

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3860 of 2015

1. Ranjit Kumar son of late Paro Mahto, resident of Village-Parso Bigha P.S. Barbiga, P.O. Barbiga, District- Sheikhpura, Bihar.
2. Rajesh Kumar son of Ramdev Mahto, resident of Village-Parso Bigha P.S. Barbiga, P.O. Barbiga, District- Sheikhpura, Bihar.
3. Sri Baleshwar Prasad Yadav son of Late Ramji Yadav, resident of Village-Purani Shahar P.S. Barbiga, P.O. Barbiga, District- Sheikhpura, Bihar.
4. Dwarika Prasad son of late Sheo Sahay Mahto, resident of Village-Narayanpur P.S. Barbiga, P.O. Barbiga, District- Sheikhpura, Bihar.
5. Gendo Paswan son of Madan Paswan, Resident of Village-Narayanpur P.S. Barbiga, P.O. Barbiga, District- Sheikhpura, Bihar.
6. Smt. Pramila Devi Wife of Gendo Paswan, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
7. Smt Gayatri Devi Wife of Late Pratap Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S-Barbiga, District- Sheikhpura
8. Smt Sunaina Devi, wife of Sri Basant Paswan resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
9. Sri Skand Gupta son of Late Sukhar Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
10. Sri Rajendra Prasad son of Late Sukhar Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
11. Sri Jagdish Prasad son of Late Sukhar Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
12. Sri Mahendra Prasad son of Late Sukhar Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
13. Sri Rajendra Pandit son of Late Bishwanath Pandit, resident of Village-Koiribigha, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
14. Sri Dwarika Pandit son of Late Bundel Pandit, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
15. Sri Bhikhari Tanti son of Late Kishun Tanti, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
16. Sri Umesh Prasad and Mahesh Prasad sons of Late Dhano Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
17. Sri Bipin Choudhary son of Late Lakhan Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
18. Smt. Shakunti Devi, Shakila Devi, Anita Devi Daughter of Late Darogi Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
19. Sri Sunil Choudhary son of Bindeshwar Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
20. Sri Bindeshwar Choudhary son of Suraj Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura



21. Sri Shivdani Prasad son of Late Basudeo Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
22. Smt. Sushma Devi Wife of Dwarika Prasad, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
23. Sri Ashok Kumar son of Late Bhishuk Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
24. Sri Sheo Charan choudhary son of Late Sahdeo Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
25. Sri Ramdeo Pandit son of Late Barho Pandit, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
26. Sri Arjun Tanti son of Late Ransharan Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
27. Sri Laxman Sao son of Late Somar Sao, resident of Village- Koiribigha, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
28. Sri Ramlagan Paswan son of Late Madan Paswan, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
29. Sri Surendra Prasad son of Late Rameshwar Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
30. Sri Gajadhar Mahto, Mritunjay Mahto, and Sikandar Mahto sons of Late Bishundeo Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
31. Sri Sahdeo Prasad son of Late Jaypal Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
32. Sri Arvind Kumar son of Late Jagdeo Prasad, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
33. Sri Karu Pandit son of Late Akalu Pandit, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
34. Sri Chamari Choudhary son of Late Ram Swaroop Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
35. Sri Ramvilash Choudhary son of Late Ram Swaroop Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
36. Sri Pramod Kumar son of Late Haro Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
37. Smt. Ajnasia Devi Wife of Late Jaypal Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
38. Smt. Uma Devi Wife of Narsingh Paswan, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
39. Sri Bijay Yadav son of Late Shri Balam Yadav, resident of Village-Narayanpur, P.O. Barbiga, P.S. Barbiga, District- Sheikhpura
40. Sri Shree Yadav son of Late Tanik Yadav, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
41. Sri Basudev Yadav son of Late Chetu Yadav, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura



42. Smt. Ajnasia Devi Wife of Late Rajendra Yadav, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
43. Sri Chano Choudhary son of Late Ramdhani Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
44. Sri Upendra Choudhary son of Late Arjun Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
45. Smt. Sitabiya Devi Wife of Late Ganmauri Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
46. Sri Sanjay Choudhary son of Late Hari Choudhary, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
47. Sri Rampravesh Yadav son of Gagadhar Yadav, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
48. Sri Karo Yadav son of Bajrangi Yadav, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
49. Sri Nageshwar Yadav son of Late Sital Yadav, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
50. Sri Mahender Pandit son of Late Dukhi Pandit, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
51. Sri Suresh Prasad son of Late Yugal Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
52. Smt. Shanti Devi Wife of Late Banke Paswan, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
53. Sri Dharmendra Prasad son of Late Baleshwar Mahto, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
54. Smt. Shaila Devi Wife of Late Dwariak Paswan, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
55. Sri Siyaram Yadav son of Late Jagdish Yadav, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
56. Sri Brahmdeo Yadav son of Late Vikhani Yadav, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
57. Sri Subodh Yadav son of Chander Yadav, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
58. Sri Bhagwan Yadav son of Late Jagdish Yadav, resident of Village-Narayanpur, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
59. Sri Dullichand Prasad son of Late Budhan Mahto, resident of Village-Parsobigha, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
60. Sri Mahendra Parasad son of Late Budhan Mahto, resident of Village-Parsobigha, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
61. Sri Harishchandra Prasad son of Late Budhan Mahto, resident of Village-Parsobigha, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
62. Sri Birendra Prasad son of Late Garbhu Mahto, resident of Village-Parsobigha, P.O- Barbiga, P.S- Barbiga, District- Sheikhpura
63. Sri Sambhunath Pathak and Shri Lambodar Pathak, resident of Ward No. 04,



Village-Chandukuan, P.O- Barbigha, P.S- Barbigha, District- Sheikhpura

64. Sri Shiv Shankar Singh, son of Late Brishpat Singh, resident of Ward No. 18, Village- Maur, P.O- Maur, P.S- Barbigha, District- Sheikhpura
65. Sri Anil Kumar Chaudhary, son of Late Mohan Chaudhary, resident of Ward No. 07, Village- Puranishahar, P.O- Barbigha, P.S- Barbigha, District- Sheikhpura
66. Sri Rajendra Choudhary, son of Late Hari Chaudhary, resident of Ward No. 07, Village- Puranishahar, P.O- Barbigha, P.S- Barbigha, District- Sheikhpura
67. Sri Banaras Prasad son of Late Ragho Mahto, resident of Village- Parsobigha, P.O- Barbigha, P.S- Barbigha, District- Sheikhpura
68. Sri Ramnaresh Prasad son of Late Kailash Mahto, resident of Village- Parsobigha, P.O- Barbigha, P.S- Barbigha, District- Sheikhpura
69. Sri Darogi Mahto son of Late Jethu Mahto, resident of Village- Parsobigha, P.O- Barbigha, P.S- Barbigha, District- Sheikhpura
70. Smt. Parmeshwari Devi Wife of Late Munshi Mahto, resident of Village- Parsobigha, P.O- Barbigha, P.S- Barbigha, District- Sheikhpura
71. Sri Rajendra Mahto son of Late Raman Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
72. Sri Ishwar Prasad son of Late Bajo Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
73. Late Gandhari Mahto son of Late Sitaram Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
74. Sri Suresh Prasad son of Late Bishwanath Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
75. Sri Ramsharan Prasad son of Late Keval Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
76. Sri Ishwar Pandit son of Late Narayan Pandit resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
77. Smt. Sundari Devi wife of Ramsharan Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
78. Sri Chandrashekhar Prasad and Bhagirath Prasad son of Ramdhani Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
79. Sri Ravi Shankar Singh son of Late Krishan Nandan Singh resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
80. Smt. Kamla Devi wife of Late Ramgulab Saw resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
81. Sri Bipin Bihari Singh son of Late Krishan Kumar Singh resident of Village- Maur, P.O. - Maur, P.S. - Barbigha , Ward No. 22, District- Sheikhpura.
82. Sri Ramotar Prasad son of Late Parmeshwar Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
83. Sri Ramkishun Mahto Prasad son of Late Ragha Mahto resident of Village - Chorsua , P.O. - Chorasua, P.S. - Girayak , Distric - Nalanda.



84. Sri Aswani Kumar son of Late Ragha Mahto resident of Village - Chorsua , P.O. - Chorasua, P.S. - Girayak , Distric - Nalanda.
85. Smt. Kamla Devi wife of Late Ramdeo Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
86. Sri Kailash Prasad son of Jagdeo Yadav resident of Village - Puranishahar, P.O. - Barbigha , P.S. - Barbigha , District - Sheikhpura
87. Sri Budhdeo Prasad son of Gyandhari Yadav resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
88. Sri Prasadi Yadav son of Late Karu Yadav resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
89. Sri Lalan Yadav and Ranjit Yadav son of Late kishun Yadav resident of Village - Puranishahar, P.O. - Barbigha , P.S. - Barbigha , District - Sheikhpura
90. Smt. Binda Devi wife of Ramavtar Prasad or Suraj Devi Wife of Kapildev Prasad resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
91. Smt. Sushila Devi wife of Rameshwar Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
92. Sri Sanjay Kumar son of Vijay mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
93. Sri Ramadhin Kumar Sinha son of Late Fakirchndra Prasad resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
94. Smt. Keshari Devi Daughter of Late Shree Laxman Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
95. Smt.Parmeshwari Devi wife of Ramswaroop Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
96. Smt. Usha Devi Wife of Ramvaran Prasad resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
97. Smt. Sohagwati Devi Wife of Kishori Mahto resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
98. Ramavtar Singh son of Late Parmeshwar Singh resident of village - Tetarpur , P.O. - Barbigha, P.S. - Jairampur, District- Sheikhpura.
99. Abhay Kumar son of Kedar Singh Village - Punasara, P.S. - jairampur, District - Sheikhpura.
- 100 Maheshwar Singh son of late Sital Singh resident of Village - Parsobigha, P.O. - Barbigha, P.S. -Barbigha , District- Sheikhpura.
- 101 Mithilesh Prasad son of Sri Basant Mahto Village- Koyribigha , P.S. Barbigha, District- Sheikhpura.

... .. Petitioners

Versus

1. The State Of Bihar
2. The Collector-cum-District Magistrate, Sheikpura.
3. The Additional Collector, Sheikhpura.



4. The District Land Acquisition Officer, Sheikhpura
5. The Circle Officer, Barbigaha, Sheikhpura.
6. The Union of India through the General Manager, East - Central Railway Danapur.
7. The Divisional Railway Manager, East- Central Railway, Danapur.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Kumar Kaushik, Advocate Ms. Namrata Dubey, Advocate
For the Respondent State:		Mr. Himanshu Kumar Akela, AC to AAG-2
For the Respondent Railway:		Mr. S.D.Sanjay, Additional Solicitor General Mr. Satyeshwar Prasad, Advocate
For the Respondent RVNL :		Mr. S.B.K. Mangalam, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 10-04-2019

Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter referred to as ‘the L.A. Act, 2013’) states that in case of land acquisition proceedings, initiated under the Land Acquisition Act, 1894 (hereinafter referred to as ‘the L.A. Act, 1894’), where no award, under Section 11 of the L.A. Act, 1894, has been made, then all provisions of L.A. Act, 2013, relating to determination of compensation, shall apply.

2. Section 26 of the L.A. Act, 2013, lays down criteria for assessing and determining market value of land to be acquired. Proviso to sub-Section (1) of Section 26 of the L.A. Act, 2013, contemplates that the date for determination of market value shall



be the date on which the notification has been issued under Section 11 of the L.A. Act, 2013.

3. For the purpose of determination of market value of land, what date should be treated to be the date of issuance of notification under Section 11 of the L.A. Act, 2013, in respect of acquisition proceeding started under the L.A. Act, 1894, covered by Clause (a) of sub-Section (1) of Section 24 of the Act, is the pivotal issues, which the present writ application, filed under Article 226 of the Constitution of India, requires determination.

4. I have heard learned counsel Mr. Kumar Kaushik, learned counsel appearing on behalf of the petitioner and Mr. S. D. Sanjay, learned Additional Solicitor General, appearing on behalf of the respondent Railway, assisted by Mr. Satyeshwar Prasad. Mr. S.B.K. Mangalam, learned counsel appearing on behalf of the respondent Rail Vikas Nigam Limited and Mr. Himanshu Kumar Akela, learned Assistant Counsel to AAG-2 are also in attendance.

5. This is not in dispute that the lands, which are subject matter of the present writ application, were notified for acquisition under urgency clause under Section 17 of the L.A. Act, 1894.

6. In order to appreciate the issues involved, certain facts, which are not at all in dispute, need to be taken note of. The process of acquisition of lands in question was started for construction of new broad gauge railway line, namely,



‘Daniyawar-Barbigaha-Sheikhpura Railway Line’. Notice under Section 4 of the L.A. Act, 1894, was issued and urgency clause under Section 17(4) was invoked excluding the provisions of Section 5A of the L.A. Act, 1894, on 05.07.2007. Declaration, under Section 6 of the L.A. Act, 1894, was made on 06.07.2007 and on 13.03.2008, public notice under Section 9 of the said Act was issued by the Collector, disclosing the Government’s intention to take possession of the land and that claims to compensation with all interest in the said land may be made to him.

7. Whereas the petitioners claim that they had responded to the said notice dated 13.03.2008, it has been denied by the respondents in their counter affidavits. It is the case of the petitioners that they did not have any knowledge about the process of acquisition after 13.03.2008 when the notices were issued under Section 9 of the L.A. Act, 1894, dated 13.03.2008, till they learnt through a news item reported in a Hindi daily dated 10.11.2014 that construction work of the railway line has already started and tender has already been allotted to a Company for laying the railway line.

8. There are 101 petitioners in the writ application, who claim that they invoked Right to Information Act, 2005, for information about the status of the acquisition of land, whereafter they learnt through memo No.252 dated 31.12.2014 that the said



lands had been acquired and process for award/compensation is under process. The petitioners also learnt that the respondents were determining the amount of compensation according to market rate of the land obtained as on 2007 and not according to the provisions of the L.A. Act, 2013. It has been stated in paragraph 10 of the writ application that ‘..... the rate fixed by the respondent authorities is not in consonance with the L.A. Act, 2013, and, therefore, the determination of amount of compensation is illegal’. It has also been stated that since the possession of land had not been taken for seven years since issuance of notification under Section 4(1) of the L.A. Act, 1894, invocation of urgency clause itself was illegal. It has further been stated that possession of their land has yet not been taken by the respondent authorities. With these averments, the writ application has been filed on behalf of 101 petitioners seeking following reliefs :-

“i. For issuance of order, direction or writ of Mandamus or any other appropriate writ for directing the respondents to produce the Notification issued under section 17(4) of the Land Acquisition Act, 1894 whereby and where under the respondent authorities have acquired the land situated at Village-Narayanpur, Chadar No. 1, Pargana-Maldah, Thana No. 62, District-Sheikhpura for construction of Daniyawan-Barbigha-Sheikhpura Railway Line by invoking the urgency clause and further for quashing the aforesaid notification on production of the same.



ii. For issuance of order, direction or any appropriate writ for declaring the entire process of acquisition of the aforesaid land in pursuance of the Notification dated 05.07.07 issued under section 4(1) of the land Acquisition Act, 1894 as null and void in view of the fact that the urgency clause under section 17(4) has been wrongly invoked by the respondent authorities.

iii. For issuance of order, direction or writ of Mandamus or any other appropriate writ for directing the respondents to issue fresh notification for acquisition of the aforesaid land in pursuance of The Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013.

iv. For any other orders or direction which your Lordship may deem fit in the interest of equity, justice and good conscience.”

9. This writ application was filed on 13.03.2015 with the assertions, as noted above, seeking the aforementioned relief. It transpires that an interlocutory application for stay of acquisition proceeding and construction over the lands in question was filed. By order, dated 25.05.2016, this Court, while declining to grant any interim relief, had directed the matter to be listed after summer vacation. Aggrieved by refusal to grant any interim relief by the learned single Judge, the petitioners had filed an appeal under Letters Patent of this Court, giving rise to L.P.A. No. 1270 of 2016. During the summer vacation, when the Letters Patent



Appeal was placed before a learned single Judge, an interim protection was granted by order, dated 30.05.2016, directing the parties to maintain *status quo*, till final decision in the writ application. L.P.A. No. 1270 of 2016 was directed to be placed after summer vacation and was finally taken up on 10.11.2016. A Division Bench of this Court disposed of the Letters Patent Appeal by order, dated 10.11.2016, whereby, while confirming the interim order, dated 30.05.2016, the Division Bench directed that the parties shall maintain *status quo* during the pendency of the present writ application.

10. An application has been filed, registered as I.A. No. 9148 of 2018, on 04.12.2018, on behalf of respondents No. 1 to 5 for early hearing of the writ application and for vacating the interim order of *status-quo* passed in L.P.A. No. 1270 of 2016 on 10.11.2016.

11. I could not have considered the prayer on behalf of the respondents for vacating the interim order directing the parties to maintain *status-quo*, the same having been passed by a Division Bench in a Letters Patent Appeal. However, keeping in mind the urgency, in public interest and in the interest of justice, I have proceeded to dispose of the writ application itself on merits.



12. This is to be noted that the petitioners have filed I.A. No. 8973 of 2016 seeking amendment in the writ application by adding following reliefs in paragraph 1 :

“i. For issuance of order, direction or an appropriate writ declaring that the entire land acquisition proceedings instituted through the Preliminary notification dated 05.07.07 issued under section 4(1) of the 1894 Act has lapsed in view of section 11 A of the aforesaid Act which provides that the Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse.

And/ or Alternatively:

ii. For issuance of order, direction or an appropriate writ for directing the respondent authorities to determine the compensation in terms of the provisions contained in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 in view of section 24 (1) of the aforesaid Act which provides that where no award under section 11 has been made in respect of land acquisition proceedings initiated under the 1894 Act, then the provisions of this Act relating to the determination of compensation shall apply.

iii. The petitioners also pray for deleting the words ‘section 17(4) of the Land Acquisition Act, 1894’ from the relief claimed in Para No. 1(i) of the main writ application and accordingly pray for production and quashing of the final notification issued under the Land Acquisition Act, 1894. The aforesaid amendment is prayed due to the fact that final notification of



acquisition of land is not issued under section 17(4) of the Act but was mentioned so inadvertently.”

13. In the said interlocutory application, it has been stated that the petitioners have received notice on 31.05.2016, purportedly issued under Section 12(2) of the L.A. Act, 1894, informing them that award under Section 11 of the L.A. Act, 1894 was prepared by the Collector on 31.11.2015. It is the case of the petitioners that the said award has been prepared unilaterally without hearing the petitioners and the notice has been issued on 31.05.2016, a day after the order, dated 30.05.2016, was passed by this Court in L.P.A. No. 1270 of 2016 asking the parties to maintain *status-quo*. From the said interlocutory application, it appears that it is the petitioners' case that application of Section 11-A of the L.A. Act, 1894, is not ousted even if the State exercises its power under Section 17 of the L.A. Act, 1894 for acquiring lands in emergency.

14. It is the case of the petitioners that as the notification under Section 4 was issued as early as on 05.07.2007 and the award was prepared on 31.11.2015, the entire acquisition proceeding stood lapsed by operation of Section 11-A, which mandates so, in case the award is not prepared within two years from the date of publication of declaration. At the same time, it has been asserted in the said interlocutory application that since no



award was made under Section 11 of the L.A. Act, 1894, provisions of the L.A. Act, 2013, which came into force with effect from 01.01.2014, shall apply for determination of amount of compensation.

15. Considering the nature of amendment sought in the relief portion of the writ application, as has been noted above, I.A. No. 8973 of 2016 stands allowed. The relief, which the petitioners are seeking by way of amendment shall thus form part of the relief in the writ application.

16. The petitioners have also sought for deleting the words 'Section 17(4) of the L.A. Act, 1894' from the relief portion, which appears to have been inadvertently mentioned. The said words in the first paragraph of the writ application shall be treated to have been deleted, accordingly.

17. As is evident from the pleadings in the writ application and I.A. No. 8973 of 2016, though various issues have been raised, in view of alternative prayer, which the petitioners have made by seeking direction to the respondents to determine the amount of compensation in terms of the provisions contained in L.A. Act, 2013, in the light of discussions during the Court proceedings, I am inclined to consider the said aspect since other aspects appear to have become academic.



18. In the counter affidavit filed on behalf of the State respondents on 07.12.2015, it has been stated that notices were issued to the petitioners on 13.03.2008 inviting objections by 24.04.2008, but no objection was filed by anyone of them. It has also been stated that after no response was received to the notice dated 13.03.2008, the Collector proceeded to determine the amount of compensation. The plea that the amount of compensation is being determined according to the market rate of the lands as on 2007 and not according to the L.A. Act, 2013 has been denied and it has been stated that the rate has been fixed according to law. In supplementary counter affidavit, it has been averred that the District Land Acquisition Officer, Sheikhpura, has given the possession of the entire acquired area of 44.275 acres to the railway authorities on 17.08.2012 and a certificate of possession of land, made over to the railway authorities, has accordingly been issued. This statement has been made to counter the claim of the petitioners that possession of lands has so far not been taken.

19. Counter affidavit and supplementary counter affidavits have also been filed on behalf of the Railway. It has been stated in one of the supplementary counter affidavits, filed on behalf of respondents No. 6 and 7 (Railway), that total length of the project from Daniyawan to Sheikhpura is approximately 81.2



kms, out of which the project from Daniyawar to Biharsharif (approximately 38.3 Kms) has already been commissioned and the trains are running on the tracks from 25.07.2015. It has further been stated that balance portion of Biharsharif to Barbiga (20 kms approximately) is to be completed by the construction department of E.C. Railway and that earth work and minor bridges of approximately 12 kms stretch out of 26 kms has already been completed. Balance portion of the project, i.e. Sheikhpura to Barbiga (approximately 16.9 km) is to be completed by Rail Vikas Nigam Limited (RVNL) in terms of the memorandum of understanding between Railway and RVNL. It has further been stated that crossing station of Barbiga has already been planned to be constructed in land of Narayanpur Chadar-I. It has also been stated that the Railway has deposited sufficient amount in the account of the State Government/District Land Acquisition Officer, Sheikhpura, from time to time against demand and has blamed the State Government authorities for not paying the amount of compensation to some of the land owners, despite sufficient fund made available by the Railway. It has also been stated that because of late declaration of award for the mauza in question, Railway has to pay to the State Government huge sum of money by way of interest against compensation to the land owners.



20. In one of the pleadings on record, which has been described as reply of the State Government to the rejoinder filed by the petitioners, it has been stated that the multiplier factor for calculation of the compensation, under Section 26 of L.A. Act, 2013, informed by the Government's that Resolution, dated 20.05.2014, has been applied and accordingly upon calculation for payment of compensation for rural and urban areas, award has been prepared and several persons have been paid the award accordingly.

21. Yet another supplementary affidavit has been filed on behalf of the petitioners on 28.03.2019. In the said supplementary affidavit, it has been stated that determination of the amount of compensation payable to these petitioners, consequent upon acquisition of land, is based on market value of the lands of the writ petitioners obtaining at the time of issuance of preliminary notification under the L.A. Act, 1894, which is apparent from the letter, dated 04.05.2013, issued by the District Land Acquisition Officer, Shiekhpora. It is accordingly the case of the petitioners that the compensation was in any case required to be determined in accordance with the provisions of the L.A. Act, 2013, and that the date of determination of market value shall be essentially 01.01.2014, when the L.A. Act, 2013 has come into



force and consideration of any date anterior to the said date would be violative of Section 24(1)(a) of the L.A. Act, 2013.

22. It is accordingly the specific case of the petitioners that date of determination of market value ought to have been 01.01.2014. Along with the said supplementary affidavit, a letter dated 26.10.2015 has been brought on record, which has been issued by the Department of Land Resources, Ministry of Rural Development, Government of India, in response to certain issues raised by the Government of Maharashtra in relation to calculation of market value under Section 24(1)(a) in response to a question as to whether the reference date should be 01.01.2014 (commencement of the L.A. Act, 2013) or date of issuance of preliminary notification under the L.A. Act, 1894. In response to the said query, made by the Maharashtra Government, the Government of India has responded by saying that under Section 26 of the L.A. Act, 2013, the reference date is date of preliminary notification, but Section 24 is a special case for application of the Act in retrospective cases and a later date of determination of market value is suggested (i.e., 01.01.2014) with a view to ensure that the land owners/farmers/affected families get enhanced compensation under the provisions of the L.A. Act, 2013. It is the petitioners' case that the said communication, dated 26.10.2015, is in the nature of direction under Section 113 of the L.A. Act, 2013



and, therefore, 01.01.2014 will have to be treated as deemed date of notification for the purpose of determination of the amount of compensation in the cases covered by Section 24(1) of the L.A. Act, 2013.

23. Mr. Kumar Kaushik, learned counsel appearing on behalf of the petitioners, has placed heavy reliance on Supreme Court decision, in the case of *Laxmi Devi vs. The State of Bihar*, reported in **(2015) 10 SCC 241**, to submit that in view of the admitted fact that 80% of compensation, as envisaged under sub-Section 3-A(a) of Section 17 of the L.A. Act, 1894, was, admittedly, not paid to these petitioners, possession cannot be said to have been taken by the Collector invoking urgency clause under Section 17 of the L.A. Act, 1894. It is accordingly his case that by operation of Section 11-A of L.A. Act, 1894, the proceeding is to be treated to have lapsed.

24. Reliance has also been placed by him on another Supreme Court decision in case of *Nahar Singh vs. State of U.P.*, reported in **(1996) 1 SCC 434**, and *Satyendra Prasad Jain and Others vs. State of U.P. and Others*, reported in **(1993) 4 SCC 369**. He has also argued that in the absence of valid proof of acquisition of possession by the respondents over the land in question, it cannot be said that the land vested in the State absolutely free from all encumbrances as stipulated under Section



17 of the L.A. Act, 1894. In support of his submission, he has relied on Supreme Court's decision in case of ***Banda Development Corporation, Banda vs. Moti Lal Agarwal***, reported in **(2011) 5 SCC 394**. He contends that unless even a symbolic possession has been taken, after depositing 80% of the total compensation, possession of the acquired land cannot be presumed. Relying on yet another decision, in case of ***Laxman Pandya vs. State of U.P.***, reported in **(2011) 14 SCC 94**, he has submitted that even if possession is assumed, since it was beyond the period of two years, as prescribed under Section 11-A of the L.A. Act, 1894, the land cannot be said to have vested in the State Government. He contends, relying on Supreme Court's decision, in case of ***Laxman Pandya*** (supra), that if neither possession is taken within two years nor the award is published within the same period, Section 11-A would apply and in that circumstance, land cannot be held to have been vested in the State Government.

25. Referring to his alternative relief in relation to payment of compensation, treating 01.01.2014 as the deemed date of notification for the purpose of determination of compensation amount under Section 26 of the L.A. Act, 2013 read with Section 24(1) thereof, he has taken me to the communication, made by the Government of India dated 26.10.2015 (Annexure P-7B) of supplementary affidavit filed on behalf of the petitioners on



28.03.2019, and has submitted that it has the character of a direction issued under Section 113 of the L.A. Act, 2013, which confers upon the Central Government power to make such direction as may appear to it to be necessary or expedient for removal of any difficulty. In support of this plea, he has relied upon two Division Bench decisions of Allahabad High Court, one rendered, in the case of ***Jila Singh and Ors. vs. Union of India and Ors***, reported in **2018(3) ALJ 708**, and the other in case of ***Ishan International Educational Society vs. State of U.P. and Ors.*** reported in **2017(6) ALJ 68**. Referring to the said decisions, he has argued that the amount of compensation needs to be determined by taking market value of the land as on the date when the L.A. Act, 2013 came into force, i.e. 01.01.2014. He has also relied on Supreme Court's decision, in case of ***Hori Lal vs. State of Uttar Pradesh and Ors.***, reported in, **2019(2) SCALE479**, and another order of the Supreme Court dated 19.07.2017, whereby the Supreme Court dismissed the Special Leave Petition preferred against the Division Bench decision in case of ***Ishan International Educational Society*** (supra).

26. Mr. S.D.Sanjay, learned Additional Solicitor General, appearing on behalf of the Government of India/Railway, has made his submissions with reference to averments made in the counter affidavit to contend that as far as possession is concerned,



the same has already been taken. He has contended that Section 17(1) of the L.A. Act, 1894, stipulates deemed possession on expiration of 15 days from publication of notice under sub-Section (1) of Section 9 of the L.A. Act, 1894, whereupon the lands stand vested absolutely in the Government free from all encumbrances. He has contended that Section 11-A of the L.A. Act, 1894, will have no operation having consequence of lapse of the acquisition proceeding itself because possession under Section 17 is deemed. He has relied on Supreme Court's decision in case of ***Okhala Industrial Development Authority vs. Hari Kishan (dead) through Legal Representatives and Ors.***, reported in (2017) 3 SCC 588.

27. Arguments have also been made by Mr. Himanshu Kumar Akela, learned Assistant Counsel to AAG-2 appearing for the respondent State of Bihar, who has adopted the submission made by Mr. S.D. Sanjay, learned Additional Solicitor General .

28. Though extensive arguments have been made on various issues touching lapse of acquisition proceeding itself, in view of the alternative prayer made on behalf of the petitioners, as noted above, I intend to deal with the same since after having carefully examined the pleadings and materials on record and thoughtfully considered the arguments advanced on behalf of the parties, I find merit in the said plea.



29. I am, at the cost of repetition, quoting here again, the alternative relief, which the petitioners have sought :

“

And/ or Alternatively:

ii. For issuance of order, direction or an appropriate writ for directing the respondent authorities to determine the compensation in terms of the provisions contained in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 in view of section 24 (1) of the aforesaid Act which provides that where no award under section 11 has been made in respect of land acquisition proceedings initiated under the 1894 Act, then the provisions of this Act relating to the determination of compensation shall apply.”

30. Sub-section (1) of Section 24 of the L.A. Act, 2013, states that where no award, under Section 11 of the L.A. Act, 1894, has been made, then all provisions of the L.A. Act, 2013, shall apply relating to determination of compensation. Section 26 of the L.A. Act, 2013, deals with determination of market value of land by the Collector. Proviso to sub-Section (a) to Section 26 of the L.A. Act, 2013, states that the date of determination of market value shall be the date on which the notification has been issued under Section 11 of the L.A. Act, 2013. Section 26 of the L.A. Act, 2013, does not refer to a circumstance where the date of notification is not under Section 11 of the L.A. Act, 2013, rather it is a date prior to commencement of the L.A. Act, 2013 under



Section 4(1) of the L.A. Act, 1894. Let it be noted that Section 11(a) of the L.A. Act, 2013, is equivalent to Section 4(1) of the L.A. Act, 1894. Difficulty appears to have arisen because of the said silence under proviso to Section 26 read with Section 24(1) of the L.A. Act, 2013.

31. Section 113 of the L.A. Act, 2013, as has been noted above, confers upon the Central Government a power to remove difficulties. Since Section 113 has become significant in view of submission, which has been advanced on behalf of the petitioners, same is being reproduced hereinbelow :

“113. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Part, the Central Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such power shall be exercised after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.”

32. The letter, dated 26.10.2015, which, according to the petitioners, was issued by the Government of India by way of direction under Section 113 of the L.A. Act, 2013, is being reproduced hereinbelow :



हुकुम सिंह मीना, भा.प्र.से.
HUKUM SINGH MEENA, IAS
संयुक्त सचिव
JOINT SECRETARY



भारत सरकार
भूमि संसाधन विभाग
ग्रामीण विकास मंत्रालय
Government of India
Department of Land Resources
Ministry of Rural Development

D.O.No.13013/01/2014-LRD(Pt.)

Dated 26th October, 2015

Dear

Please refer to your letter No.R&FD/General-2014 CR-31/A4, dated the 11th September, 2014 regarding directions under section 113 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

2. The issues raised by you along with the views of this Department were sent to the Department of Legal Affairs, Ministry of Law & Justice for opinion in the matter. The issues raised by the Government of Maharashtra and the opinion of the Department, as concurred in by the Department of Legal Affairs, thereon are enumerated below:-

S.No.	Issues raised by the Government of Maharashtra	Opinion of the DoLR
1.	While determining the amount of compensation under Section 27 of the RFCTLARR Act, 2013 of Hon'ble Supreme Court's orders are followed or cost of assets have to be separately computed in addition to cost of land?	Under Section 26 of the RFCTLARR Act, 2013 <u>market value of land</u> is determined while under section 27, value of <u>all assets attached to the land</u> is added to the market value to determine the amount of compensation. Thus, it is not contradictory to the Supreme Court's orders quoted in the letter of Maharashtra Government.
2.	Under Section 24(1), the reference date for calculating 12% interest should be date of preliminary notification under Land Acquisition Act, 1894.	Under section 24(1), the reference date for calculating 12% interest should be date of preliminary notification under Land Acquisition Act, 1894. Department of Land Resources agrees to this, as there is no other reference date, that can be treated as equivalent to date of SIA notification under the RFCTLARR Act, 2013.
3.	For calculation of market value, under Section 24(1)(a), reference date should be 01.01.2014 (commencement of RFCTLARR Act, 2013) or date of issuing preliminary notification under Land Acquisition Act, 1894?	The reference date for calculation of market value, under Section 24(1) (a) should be 01.01.2014 (commencement of RFCTLARR Act, 2013), as

एन.बी.ओ. बिल्डिंग, निर्माण भवन, नई दिल्ली-110108 फोन : 23063462 फैक्स : 23062351
N.B.O. Building, Nirman Bhawan, New Delhi-110108 Ph.: 23063462 Fax: 23062351



- 2 -

		the Section reads "in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply. Under section 26 reference date is date of preliminary notification, but section 24 is a special case of application of the Act in retrospective cases, and a later date of determination of market value is suggested (i.e. 01.01.2014) with a view to ensure that the land owners/farmers/affected families get enhanced compensation under the provisions of the RFCTLARR Act, 2013 (as also recommended by Standing Committee in its 31 st report).
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Yours sincerely,

Sd/-
(Hukum Singh Meena)

Shri Manu Kumar Srivastava
Principal Secretary
Revenue & Forest Department,
Government of Maharashtra,
Mantralaya
Mumbai-400032

Copy to :-

All Principal Secretaries of States/UTs (except of States of Maharashtra & Govt. of Jammu & Kashmir) for information and necessary action.

AM
29/10/15

O/C

Hukum Singh Meena
(Hukum Singh Meena)
Joint Secretary (LR)
Tele.No.011-23063462

33. Item 3 of paragraph 2 of the above mentioned letter dated 26.10.2015 assumes significance which refers to the controversy in question. There is no ambiguity in the letter dated 26.10.2015, wherein it has been recorded that the reference date



for calculation of market value under Section 24(1)(a) of the L.A. Act, 2013, should be 01.01.2014, which is the date of commencement of the L.A. Act, 2013. It refers to Section 26 of the L.A. Act, 2013, in which reference date is the date of preliminary notification and Section 24 of the L.A. Act, 2013, being special case of application of the Act in retrospective cases, according to the Government of India, a later date of determination of market value is suggestible, i.e. 01.01.2014, with a view to ensure that the land owners/farmers/affected families get enhanced compensation under the provisions of the L.A. Act, 2013.

34. The effect of issuance of the said letter, dated 26.10.2015, had fallen for consideration before the Allahabad High Court in case of *Ishan International Educational Society* (supra). The Division Bench of the Allahabad High Court held, in its decision, that in the light of the directions issued by the Central Government under Section 113 of the L.A. Act, 2013, it would be reasonable to determine the market value of the land as on 01.01.2014. This is also noticeable that against the Division Bench decision, in case of *Ishan International Educational Society* (supra), an appeal was preferred by the Ghaziabad Development Authority, giving rise to Special Leave to Appeal (Civil) No. 17660 of 2017, which came to be dismissed by an order dated 19.07.2017 with the following order :



“We do not find any legal and valid ground for interference. The Special Leave Petition is accordingly dismissed.”

35. There was yet another occasion for the Allahabad High Court to deal with the same issue in case of *Jila Singh and Others* (supra). The Division Bench of Allahabad High Court, in case of *Jila Singh and Others* (supra), has reiterated the view taken, in case of *Ishan International Educational Society* (supra), was reiterated.

36. The Supreme Court. in another matter arising out of Allahabad High Court, in case of *Hori Lal* (supra), decided on 05.02.2019 [Civil Appeal No. 1462 of 2919 (arising out of S.L.P. (C) No.14820 of 2017)], had an occasion to consider the date with reference to which market value of land in question for the purpose of determination of amount of compensation is to be taken into account. The following paragraphs of the decision in the case of *Hori Lal* (supra) are relevant, which are being reproduced hereinbelow :

“18. As mentioned above, the High Court held that in the light of the stand taken by the State contending in their counter that the appropriate date for determining the market value of the Appellant's acquired land would be the date, which is declared by the Central Government, i.e., "01.01.2014" and, therefore, the State would determine the compensation



payable to the Appellant accordingly. This order is not under challenge in these proceedings.

19. Indeed, once the State took a defense in this case that the compensation in the case of the Appellant would be determined keeping in view 01.01.2014 to be the date as the basis, the Appellant should feel satisfied with this stand. The apparent reason is that though the acquisition was made under the old Act in 2002 yet the Appellant was held entitled to get compensation under the New Act, 2013 by taking 01.01.2014 as the base date for determination of the compensation.

20. We, therefore, find no good ground to accept the submission of the learned Counsel for the Appellant when he contended that the date for determining the compensation should be the date on which the Land Acquisition Officer passed the award. This argument does not have any basis and is, therefore, not acceptable for the simple reason that such date is not provided either in the old Act, 1894 or in the Act, 2013.”

37. A question was raised on behalf of the respondents that any order or direction issued by the Central Government in exercise of power to remove the difficulties under Section 133 of the L.A. Act, 2013, must be laid before each House of the Parliament as contemplated under sub-Section (2) thereof. It has been attempted to be argued that since the order/direction, dated 26.10.2015, was, admittedly, not laid before either House of the Parliament, the same cannot have statutory force of binding nature. In response to the said submission, Mr. Kaushik has argued that



only orders passed under Section 113 of the L.A. Act, 2013, are required to be laid before the Parliament and since the said communication, dated 26.10.2015, is in the nature of direction, the same need not be laid as sub-Section (2) of Section 113 of the L.A. Act, 2013, refers to orders only and not directions. He has relied on Supreme Court's decision, in case of *Atlas Cycle Industries Limited and Others vs. State of Haryana*, reported in (1979) 2 SCC 196, and, in case of *Quarry Owners' Association vs. State of Bihar and Others*, reported in (2000) 8 SCC 655, to contend that since the requirement is of simple laying before the Parliament, without any adverse consequence in the event of default, the same cannot be considered as inoperative and invalid only because it was not laid before the Parliament.

38. In the light of Supreme Court's decision, in case of *Hori Lal* (supra), and dismissal of Special Leave Petition, in case of *Ishan International Educational Society* (supra), whereby the decision of Allahabad High Court to treat the date of notification as the date of commencement of the Act, i.e. 01.01.2014, effect of non-compliance of the requirement under sub-Section (2) of Section 113 of the L.A. Act, 2013, for the purpose of present adjudication, is not of much consequence for the present adjudication, in my view. However, I must notice the Supreme Court's decision, in case of *Atlas Cycle Industries Limited and*



Others (supra), wherein it has been held that in case any order or notification is required to be simply laid before the Parliament without any adverse consequence in the event of default, such provision will have to be held to be directory in nature and non-placing of the order before the Parliament would not render the order itself invalid.

39. In all fairness, I should record the submission made by Mr. Kaushik that sub-Section (2) of Section 113 of the L.A. Act 2013, requires only orders to be placed before the Parliament and communication, dated 26.10.2015, being in the nature of direction, the same is not required to be placed in the Parliament, which aspect has been dealt with by the Division Bench of Allahabad High Court, in case of *Ishan International Educational Society* (supra), which has been upheld by a three-Judge Bench of the Supreme Court in the order dated 19.07.2017, in case of *Ghaziabad Development Authority Vs. Ishan International Educational Society and Ors.* (supra). In the said order dated 19.07.2017, the Supreme Court did not find any 'legal and valid ground for interference'. This Court is, therefore, required to follow what has been laid down by a Division Bench of Allahabad High Court in case of *Ishan International Educational Society* (supra). Mr. Kaushik is correct in his submission that the requirement of laying before the Parliament of an order under



Section 113(2) of the L.A. Act, 2013, is directory in nature since the requirement is of simply laying before the Parliament. Such order cannot be said to be under the purview of modification by the Parliament and requirement for laying before the Parliament is for the simple purpose of ensuring accountability of the executive Government to the Legislature. “Where any document, rule or notification requires placement before any House or when placed, the said House, subject to its procedure, gets the right to discuss the same, they may put questions to the Ministry concerned”, the Supreme Court has remarked in case of *Quarry Owners’ Association* (supra) (Paragraph 48). For the said limited purpose, an order is to be placed before the Parliament as contemplated under sub-Section (2) of Section 113 of the L.A. Act, 2013.

40. I have, thus, no hesitation in concluding, in view of the aforesaid discussions that: -

(i) in a case where the land acquisition proceedings had commenced under the provisions of L.A. Act, 1894, but award was not made prior to 01.01.2014, under Section 11 of the said Act, all provisions of the L.A. Act, 2013 shall apply for determination of the amount of compensation and the date of determination of market value of the land should be treated as 01.01.2014 in the light of the decision of the Central Government as contained in letter/communication dated 26.10.2015 (supra).



(ii) requirement of laying any order before the Parliament under sub-Section (2) of Section 113 of the L.A. Act, 2013, is directory in nature for default of which the order passed under Section 113 of the L.A. Act, 2013, cannot be said to be inoperative or invalid.

41. Be it noted that a plea was raised at the very outset on the point of maintainability of the present writ application on the ground that the petitioners had alternative statutory remedy under Section 64 of the L.A. Act, 2013. In the background of the issues, which involved interpretation of statutory provisions, I decided to answer the said legal issue first before relegating the petitioners to avail their statutory remedy under Section 64 of the L.A. Act, 2013. Section 64 of the L.A. Act, 2013, contemplates that if any person interested has not accepted the award, may, by written application to the Collector, require the matter to be referred by the Collector for determination of the authority, *inter alia*, his objection in respect of amount of compensation. The Collector is thereafter required to refer the matter to the appropriate authority within the meaning of Section 51 of the L.A. Act, 2013, within a period of 30 days from the date of receipt of the application. There is requirement under Clause (b) of sub-Section (2) of Section 64 of the L.A. Act, 2013, that every application under Section 64(1) of the L.A. Act, 2013, shall state



grounds, on which objection to the award is taken, within the period prescribed. Proviso to sub-Section (2) of Section 64 of the L.A. Act, 2013, empowers the Collector to entertain an application after expiry of the period within a further period of one year, if he is satisfied that there was sufficient cause for not filing within the period prescribed in the first proviso.

42. In the present case, award has been prepared during the pendency of this writ application and there has been an order of *status-quo* to be maintained by the parties.

43. In view of the discussion as above, the alternative prayer of the petitioners is allowed. They are accordingly held to be entitled for determination of award by treating 01.01.2014 as the date of notification under Section 11 of the L.A. Act, 2013, and the market value of the land acquired as on 01.01.2014 shall be accordingly the basis for computation of the amount of compensation.

44. It is directed that if the petitioners approach the authority under Section 64 of the L.A. Act, 2013, within six weeks from today for determination of the amount of compensation under Section 64 of the L.A. Act, 2013, no question of delay in approaching the Collector under Section 64 of the L.A. Act, 2013, should be raised in entertaining their applications. They will be



entitled to determination of amount of compensation accordingly in terms of the present judgment and order.

45. This application is accordingly allowed, but without any cost.

46. All Interlocutory Applications stand disposed of.

47. Interim order stands vacated.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	12.04.2019
Transmission Date	N/A

