

THE STATE OF MAHARASHTRA AND OTHERS

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v.

M/S MOTI RATAN ESTATE AND ANOTHER

(Civil Appeal No. 6996 of 2019 etc.)

SEPTEMBER 04, 2019

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[ARUN MISHRA, M. R. SHAH AND AJAY RASTOGI, JJ.]

Land Acquisition Act, 1894:

s. 11A - Applicability of - Failure to declare award u/s. 11 within a period of 2 years from the date of publication of declaration u/s. 6, due to stay order by High Court in respect of land belonging to other land-owners - Whether would attract s. 11A - Held: If there is stay over the land acquisition proceedings by the Court, in one or the other matter arising from the self-same acquisition proceedings in reference to s. 4 followed by s. 6, the authorities would be justified to stay their hands and await decision of the Court - Period during which there is stay over the proceedings, has to be excluded, in computing the statutory period of two years in passing of an award u/s. 11 - In the present case, the case in which the High Court had stayed the proceedings was in respect of the land of same village under the very notification and for the very project - The period during which the stay was operative, is to be excluded - On exclusion of the said period, acquisition proceedings would not lapse, in view of explanation to s. 11A - Limitation.

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Allowing the appeals, the Court

HELD: 1. When the scheme of the acquisition is one, interim stay granted in respect of one pocket of land would operate even with respect to other pockets of land and in such a situation the authorities are justified in not proceeding with the acquisition proceedings and therefore the acquisition proceedings would not lapse. Interim order of stay granted in respect of one of the land owners would have a complete restraint for the authorities to proceed further. When the stay has been granted in one matter and where the scheme was one,

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- A the authorities were justified to stay their hands. [Para 7.5 (i), (ii) and (iii).] [604-D-F]
2. The extended meaning of the words “stay of the action or proceedings under Section 11A of the Act” would mean that any interim effective order passed by the court which may come in the way of the authorities to proceed further. Explanation to Section 11A of the Act is in the widest possible terms and there is no warrant for limiting the action or proceedings, referred to in the explanation, to actions or proceedings preceding the making of the award under Section 11 of the Act and therefore the period of injunction obtained by the land holders staying the acquisition and authorities from taking possession of the land has to be excluded in computing the period of two years. [Para 7.5 (iv) and (v)] [604-G-H; 605-A]
3. Merely because when award was declared, the lands with respect to Writ Petition Nos. 3051/2013 and 3159/2013 were excluded and therefore, it cannot be said that the period during which the stay was operating in the aforesaid Writ Petitions shall not be excluded. The words “stay of the action or proceedings under Section 11A of the Act” would mean that any order of stay in one or the other matter if passed by Court of law, which either prohibits or prevents the State authorities from passing of an award, such a period of stay of action/proceedings deserves to be excluded while computing the statutory period of two years in passing of an award by the authority under Section 11 of the Act. Even otherwise, there was already a stay of possession in Writ Petition No. 7867/2012 and therefore the authorities were justified in not proceeding further with the acquisition proceedings. [Para 7.6] [605-C-E]
4. It is true that there is no bar to have more than one declaration under Section 6 or the award under Section 11 of the Act in reference to the self-same acquisition proceedings initiated under Section 4 followed with Section 6 of the Act but if there is a stay of the proceedings by a Court of law in any of the matter, that certainly prevents the authorities in taking its decision to complete the acquisition proceedings within the statutory period as mandated by law in passing of award within two years from the date of declaration under Section 6 of the Act. [Para 7.7] [605-F-G]

5. Thus, if there is any stay over the action or proceeding by a Court of law, in one or the other matter arising from the self-same acquisition proceedings in reference to Section 4 followed with Section 6 of the Act, the authorities are said to be justified in the given facts and circumstances to stay their hands and await the decision of the Court and such a period during which there is a stay over the action or proceeding by a Court of law in a matter, that has to be excluded for all practical purposes, in computing the statutory period of two years in passing of an award under Section 11 of the Act. [Para 7 and 8] [605-H; 606-A-B]

6. In the present case, considering the fact that there was a stay granted by the High Court in writ petition Nos. 3051/2013 and 3159/2013 (filed by other landlords) against declaring the final award and the said writ petitions were with respect to the lands acquired of the very village under the very notification and for the very project and there was stay of possession in writ petition in the present case during the pendency of the said petition, the period during which the aforesaid stay/s was/were operative is to be excluded and if the said period is excluded, in that case, the acquisition proceedings would not lapse, considering explanation to Section 11A of the Act. Under the circumstances, the High Court has erred in quashing and setting aside the acquisition proceedings on the ground that the same have lapsed as the award was not declared within a period of two years from the date of declaration under Section 6 of the Act. The High Court has committed a grave error in not excluding the period of interim stay granted by it in writ petition nos. 3051/2013 and 3159/2013. Even grant of interim stay of possession would also save lapsing of the acquisition. [Para 8] [606-B-E]

G. Narayanaswamy Reddy v. State of Karnataka (1991) 3 SCC 261 : [1991] 2 SCR 563 ; *Yusufbhai Noormohmed Nendoliya v. State of Gujarat* (1991) 4 SCC 531 : [1991] 1 Suppl. SCR 158 ; *Gandhi Grah Nirman Sahkari Samiti Ltd. v.. State of Rajasthan* (1993) 2 SCC 662 : [1993] 2 SCR 788; *Hansraj H.*

- A *Jain v. State of Maharashtra* (1993) 3 SCC 634 :
 [1993] 1 Suppl. SCR 216 ; *Sangappa Gurulingappa Sajjan v. State of Karnataka* (1994) 4 SCC 145 ; *Abhey Ram v. Union of India* (1997) 5 SCC 421 : [1997] 3 SCR 931 ; *Om Prakash v. Union of India* (2010) 4 SCC 17 : [2010] 2 SCR 447 ; *Raj Kumar Gandhi v. Chandigarh Administration and others* (2018) 7 SCC 763 - relied on.
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Case Law Reference

	[1991] 2 SCR 563	relied on	Para 5.4
C	[1991] 1 Suppl. SCR 158	relied on	Para 5.4
	[1993] 2 SCR 788	relied on	Para 5.4
	[1993] 1 Suppl. SCR 216	relied on	Para 5.4
	(1994) 4 SCC 145	relied on	Para 5.4
D	[1997] 3 SCR 931	relied on	Para 5.4
	[2010] 2 SCR 447	relied on	Para 5.4
	(2018) 7 SCC 763	relied on	Para 5.4

E CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6996
 of 2019.

From the Judgment and Order dated 24.03.2017 of the High Court of Judicature at Bombay, Bench at Aurangabad in Writ Petition No. 7867 of 2012.

F With
 Civil Appeal Nos. 6998, 6997 of 2019.
 Nishant Ramakantrao Katneshwarkar, Anoop Kandari, Advs. for the Appellants.

G Vinay Navare, Sr. Adv., Nachiketa Joshi, Subodh S. Patil, Advs.
 for the Respondents.

The Judgment of the Court was delivered by

M. R. SHAH, J.

H 1. Delay condoned in Special Leave Petition (C) Diary No.3189/
 2019. Leave granted in all the special leave petitions.

2. As common question of law and facts arise in this group of appeals, they are being disposed of by this common judgment and order. A

3. Feeling aggrieved and dissatisfied with the impugned judgments and orders dated 24.03.2017 and 27.04.2018 passed by the High Court of Judicature at Bombay, Bench at Aurangabad in Writ Petition Nos. 7867/2012, 10894/2016 and 9088/2016, by which the High Court has allowed the said writ petitions and has quashed the entire acquisition proceedings with respect to the acquired lands solely on the ground that the acquisition has lapsed as the awards under Section 11 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') were not declared within a period of two years from the date of declaration made under Section 6 of the Act, the State of Maharashtra and others have preferred the present appeals. B
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3.1 For the sake of convenience, the facts in the appeal arising out of special leave petition No. 23921/2018 arising out of the impugned judgment and order dated 24.03.2017 passed by the High Court in Writ Petition No. 7867/2012 are considered as the facts in other two appeals are identical. D

4. That the acquired land in question is situated within the local limits of village Asarjan, Taluka and District Nanded. That the notification under Section 4 of the Act was issued and published in the Official Gazette on 01.03.2012. The same was published at Village Chawdi Asarjan by beating of drums on 12.04.2012. That thereafter notification under Section 6 of the Act was published on 07.02.2013 and the notification under Section 6 of the Act was published at Village Chawdi Asarjan by beating of drums on 13.02.2013. E

4.1 That the original land owners challenged the acquisition and the notification under Section 4 of the Act dated 01.03.2012 by filing Writ Petition No. 7867 of 2012 on 09.05.2012. That vide order dated 11.10.2013, the High Court directed that the possession of the original writ petitioners shall not be disturbed. The other land owners, whose lands were acquired for the very project and under the very Section 4 notification dated 01.03.2012, also challenged the acquisition proceedings and Section 4 notification with respect to their lands by filing Writ Petition Nos. 3051/2013 and 3159/2013. In those writ petitions also the High Court granted stay to the acquisition proceedings vide order dated 12.11.2013. It appears that by order dated 20.11.2013, the High Court in Writ Petition Nos. 3051/2013 and 3159/2013 modified the earlier F
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- A interim order and directed that till the next date, final award shall not be declared. However, the State was permitted to move an application seeking leave of the Court to declare the award, if the award is ready. That the aforesaid two writ petitions came to be disposed of vide order dated 08.01.2014. However, the High Court continued the interim order dated 20.11.2013 by 12 weeks. The 12 weeks period got over on 02.04.2014. That thereafter the award under Section 11 of the Act was passed on 08.05.2015 with respect to the acquired lands in question, i.e., in the case of Writ Petition No. 7867/2012. At this stage, it is required to be noted that the acquisition was challenged on number of grounds. However, at the time of hearing of Writ Petition No. 7867/2012, it was submitted that the entire acquisition has been lapsed as the award was not declared within a period of two years from the date of publication of the declaration under Section 6 of the Act. It was submitted on behalf of the State that in view of the pending proceedings challenging the acquisition as well as in view of the interim stay granted by the High Court directing that the possession of the acquired land shall not be disturbed and in view of the specific stay order granted in Writ Petition Nos. 3051/2013 and 3159/2013 restraining the State from declaring final award, the period during which stay was operating is required to be excluded and if such period is excluded, in that case, the award was declared within a period of two years and therefore there is no question of lapsing the acquisition proceedings. However, by the impugned judgment and order, the High Court has set aside the acquisition proceedings solely on the ground that the acquisition has lapsed as the award under Section 11 of the Act has not been declared within a period of two years from the date of publication of the declaration under Section 6 of the Act. It is required to be noted that so far as challenge to the acquisition on other grounds is concerned, the High Court held against the original writ petitioners. However, set aside the acquisition solely on the ground that the award under Section 11 of the Act has not been declared within a period of two years from the date of declaration under Section 6 of the Act.
- G 4.2 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court in quashing and setting aside the acquisition, the State has preferred the present appeal. So far as other two appeals are concerned, the original writ petitioners subsequently challenged the acquisition in the year 2016 after the declaration of the award under Section 11 of the Act challenging the acquisition proceedings also on the ground that as the award has not been declared
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within a period of two years from the date of declaration under Section 6 of the Act the acquisition proceedings have been lapsed. Accepting the submission on behalf of the original writ petitioners, by the impugned common judgment and order, the High Court has quashed and set aside the acquisition proceedings considering Section 11A of the Act and on the ground that the acquisition proceedings have been lapsed as the award under Section 11 of the Act has not been declared within a period of two years from the date of declaration under Section 6 of the Act. Hence, these appeals by grant of special leave petitions.

5. Shri Nishant Ramakantrao Katneshwarkar, learned Advocate appearing on behalf of the appellant - State has vehemently submitted that in the facts and circumstances of the case, the High Court has materially erred in quashing and setting aside the acquisition on the ground that the award under Section 11 of the Act has not been declared within a period of two years from the date of declaration under Section 6 of the Act.

5.1 It is vehemently submitted by Shri Katneshwarkar, learned Advocate appearing for the appellants that the High Court has materially erred in not properly appreciating the fact that in view of the challenge to the acquisition proceedings and stay of possession granted by the High Court in Writ Petition No. 7867/2012 and even the stay of the acquisition proceedings and against declaring the award in Writ Petition Nos. 3051/2013 and 3159/2013, the award under Section 11 of the Act was not declared. It is submitted that excluding the period during which the stay was granted, more particularly stay granted in Writ Petition Nos. 3051/2013 and 3159/2013, subsequent declaration of the award can be said to be within the period prescribed under Section 11 of the Act.

5.2 It is further submitted by the learned Advocate appearing on behalf of the appellants that the High Court has erred in holding that as respondent no.1 herein - original writ petitioner was not a party to Writ Petition Nos. 3051/2013 and 3159/2013, the extension of period during which stay was in operation in the said writ petitions was not applicable to the case of respondent no.1. It is submitted that as such writ petition Nos. 3051/2013 and 3159/2013 were with respect to the lands acquired under the same notification and with respect to the very village and the project and therefore the authority was justified in not declaring the award in the present case during the period the stay was operating in writ petition Nos. 3051/2013 and 3159/2013.

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- A 5.3 It is further submitted by the learned Advocate appearing on behalf of the appellants that even in the present case there was a stay against possession and the entire acquisition proceedings were under challenge and therefore the authority was justified in not declaring the award, which was declared subsequently, more particularly after the vacation of the stay granted in writ petition Nos. 3051/2013 and 3159/2013.
- B 5.4 In support of his submission that in the facts and circumstances of the case the authorities were justified in not proceeding with the acquisition proceedings including not declaring the award and therefore acquisition proceedings would not lapse, Shri Katneshwarkar, learned Advocate appearing on behalf of the appellants has relied upon the following decisions of this Court in the cases of *G. Narayanaswamy Reddy v. State of Karnataka* (1991) 3 SCC 261; *Yusufbhai Noormohmed Nendoliya v. State of Gujarat* (1991) 4 SCC 531; *Gandhi Grah Nirman Sahkari Samiti Ltd. V. State of Rajasthan* (1993) 2 SCC 662; *Hansraj H. Jain v. State of Maharashtra* (1993) 3 SCC 634; *Sangappa Gurulingappa Sajjan v. State of Karnataka* (1994) 4 SCC 145; *Abhey Ram v. Union of India* (1997) 5 SCC 421; *Om Prakash v. Union of India* (2010) 4 SCC 17; and the recent decision of this Court in the case of *Raj Kumar Gandhi v. Chandigarh Administration and others* (2018) 7 SCC 763.
- C 5.5 Making the above submissions and relying upon the aforesaid decisions, it is prayed to allow the present appeals and quash and set aside the impugned judgments and orders passed by the High Court.
- D 6. Shri Vinay Navare, learned Senior Advocate has appeared on behalf of the respondents - original writ petitioners.
- E 6.1 While opposing the present appeals and supporting the impugned judgments and orders passed by the High Court, Shri Navare, learned Senior Advocate appearing on behalf of the original writ petitioners has vehemently submitted that in the facts and circumstances of the case, the High Court has rightly quashed and set aside the acquisition proceedings on the ground that the award under Section 11 of the Act has not been declared within a period of two years from the date of declaration under Section 6 of the Act. It is submitted that in the facts and circumstances of the case, the High Court has rightly observed that Section 11A of the Act would be attracted and therefore
- F due to non-declaration of the award within a period of two years from

the date of declaration under Section 6 of the Act, the acquisition A
proceedings have been lapsed.

6.2 It is further submitted by Shri Navare, learned Senior B
Advocate appearing on behalf of the original writ petitioners that in fact
there was no stay by the High Court restraining the authorities from
declaring the award and the only stay was granted with respect to
possession and therefore it was always open for the authorities to
declare the award under Section 11 of the Act to avoid lapsing of
proceedings. It is submitted that however the authorities did not declare
the award. It is submitted that therefore as there was no stay either to
the acquisition proceedings and/or against declaring the final award, as
rightly observed by the High Court, there is no question of any exclusion
of the period. It is submitted that therefore the award under Section 11
of the Act was beyond the period of two years and therefore
considering Section 11A of the Act, the entire acquisition proceedings
would lapse.

6.3 It is further submitted by Shri Navare, learned Senior D
Advocate appearing on behalf of the original writ petitioners that as
rightly observed by the High Court the stay to the acquisition proceedings
and/or against declaring the final award was in other petitions, i.e., Writ
Petition Nos. 3051/2013 and 3159/2013 and not relating to the petitioners
land and therefore the exclusion of period of stay granted in writ petition
Nos. 3051/2013 and 3159/2013 shall not be available to the State/
authorities with respect to the original writ petitioners land.

6.4 Now so far as reliance placed upon the decision of this Court F
in the case of *Raj Kumar Gandhi (supra)*, relied upon by the learned
Advocate appearing on behalf of the State is concerned, Shri Navare,
learned Senior Advocate appearing on behalf of the original writ
petitioners has submitted that the said decision shall not be applicable
to the facts of the case on hand as in the instant case the Land
Acquisition Officer has chosen to keep the land, with respect to which
stay was granted, away from the declaration of the award (Writ Petition
Nos. 3051/2013 and 3159/2013) and the award was declared with
respect to rest of the land. It is submitted that therefore the award in
the case of the writ petitioners will have to comply with the mandate
of Section 11A of the Act.

6.5 Making the above submissions, it is prayed to dismiss the H
present appeals.

- A 7. We have heard the learned counsel for the respective parties at length.
- 7.1 (A) The short question posed for the consideration of this Court is, whether in the facts and circumstances of the case, the High Court is justified in quashing and setting aside the entire acquisition proceedings on the ground that the same have lapsed under Section 11A of the Act? (B) The moot question which arises for our consideration is whether the stay of action/proceedings by some of the land holders prohibiting/preventing the State authorities to make the award under Section 11 of the Act, within a statutory period of two years provided under Section 11A of the Act from declaration under Section 6 of the Act would be equally extendable to the other alike cases of land holders/persons interested/respondents in the instant case?
- 7.2 Now so far as the appeal arising out of the impugned judgment and order passed by the High Court in Writ Petition No. 7867/2012 is concerned, immediately on publication of the notification under Section 4 of the Act, the original writ petitioners challenged the acquisition proceedings including the notification under Section 4 of the Act. The High Court passed the interim order directing that the possession of the original writ petitioners shall not be disturbed. Simultaneously, the other land owners whose lands were acquired under the very same notification and of the very village Asarjan and acquired for the very project also challenged the acquisition proceedings by filing Writ Petition Nos. 3051/2013 and 3159/2013. The High Court granted stay to the acquisition proceedings on 12.11.2013 which subsequently came to be modified and it was directed that the final award shall not be declared. Other two writ petitions being Writ Petition Nos. 10894/2016 and 9088/2016 were filed after the award was declared under Section 11 of the Act challenging the acquisition proceedings on the ground that the same have been lapsed under Section 11A of the Act as the award has not been declared within a period of two years. The State authorities pleaded for extension of time during which the stay was operating in writ petition nos. 3051/2013 and 3159/2013. It has not been accepted by the High Court on the ground that the stay of the acquisition proceedings was granted not relating to the writ petitioners but was with respect to the other land owners. Therefore, the question which is required to be considered is, whether the authorities were justified in not declaring the award in the case of other land owners in

view of granting of the stay to the acquisition proceedings with respect A
to other lands acquired, which were acquired under the very notification
and for the very project.

7.3 In the recent decision in the case of *Raj Kumar Gandhi* (supra), this Court had an occasion to consider the applicability of B
Section 11A of the Act. After considering catena of decisions of this Court on the applicability of Section 11A of the Act, this Court observed and held that where scheme of the acquisition is one, interim stay granted in respect of one pocket of land would operate even in respect of other pockets of land and therefore the authorities were justified in not proceeding with the acquisition proceedings and consequently the C
acquisition proceedings would not lapse. In the same decision, this Court has considered the earlier decisions of this Court in the cases of *G. Narayanaswamy Reddy* (supra); *Yusufbhai Noormohmed Nendoliya* (supra); *Gandhi Grah Nirman Sahkari Samiti Ltd.*(supra); *Hansraj H. Jain* (supra); *Sangappa Gurulingappa Sajan* (supra); *Abhey Ram* (supra); and *Om Prakash*(supra). In D
the case of Raj Kumar Gandhi (supra), in which one of us (Brother Arun Mishra, J. was a member), this Court has dealt with and considered the earlier decisions of this Court with respect to applicability of Section 11A of the Act in paragraphs 11, 12, 15 and 16 as under:

“11. In *Abhey Ram* [*Abhey Ram v. Union of India*, (1997) E
5 SCC 421] this Court has considered the extended meaning of the words “stay of the action or proceedings” and referring to various decisions, observed that any type of the orders passed by the Court would be an inhibitive action on the part of the authorities to proceed further. This Court has observed thus: F
(SCC pp. 428-29, para 9)

“9. Therefore, the reasons given in *B.R. Gupta v. Union of India* [*B.R. Gupta v. Union of India*, 1988 SCC OnLine Del 367 : (1989) 37 DLT 150] are obvious with reference to the quashing of the publication of the declaration under Section 6 vis-à-vis the writ petitioners therein. The question that arises for consideration is whether the stay obtained by some of the persons who prohibited the respondents from publication of the declaration under Section 6 would equally be extendible to the cases relating to the appellants. We proceed on the premise that the appellants had not G
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- A obtained any stay of the publication of the declaration but since the High Court in some of the cases has, in fact, prohibited them as extracted hereinbefore, from publication of the declaration, necessarily, when the Court has not restricted the declaration in the impugned orders in support of the petitioners therein, the officers had to hold back their hands till the matters were disposed of. In fact, this Court has given extended meaning to the orders of stay or proceeding in various cases, namely, *Yusufbhai Noormohmed Nendoliya v. State of Gujarat* [*Yusufbhai Noormohmed Nendoliya v. State of Gujarat*, (1991) 4 SCC 531] ; *Hansraj H. Jain v. State of Maharashtra* [*Hansraj H. Jain v. State of Maharashtra*, (1993) 3 SCC 634] ; *Sangappa Gurulingappa Sajjan v. State of Karnataka* [*Sangappa Gurulingappa Sajjan v. State of Karnataka*, (1994) 4 SCC 145] ; *Gandhi Grah Nirman Sahkari Samiti Ltd. v. State of Rajasthan* [*Gandhi Grah Nirman Sahkari Samiti Ltd. v. State of Rajasthan*, (1993) 2 SCC 662] ; *G. Narayanaswamy Reddy v. State of Karnataka* [*G. Narayanaswamy Reddy v. State of Karnataka*, (1991) 3 SCC 261] and *Roshanara Begum v. Union of India* [*Roshanara Begum v. Union of India*, (1986) 1 Apex Dec 6 (SC)] . The words "stay of the action or proceeding" have been widely interpreted by this Court and mean that any type of the orders passed by this Court would be an inhibitive action on the part of the authorities to proceed further. When the action of conducting an enquiry under Section 5-A was put in issue and the declaration under Section 6 was questioned, necessarily unless the Court holds that enquiry under Section 5-A was properly conducted and the declaration published under Section 6 was valid, it would not be open to the officers to proceed further into the matter. As a consequence, the stay granted in respect of some would be applicable to others also who had not obtained stay in that behalf. We are not concerned with the correctness of the earlier direction with regard to Section 5-A enquiry and consideration of objections as it was not challenged by the respondent Union. We express no opinion on its correctness, though it is open to doubt."
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12. In *Om Parkash v. Union of India* [*Om Parkash v. Union of India*, (2010) 4 SCC 17 : (2010) 2 SCC (Civ) 1] , this Court as to the effect of interim stay has observed thus: (SCC p. 44, para 72)

“72. Thus, in other words, the interim order of stay granted in one of the matters of the landowners would put complete restraint on the respondents to have proceeded further to issue notification under Section 6 of the Act. Had they issued the said notification during the period when the stay was operative, then obviously they may have been hauled up for committing contempt of court. The language employed in the interim orders of stay is also such that it had completely restrained the respondents from proceeding further in the matter by issuing declaration/notification under Section 6 of the Act.”

15. The learned counsel has also relied upon *Yusufbhai Noormohmed Nendoliya v. State of Gujarat* [*Yusufbhai Noormohmed Nendoliya v. State of Gujarat*, (1991) 4 SCC 531] in which this Court has opined that the Explanation to Section 11-A is in the widest possible terms and there is no warrant for limiting the action or proceedings referred to in the Explanation to actions or proceedings preceding the making of the award under Section 11. Therefore, the period of an injunction obtained by the landholder from the High Court restraining the land acquisition authorities from taking possession of the land has to be excluded in computing the period of two years. The decision is of no help to the submission espoused on behalf of the appellant. This Court in *Yusufbhai Noormohmed Nendoliya*[*Yusufbhai Noormohmed Nendoliya v. State of Gujarat*, (1991) 4 SCC 531] observed: (SCC p. 535, para 8)

“8. The said Explanation is in the widest possible terms and, in our opinion, there is no warrant for limiting the action or proceedings referred to in the Explanation to actions or proceedings preceding the making of the award under Section 11 of the said Act. In the first place, as held by the learned Single Judge himself where the case is covered by Section 17, the possession can be taken before an award is made and we see no reason why the aforesaid expression in the Explanation should be given a different meaning depending upon whether the case is covered by Section 17 or otherwise. On the other hand, it appears to us that Section 11-A is intended to confer a benefit

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- A on a landholder whose land is acquired after the declaration under Section 6 is made in cases covered by the Explanation. The benefit is that the award must be made within a period of two years of the declaration, failing which the acquisition proceedings would lapse and the land would revert to the landholder. In order to get the benefit of the said provision what is required, is that the landholder who seeks the benefit must not have obtained any order from a court restraining any action or proceeding in pursuance of the declaration under Section 6 of the said Act so that the Explanation covers only the cases of those landholders who do not obtain any order from a court which would delay or prevent the making of the award or taking possession of the land acquired. In our opinion, the Gujarat High Court was right in taking a similar view in the impugned judgment.”

16. Reliance has also been placed on *Sangappa Gurulingappa Sajjan v. State of Karnataka* [*Sangappa Gurulingappa Sajjan v. State of Karnataka*, (1994) 4 SCC 145], in which this Court has laid down that in case there was a stay of dispossession, no useful purpose would be served by issuing a declaration under Section 6. Therefore, the period during which the order of dispossession granted by the High Court operated, should be excluded in the computing period. In *Sangappa Gurulingappa Sajjan* [*Sangappa Gurulingappa Sajjan v. State of Karnataka*, (1994) 4 SCC 145] this Court observed: (SCC pp. 147-48, para 2)

- “2. The petitioner contends that the declaration under Section 6 was not published within three years from the date of the Notification dated 17-5-1984 and, therefore, the Notification under Section 4(1) shall stand lapsed. We find no substance in the contention. Firstly, the case would be dismissed on a short ground that though this plea was available to the petitioner, he did not raise the same in the first instance and that, therefore, by operation of Section 11 CPC, it operates as constructive res judicata. Under first proviso to Section 6(1), as amended in Land Acquisition (Amendment) Act 68 of 1984 through Section 6 thereof that (i) no declaration in respect of any particular land covered by a notification under Section 4, sub-section (1) shall be published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967, but before the

commencement of the Land Acquisition (Amendment) Act, 1984, A after the expiry of three years from the date of publication of the notification; or (ii) after the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of one year from the date of the publication of the notification. In other words, under the pre-Amendment Act the declaration under Section 6(1) shall not be published after the expiry of three years from the date of Section 4(1) publication and after the commencement of the Amendment Act, the State has no power to proceed with the matter and publish the declaration under Section 6(1) after the expiry of one year from the date of the publication of the notification. Explanation 1 thereto provides the method or mode of computation of the period referred to in the first proviso, namely, the period during which "any action or proceeding" be taken in pursuance of the notification issued under sub-section (1) of Section 4 being "stayed by an order of a court shall be excluded". In other words, the period occupied by the order of stay made by a court shall be excluded. Admittedly, pending writ petition on both the occasions the High Court granted "stay of dispossession". Admittedly, the validity or tenability of the notification issued and published under Section 4(1) is subject of adjudication before the High Court. Till the writ petitions are disposed of or the appeals following its heels, the stay of dispossession was in operation. Though there is no specific direction prohibiting the publication of the declaration under Section 6, no useful purpose would be served by publishing Section 6(1) declaration pending adjudication of the legality of Section 4(1) notification. If any action is taken to pre-empt the proceedings, it would be stigmatised either as "undue haste" or action to "overreach the court's judicial process". Therefore, the period during which the order of dispossession granted by the High Court operated, should be excluded in computation of the period of three years covered by clause (1) of the first proviso to the Land Acquisition Act. When it is so computed, the declaration published on the second occasion is perfectly valid. Under these circumstances, we do not find any justification to quash the notification published under Section 6 dated 17-5-1984. The review petitions are accordingly dismissed. No costs." B C D E F G H

- A 7.4 That thereafter in paragraphs 13 and 17, this Court has observed and held as under:
- B “**13.** Thus, it is apparent that when the stay has been granted in one matter and when the scheme was one, authorities were justified in the facts and circumstances of the instant case to stay their hands. Moreover, a large number of writ petitions have been dismissed by the High Court and orders have attained finality and this Court has also dismissed the appeals/SLPs. Thus, we are not inclined to take a different view in the instant case.
- C **17.** In the instant case, various notifications and declarations under Sections 4 and 6 were issued on the same date with respect to the same scheme. Thus, they were part and parcel of the same scheme. Thus, the submission raised by the learned counsel for the appellant stands rejected.”
- D 7.5 On considering catena of decisions of this Court, referred to hereinabove, the following propositions of law can be culled out:
- E (i) when the scheme of the acquisition is one, interim stay granted in respect of one pocket of land would operate even with respect to other pockets of land and in such a situation the authorities are justified in not proceeding with the acquisition proceedings and therefore the acquisition proceedings would not lapse;
- F (ii) interim order of stay granted in respect of one of the land owners would have a complete restraint for the authorities to proceed further;
- G (iii) when the stay has been granted in one matter and where the scheme was one, the authorities were justified to stay their hands;
- H (iv) the extended meaning of the words "stay of the action or proceedings under Section 11A of the Act" would mean that any interim effective order passed by the court which may come in the way of the authorities to proceed further;
- (v) Explanation to Section 11A of the Act is in the widest possible terms and there is no warrant for limiting the action or proceedings, referred to in the explanation, to actions or proceedings preceding the making of the award under

Section 11 of the Act and therefore the period of injunction obtained by the land holders staying the acquisition and authorities from taking possession of the land has to be excluded in computing the period of two years.

7.6 Now so far as submission on behalf of the original writ petitioners that when subsequently the award was declared, the lands with respect to Writ Petition Nos. 3051/2013 and 3159/2013 were excluded and therefore the decision of this Court in the case of *Raj Kumar Gandhi (supra)* shall not be applicable has no substance. Merely because to avoid contempt proceedings and/or in view of the stay granted in the aforesaid two writ petitions which was continued subsequently till the representations are considered, the authorities excluded the lands for which writ petitions were filed, it cannot be said that the period during which the stay was operating in Writ Petition Nos. 3051/2013 and 3159/2013 shall not be excluded. The words “stay of the action or proceedings under Section 11A of the Act” would mean that any order of stay in one or the other matter if passed by Court of law, which either prohibits or prevents the State authorities from passing of an award, such a period of stay of action/proceedings deserves to be excluded while computing the statutory period of two years in passing of an award by the authority under Section 11 of the Act. Even otherwise, as observed hereinabove, there was already a stay of possession in Writ Petition No. 7867/2012 and therefore even otherwise the authorities were justified in not proceeding further with the acquisition proceedings.

7.7 It is true that there is no bar to have more than one declaration under Section 6 or the award under Section 11 of the Act in reference to the self-same acquisition proceedings initiated under Section 4 followed with Section 6 of the Act but if there is a stay of the proceedings by a Court of law in any of the matter, that certainly prevents the authorities in taking its decision to complete the acquisition proceedings within the statutory period as mandated by law in passing of award within two years from the date of declaration under Section 6 of the Act.

7.8 In meeting out a complex situation, the conclusion which emerges is that if there is any stay over the action or proceeding by a Court of law, in one or the other matter arising from the self-same acquisition proceedings in reference to Section 4 followed with Section

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- A 6 of the Act, the authorities are said to be justified in the given facts and circumstances to stay their hands and await the decision of the Court and such a period during which there is a stay over the action or proceeding by a Court of law in a matter, that has to be excluded for all practical purposes, in computing the statutory period of two years in passing of an award under Section 11 of the Act.
- B 8. Applying the aforesaid principles of law to the facts of the case on hand and considering the fact that there was a stay granted by the High Court in writ petition Nos. 3051/2013 and 3159/2013 against declaring the final award and the said writ petitions were with respect to the lands acquired of the very village under the very notification and for the very project and there was stay of possession in writ petition no. 7867/2012 during the pendency of the said petition, the period during which the aforesaid stay/s was/were operative is to be excluded and if the said period is excluded, in that case, the acquisition proceedings would not lapse, considering explanation to Section 11A of the Act. Under the circumstances, the High Court has erred in quashing and setting aside the acquisition proceedings on the ground that the same have lapsed as the award was not declared within a period of two years from the date of declaration under Section 6 of the Act. The High Court has committed a grave error in not excluding the period of interim stay granted by it in writ petition nos. 3051/2013 and 3159/2013. As observed hereinabove, even grant of interim stay of possession would also save lapsing of the acquisition.
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- F 9. In view of the above and for the reasons stated above, all these appeals succeed. The impugned judgments and orders passed by the High Court are hereby quashed and set aside. Consequently, the writ petitions filed before the High Court stand dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

Kalpana K. Tripathy

Appeals allowed.