Karnal Improvement Trust, Karnal vs Smt. Parkash Wanti (Dead) And Anr on 9 May, 1995

Author: K. Ramaswamy

Bench: K. Ramaswamy, B.L. Hansaria

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           CASE NO.:
Appeal (civil)  4237 of 1995

PETITIONER:
KARNAL IMPROVEMENT TRUST, KARNAL

RESPONDENT:
SMT. PARKASH WANTI (DEAD) AND ANR.

DATE OF JUDGMENT: 09/05/1995

BENCH:
K. RAMASWAMY & B.L. HANSARIA

JUDGMENT:
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JUDGMENT 1995 (1) Suppl. SCR 136 The Judgment of the Court was delivered by K. RAMASWAMY, J. These appeals by special leave arise from the judgments of the High Court of Punjab and Haryana in LPA 1042/90 and batch dated April 29, 1991. The facts lie in a short compass for deciding the question of law arising for adjudication in these appeals. The appellant framed Schedule No. 37 to improve the existing roads and development of the area in Old Sabzi Mandi, Karnal, and for that purpose a resolution under s.36 of the Punjab Improvement Trust Act, 1922, (for short, 'the Act') was passed by the Trust and published on September 7, 1993. After its sanction by the State Government, notification under s.45 was published. The Land Acquisition Collector in his award dated May 24, 1976, granted compensation at the rate of Rs. 100 per sq.yd. Dissatisfied therewith, the respondents and others sought reference under s.18 of the Land Acquisition Act to the Tribunal constituted in that behalf under the Act. The President of Tribunal in his awards dated November 18, 1988 etc., enhanced the compensation in some case to Rs. 1396 per sq. yd. and in some other case to Rs. 450 per sq.yd. etc. Dissatisfied therewith, the appellant as well as the respondents filed writ petitions under Article 226 and the High Court. The single Judge as also the Division Bench, granted compensation at the rate of Rs. 1396 uniformly to all the claimants. Thus these appeal.

Shri Verma, learned counsel appearing for the Trust, raised five- fold contentions. The main thrust is the validity of the award made by the President of the Tribunal. Besides, he also challenged the correctness of the amendment of the writ petition claimed enhanced compensation al-lowed by the High Court; omission to deduct developmental charges; taking irrelevant sale deeds into consideration; omission to consider two relevant sale deeds; and lastly the errors in calculation of

the compensation. The counsel for the respondents and some of the parties in-person resisted the contentions of the appellants. We have heard both sides primarily on the first question and, therefore, the appellant had not ad-dressed us in full on other points, though respondent sought to support the award on merits. The question is whether the Chairman alone can pass the award under the Act. If the finding would be in favour of the validity, then only the need to go into the other questions would arise. The Division Bench, following the ratio in Sohan Lal v. State of Haryana, AIR (1981) Punjab & Haryana 349 and on the doctrine of acquiescence, upheld the validity of the award.

In Sohan Lal' case, the High Court in coming to its conclusion that the President alone could make the award under the Act, reasoned that the President holds pivotal position having administrative and judicial experience with the qualifications of eligibility for appointment as a judge of Punjab & Haryana High Court. He presides over the proceedings. He has power to summon the witnesses, compel the production of documents; he is a judge under the Act; he holds the proceedings as a Civil Court; he had administrative control over the staff; he has the exclusive power to decided questions of law and title and procedure on which the opinion of the President is final. The assessors are ancillary and practically they are not members of the Tribunal stricto sensu. No qualifications have been prescribed as eligibility for their appointment as assessors. No quorum has been prescribed. They need to hold no previous experience either judicial or administrative. Their attending the enquiry is optional and in the event of their being present and participation their dissent may be relevant. The operation of the statute must be so construed as to avoid inconvenience and hardship to the litigant public.

The question, therefore, is whether the view of the High Court is correct in law. Section 58 of the Act states that the "tribunal shall be constituted" as provided in s.60. The Tribunal thus constituted, performs the functions of the court in reference to the acquisition to the land for the trust under the Land Acquisition Act, 1894, (for short, 'the Central Act'). Under s.2(5) Tribunal means a Tribunal constituted under s.60. Under sub-s. (1) of s.60, the Tribunal "shall consist of a President and two assessors". Sub-s.(2) prescribes the qualifications of the President who shall be a person qualified for appointment as a Judge of the High Court of Punjab & Haryana. The amendment in this behalf made by the Legislature of Haryana enlarges and includes person who held the office of a Collector for a period of 10 years or has served as a District Magistrate. Under sub- s.(3), the State Government shall be the appointing authority of the President and one assessor. The Municipal Committee concerned shall appoint within two months of their being required by the State Government to make such appointment and on its committing default, the State Government shall appoint the second assessor. The terms of office of each member of the Tribunal shall be of two years subject to re-appointment. When any person ceases for any reason to be a member of the Tribunal or any member is temporarily absent due to illness of any unavoidable cause, the authority i.e, the State Government or Municipal Committee, as the case may, shall forthwith appoint a fit person to be a member in his place; with the same rider for default in appointment by the Municipal Committee on expiry of two months thereafter, the State Government would appoint such a member. Under s.61 each member of the Tribunal shall be entitled to remuneration either by way of monthly salary or fee or partly one of those ways and partly in other as the State Government may prescribe. The member is liable to be removed under s.10 for the grounds envisaged therein. A trustee of the trust is ineligible for appointment as a member of the Tribunal.

Under s.59, for the purpose of acquiring land under the Central Act for the trust, the Tribunal shall be deemed to be the Court. The President shall be the Judge and shall have power to summon of enforce the attendance of witness and to compel the production of documents as a civil court under CPC. The President of the Tribunal may record evidence on any matters in the absence of assessors, unless he considers their presence necessary. On the questions of law and title and procedure, despite any-thing contained in clause (a) of sub-s.(l) of s.65, the decision shall rest solely, as stated in clause (6) with the President and he may try and decide the same in the absence of assessors unless he considers their presence necessary. If there is any disagreement as to the measurement of land or to the amount of compensation or cost to be allowed, the opinion of the majority of members of the Tribunal shall prevail. Under s.59(d), the award of a Tribunal shall be deemed to be the award of the court under the Central Act and shall be final. Under s.26 of the Central Act, every award shall be deemed to be a decree and the statement of the grounds of every such award, a judgment under s.2(2) and s.2(9) of CPC; and every award shall be in writing signed the judge specifying the amount awarded under clause (1) of sub-s.(l) of s.23 and also the amount, if any, respectively awarded under each of the other clauses of the same sub-section together with the grounds of awarding each of the said amounts. By operation of sub-s.(2) of s.65, the award of the Tribunal and every order made by the Tribunal for the payment of money, shall be enforced by the Court of Small Causes or in its absence by the senior Sub-Judge within local limits of whose jurisdiction it was made if it were a decree of that Court.

A conspectus of the above provisions would given us unerring indication of the legislative animation that the Tribunal shall consist of three members, namely, the President and two assessors and each is co-existent with the others. The Tribunal is a civil court and the President is the Presiding Judge of the Court. Being a judicial member, undoubtedly, he has been conferred with power to preside over the Tribunal, summon the witnesses secure the evidence and decide on questions of law and title and procedure. If he considers necessary he may also do so in association with other members. Even in matters of procedure to a limited extent, namely, in summoning the witnesses who would be competent or necessary or material witnesses to unfold the measurement of the land or the value thereof, the views of the assessor-members may be relevant, germane and sometimes necessary, as being local persons. It is true that no qualifications have been prescribed for appointment of a assessor, while qualifications for the member-president stood prescribed. The reason appears to be that the assessor being a local member, obviously, having had personal knowledge of the local conditions of the land and its prevailing value, the legislature appears to have intended that opinion of men of common experience, perhaps, would be more appropriate to determine compensation. That would not elevate the position of the President to be pivotal and relegate the assessors to be adjunct or ancillary to the President. If it were to be otherwise, the legislature would have employed the language that the President, with the assistance of the assessors, would determine the compensation or have the land measured etc. etc. The power to decide on question of law and title and in some case the procedure solely given to the President, in obviously for the reason that the President has had judicial or legal experience of questions relating to disputes of title and also conversant with the procedure in the Code of Civil Procedure. Section 59(c) amplifies that scope and gives power to the presiding member the status of civil judge to summon the witnesses, enforce their evidence and to compel production of the documents as it provided in CPC.

The award of the Tribunal has been designated to be the award of the Court and the Tribunal is the Court and each member is entitled to his own opinion in determination of the compensation or measurements of the land. The Chairperson as a Civil Judge is empowered to sign the award on behalf of the Tribunal. In case of difference of opinion, the majority opinion of the members shall be the decree of the Tribunal. The mandatory quorum, therefore, is three members and the award of the Tribunal is a decree of a civil court. The President also is a member of the Tribunal and everyone of them is liable to be removed for any of the grounds enumerated in s.10. Each member qua discharge of the functions is an independent member. Mere fact that the President will record the evidence, in the absence of the assessors, or that he is given power to preside over the Tribunal and to compel the presence of the witnesses or to secure the evidence does not per force minimise or undermine the composition of, continuance and functions of the assessors as members of the Tribunal. Temporary absence of a member including President, may entail, by implication, his removal and appointment of a substitute member, which would reinforce that in the discharge of the functions as a member, the presence and participation of each member of the Tribunal should be mandatory, unless his absence becomes unavoidable and beyond his control. Take for instance, absence due to being out of station. The power to record evidence in the absence of the assessors does not clothe the President with the power to decide himself the question of compensation or measurement of land as sole member Tribunal. When the Tribunal consists of three members, the opinion has to be of the composite body, and not of the sole President. The power vested in the President to decide questions of law and title and procedure does not undermine the position of assessor members of the Tribunal and other matters. The President need not necessarily be a local man. He may be a judicial office drafted from the service of the respective State; and the assessors, by implication, may be only local men having acquaintance with the prevailing prices of the land. The President must be necessity be either judicial trained or administratively experienced person. When the Tribunal determines compensation or dispute as the extent of the land acquired or of the quality of the land under acquisition, the decision is that of the Tribunal. In case of difference of opinion, the majority view would be the executable decree. In other words, it indicates that it is a three-member statutory body and does not consist of the presiding Judge only. He is left with no option but has to associate the other member in determining the compensation of the acquired land for the trust or its nature or extent. Any other interpretation would be inconsistent with and derogatory to the scheme, purpose and intendment of the Act. The presence and participation of each member in the adjudication of the compensation or measurement or quality of land, is of necessity mandatory. The Tribunal will have the assistance of the counsel for the trust and of the claimant or/and counsel for the claimant, if any, engaged by the claimant in determining the compensation or for the measurement and quality of the land. It would, therefore, be clear that all the three members should be present and should participate at the time of enquiry unless unavoidable, hear the matter on merits and the decision of the Tribunal, if not unanimous and if there be difference of opinion, be as per the majority.

In other words, the award and the decree are that of the Tribunal and not that of the Presiding Judge alone, though the President signs the award. In case of difference of opinion, the opinion of each member is a judgment but the enforceable award and decree are that of the majority.

Admittedly, the assessors did not take any active part in the cases at hand in hearing the argument and President has recorded that "they told the undersigned that I should hear the arguments by myself. Today neither of these two assessors is present. It appears they are not interested in hearing the arguments". This is dereliction of the statutory duty enjoined by the Act defeating the purpose of the Act. The award prepared and signed by the President is that of the President, as he says, it is not an award of the Tribunal. Thus the decree is not that of the Tribunal, which alone is executable in a Court of Small Causes or senior Sub-Judge.

Shri K. Madhava Reddy, learned senior counsel appearing for the respondent in C.A. 4243/94, contended that the word 'shall' employed in s.58 and s.60(l) should be construed as a directory. The constitution of the Tribunal and its functioning are under the control of the claimants. The attendance or failure to attend the hearings during the enquiry by the assessors are not regulated by the provisions of the Act or the Rules made thereunder. The interpretation that the performance of the duties by the assessors is mandatory would cause great hardship to the claimants. The provisions of the Act should be so construed as to avoid hardship to the claimants. In support thereof, he placed reliance on Montreal Street Railway Company v. Normandin, AIR (1917) Privy Council 142 and 147. It was held therein that:

> "When the provisions of a statute relate to the performance of a public duty and the case is such, that to hold null and void, acts done in neglect of this duty would work serious general inconvenience for injustice to persons, who have no control over those entrusted with the duty, and at the same tune, would not promote the main object of the Legislature, such provisions are to be held to be directory only, the neglect of them though punishable not affecting the validity of the acts done."

In the said case, the list of the jury was to be revived from time to time. Without revising the list, the old jury continued four years in neglect to the duty to revise the list of jury by the Sharief. The question then arose whether the adjudication by such a jury was valid in law? In the light of the facts, the Judicial Committee of the Privy Council held that it was a directory.

There is distinction between ministerial acts and statutory or quasi- judicial functions under the statute. When the statute requires that some- thing should be done or in a particular manner or form, without expressly declaring what shall be the consequence of non-compliance, the question often arise; What intention is to be attributed by inference to the legislature? It has been repeatedly said that no particular rule can be laid down in determining whether the command is to be considered as a mere direction or mandatory involving invalidating consequences in its disregard. It is fundamental that it depends on the scope and object of the enactment. Nullification is the natural and usual consequence of disobedience, if the intention is of an imperative character. The question in the main is governed by considerations of the object and purpose of the Act; convenience and justice and the result that would ensue. General inconvenience or injustice to innocent persons or advantage to those guilty of the neglect, without promoting the real aim and object of the enactment would be kept at the back of the mind. The scope and purpose of the statute under consideration must be regarded as an integral scheme. The general rule is that an absolute enactment must be obeyed or fulfilled exactly but it is sufficient if a directory enactment be obeyed or fulfilled

substantially. When a public duty, as held before, is imposed and statute requires that is shall be performed in a certain manner or within a certain time or under other specified conditions, such prescriptions may well be regarded as intended to be directory only in cases when injustice or inconvenience to others who have no control over those exercising the duty would result if such requirements are not essential and imperative.

The question thus arises whether the function by the Tribunal as a body is mandatory or directory? The discharge of the duties under the Act are quasi-judicial. The power to determine compensation and other questions involves adjudication. The discharge of the functions by the Tribunal being quasi-judicial cannot be regarded as ministerial. When the statute directs the Tribunal consisting of three members to determine compensation etc., and' designates the award as judgment and decree of the civil court, it cannot be held that the quasi-judicial functions of the Tribunal would be considered as directory, defeating the very purpose of the Act. Though inconvenience and delay may occasion in some cases by holding the provisions to be mandatory, but that is an inescapable consequence. In the light of the aforesaid discussion, it must be held that the adjudication by the three-member Tribunal is imperative and mandatory. Determination of the compensation in disregard thereof renders the adjudication void, invalid and in operative.

It is contended by learned senior counsel Shri Sehgal appearing for some other respondents that Sohan Lal's ratio held the field for more than 14 years, based thereon several award came to be made by the President of the Tribunals under the Act and therefore, the doctrine of stare decisis should be applied and Sohan Lal decision be upheld.

Shri Sehgal further contended that awards have been made for years by a single member without any demur and the appellant acquiesced to it. The parties have worked out their rights on the basis of the awards thus made. Any declaration of its invalidating would cause great inconvenience, unsettling the settled rights. The Act is a local legislation. The High Court had interpreted the Act so as to avoid inconvenience to the claimants. In support thereof, he placed strong reliance in Raj Narain Pandey v. Sant Prasad Tiwari, [1973] 2 SCC 35 (para 10), and Darshan Singh v. Rampal Singh, [1992] Supp. 1 SCC 191 (para 33).

In Halsbury's Laws of England, the principle of stare decisis is stated thus: "The decision which has been followed for a long period of time and has been acted upon by person in any formation of contracts or in the disposition of their property or in legal procedure of in other ways will generally be followed by courts of higher authority than the court establishing the rule even though the court before whom the matter arises afterwards might not have given the same decision had the question come before it originally. But the supreme appellate Court will not shrink from overruling a decision or series of decisions which establish a doctrine plainly outside the statute, (emphasis supplied) and outside the common law and given right and no contract will be shaken, no person can complain and no general course of dealing be altered by the remedy of a mistake. In Corpus Juris Secundum, it is stated in para 192 that "Under the stare decisis rule, a principle of law which has become settled by a series of decisions generally is binding on the courts and should be followed in similar cases. This rule is based on expediency and public policy, and, although generally it should be strictly adhered to by the courts it is not universally applicable." In para 193 at page 322, it was further

stated that "previous decisions should not be followed to the extent that grievous wrong may result; and accordingly the courts ordinarily will not adhere to a rule or principle established by previous decisions which they are convinced is erroneous. The rule of stare decisis is not so imperative or inflexible as to preclude a departure therefrom in any case, but its application must be determined in each case by the discretion of the court and previous decisions should not be followed to the extent that error may be perpetuated and grievous wrong may result."

In Maktul v. Mst. Manbhari, AIR 1985 SC 918, a Bench of three Judges, considered a Full bench judgment of Lahore High Court which held the field from 1895. The same was held to be erroneous and was overruled. In Bengal Immunity Company Limited v. State Washington v. Dawson & Co., 264 U.S. 646, (= 68 L.Ed. 219) Brandies, J., in his dissenting judgment held that "the doctrine of stare decisis should not deter us from overruling that case and those which follow it. The decisions are recent ones. They have not been acquiesced in. They have not created a rule of property around which vested interests have clustered. They affect solely matters of a transitory nature. On the other hand, they affect seriously the lives of men, Women and children, and the general welfare". Stare decisis is ordinarily a wise rule of action. But it is not a universal and inexorable command. In Mark Graves v. People of the State of New York, 306 U.S. 466, (- 83 L.Ed. 927) Frank further, J. observed "Judicial exigencies is unavoidable with reference to an Act like our Constitution, drawn in many particulars with proposed vagueness so as to leave room for the unfolding future." In The Bengal Immunity Co. Ltd. v. State of Bihar and others, [1955] 2 SCR 603, a Bench of 7 Judges of this Court held that non-interference may result in an erroneous interpretation of the Constitution being perpetuated or may, if unrectified, cause great detriment to public well being. Accordingly, this Court overruled the previous decision.

The Court bows to the lessons of experience and the force of better reasoning recognising that the process of trial and error so fruitful in the physical sciences is appropriate also in the judicial function. In A.R. Antulay v. R.S. Nayak and another, [1988] 2 SCC 602, a Bench of 7 Judges of this Court held at page 658 that a decision touching the jurisdiction of the court has to be, not only consistent with the fundamental rights guaranteed by the Constitution, the same cannot even be inconsistent with the substantive provisions of the relevant statutory law. In The Keshav Mills Co. Ltd. v. The Commissioner of Income-tax, Bombay North, AIR (1965) SC 1636, considering the effect of statutory interpretation, Constitution Bench of this Court said at page 1644 that :

> "But different considerations must inevitably arise where a previous decision of this Court has taken a particular view as to the construction of a statutory provision as, for instance, s.66(4) of the Act. When it is urged that the view already taken by this Court should be reviewed and revised it may not necessarily be an adequate reason for such review and revision to hold that though the earlier view is a reasonably possible view, the alternative view which is pressed on the subsequent occasion is more reasonable. In reviewing and revising its earlier decision, this Court should ask itself whether in the interests of the public good or for any other valid and compulsive reasons, it is necessary that the earlier decision should be revised. When this Court decides questions of law, its decisions are, under Art. 141 binding on all Courts within the territory of India, and so, it must be the constant endeavour and concern of this

> Court to introduce and maintain an element of certainty and continuity in the interpretation of law in the country. Frequent exercise by this Court of its power to review its earlier decisions on the ground that the view pressed before it later appears to the Court to be more reasonable, may incidentally tend to make law uncertain and introduce confusion which must be inconsistently avoided. That is not to say that if on a subsequent occasion, the Court is satisfied that its earlier decision was clearly erroneous, it should hesitate to correct the error; but before a previous decision is pronounced to be plainly erroneous, the Court must be satisfied with a fair amount of unanimity amongst its members that a revision of the said view is fully justified. It is not possible or desirable, and in any case it would be inexpedient to lay down any principles which should govern the approach of the Court in dealing with the question of review and revising its earlier decisions. It would always depend upon several relevant considerations: what is the nature of the infirmity or error on which a plea for a review and revision of the earlier view it based? On the earlier occasion, did some patent aspects of the question remain un- noticed, or was the attention of the Court not drawn to any relevant and material statutory provision, or was any previous decision of the Court bearing on the point not noticed? Is the Court hearing such plea fairly unanimous that there is such an error in the earlier view? What would be the impact of the error on the general administration of law or on public good? Has the earlier decision been followed on subsequent occasions either by this Court or by the High Courts? And, would the reversal of the earlier decision lead to public inconvenience, hardship or mischief? These and other relevant considerations must be carefully borne in mind whenever this Court is called upon to exercise its jurisdiction to review and revise its earlier decisions. These considerations be-come still more significant when the earlier decision happens to be a unanimous decision of a Bench of five learned Judges of this Court."

It was also further observed that the principle of stare decisis cannot be pressed into service in cases where the jurisdiction of the Supreme Court to reconsider and. revise its earlier decision is invoked; yet, the normal principle that judgments pronounced by this Court would be final and cannot be ignored unless considerations of a substantial and compelling character make it necessary to do so. This Court should and would be reluctant to review and revise its earlier decisions. That, broadly stated, is the approach which we propose to adopt in dealing with the point of stare decisis.

In Raj Narayan Pandey's.case (supra), this Court was confronted with a Divisions Bench of the Allahabad High Court in Mahabal Singh v. Ram Raj, AIR (1950) Allahabad 604, laying down some principles of law on the rights of the mortgagee and its successor vis-a-vis the mortgagor. That principle was consistent with equity, justice and the rights of the mortgagor and mortgagee. When its correctness was challenged, this Court held in paragraph 10 that contrary view would unsettle the law established for a number of years and that, therefore, the doctrine of stare decisis was applied. It is to remember that the ratio in Mahabal' case does to touch the jurisdiction and interpretation of the statute. In Darshan Singh v. Ram Pal Singh and another, [1992] Supp. 1 SCC 191, interpreting the customary law of Punjab and the amendment of the Hindu Succession Act to the pending cases, this Court applied the doctrine stare decisis to alongate justice.

In Kesavananda and Others v. State of Kerala and Another, AIR (1973) SC 1461 (at page 1894-95, para 1530) while interpreting Article 31A of the Constitution in the dissenting judgment, Khanna, J. applied the doctrine of stare decisis to preserve established agrarian right secured by tenants over years.

Thus we hold that normally the decisions which have been followed for a long period of time and have been acted upon by persons in the formulation of contracts or in the disposition of that property or other legal processes should generally be followed afterwards but this rule is not inexorable, inflexible and universally applicable in all situations. The appellant could will not shirk from overruling the decision or series of decision which establish a ratio plainly outside the statute or in negation of the object resulting in defeating the purpose of the statute or when the Court is convinced that the view is clearly erroneous or illegal. Perpetration of such an illegal decision would result in grievous wrong. When the decision touches upon the jurisdiction of the Court or the Tribunal, it is but the duty of the appellate court to consider the correctness thereof and lay down the correct law. When two views are reasonably possible, the alternative view which is consistent with justice and equity, and if no irremedial would ensure thereunder, the earlier view may be accepted in the interest of public or for any other valid and compulsive reasons. If it touches the jurisdiction or question of law of great public importance or involves interpretation of the statute, the erroneous interpretation would not be a ground for the court to shirk its responsibility to reconsider the interpretation and lay down the correct principle of law. In that behalf, the doctrine of stare decisis becomes inapplicable. Interpretation of the special statue of local character, it if is consistent with the purpose of the statute and justice and no irremedial would arise therefrom, the view of the High Court will be respected by this Court. If the previous decision is plainly erroneous, the court must be satisfied that the view of the High Court is justified. It is not possible or desirable or expedient to lay down any principle which should govern the approach of this court in dealing with the applicability of the doctrine of stare decisis. It would always depend upon several relevant considerations particularly touching the jurisdiction of the court or the Tribunal which decides the dispute. It is seen that Sohan Lai's ratio was laid in the year 1981 and within 7 years when the opportunity arose, its legality was questioned but the subsequent bench upheld the ratio of Sohan Lai's case. Therefore, it is a case of transient nature and it did not acquire the status attracting stare decisis. The Act intended adjudication by plurality of opinions with multi-voice rather than individual dicta. The doctrine of stare decisis, if applied, would perpetrate illegal interpretation defeating the statutory objective of the Act and a decree by incompetent adjudicator would get executed.

It is next contended that since the matter is long pending and the appellant has acquiesced to the jurisdiction of the single member award, it is not a fit case warranting interference under Art. 136. Acquiescence does not confer jurisdiction and erroneous interpretation equally should not be permitted to perpetuate and perpetrate defeating of legislative animation. It is next contended that the decision in this appeal should be given prospective operation to the future cases without disturbing the decision under appeal, since long time has lapsed from the date of the notification under s.28 of the Act. We do not agree. In Managing Director, ECIL, Hyderabad v. B. Karunakar, [1993] 4 SCC 727, a Constitution Bench of this Court held that the decision laying down a principle of law for the first time should be given prospective operation from the date of the judgment and any

action taken prior to that date would not be reopened. In that case, the question was whether the delinquent officer is entitled to the supply of inquiry report and non-supply there of vitiates the punitive action taken against the delinquent officer. This Court held that the decision must be given effect from the date it was rendered. In other words, the ratio would not be applicable to the pending cases in the courts below or this Court and be given effect from the date of the judgment. In that view, it must be held that since the award of the Tribunal is of the President of the Tribunal and not of that Tribunal, the consequence is that the award and decree are void. Therefore, it cannot be given effect. Since, we are interpreting law, we declare that any award made from this date by the member-President of the Tribunal only shall be void and it does not have the effect of unsettling the single member awards made and becoming final.

It is not in dispute that is some cases, this Court remitted them for decision afresh by the Tribunal and we are informed, they are still pending decision. Since these are all old cases, State Government of Haryana is directed to constitute the tribunal as provided in the Act if not already done and the Tribunal will consider, decide and dispose of all the claims within a period of not more than six months from the date of the constitution.

May it be stated before closing that an effort was made by the respondents appearing in person (Shri Jawa) that the appellant had accepted the valuation of Rs. 1326 as fixed by the Tribunal in some cases and so, it should not be allowed to question the judgment of the High Court, when it has fixed the same valuation for the similarly situated lands of others. This point was sought to be brought home to us by referring to the table prepared by the Tribunal which is at page 211 of the C.A. 4237/95. We have gone into this aspect and after Shri Verma for the appellants, we cannot accept this contention of hearing Shri Jawa. Nor do we accept his contention that all the lands are similarly situate; the map at page 325 of this appeal does not establish the same.

The appeals are, therefore, allowed. The judgments of the High Court and the awards of the Tribunal are set aside. The Tribunal shall decide the dispute in accordance with law as stated earlier. Several questions on merits had arisen but since not allowed to the canvassed, we are not expressing any opinion on merits. All the questions are kept at large to be dealt with in accordance with law. No costs.

Appeal allowed.