defendant (Secretary of State) raised two preliminary objections: that the suit was time-barred and the plaint did not show the exact date on which the cause of action for the suit had actually arisen. The following preliminary issue was framed by the learned trial Court. Whether the suit is time barred. The learned trial Court held that the Sub Divisional Officer had acted under the provisions of Section 15, Northern India Canal and Drainage Act that Exhibit P.1 did not constitute any contract between the parties to the suit, therefore, the article applicable was Art. 2 Limitation Act and the suit was barred by time. As regards the date of the cause of action which was necessary for determining the question of limitation. It came to the conclusion that October 1, 1936, might be taken to the date of the cause of action. Upon those findings, the learned trial Court held the suit as barred by limitation and dismissed with costs. The appeal of the plaintiff was also dismissed by the Senior Subordinate Judge and a second appeal was filed in the High Court. It was held that the Article of Limitation Act applicable was Article 120 and not Article 2. The suit was, therefore, held to be within time. It is quite evident from the above facts that the present case is not covered by that decision. I have set out above the provisions of the Defence of India Act and the rules regarding requisition. Under S. 30 read with R. 8 the compensation in the first instance has to be fixed by the competent authority. In case that Compensation is not acceptable to the owner of the requisitioned premises he can ask for arbitration within thirty days of the communication of the order fixing the compensation by the competent authority. The payment of compensation is to be then made in accordance with the award of the arbitrator. It is thus evident that unless the compensation is fixed by the competent authority, the owner of the requisitioned premises has no right to claim compensation or ask for a reference to an arbitrator for determining the compensation or ask for reference to an arbitrator for determining the compensation on the ground that the compensation fixed by the competent authority is not acceptable to him. The starting point of limitation for recovery of the compensation in that case will be the fixation of the compensation by the arbitrator and payments have to be made in accordance with that award under Rule 15 of the Defence India Rules. In case the owner of the building accepts the amount accepts the amount of compensation fixed by the competent authority, the right to receive compensation fixed by the competent authority, the right to receive compensation of that amount will accrue to him on the communication of the order determining the compensation. If that compensation is not acceptable to the owner, he is to ask for arbitration within thirty days and if he fails to ask for arbitration within the time prescribed he is entitled only to the compensation at the rate fixed by the competent authority. In that case, the right to receive compensation at that rate will be from the date of the communication of the order determining the compensation. In accordance with this proposition the

right to receive compensation has not yet accrued to the owners of the building (respondents 1 to 11) with regard to the portion of the building requisitioned by order dated May 25, 1963, as no determination of compensation for that portion has so far been made by the competent authority. The question of accepting that compensation or making a reference to the arbitrator has also not arisen. With regard to the ground floor the compensation was determined by the order dated September 14, 1965 but, according to the allegations of the owners of the building, it was never communicated to them. They came to know about it in the middle of July, 1966 and filed an application on July 28, 1966 as stated above. No action was taken on that application and the owners filed an application on July 2, 1969 (copy annexure "J") to the Deputy Commissioner, Amritsar, inviting his attention to the application of the owners dated July 28, 1966, and subsequent reminders ending with May 16, 1968, on which no action had been taken till then. It was further stated that--

"Soon after the communication of the fixation of the compensation of Rs. 260.00 per month we had protested and made the above application. We have been receiving compensation under protest as part payments thereof."

The various factors for the determination of the fair compensation were stated in this application and a request was made to refer the matter of fixation of fair compensation too the arbitration of the Senior Subordinate Judge, Amritsar. The owners of the building have stated in paras 3(xii) and (xiv) of their petition as under:--

"(xii) That the petitioners were informed some time in the middle of July, 1966 of the said order dated 14th September, 1965, having been made and by their application dated 28th July, 1966. Under rule 9 of the Defence Rules made through Shri Narinder Nath Bhatia the Advocate of all the petitioners, they called upon respondent No. 3 to refer the said requisition orders to the arbitration of a person eligible to become a Judge of the High Court in terms of Section 30 of the Defence Act read with Rule 10 of the Defence Rules.

(xiv) That respondent No. 3 has some time in the month of July, 1969, passed an order on the petitioners" said application dated 28th July, 1966, directing inter alia to refer the matter of fixation of fair compensation to the arbitration of X. En. or superintending Engineer of P.W. D. instead of Senior Sub Judge and though the said order is already made on the file the same has been communicated to petitioner No. 1 only orally on 16th September, 1969, and the petitioners apprehended that the same may not be communicated in writing for a long time to come. The said order for reference to arbitration inter alia states as follows:--

"Instead of S. S. J. we may have it by X. En. or S. E., P.W. D. who usually deals with such matters."

In pursuance of the said order a letter bearing BC/No. 770 dated 25th August 1969, has been addressed by respondent No. 3 to the Tahsildar of Amritsar requiring the latter to assess and certify the value of the land of the "said

requisitioned premises" to enable the X. En. P.W. D., to base his award of fair compensation thereon. The petitioners say that X. En. or S. E., P.W. D are not persons eligible to become Judges of the High Court."

To these averments, reply was made in the written statement of the District Magistrate as under:--

(xii) It is denied to the extent that the order dated 14th September 1965, annexure "H" to the petition, was conveyed to the petitioners some time in the month of July, 1966. The petitioners knew on the 2nd of May, 1963, that the order dated the 26th April, 1963 had been passed. The order dated 25th May, 1963 was sent under registered cover to Shrimati Pushpa Vati and on the 31st October, 1965, petitioner No. 1 Mr. R. K. Mehra, addressed a letter to the answering respondent on behalf of himself as well as on behalf of other petitioners saving that the order of requisition which was to expire within a few months from the date thereof, be not requisitioned (sic) again and to withdraw the requisition order which had already been passed. Hence it is wrong to say that it was in the middle of July, 1966 that the petitioners were informed. A copy of the order dated 14th of September, 1965, fixing the compensation in accordance with Section 30 of the Defence of India Act. 1962, was sent to Mrs. Pushpa vati vide District Magistrate's endorsement No. RC 237/743/44 of 14th September 1966. No application was filed under Rule 9 of the Defence India (Requisitioning and Acquisition of Immovable Property) Rules 1962, which a period of 30 days on the receipt of the communication of such determination. For the first time an application was made under Rule 30 by Mr. N. N. Bhatia. Advocate, on behalf of the petitioners on 28th of July 1966 vide annexure "T" annexed to the writ petition. No action was taken since the application had been filed after the expiry of 30 days as is provided under Rule 9 of the Defence of India (Requisitioning and Acquisition of Immovable Property) Rules, 1962. The application dated 31st October, 1965, referred to above, was rejected vide Government's order annexed by the petitioners to the petition.

(xiv) It is correct to the extent that on 28th July 1966, an application was received signed by Mr. M. N. Bhatia, Advocate, on behalf of the petitioners. This application was under the Defence of India Act, 1962, and did not relate to the compensation which had to be fixed under the Punjab (Requisitioning and Acquisition of Immovable Property) Act, 1953. It is also correct that in August 1969, the answering respondent was anxious to fix the compensation as was desired in the application dated 2nd July 1969, and in pursuance thereof enquiry was being made from the Executive Engineer, or the Superintending Engineer, P.W. D., but no final order had yet been passed. The matter was at the enquiry stage that the petitioners moved the Supreme Court. It may also be stated that no compensation for the period for which the property remained requisitioned under the Defence of India Act 1962, could be called into question or arbitrator appointed since the period of 30 days had already expired from the date when the order of compensation dated 14th September 1965, was communicated to

one of the petitioners.

The name of any of the other petitioners was not available and it cannot be said that the petitioners did not know the same since July, 1966. An application was received from their Advocate Shri N. N. Bhatia on behalf of all the petitioners annexed as annexure "J" to the petition." From these averments in the petition and the reply thereto, it is quite clear that the assertion made on behalf of the owners of the building that the action for making reference to the arbitration was taken on their application dated July 2, 1969 is not denied and it is not stated that any action was taken by the District Magistrate for referring the dispute with regard to the fixation of compensation to an arbitrator as claimed by the owners of the building in their application dated July 28, 1966. The inaction on the part of the District Magistrate cannot prejudice the claim of the owners of the building for compensation. The only point that remains for determination is whether the application dated July 28, 1966, was made within thirty days of the communication of the order determining compensation. For that purpose, the learned Single Judge has directed the competent authority to dispose of the application dated July 28 1966, of the owners of the building in accordance with law keeping in mind the observations made in the judgment. Therefore, in view of that direction to the competent authority by the learned Single Judge, it is not necessary for us to determine whether that application had been filed within thirty days of the communication of the order determining fair compensation in respect of the ground floor. The compensation payable to the owners of the building with regard to the ground floor of the requisitioned building shall depend on the decision of their application dated July 28, 1966.

7. The learned Single Judge has however directed the competent authority to determine the compensation up to August 29, 1966, u/s 30 of the Defence India Act, 1962 and for the period thereafter u/s 8(1) of the Punjab Act. We have held above that the requisition under the Punjab Act was illegal and ultra vires and, therefore, non est. That requisition has to be ignored for all purposes including the determination of compensation. The requisition has continued under the Defence of India Act and the compensation to the owners is payable under the provisions of that Act and the Rules framed thereunder. We, therefore, modify the order of the learned Single Judge in this respect and direct that the compensation for both the portions of the building requisitioned under orders dated April 26, 1963, and May 25, 1963, shall be determined in accordance with Section 30 of the Defence of India Act and Rules 8 to 15 of the Defence of India Rules.

8. For the reasons given above, we direct the competent authority to derequisition the property and deliver back its possession to the owners on or before November 30, 1972 and to pay them the compensation for the period of requisition (after deducting what has already been paid) after determining it or getting it determined in accordance with the provisions of the Defence of India Act and the Rules and in the light of the observations made above. No

determination of compensation is required to be made under the Punjab Act. The order of the learned Single Judge is modified to that extent and in all other respects the appeals stand dismissed. In the circumstances of the case, however, we make no order as to costs in these appeals.

9. Order accordingly.