

Karnataka High Court Poornaprajna House Building . . . vs Bailamma @ Dodda Bailamma And . . . on 12 February, 1998 Equivalent citations: ILR 1998 KAR 1441, 1998 (3) KarLJ 304 Author: A Bhan Bench: R Sethi, A Bhan, A Farooq JUDGMENT Ashok Bhan, J. 1. An important question in regard to the interpretation of Section 11A of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') read with proviso to Section 11 of the Act arises for consideration in these cases. The question involved is as to whether an award under Section 11 of the Act can be made within two years of declaration under Section 6 with the previous approval of the Government as provided under Section 11A or is it enough if the approval is granted by the Government within two years of the declaration under Section 6 of the award passed by the Collector under Section 11. 2. A Division Bench of this Court in W.P. No.4244 of 1989 and other connected cases has taken the view that Section 11A will be satisfied if approval is granted by the Government within the time specified therein on an award made by the Collector. The Division Bench which has referred the present case to the larger Bench felt that on the wording of the first proviso to Section 11 an award could be made by the Collector only after obtaining previous approval of the Government or the authorised officer and the previous award even if made by the Collector can only be treated as tentative or proposed award. Prima facie the Bench did not find itself in agreement with the view expressed by the earlier Division Bench in W.P. No. 4244 of 1989 and therefore referred the writ appeals for hearing by the Full Bench under Section 7 of the Karnataka High Court Act. 3. To appreciate the contentions advanced by the Counsel for the parties the relevant facts are: Notification dated 11-8-1987 issued under Section 4(1) of the Act seeking to acquire certain parts of land for a public purpose was published in the Official Gazette on 13th August, 1987. Objections were invited by the Land Acquisition Collector and finding no substance in them made a recommendation for acquisition of land. Declaration under Section 6 of the Act dated 30th of June, 1988 was published in the Official Gazette on 21st July, 1988. Last date of publication of the notification under Section 6 was 5th November, 1988. After issuing notices to the parties the Special Land Acquisition Officer made an award on 13th March, 1990. He sent the award signed by him on the same day for approval to the Government. Government accorded its approval to the proposed award sent by the Land Acquisition Collector on 16th of November, 1992. 4. Poornaprajna House Building Society apprehending that there may be some delay in granting approval filed Writ Petition No. 13310 of 1990 for a writ of mandamus to grant approval and in that writ petition there was an order of stay of declaration with the result no approval was granted by the Government. It was one of the steps to be taken under the scheme of the Land Acquisition Act for completing the acquisition proceedings. Interim orders passed on various dates in the said writ petition were to this effect.- Order passed on 29-6-1990. "Operation of the declaration dated 30-6-1988 issued by the respondent 1 in No. RD 182 AQB 84 (Annexure-A to the W.P.) be and the same is hereby stayed for a period of two weeks from 29-6-1990". Order passed on 10-7-1990. "That the interim order granted by this Court on 29-6-1990 in the above case be and the same is hereby continued until further orders from this Court". Order passed

on 7-2-1991. “Interim order of stay granted by this Court on 29-6-1990 and continued by order dated 10-7-1990 shall not prevent the Government in giving approval to the draft award which is said to be pending considerations before the Government”. 5. The said writ petition was withdrawn on 18th of November, 1992 and was disposed of by passing the following order: “Counsel for the petitioners seeks permission to withdraw the petition. Permission granted. Petition is dismissed as withdrawn”. 6. There is nothing to indicate on the record that Land Acquisition Officer made or signed any award subsequent to the approval of the Government dated 16th November, 1992. Some of the land owners or the subsequent vendees filed writ petitions challenging the Land Acquisition proceedings on the plea that the Land Acquisition Collector did not make the award within two years from the date of declaration under Section 6 of the Act and as such the entire acquisition proceedings stood lapsed. As against this it was argued by the Society, i.e., the appellant in whose favour the acquisition proceedings had been initiated that the report dated 13th March, 1990 sent by the Deputy Commissioner to the Government for approval has to be treated as an award since the same had been signed by the Deputy Commissioner. It was contended that as per the law laid down by the Supreme Court in *Kaliyappan v State of Kerala and Others*, ‘to make an award’ means signing of the award and as such the report sent by the Deputy Commissioner is nothing but an award in true legal sense and the same is well within two years from the date of declaration. It was also argued that what is sent for approval to the Government is nothing but the award and the Deputy Commissioner having already made the award the award in conformity with the legal requirements as envisaged under Section 11 of the Act, the same was a legal award for all intents and purposes. Any subsequent approval or non-approval of the same would amount to confirmation or modification of the award. It was contended, that having in view the object of introduction of Section 11A in the Act, making of an award signed by the Deputy Commissioner at the first instance and the scheme of the Act does not contemplate the signing of the award after the same is approved. Reliance was placed on behalf of the appellant on the observation of the Supreme Court in *Kaliyappan’s* case, that ‘to make an award in this connection’ means signing the award. 7. Submissions made on behalf of the appellant did not find favour with the learned Single Judge. Rejecting the contentions made by the appellants it was held that the Collector did not make the award within the meaning of Section 11A within two years of the final publication. Notification issued under Sections 4 and 6 for the land of the writ petitioners was quashed. 8. As indicated above, noticing the difference of opinion with the earlier view expressed by this Court and keeping in view the importance of the question involved, the matter has been referred to the Full Bench for decision. 9. This order shall dispose of Writ Appeal No. 2079 of 1993, W.A. Nos. 2080 and 2081 of 1993 and W.A. Nos. 2090 to 2094 of 1993. W.A. No. 2079 of 1993 and W.A. Nos. 2080 and 2081 of 1993 arise out of the writ petitions filed by the landowners. The appeals have been filed by the Society for whose benefit the lands were notified for acquisition. W.A. Nos. 2090 to 2094 of 1993 arise out of the writ petitions filed by the vendees who purchased the land after the publication of the notifications

under Section 4 of the Act. 10. In order to decide the interesting question of interpretation for the purpose of computing the period of two years in the context of Section 11A of the Land Acquisition Act 1894, (Central Act, as amended by the Land Acquisition (Amendment) Act 1984) in the context of lapse of the proceedings in case the award is not made within two years a few provisions and their legislative history may be noticed. Land Acquisition Act, 1894 got amended by Act No. 68 of 1984. The Amending Act received the assent of the President of India on 24th September, 1984. Earlier to the Amendment Act of 1984, Section 11 of the Act as amended by Karnataka No. 17 of 1961, read as follows: “Enquiry and award by Deputy Commissioner. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Deputy Commissioner shall proceed to enquiry into the objections (if any) which any person interested has stated pursuant to a notice given under Section 9 to the measurements made under Section 8, and into the value of the land at the date of the publication of the notification under Section 4, sub-section (1), and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of.- (i) the true area of the land; (ii) the compensation which his opinion should be allowed for the land; and (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, of whose claims, he has information, whether or not they have respectively appeared before him: Provided that no such award shall be made by the Deputy Commissioner, without the previous approval of the State Government or such officer as the State Government may appoint in this behalf who in the case of an award made by an officer below the rank of the Deputy Commissioner of a district, may be the Deputy Commissioner of the District”. 11. By virtue of Land Acquisition (Amendment) Act, 1984, Section 11 of Central Act was amended. New Section 11A was also inserted. After the amendment new Section 11A which was inserted reads as follows: “Enquiry and award by Collector.- On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquiry into the objections (if any) which any person interested has stated pursuant to a notice given under Section 9 of the measurements made under Section 8, and into the value of the land at the date of the publication of the notification under Section 4, sub-section (1), and into the respective interests of the persons claiming the compensation and shall make an award under his hand of.- (i) the true area of the land; (ii) the compensation which in his opinion should be allowed for the land; and (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him: Provided that no award shall be made by the Collector under this sub-section without the previous approval of the appropriate Government of such officer as the appropriate Government may authorise in this behalf: (as amended by Act No. 68 of 1984, Section 8). Section 11A reads as under.-”Period within which an award shall be made.- 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: Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement. Explanation.—In computing the period of two years referred to in this Section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded“.

12. According to the Counsel for the appellant the public notices of Section 6 was published on 5-11-1988. Therefore the last date for making the award was 5-11-1990. Land Acquisition Collector sent the award on 13th March, 1990 for approval of the Government. Approval was accorded by the Government on 16th November, 1990. Between 9th June, 1990 to 18th November, 1992 the stay granted by this Court was in operation. According to the appellant, for the purpose of Section 11A of the Land Acquisition Act date of award is 13th March, 1990, though it was subject to the approval of the Government. Government's approval was within two years after deducting the period during which the stay was in operation. If the Land Acquisition Officer has signed the award before sending it for approval to the Government and if the Government approves the award, there is no necessity to the Land Acquisition Officer to sign the award again. Counsel for the appellant stressed upon the argument that where the award is approved by the Government within two years after excluding the time during which the stay granted by this Court was in operation, it would relate back to the date on which the award was made by the Land Acquisition Collector because the Government is not making any fresh award. As against this the Counsel for the respondents argued that there has to be a prior approval of the Government before making an award. Any award made contrary to the express provisions of the Act without prior approval of the Government is no award in the eyes of law. As in this case no award was made by the Collector after the approval given by the Government to the earlier proposed award of the Collector would mean that Land Acquisition Collector has failed to make the award within the stipulated period resulting in the lapse of the entire acquisition proceedings.

13. It is a well established principle of law that eminent domain is an essential attribute of sovereignty of every State and authorities are universal in support of the definition of eminent domain as the power of the sovereign to take property for public use without the owner's consent upon making just compensation.

14. Land Acquisition Act has been enacted in exercise of the sovereign powers of the State, to take the property for public use without the owners consent on payment of just compensation.

15. Under Section 3-A for the purpose of enabling the State Government or the Commissioner to determine whether land in any locality is needed or is likely to be needed for any public purpose, it shall be lawful for any officer either generally or specially authorised by the State Government in this behalf or as the case may be, any officer authorised by the Commissioner and for his servants and workmen.- (i) to enter upon and survey and take levels of any land in such locality; (ii) to mark such levels; (iii) to do all other acts necessary to ascertain whether the land is adapted for such purpose; and (iv) where otherwise the survey cannot be completed and the levels taken, to cut down and

clear away any part of any standing crop, fence or jungle: 16. The official can enter upon the land for the purpose of survey only after informing in writing the occupier of land of his intention to do so at least 7 days prior to entering upon the land. In case any damage is caused the officer has been authorised to make good the damage. 17. Under Section 4 whenever it appears to the appropriate Government that land in any locality is needed or likely to be needed for public purpose a notification to that effect shall be published in the Official Gazette and in two daily newspapers having circulation in that locality of which at least one shall be in the regional language. The collector is also enjoined upon to cause public notice of the substance of such notices at convenient places in the said locality. It has been clarified that last of the dates of such publication giving public notice would be taken as the date of publication of the notifications. Thereafter the officers specially authorised by the Government in this behalf or its servants or workmen can enter upon the land and survey and take levels of any such locality. 18. Under Section 5, the officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done while entering upon the land for the purpose of survey and in case of dispute as to the sufficiency of the amount paid, he shall at once refer the dispute to the decision of the Collector or other Chief Revenue Officer of the district, and such decision shall be final. Any person interested in the land notified under Section 4(1) as being needed for a public purpose is required to file objections under Section 5A within 30 days from the date of publication of the notification objecting to the acquisition of the land. Objections have to be made to the collector in writing and the Collector is required to give the objector an opportunity of being heard in person or by any person authorised by him in this behalf. After hearing objections and after making such enquiries, if any, as he thinks necessary, either make a report in respect of the land which has been notified under Section 4(1) or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections together with the record of the proceedings held by him for the decision of the Government. The decision of the Government on the objections shall be final. Any person entitled to claim an interest in compensation if the land were acquired, is deemed to be interested in the land. 19. Under Section 6 subject to the provisions of Part VII of the Act, when the appropriate Government is satisfied, after considering the report, made under Section 5A by the collector; that any particular land is needed for public purpose, or for a company, a declaration shall be made to that effect under the signature of a secretary of such Government or of some officer duly authorised to certify its order. Different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under Section 4(1) irrespective of whether one report or different reports has or have been made under sub-section (2) of Section 5A. No declaration in respect of any particular land covered by a notification under Section 4(1) shall be published, (i) after the commencement of the Land Acquisition (Amendment and Validation) Ordinance 1967, but before the commencement of the Land Acquisition (Amendment) Act, 1984, after the expiry of three years from the date of the publication of the notification; or (ii)

published after the commencement of the Land Acquisition (Amendment) Act, 1984, after the expiry of one year from the date of publication of the notification. By way of explanation it has been added that in computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under Section 4(1) is stayed by an order shall be excluded. Every declaration issued under Section 6 is to be published in the Official Gazette and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language. The collector is also required to cause public notice of the substance of such declaration at convenient places in the said locality. The last of the dates of such publication and giving of such public notice is to be taken as the date of publication of the declaration. Such a declaration is to be taken as conclusive regarding the fact that the land is needed for public purpose or for a company, as the case may be and after making such declaration Government may acquire the land in the manner prescribed. 20. Under Section 7 after the last publication of the declaration under Section 6 declaring that the land is needed for a public purpose the Collector or some Officer authorised by the appropriate Government in this behalf shall direct the collector to take order for the acquisition of the land. 21. Section 8 provides, that the Collector shall then cause the land to be marked out, unless it has already been marked. He shall also cause it to be measured and if no plan has been made thereof, a plan to be made of the same. 22. Thereafter under Section 9, the Collector shall cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land and that claims to compensation for all interests in such land may be made. Such notices shall state the particulars of the land so needed and shall require all persons interested in land to appear personally or by agents before the Collector at a time and place mentioned therein. Such a notice cannot be earlier than 15 days after the date of publication of the notice, asking the claimants to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under Section 8. The collector may in any case require any such statement to be made in writing and signed by the party or his agent. The Collector is also required to serve notice to the same effect on the occupier if any, of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, or have agents authorised to receive on their behalf, within the revenue district in which the land is situate. This elaborate procedure has been provided to give notice to all persons interested in the land to claim compensation of the land. 23. Under Section 10, the Collector has been given the power to require and enforce the making of statements as to names and interests in the land or any part thereof. 24. Under Section 11, on the day so fixed or on any other day to which the inquiry has been adjourned, the Collector shall proceed to inquire into the objections (if any) which any person interested has stated pursuant to a notice given under Section 9 to the measurements made under Section 8, and into the value of the land (at the date of the publication of the notification under Section

4, sub-section (1) and into the respective interests of the persons claiming the compensation and shall make an award under his hand, of, (i) the true area of the land; (ii) the compensation which in his opinion should be allowed for the land; and (iii) the apportionment of the compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

25. By the amending Act of 1984, a proviso has been added to this Section providing that no award shall be made by the Collector without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf. It has further been provided that it shall be competent for the appropriate Government to direct that the Collector may make such award without such approval in such class of cases as the appropriate Government may specify in this behalf. It has further been provided that it shall be competent for the appropriate Government that the Collector shall make such award without such approval in such class of cases as the appropriate Government may specify in this behalf.

26. New Section 11A has been added providing therein 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. In case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement. By way of explanation it has been provided that in computing the two years referred to in this Section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.

27. In case the award is made within two years of the final publication then such award is taken to be final and conclusive evidence, as between the collector and the persons interested, whether they have respectively appeared before the collector or not, about true area and value of the land, and the apportionment of the compensation among the persons interested. The Collector is required to give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made. The award made by the Collector is an offer of compensation and the same is not binding on the interested person. If he is not satisfied with the amount of compensation or its apportionment, he can seek a reference under Section 18 of the Act to be made to the District Court of the concerned District for enhancement of the compensation or its apportionment. The award is binding on the Collector but the claimant is not bound by it. Under Section 16 the Collector has been authorised to take possession of the land regarding which the Collector has made an award under Section 11, and there upon the land shall vest in the Government absolutely free from all encumbrances.

28. The point which falls for consideration in these cases is as to whether the award has been made by the collector within two years of the final declaration under Section 6. From the facts enumerated it is to be found that the last publication under Section 6 of the Act was 5th November, 1988. The final award could be made by the Collector on or before 5th November, 1990. The Collector gave

his award under Section 11 on 13th March, 1990 and forwarded the same to the Government for its approval. Between 29th June, 1990 to 18th November, 1992 stay granted by this Court was in operation and therefore the period between 29th June, 1990 to 18th November, 1992 is liable to be excluded as provided under Section 11A calculating the period of two years. Government gave its approval on 16th November, 1992. In case the period between 29th June, 1990 to 18th November, 1992 is excluded then the award made by the Collector on 13th March, 1990 and approval granted by the Government on 16th November, 1992 would be within two years of the last publication of the declaration under Section 6 of the Act. Under similar circumstances, a Division Bench of this Court in *Ramachandrappa and Others v State of Karnataka and Others* held that in case the approval is granted by the Government of the award made by the collector within two years of the last publication of the declaration under Section 6, then the same would be a valid award. It was observed as under: The learned Counsel appearing for the petitioners have contended that the endorsement of the Special Land Acquisition Officer dated 19-1-1991 was not genuine and that there was no proof of the despatch of the approval of the award by the Government to the Land Acquisition Officer prior to 29-1-1991. This belated plea cannot be accepted at this stage. The said allegations made during the arguments are not based upon any pleadings. Official acts are presumed to have been regularly performed under Section 114, Illustration (e) of the Evidence Act. The presumption is however rebuttable. The rule of presumption in favour of Official Acts is based upon the maxim 'omnia praesumuntur rite esse acta' i.e., all acts are presumed to have been rightly and regularly done. The appellants have however not placed any document on record or pointed out to any circumstance upon the basis of which it could be held that the presumption was not available to the respondents. The respondents have placed on record copy of the letter of the Principal Secretary to the Government, Revenue Department, addressed to the Government Advocate, intimating him that file No. RD 74 AQB 90 was received in the Section on 28-1-1991 after approval from the then Revenue Minister. Since the acquisition proceedings were to vitiate on 29-1-1991 the letter dated 28-1-1991 conveying the approval of Government to the draft award was despatched with all the connected records to the office of the Special Land Acquisition Officer through a messenger on 28-11-1991 itself, and that the concerned despatch/register being more than 5 years old could not be traced. However, respondents have placed on record a photostat copy of the letter on 28-1-1991 conveying the approval of the Government which is shown to have been received by the Special Collector, Land Acquisition on 28-1-1991 itself. In the absence of any other record or incriminating circumstance we have come to the conclusion that the award in the instant case was made within the statutory period as provided under Section 11A of the Act. The vague, ambiguous and fishing observations made on behalf of the appellants cannot be made a basis to hold otherwise". 29. It is the statutory duty of the Land Acquisition Officer to make an award under the Land Acquisition Act. Under Section 11(1) of the Act, he has to give a decision regarding compensation payable, though his decision is only an offer made on behalf of the Government. Before the said



award becomes effective and operative, the approval of the Government is necessary. The approval of the Government can only be granted to an award made by the Land Acquisition Officer which is complete in all respects and must be signed by the Land Acquisition Officer so that the said award may receive the approval of the Government. Where the award is approved without any modification it would relate back to the date on which the award was made by the Land Acquisition Officer. Different considerations may arise where the award is not accepted in its entirety by the Government and the Government thinks it necessary to make certain modifications in the award. In such a case the Land Acquisition Officer has to make an award incorporating the modifications suggested by the Government. In case the award is made and the sanction is granted by the Government within two years of the final publication of the notification under Section 6 then the signing of the award by the Land Acquisition Officer after the approval granted by the Government may not be necessary. In such a case approval would only be a formality to be observed and cannot be construed as an independent action on the part of the Government in replacing the award made by the Land Acquisition Officer. The question in such a case would be not when the approval was granted, but whether the approval has in fact been granted. In the present case the Land Acquisition Officer had determined the compensation payable for the lands acquired and has made a decision within a period of two years. Approval was granted by the Government within two years after excluding the period during which the stay was in operation. The date of grant of approval, though is a necessary step in the scheme of the Land Acquisition Act, is immaterial so long as the award is signed by the Land Acquisition Officer within the period of two years and also approval granted by the Government within two years. 30. It is accordingly held that a valid award had been made by the Land Acquisition Officer, as approval was granted by the Government within two years of the last publication under Section 6 of the Act. 31. Learned Counsel for the appellant contended that the writ petitions deserve to be dismissed on the ground of delay and laches. It was argued that final publication was in the year 1988 and the writ petitions were filed in the year 1993. That cause for filing the writ petitions on the ground that there was lapse of acquisition proceedings arose immediately after 5-11-1990 and the writ petition having been filed in the year 1993 were liable to be dismissed on the ground of delay and laches. This point was not raised in the original petition but was raised only as an additional ground by making an application on 3-1-1993 when the arguments in the writ petitions were in progress. There is no force in this submission. Award under Section 11 was sent to the Government by the Land Acquisition Collector on 13th March, 1990 and between 29th June, 1990 to 18th November, 1992 stay granted by this Court in W.P. No. 13310 of 1990 was in operation. Approval was granted by the Government on 16-11-1992. Possession of the land was taken on 6-1-1993. Present writ petitions which were filed in the year 1993 under the circumstances cannot be held to be belated or liable to be dismissed on the ground of laches. 32. Mr. Subba Rao, learned Counsel appearing for the respondent-claimants in W.A. No. 2079 of 1993 relying upon N. Boman Behram (dead) by L.Rs and Another v State of Mysore and

Another, contended that Government being the ultimate authority to approve the award, no award could be made Without the previous approval of the State Government. In the present case the award had been made without getting the previous approval of the Government and therefore the same was not an award in the eyes of law. We find no merit in this contention. In this particular case their Lordships were considering Section 11 in a different context which is evident from the observations made in Paragraph 10 the judgment which reads as under: “The proviso states that no award shall be made without the previous approval of the State Government. An award made under Section 11 of the 1961 Act is an offer of compensation. The Deputy Commissioner makes an offer. The Deputy Commissioner is an agent of the Government. The Government is the ultimate authority to approve the award. Therefore, the proviso enjoins that no award shall be made without the previous approval of the State Government. It is wrong to suggest that any opinion of the Deputy Commissioner is being overreached by the State Government. The Deputy Commissioner is not acting in judicial or quasi-judicial capacity in making the award under Section 11 of the 1961 Act. The Deputy Commissioner acts in an administrative capacity as on agent of the State Government. The area of authority of the Deputy Commissioner is subject to approval by the State Government. The finality of the award under Section 11 of the 1961 Act rests with the State Government”. 33. Writ Appeal Nos. 2090 to 2094 of 1993 arising out of Writ Petition Nos. 480 to 484 of 1993 have been filed by the purchasers of the lands after the issuance of notification under Section 4(1) of the Act. Now it is a well-settled proposition of law that a person who purchases the land subsequent to the issuance of the notification under Section 4(1) of the Act, cannot be said to be the owner. Such a purchaser has no right to challenge the acquisition itself, although he is entitled to claim compensation by virtue of sale made in his favour i.e., of right, title and interest of his predecessor. Reference may be made to the judgment of the Supreme Court in *Union of India v Shivkumar Bhargava and Others*, It was held that: “The policy of the Government indicates that the person whose land was acquired means the owner as on the date, notification was notified for acquisition, and he alone will be entitled to allotment of alternative site. A person who purchases land subsequent to the notification may be entitled to claim compensation by virtue of sale made in his favour, namely, the right title and interest the predecessor had but, he cannot be said to be the owner for allotment since the right of ownership would be determined with reference to the date on which notification under Section 4(1) was published. This was the view of this Court in another case while considering the Full Bench judgment of the Delhi High Court. Under these circumstances, the appeal is allowed. The respondent cannot be considered to be the owner as on the date of notification under Section 4(1) published in the Gazette. The direction given by the learned Single Judge is accordingly quashed. The writ petition stands dismissed. No costs”. Reference can also be made to the subsequent judgments of the Supreme Court in *Smt. Sneh Prabha v State of Uttar Pradesh and Another*, *Uttar Pradesh Jal Nigam, Lucknow, through its Chairman and Another v M/s. Kalra Properties Private Limited, Lucknow and Others*, and *Ajay Krishna Shinghal v Union of*

India and Others. In the aforesaid judgments as well the Supreme Court has reiterated its view taken in Shivkumar Bhargava's case, *supra* and has held that the purchaser subsequent to the issuance of the notifications under Sections 4 and 6 has no right to challenge the acquisition proceedings. W.A. Nos. 2079 of 1993, 2080 and 2081 of 1993 are accepted on the additional ground and that the writ petitions filed by (now respondents) were not maintainable on their behalf challenging the acquisition proceedings although they would be entitled to claim compensation in place of the original owners. 34. A perusal of this paragraph shows that their Lordships were considering the point as to whether the State Government was interfering in the judicial or quasi-judicial capacity of the Deputy Commissioner in making an award under Section 11. It was held that the Deputy Commissioner acts in an administrative capacity as an agent of the State Government and the area of authority of the Deputy Commissioner is subject to approval of the State Government. The point in issue in the present case was not under consideration before their Lordships in the said case and therefore it has no applicability to the present case. 35. Another Division Bench of this Court in W.P. No. 4244 of 1989, decided on 28th February, 1991 while dealing with similar situation as prevails in the present case held: "Even otherwise insofar as the approval required from the Government had been obtained, the petitioners cannot have any complaint whatsoever. Though the notice under Section 12(2) of the Act has come in 1989, admittedly that cannot in any way impinge upon the validity of the award. That is only for the purpose of reckoning six weeks from the date of service of notice under Section 12(2) of the Act or six weeks from the date of knowledge of reference to a Civil Court under Section 18 of the Act. It pauses our comprehension as to how even assuming that there is a failure to follow the procedure laid down under Section 12 of the Act, it would any way affect the validity of the Land Acquisition Proceedings. Therefore the arguments are devoid of merits. The writ petitions are hereby dismissed". 36. For the reasons stated above, we approve the view taken by this Court in W.P. No. 4244 of 1989 and the other Judgments taking the same view that an award made by the Collector within two years of final publication under Section 6 and to which approval is also granted by the Government within two years of final publication under Section 6 after excluding the period during which stay granted by the Court was in operation to be a valid award for all intents and purposes and the proceedings initiated for acquisition in such a case would not lapse. The appeals are accepted. Order of the learned Single Judge is set aside and the writ petitions filed are dismissed. Parties shall bear their own costs.