

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.14722 of 2024

Decided on: 20th July, 2026

Bal Krishan Sharma and others

.....Petitioners

Versus

State of H.P. and others

.....Respondents

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹ Yes.

For the Petitioners: Mr. Tara Singh Chauhan, Senior Advocate with Mr. Surya Chauhan, Advocate.

For the Respondents: Mr. L.N. Sharma, Additional Advocate General, for respondents No.1 to 3.

Mr. Yogesh Putney, Senior Advocate with Ms. Pallvi Sharma, Advocate, for respondent No.4.

Jyotsna Rewal Dua, Judge

Petitioners seek the same relief as allowed to the appellants/writ petitioners in **Smt. Kamlesh and others Versus State of Himachal Pradesh and others²** as also in **Vikram Singh Versus State of H.P. & others³** primarily on the ground of parity. In terms of the aforesaid decisions, the declaration issued by the respondents under

¹ Whether reporters of print and electronic media may be allowed to see the order? Yes.

² LPA No.6 of 2024, decided on 16.07.2024

³ LPA No.38 of 2024, decided on 10.9.2024

Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short 'the Act') was held to have been issued beyond the statutory period of 12 months from the date of issuance of notification under Section 11 of the Act. The preliminary notification issued under Section 11 of the Act on 19.02.2022 was held to be invalid qua the land and houses of the appellants therein.

2 The case:-

The case pertains to acquisition of land for construction of Bhanupali-Bilaspur-Beri, New Broad Gauge Railway Line Project spanning from Bhanupali in Punjab to Beri in Himachal Pradesh covering a distance of about 63.10 kilometres.

2(i). Preliminary notification under Section 11 of the Act was issued by the respondents on 19.02.2022. It was published in the Gazette on 02.03.2022 and objections were called for. Objections of the land owners of Villages Raghunathpura, Rampur, Khansram Kohalwin and Manwa, Tehsil Sadar, District Bilaspur were heard and disposed of under Section 15 of the Act on 03.05.2022. According to the respondents, such disposal was in presence of the petitioners/their representatives. Declaration under Section

19 of the Act was made by the respondent-State on 01.03.2023. This was published on 18.03.2023.

2(ii). It will be appropriate to note at this stage that according to the respondents, total land sought to be acquired was 125-4 bighas comprising in 20 villages; 90% of the land was acquired through private negotiations. This writ petition concerns around 2-5 bighas of land belonging to the writ petitioners.

2(iii). *Smt. Kamlesh and others Versus State of Himachal Pradesh and others*⁴ and *Vikram Singh Versus State of Himachal Pradesh and others*⁵ were instituted seeking to set aside notification dated 01.03.2023 issued under Section 19 of the Act, whereunder, declaration was issued qua 125-4 bighas of land to be acquired for public purpose, namely construction of Bhanupali-Bilaspur-Beri, New Broad Gauge Railway Line. The main contention urged by the petitioners therein was that declaration under Section 19 of the Act was not made by the respondents and published within one year, as is the mandate of Section 19(7) of the Act, therefore, the same is liable to be rescinded. While dismissing the writ petitions, it was held that though Section 11 of the Act clearly mandates that a

⁴ CWP No.4829 of 2023, decided alongwith connected matter on 11.12.2023

⁵ CWP No.4300 of 2023, decided alongwith connected matter on 11.12.2023

notification in terms of Section 11 has to be published in the manner prescribed therein, but Section 19 does not envisage that declaration made thereunder shall be effective only from the date of its publication. Therefore, whereas publication is *sine qua non* as far as the notification issued under Section 11 is concerned, but the same is not so, as far as making a declaration as provided in Section 19 is concerned. Section 19(7) of the Act further provides that where no declaration is made under Sub-section (1) within 12 months from the date of preliminary notification, then such notification shall be deemed to have been rescinded; In this sub-section, there is no mention that the declaration has to be construed as from the date of its publication.

Relevant paras from the decision are as under:-

“14. This Court is of the considered view that whereas Section 11 of the Act clearly mandates that a notification in terms of Section 11 has to be published in the manner prescribed therein, Section 19 of the Act does not envisage that the declaration made thereunder shall be effective only from the date of its publication. In fact, whereas on one hand, Sub-section (1) of the Section 11 provides that whenever it appears to the appropriate Government that land in any area is required for the public purpose, a notification to the said effect shall be published in the manner prescribed, on the other hand, Sub-section (1) of Section 19 provides that when appropriate Government is satisfied, after considering the report, if any, made under Sub-section (2) of Section 15, that any particular land is needed for a public purpose, then a declaration shall be made to that effect etc. Therefore, whereas publication is *sine qua non* as far as notification issued under Section 11 is concerned, but the same is not so, as far as making a

declaration as provided in Section 19 is concerned. In fact, Subsection (7) of Section 19 further provides that where no declaration is made under Sub-section (1) within twelve months from the date of preliminary notification, then such notification shall be deemed to have been rescinded and in this Sub-section also there is no mention that the declaration has to be construed as from the date of its publication.

19. *As observed by me hereinabove, the provisions of Section 11 and 19 of the 2013 Act are pari materia to Sections 4 and 6 of the Land Acquisition Act, 1894. Therefore, the adjudication made by the Hon'ble Supreme Court as well as Hon'ble Division Bench of this Court holds good while interpreting the provisions of the Statute in force also and the only conclusion that can be arrived at by the Court is that though declaration has to be made within one year as from the date of publication of notification under Section 11(1) of the 2013 Act, but the same need not be published within one year in the official gazette etc. to make it effective. If such a declaration is made within one year as from the date of issuance of notification under Section 11, then there is compliance of Section 19 of the Act and declaration is not bad simply because it has not been published within one year from the date of publication of notification issued under Section 11 of the Act."*

2(iv). Feeling aggrieved against the above decision, *Smt. Kamlesh and others*² was preferred. Hon'ble Division Bench considered the contentions of the appellants that declaration issued under Section 19(7) of the Act ought to be issued within 12 months from the date of preliminary notification under Section 11(1) thereof, but in the instant case, the date of preliminary notification under Section 11(1) was 19.02.2022, whereas the date of declaration under Section 19(1) of the Act was 01.03.2023; The latter was issued beyond 12 months from the former, therefore,

the proceedings ought to have been quashed. This contention was accepted. The appeal was accordingly allowed. It was held that:- The preliminary notification under Section 11(1) of the 2013 Act bears the date '19.02.2022' and it was published on 02.03.2022, but the date of preliminary notification cannot be taken to be 02.03.2022 having regard to the language used in Section 11(1) of the Act and it has to be taken to be 19.02.2022; Since declaration under Section 19 bears the date 01.03.2023 and was published on 18.03.2023, irrespective of whichever of these dates is taken into account, it had to be held that declaration was not issued within 12 months from the date of preliminary notification, which was 19.02.2022. Relevant portion from the decision is extracted hereinafter:-

- "4) *It is contention of the appellants before the learned Single Judge that declaration issued u/s 19 (7) of 2013 Act ought to be issued within 12 months from the date of preliminary notification under Section 11(1) thereof ; in the instant case the date of the preliminary notification u/s 11(1) was 19.02.2022, but the date of declaration under Section 19(1) of the 2013 Act was 01.03.2023; that the latter was issued beyond 12 months from the former; and therefore the said proceedings ought to be quashed.*
- 30) *Admittedly, in the instant case, the preliminary notification u/s 11(1) of the 2013 Act bears the date 19.02.2022 and it was published on 02.03.2022. But the date of such preliminary notification cannot be taken to be 02.03.2022 in view of the language of section 11(1) of the 2013 Act and it has to be taken to*

be 19.02.2022 only having regard to the language used in Section 11 (1) of 2013 Act.

- 31) *Since the declaration u/s 19 bears the date 01.03.2023 and was published on 18.03.2023, irrespective of whichever of these dates is taken into account, it is clear that the declaration is not issued within 12 months from the date of preliminary notification, which is 19.02.2022.*
- 32) *The learned Single Judge unfortunately does not appear to have noticed the difference in language between the provisions dealing with preliminary notification in the Land Acquisition Act, 1894 and in Section 11 (1) of the 2013 Act and instead proceeded on the question whether the declaration made u/s 19 is required to be published within 12 months from the date of preliminary notification or not.*
- 33) *While it may be true that the declaration u/s 19 is not required to be published within the period of 12 months from the date of preliminary notification, it is still required to be issued within 12 months from the date of the preliminary notification.*
- 34) *If the date of the preliminary notification is 19.02.2022, then a declaration issued u/s 19 on 01.03.2023 (though published later) would not be valid in view of Section 19(7) which automatically rescinds the preliminary notification u/Section 11. In the result the preliminary notification dated 19.02.2022 issued u/s 11 becomes invalid qua the appellants. As regards them the preliminary notification would have to be deemed to be rescinded.*
- 37) *Therefore, in the light of the fact that the declaration under Section 19 of the 2013 Act was issued beyond the period of 12 months from the date of issuance of Section 11 preliminary notification dt.19.2.2022, this Court has no choice but to allow the LPA and grant relief to the appellants.*
- 38) *For the aforesaid reasons, the LPA is allowed; and the order of learned Single Judge dismissing the Writ petition is set aside; and the said Writ petition is allowed only as regards the land and houses of the petitioners, if any, notified for acquisition by the respondents. No costs.”*

2(v). Following the same ratio, *Vikram Singh*³ was allowed by the Hon'ble Division Bench with the following order:-

"14. Accordingly, this appeal is also disposed of in terms of order dt. 16.7.2024 in LPA no. 6 of 2024; the order of learned Single Judge dismissing the Writ Petition is set aside; and the said Writ Petition is allowed only with regard to lands and houses of the petitioners in the said Writ Petition, if any, notified for acquisition by the respondents. Pending applications, if any also stand disposed of."

2(vi). Significantly, while deciding *Smt. Kamlesh and others*², Hon'ble Division Bench allowed the appeal and the writ petition only as regards the land and houses of the petitioners (therein), if any, notified for acquisition by the respondents or in other words, the notifications in question were not set aside as such, but were held invalid qua the petitioners therein. The benefit of the decision was confined only to the writ petitioners (therein). In *Vikram Singh*³ also, Hon'ble Division Bench allowed the writ petition, but only with regard to the lands and houses of the petitioners in that writ petition and not qua other land owners. The notifications were not set aside as a whole. These were made inoperative qua the petitioners in both the writ petitions.

It also needs to be noticed that in *Vikram Singh*³, CMP Nos.16104 & 16294 of 2024 were moved by some

persons/land owners seeking impleadment, contending that in view of the decision rendered in *Smt. Kamlesh and others*², the respondents were delaying release of payment of compensation to them. They sought a clarification from the Court that *Smt. Kamlesh and others*² will not be applied to the proposed parties, whose lands and houses were also the subject matter of the same land acquisition notification in view of specific directions issued in the said decision, whereunder, the writ petition was allowed only qua the land and houses of the writ petitioners in that case. These applications were allowed by the Hon'ble Division Bench. The proposed parties were impleaded as respondents in *Vikram Singh*³. The applications were disposed of with the order that the decision in *Smt. Kamlesh and others*² was very clear that it would apply only to the appellants in the said appeal/writ petitioners in *Smt. Kamlesh and others*². That the said decision will not apply to the impleaded respondents. Being relevant, this portion of the order is extracted hereinafter:-

"CMP Nos.16104 & 16294 of 2024

These applications are filed by the persons, seeking impleadment in LPA no. 38 of 2024, contending therein that the official respondents in this LPA are delaying the payment of compensation to them in view of the order passed by this Court in LPA no. 6 of 2024 dt. 16.7.2024; and they seek a clarification from this Court that the said judgment will not be applied to the

proposed parties, whose lands and houses are also the subject matter of the same land acquisition notification, in view of the specific directions in the said order that the said LPA no.6 of 2024 is allowed only as regards the land and houses of the appellants in that case.

2. *The counsel for the non-applicant/appellant in LPA has no objection to the impleadment of the said parties, and also for clarifying the order in the manner sought by the proposed parties.*

3. *The proposed parties also contend that the relief which may be granted to the appellant in LPA no. 38 of 2024 may be on the same lines as the relief granted in LPA no. 6 of 2021, but notwithstanding the pendency of LPA no. 38 of 2024, the official respondents be directed not to delay the proceedings for payment of compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (For short 2013 Act).*

4. *Having regard to the said submission, these applications for impleadment are ordered, and the proposed parties are impleaded as party respondents in LPA no.38 of 2024.*

5. *We have heard the counsel for the appellant in LPA, the impleaded respondents, and the learned Additional Advocate General.*

6. *In LPA no.6 of 2024 in para-38, this Court has held as under:-*

“For the aforesaid reasons, the LPA is allowed; and the order of learned Single Judge dismissing the Writ Petition is set aside; and the said Writ Petition is allowed only as regards the land and houses of the petitioners, if any, notified for acquisition by the respondents. No costs.”(emphasis supplied)

7. *In view of the said order, there is no ambiguity about the order passed in LPA no. 6 of 2024. The said order dt. 16.7.2024 would apply only to the appellant in the said Appea/ writ petitioner in CWP no.4300 of 2023. The clarification is therefore issued as above that it will not apply to the impleaded respondents. The applications thus stand disposed of.”*

2(vii). Petitioners, 11 in number, have instituted this writ petition on 04.12.2024, seeking the same relief as

allowed to *Smt. Kamlesh and others*² and *Vikram Singh*³.

The substantive reliefs prayed for in this writ petition are as under:-

- “i) That a writ of mandamus may kindly be issued by quashing the setting aside annexure P-1, P-3 and P-7, as the same has been deemed to be rescinded by section 19(7) of the act as the Notification has not been issued within twelve months and in violation of the judgment passed by this Hon’ble Court LPA No.6 and 38 of 2024.
- ii) That the respondent may be restrained to pass the final award and if during the pendency of the Writ petition same is passed same may kindly be quashed and set aside.
- iii) That the respondents may be directed to prepare and enact the resettlement and rehabilitation plan as per the mandate of the act qua the petitioners.
- iv) That the respondent may be directed to pay damages to the petitioner as they have restrained from developing the land.”

2(viii). During hearing of the case, it was apprised by learned counsel for the parties that the decisions rendered in *Smt. Kamlesh and others*² and *Vikram Singh*³ have attained finality. Consequently, land acquisition process was initiated afresh from the requisite stage and award in accordance with law has been passed for the writ petitioners (therein). That qua the subject land, vide order dated 05.12.2024 passed in this writ petition, respondent No.3 was directed not to announce the award, if not already announced. The aforesaid order is still continuing and consequently the award has not yet been announced.

3. Submissions:-

3(i). Learned Senior Counsel for the petitioners submits that the petitioners had also preferred objections against the notification dated 19.02.2022, as published on 02.03.2022. Another representation was preferred by the petitioners on 16.05.2023. The respondents had not decided these representations. In the given facts and circumstances, the petitioners are similarly placed both on facts and law as the petitioners in *Smt. Kamlesh and others*² and *Vikram Singh*³. The reliefs granted to *Smt. Kamlesh and others*² and *Vikram Singh*³ are liable to be granted to the present petitioners as well. Preliminary notification dated 19.02.2022 issued under Section 11 of the Act has to be held invalid qua the present petitioners as well.

Reliance in support of these submissions was placed upon ***Chandra Kishore Jha v. Mahavir Prasad and others***⁶ to urge the well settled principle that if a Statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. Relevant para of the judgment is as under:-

“17. In our opinion insofar as an election petition is concerned, proper presentation of an election petition in the Patna High Court can only be made in the manner prescribed by Rule 6 of Chapter XXI-E. No other mode of presentation of an election petition is envisaged under

⁶ (1999) 8 SCC 266

the Act or the Rules thereunder and, therefore, an election petition could, under no circumstances, be presented to the Registrar to save the period of limitation. It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. (See with advantage: Nazir Ahrnad v. King Emperor⁷, Rao Shiv Bahadur Singh & Anr. V. State of V.P.⁸, State of U.P. v. Singhara Singh⁹. An election petition under the Rules could only have been presented in the open Court upto 16-5-1995 till 4.15 P.M. (working hours of the Court) in the manner prescribed by Rule 6 (supra) either to the Judge or the Bench as the case may be to save the period of limitation. That, however, was not done. However, we cannot ignore that the situation in the present case was not of the making of the appellant. Neither the designated election Judge before whom the election petition could be formally presented in the open Court nor the Bench hearing civil applications and motions was admittedly available on 16-5-1995 after 3.15 P.M., after the Obituary Reference since admittedly the Chief Justice of the High Court had declared that “the Court shall not sit for the rest of the day” after 3.15 P.M. Law does not expect a party to do the impossible - impossibulum nulla obligation est - as in the instant case, the election petition could not be filed on 16-5-1995 during the Court hours, as for all intents and purposes, the Court was closed on 16-5-1995 after 3.15 p.m.”

Vidya Devi Versus State of H.P.¹⁰ and Tukaram Kana Joshi and others Versus Maharashtra Industrial Development Corporation and others¹¹ were also pressed into service to submit that delay & laches, if any, on part of the petitioners would not extinguish their right to put forth a lawful claim.

⁷ (1935-36) 63 IA 372 : AIR 1936 PC 253 (II)

⁸ AIR 1954 SC 322 : 1954 SCR 1098

⁹ AIR 1964 SC 358 : (1964) 1 SCWR 57

¹⁰ (2020) 2 SCC 569

¹¹ (2013) 1 SCC 353

State of Haryana and another Versus Devander Sagar and others¹² was relied upon, which after tracing several precedents in the timeline, reiterated that quashing of acquisition proceedings at the instance of one or two land owners does not have the effect of nullifying the entire acquisition. Land owners, who are aggrieved by the acquisition proceedings, would have to lay challenge to the proceedings at least before an award is announced and possession of land is taken over by the Government.

Relevant paras from the decision read as under:-

“11. It would be pertinent to clarify that the quashing of the entire acquisition proceeding has to be explicitly expressed. This Court has in Shyam Nandan Prasad v. State of Bihar¹³, Delhi Admn. v. Gurdip Singh Uban¹⁴, Delhi Admn.v. Gurdip Singh Uban¹⁵ and T.N. Housing Board v. S. Saraswathy¹⁶ reiterated and restated the established and consistent view that quashing of acquisition proceedings at the instance of one or two landowners does not have the effect of nullifying the entire acquisition. In A.P. Industrial Infrastructure Corpn. Ltd.v. Chinthamaneni Narasimha Rao¹⁷ this Court has reiterated the established proposition that landowners who are aggrieved by the acquisition proceedings would have to lay a challenge to them at least before an award is pronounced and possession of the land is taken over by the Government. Numerous decisions of this Court have been discussed obviating the need to analyse all of them once again. However, generally speaking, the courts come to the succour of those who approach it. In some instances, equities are equalised by allowing subsequent slothful petitioners,

¹² (2016) 14 SCC 746

¹³ (1993) 4 SCC 255

¹⁴ (1999) 7 SCC 44

¹⁵ (2000) 7 SCC 296

¹⁶ (2015) 8 SCC 723

¹⁷ (2012) 12 SCC 797

belatedly and conveniently jumping on the bandwagons, to receive, at the highest, compensation granted to others sans interest.”

Delhi Development Authority Versus Godfrey

Phillips (I) Limited and others¹⁸ was pressed into service to highlight the point that duty of the land owners is only to challenge the acquisition proceedings at least before the award is announced and possession is taken. Relevant portion from the decision reads as under:-

“36. In another judgment in State of Haryana v. Devander Sagar⁹, this Court has held that the acquisition proceedings cannot be quashed of one or two landowners. It is the duty of the landowners to challenge the acquisition proceedings at least before award is pronounced and possession is taken. It was held as under: (SCC p. 755, para 11)

“11. It would be pertinent to clarify that the quashing of the entire acquisition proceeding has to be explicitly expressed. This Court has in Shyam Nandan Prasad v. State of Bihar²⁰, Delhi Admn. v. Gurdip Singh Uban¹², Delhi Admn. v. Gurdip Singh Uban¹³ and T.N. Housing Board v. S. Saraswathy²² reiterated and restated the established and consistent view that quashing of acquisition proceedings at the instance of one or two landowners does not have the effect of nullifying the entire acquisition. In A.P. Industrial Infrastructure Corpn. Ltd. v. Chinthamaneni Narasimha Rao²⁶ this Court has reiterated the established proposition that landowners who are aggrieved by the acquisition proceedings would have to lay a challenge to them at least before an award is pronounced and possession of the land is taken over by the Government. Numerous decisions of this Court have been discussed obviating the need to analyse all of them once again. However, generally speaking, the courts come to the succour of those who approach it. In

¹⁸ (2022) 8 SCC 771

some instances, equities are equalised by allowing subsequent slothful petitioners, belatedly and conveniently jumping on the bandwagons, to receive, at the highest, compensation granted to others sans interest."

Learned Senior Counsel for the petitioners submits that in the instant case, award has not been passed as yet, therefore, petitioners' challenge to the validity of notifications has to be treated on the same lines as was accorded in *Smt. Kamlesh and others*² and *Vikram Singh*³.

3(ii). Opposing the above stand, learned Senior Counsel for respondent No.4 on facts submitted that the petitioners had not raised any grievance qua the notification in question at the relevant time. The only objection ever raised was by petitioner No.1 on 13.04.2022. The said objection though was in reference to the notification dated 19.02.2022, but the objection pertained to quantum of compensation, to which the said petitioner was seeking entitlement to. The other petitioners did not raise any objection. This very petitioner (No.1) raised further objection on 16.05.2023, but the objection was against the notification issued by the respondents under Section 21 of the Act. In none of the representations/objections, petitioner No.1 ever objected to the validity of

notifications, which is now being sought to be held as inapplicable. Further, the remaining petitioners, viz. petitioners No.2 to 11, have not filed any objection at all. Placing reliance upon the decisions rendered by the Hon'ble Apex Court in ***Abhey Ram (Dead) by Lrs. and Ors. Vs. Union of India (UOI) and Ors.***¹⁹; ***V. Chandrasekaran and Ors. Vs. The Administrative Officer and Ors.***²⁰; ***Tamil Nadu Housing Board Vs. L. Chandrasekaran and Ors.***²¹ and ***The State of West Bengal and Others versus M/S Santi Ceramics Pvt. Limited and another***²², it was submitted that quashing of acquisition proceedings at the instance of and for *Smt. Kamlesh and others*² & *Vikram Singh*³ will not have the effect of nullifying the entire acquisition. The acquisition process in the instant case is valid qua the petitioners. The petitioners are not entitled to the reliefs as prayed for by them.

4. Heard learned counsel for the parties and considered the case file.

4(i). Facts of the case are not in dispute. It comes out from the record that notification dated 19.02.2022 issued under Section 11 of the Act has been held to be inoperative

¹⁹ Civil Appeal No.3358 of 1997, decided on 22.04.1997

²⁰ Civil Appeal Nos.6342-6343 of 2012, decided on 18.09.2012

²¹ Civil Appeal Nos.3148-3149 of 2002, decided on 29.01.2002

²² SLP(C) No.33701/2018, decided on 13.10.2025

and invalid qua the land & houses of the petitioners in *Smt. Kamlesh and others*² and *Vikram Singh*³ only. The notification has not been set aside as a whole. While deciding *Vikram Singh*³, the impleadment applications moved by certain other land owners, bearing CMP Nos.16104 & 16294 of 2024, were also decided with the order that the decision rendered in *Smt. Kamlesh and others*² would apply to the appellants in that appeal only and will have no applicability to the applicants, who had prayed for their impleadment and were consequently impleaded as parties in *Vikram Singh*³. Hon'ble Court was cautious of the fact that while disposing of the impleadment applications on 10.09.2024, *Vikram Singh*³ was also being decided finally. It was also decided in light of *Smt. Kamlesh and others*², yet under the same decision, the applicants in the impleadment applications were allowed to have the payment of compensation assessed in their favour under the awards passed in light of very notifications, which were held to be invalid and inoperative qua the appellants in *Smt. Kamlesh and others*² and *Vikram Singh*³.

4(ii). It is also an admitted position on record that no objection had been raised by petitioners No.2 to 11, whatsoever, against any notification as also against the

acquisition process undertaken by the respondents qua the subject land. The only objection preferred was by petitioner No.1, that too, did not relate to the validity of the notifications. It pertained to the abstract quantum of compensation, to which, the said petitioner was seeking entitlement to.

4(iii). In ***Abhey Ram (Dead) by Lrs.***¹⁹, Hon'ble Apex Court examined the issue as to whether the quashing of declaration by the Division Bench in respect of other matters would enure the benefit to the other land owners. It was held that when the Division Bench confined the controversy to the quashing of declaration in respect of the writ petitioners before the Division Bench, the benefit of quashing of declaration does not enure to the fence sitters/appellants. Relevant portion from the decision reads as under:-

- “3. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short the “Act”) was published on November 5, 1980 acquiring a large extent of land admeasuring 50,000 bighas situated in several villages including Khirkee village. The land in Khirkee Village admeasures 1011 bighas of which the appellant is in possession of 25 bighas. Declaration under Section 6 was published on June 7, 1985. Challenging the declaration, several writ petitions came to be filed in the High Court. The primary contention was that the declaration having been published after 3 years, is barred by law. The notification under Section 4(1) stands lapsed. Similar to the appellants, several persons approached the High Court. The Full Bench in *Balak Ram Gupta v. Union of India* C.W.P. No.1639/85

decided on May 27, 1987 upheld the validity of the notification under Section 4(1) and declaration under Section 6 on the ground that some of the land owners whose land was covered under the common notification under Section 4(1) had already approached the High Court and obtained stay of further proceedings including publication of declaration under Section 6. As a consequence, the stay obtained continuing in operation stood excluded by operation of Explanation II to Section 6(1) of the Act. Accordingly, the declaration published under Section 6(1) was held valid in law. When the present writ petition had come up for hearing, the Division Bench of the High Court passed an order stating that the controversy raised was covered by the judgment of the full Bench and no other point has been raised or argued before the Division Bench. The writ petition has been dismissed. Thus this appeal by special leave.

4. *Shri Rajinder Sachhar, learned senior counsel appearing for the appellants, contends that the view taken by the Full Bench of the High Court is not correct in law. In view of the fact that the appellants had not obtained any stay pending the writ petition qua the appellants, there is no prohibition for the respondent U.O.I. to proceed further by publicating the declaration under Section 6 and that, therefore, the declaration having been published beyond three years, is invalid in law. He further contends that after the Full Bench judgment was rendered, the matter was remitted to the Division Bench, which quashed the declaration under Section 6 on the ground that the objections filled under Section 5A were not properly considered and that, therefore, publication of the declaration under Section 6 was quashed in respect of the writ petitioners therein. The same benefits should inure to the appellants as well. In support thereof, he placed reliance on the judgment of this Court in Delhi Development Authority v. Sudan Singh & Ors. (1991) DLT 602. He also sought support from the judgment in Yusufbhai Noormohmed Nendoliya v. State of Gujarat & Anr. MANU/SC/0474/1991 : AIR 1991 SC 2153. Learned counsel for the respondents, on the other hand, contends that the appellants have not filed any objections before the Land Acquisition Collector for enquiry under Section 5-A. Therefore, the need to consider their objections does not arise. The Division Bench, after remittance, confined the controversy of*

quashing the declaration in respect of the lands of the writ petitioners. Therefore, it operates only with regard to them and not the persons who were not economies parties to that judgment. In fact, many persons had accepted the award, received the compensation and sought and had reference. Therefore, the publication of the declaration under Section 6 was not bad in law on the ground of non-consideration of the objections. Under these circumstances, the view taken by the Full Bench is correct in law.

10. *The question then arises is: whether the quashing of the declaration by the Division Bench in respect of the other matters would enure the benefit to the appellants also? Though, prima facie, the argument of the learned counsel is attractive, on deeper consideration, it is difficult to give acceptance to the contention, it is difficult to give acceptance to the contention of Mr. Sachhar. When the Division Bench expressly limited the controversy to the quashing of the declaration qua the writ petitioners before the Bench, necessary consequence would be that the declaration published under Section 6 should stand upheld.*
11. *It is seen that before the Division Bench Judgment was rendered, the petition of the appellants stood dismissed and the appellants had filed the special leave petition in this Court. If it were a case entirely relating to Section 6 declaration as has been quashed by the High Court, necessarily that would enure the benefit to others also, though they did not file any petition, except to those whose lands were taken possession of and were vested in the State under Sections 16 and 17(2) of the Act free from all encumbrances. But it is seen that the Division Bench confined the controversy to the quashing of the declaration under Section 6 in respect of the persons qua the writ petitioners before the Division Bench. Therefore, the benefit of the quashing of the declaration under Section 6 by the Division Bench does not enure to the appellants."*

4(iv). In **V. Chandrasekaran and Ors.**²⁰, Hon'ble Apex Court deliberated the issue as to where acquisition has been challenged by one land owner, can the other also take the benefit of the same decision. It was held that relief

obtained by some persons by approaching the Court immediately after the cause of action arose, cannot be made the basis for other persons, who belatedly filed their objections to take the benefit of earlier relief for the reason that such persons cannot be permitted to take impetus of an order passed by the Court at the behest of more vigilant persons. Portion relevant to the context is as under:-

“The acquisition challenged by one-whether others can also take the benefit of the same.

10. *The relief obtained by some persons, by approaching the Court immediately after the cause of action has arisen, cannot be the basis for other persons who have belatedly filed their petition, to take the benefit of earlier relief provided, for the reason that, such persons cannot be permitted to take impetus of an order passed by the court, at the behest of another more diligent person. (Vide: Ratan Chandra Sammanta & Ors. v. Union of India & Ors., AIR 1993 SC 2276; State of Karnataka & Ors. v. S.M. Kotrayya & Ors., (1996) 6 SCC 267; and Jagdih Lal & Ors. v. State of Haryana & Ors., AIR 1997 SC 2366).*
15. *Therefore, the law on the issue can be summarised to state that, in the event that the person interested has not filed objections in response to a notice issued under Section 5-A, and has not challenged the acquisition proceedings, the quashing of the declaration issued under Section 6 in some other case, would not enure any benefit to such person. More so, where the possession of land has already been taken, and such land stands vested in the State, free from all encumbrances as provided under Sections 16 and 17(2) of the Act, prior to the date of decision of the Court quashing the declaration in toto, no benefit can be taken by him. Where a party has not filed objections to the notice issued under Section 5-A, the declaration qua such persons is generally neither quashed, nor does it stand vitiated qua him, by any error of law warranting interference. There is also another view with respect to this matter, which is that, in case the said land has*

been acquired for a Scheme, which does not fall within the ambit of “public purpose” then, in such a case, it would not be a case of acquisition under the Act, instead, it would amount to colourable exercise of power.”

4(v). In **Tamil Nadu Housing Board²¹**, one of the issue considered by the Hon’ble Apex Court was whether the order passed in a previous case has the effect of nullifying the acquisition in its entirety. It was held that quashing of acquisition was only in relation to the land of the petitioner of that case. At the belated stage, it cannot be declared that the order passed in the said case would have the effect of nullifying the entire acquisition process.

Portion relevant to the context is extracted hereinbelow:-

“12. The first issue which requires consideration is whether the order passed by this Court in A.S. Naidu’s case has the effect of nullifying the acquisition in its entirety. In this context, it is apposite to mention that neither the appellant-Board nor the respondents have placed before the Court copies of the writ petitions in which the acquisition proceedings were challenged, order(s) passed by the High Court and the special leave petitions which were disposed of by this Court on 21.8.1990 and without going through those documents, it is not possible to record a finding that while disposing of the special leave petitions preferred by A.S. Naidu and others, this Court had quashed the entire acquisition proceedings. So far as A.S. Naidu is concerned, he did not even make a prayer before the High Court for quashing the preliminary notification issued under Section 4(1) of the Act. This is evident from the prayer made by him in Writ Petition No. 7499/1983, which reads as under:

“For the reasons stated in the accompanying affidavit, it is most respectfully prayed that this Hon’ble Court may be pleased to issue a writ of

certiorari or any other proceeding or any other appropriate writ or direction or order in the nature of a writ to call for the records of the First Respondent relating to G.O.Ms. No.1502 Housing and Urban Development dated 7.11.1978 published in the Tamil Nadu Government Gazette Extraordinary dated 10.11.78 in Part II Sec.2 on pages 22 to 26 and quash the said notification issued under Sec.6 of the Land Acquisition Act, 1894 in so far as it relates to the land in the Petitioners lay out approved by the Director of Town Planning in LPDM/DTP/2/75 dated 7.3.75 in Survey Nos.254, 257, 258, 260, 268 and 271 in Mogapperi Village, No.81, Block V, Saidapet Taluk, Chingleput District and render Justice.”

13. *From the above reproduced prayer clause, it is crystal clear that the only relief sought by Shri A.S. Naidu was for quashing the notification issued under Section 6 in so far it related to the land falling in Survey Nos.254, 257, 258, 260, 268 and 271 in Mogapperi Village, No.81, Block V, Saidapet Taluk and in the absence of a specific prayer having been made in that regard, neither the High Court nor this Court could have quashed the entire acquisition. This appears to be the reason why the Division Bench of the High Court, while disposing of Writ Appeal Nos.676 of 1997 and 8/9 of 1998 observed that quashing of acquisition by this Court was only in relation to the land of the petitioner of that case and, at this belated stage, we are not inclined to declare that order dated 21.8.1990 passed by this Court had the effect of nullifying the entire acquisition and that too by ignoring that the appellant-Board has already utilized portion of the acquired land for housing and other purposes. Any such inferential conclusion will have disastrous consequences inasmuch as it will result in uprooting those who may have settled in the flats or houses constructed by the appellant-Board or who may have built their houses on the allotted plots or undertaken other activities. We may also usefully refer to the judgments of this Court in Shyamnandan Prasad and others v. State of Bihar and others (1999) 4 SCC 255, Abhey Ram v. Union of India (1997) 5 SCC 421 (paragraph 11), Delhi Administration v. Gurdip Singh Uban and others (1999) 7 SCC 44 (paragraphs 8, 9 and 11) and Delhi Administration v. Gurdip Singh Uban and others (2000) 7 SCC 296, in which it has been consistently held that quashing of acquisition*

proceedings at the instance of one or two landowners does not have the effect of nullifying the entire acquisition. Moreover, in the absence of challenge by L. Chandrasekaran to the order passed by the Division Bench of the High Court in Writ Appeal No.9/1998, his legal representatives do not have the locus to contend that order dated 21.8.1990 passed by this Court in SLP(C) Nos.11353-11355/1988 had the effect of nullifying the entire acquisition.”

It would also be in place to take note of ***The State of West Bengal and Others***²², wherein a distinction was drawn between the orders quashing acquisition proceedings operating either in *personam* or in *rem*. It was held that benefits of quashing do not accrue to persons, who were not parties unless the Court has struck down the entire acquisition on fundamental grounds applicable to all. It was held as under:-

“19. Beyond this distinction, we are constrained to add that even the established procedural principles preclude Respondent No.1’s claim. Orders quashing acquisition proceedings may operate either in personam or in rem. Where the Court quashes acquisition on grounds personal to individual objectors—such as vitiated consideration of their specific objections under Section 5-A—the relief operates in personam and benefits only those parties who contested the matter before judicial forums. On the other hand, where the Court declares the entire process void ab initio on grounds going to the root of acquisition—the relief operates in rem. It is thus clear that the benefits of quashing do not accrue to persons who were not parties unless the Court has struck down the entire acquisition on fundamental grounds applicable to all.”

4(vi). In the background of above settled legal position, in the instant case, the notifications in question

have not been struck down in *Smt. Kamlesh and others*² and *Vikram Singh*³. The notifications have only been held inoperative qua the land and houses belonging to the appellants/writ petitioners in *Smt. Kamlesh and others*² and *Vikram Singh*³. While deciding *Vikram Singh*³, the same notifications have been applied to the applicants in CMP Nos.16104 and 16294 of 2024. The petitioners had not objected to the notifications. No objection/representation was ever preferred by them at the relevant time. They were fence-sitters and have moved this writ petition only after the decision of *Smt. Kamlesh and others*² and *Vikram Singh*³.

5. For all the aforesaid reasons, I do not find any merit in the instant writ petition. The same is accordingly dismissed alongwith pending miscellaneous application(s), if any.

July 20, 2026
Mukesh

Jyotsna Rewal Dua
Judge