Supreme Court of India
State Of Madhya Pradesh And Ors vs Vishnu Prasad Sharma And Ors on 9 February, 1966
Equivalent citations: 1966 AIR 1593, 1966 SCR (3) 557
Author: A Sarkar
Bench: Sarkar, A.K.

PETITIONER:
STATE OF MADHYA PRADESH AND ORS.

Vs.

RESPONDENT:
VISHNU PRASAD SHARMA AND ORS.

DATE OF JUDGMENT:
09/02/1966

BENCH:
SARKAR, A.K.
BENCH:
SARKAR, A.K.
WANCHOO, K.N.
MUDHOLKAR, J.R.

CITATION:
1966 AIR 1593 1966 SCR (3) 557
CITATOR INFO :

RF	1968 SC1138	(28,44,45,46,51,52,54,57)
R	1970 SC1576	(7)
RF	1973 SC1150	(2)
RF	1975 SC1699	(3)
R	1975 SC1767	(4)
E	1976 SC 417	(27)
F	1977 SC 594	(5,6)
E	1980 SC 367	(5,6,12)
F	1985 SC1622	(15)
D	1988 SC1615	(7)
R	1989 SC 49	(26)
RF	1991 SC1117	(9)

ACT:
Land Acquisition Act (1 of 1894), ss. 4, 5-A, 6, 17, 48 and 49-Notification under s. 4-If could be followed by more than one notification under s. 6.,

HEADNOTE:
After the issue of a notification under a. 4(1) of the Land Acquisition Act, 1894, by which it was declared that lands in certain villages were likely to be needed for a public purpose, a number of notifications, in respect of different

items of land specified in the notification under s. 4(1), were successively issued under s. 6. The validity of the last of them was challenged by the respondents, by a writ petition in the High Court The High Court allowed the petition holding that a notification under a. 4(1) could be followed only by one notification under. s. 6, and therefore it was not open to the Government to issue successive notifications with respect to different parts of land comprised in one notification under s. 4.

In appeal to this Court, by the State,

HELD: The High Court was right in holding that there can be no successive notifications under s. 6 with respect to land in a locality specified in one notification under a. 4(1). [572 C-D]

Per Sarkar, J. Sections 4, 5-A and 6 of the Act read together indicates that the Act contemplates only a single declaration under s. 6 in respect of a notification under s. 4. There is nothing in ss. 17 and 49(2) (3) to lead to a contrary view.

There is nothing in the Act to support the view that it is only a withdrawal under s. 48 that puts a notification under a. 4 completely out of the way. [560 G; 561 C; 561 E]

Per Wanchoo and Mudholkar, JJ. Sections 4, 5-A and 6 are integrally connected and without the notifications under as. 4 and 6 no acquisition can take place, because, they are the basis of all proceedings which follow. The notification under s. 4(1) specifies the locality in which the land is to be acquired and under s. 4(2) survey is made to decide what particular land in the locality specified in the notification is to be acquired. Another purpose of the notification under a. 4(1) is to give opportunity to persons owning land in the locality to make objections under s. 5-A. Section 5-A specifically provides that the Collector shall hear all objections made before him and then make only one report to the Government containing his recommendations on the objections. When such a report is received by the Government, it must give a decision on all the objections at one stage and decide once for all what particular land out of the locality notified under s. 4(1) it wishes to acquire and then issue a declaration under s. 6. At the stage of s. 4, the land is not particularised but only the locality is mentioned; at the stage of a. 6 the land in the locality is particularised and thereafter, the notification under s. 4(1) having served its purpose exhausts itself. The sequence of events from a notification of the intention to acquire under s. 4 to the declaration under a. 6, leads to the conclusion that once a declaration under s. 6 particularising the area is issued, the remaining non-particularised area in the noti-

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fication under s. 4(1) stands automatically released. The intention of the legislature was that one notification under

s. 4(1) should be followed by survey under s. 4(2), objections under s. 5-A heard, and thereafter, one declaration under s. 6 issued. If the Government requires more land in that locality, there is nothing to prevent it from issuing another notification under s. 4(i) making a further survey if necessary, hearing objections and then making another declaration under s. 6, whereas there is likely to be prejudice to the owner of the land if there is great delay between the notifications under s. 4(1) and s. 6. Even if it were possible to issue two notifications under s. 6 in the special circumstances arising out of the application of s. 17 (4), all that is possible is, to issue one notification relating to land to which s. 17(1) applies and another notification relating to land to which s. 17(1) cannot apply, and that is because of the special provisions contained in s. 17(1) and s. 17(4) and not because of the provisions of ss. 4, 5-A and 6. Section 48(1) only confers a special power on Government of withdrawal from acquisition without canceling the notifications under ss. 4 and 6, provided, possession of the land covered by the notification under s. 6 was not taken. It cannot be said that the only way in which the notification under s. 4(1) can corn.- to an end is by withdrawal under s. 48(1) and that unless action is taken under that section the notification under s. 4(1) would remain alive Section 49(2) and (3) also provide for a special case. The order of the Government under s. 49(2), ordering the acquisition of the whole of the land, even though under s. 6 only part of the land may have been declared, may be taken to serve the purpose of the noti- fication under s. 4(1) in such a special case; but it does not follow that successive notifications under s. 6 can be issued with respect to land in the locality specified in the notification under s. 4(1). [566 D-567 E; 567 F, H; 569 B, C; 570 A-D, C; 571 F, G]

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1018 of 1963.

Appeal from the judgment and order dated February 21, 1962, of the Madhya Pradesh High Court in Misc. Petition No. 275 of 1961.

C. K. Daphtary, Attorney-General, M. Adhikari, Advocate General, Madhya Pradesh, H. L. Khaskalam and I. N. Shroff, for the appellants.

S. V. Gupte, Solicitor-General and J. B. Dadachanji, for the respondents.

S. N. Kacker and J. P. Goyal, for the intervener. SARKAR, J. delivered a separate opinion. The Judgment of WANCHOO and MUDHOLKAR, JJ. was delivered by WANCHOO, J. Sarkar, J-My

learned brother Wanchoo has set out the facts fully in his judgment and that relieves me of the necessity of stating them again.

The question that has arisen is whether a number of declarations under S. 6 of the Land Acquisition Act, 1894 can be issued successively in respect of different pieces of lands included within the locality specified in a notification issued under S. 4 of the Act. My learned brother has said that ss. 4, 5A and 6 of the Act have to be read together and so read, the conclusion is clear that the Act contem-

plates only a single declaration under s. 6 in respect of a notification under s. 4.1 so entirely agree with his reasonings for this view that I find it unnecessary to add anything to them. But it was said that there are other considerations which indicate that our reading of these sections is unsound. In this judgment I propose to deal only with these considerations.

It was said that the Government may have difficulty in making the plan of its project complete at a time, particularly where the project is large and, therefore, it is necessary that it should have power to make a number of declarations under s. 6.1 am wholly unable to accept this argument. First, I do not think that a supposed difficulty would provide any justification for accepting an inter- pretation of a statute against the ordinary meaning of the language used in it. General considerations of the kind suggested cannot authorise a departure from the plain meaning of words. Secondly,. I cannot imagine a Government, which has vast resources, not being able to make a complete plan of its project at a time. Indeed, I think when a plan is made, it is a complete plan. I should suppose that before the Government starts acquisition proceedings by the issue of a notification under s. 4, it has made its plan for otherwise it cannot state in the notification, as it has to do, that the land is. likely to be needed. Even if it had not then completed its plan, it would have enough time before the making of a declaration under s. 6 to do so. I think, therefore, that the difficulty of the Government, even if there is one, does not lead to the conclusion that the Act contemplates the making of a number of 'declarations under s. 6.1 would like to observe here to avoid confusion that we are not concerned now with extension of a completely planned project conceived later. The present contention is not based on any difficulty arising out of such a case. It was said that if the Government has not finalised its plan when it makes a declaration under s. 6, it would have to start fresh acquisition proceedings beginning with a notification under s. 4 to provide for the complete plan if it could not make any more declarations and in such a case, in conceivable circumstances, it may have to pay more for the land that it then sought to acquire. This argument concedes that even if the Government has not been able to make its plan when making a declaration under s. 6, the result is not that it cannot acquire any more land later when the plan is completed. The real point, therefore, of the present argument is that the Act should be so interpreted that the Government should not be put to extra cost when it has been unable to complete its plan at a time. This seems to me to be a strange argument. First, there is no reason why the Act should provide for the Government's failure to complete the plan. Secondly, the argument is hypothetical for one does not know for sure whether a later acquisition will cost more or lessr Arguments on hypothetical considerations can have little weight in interpreting statutes. But even otherwise this view of the matte.

does not support the argument. After the issue of a notification under s. 4, an owner of land in the locality notified cannot have full beneficial enjoyment of his property; he cannot, for example, build on his land for if he does so-and the land is acquired, he will get no compensation for the building put up and will lose the costs incurred for it. If it is a justification for saying that a number of declarations can be made under s. 6 because otherwise the Government may have to pay more, it seems to me that it is at an equal justification for saying that such declarations cannot have been contemplated by the Act because that would mean an avoidable deprivation of the owners of their beneficial enjoyment of lands till such time as the Government is able to make its plan. As the Act is an expropriatory Act, that interpretation of it should be accepted which puts the least burden on the expropriated owner. The Government could, of course, always make a complete plan at a time and I am unable to hold that the Act contemplated that it need not do so and go on making declarations from time to time as its plan goes on taking shape even though the result might be to increase the hardship of persons whose lands are taken away. Reference was then made to sub-ss. (1) and (4) of s. 17. These give the Government the power to, take possession of waste and arable lands included in the notification under S. 4 on the expiry of fifteen days from the publication of the notice mentioned in S. 9 and before the making of the award, without holding the enquiry contemplated by S. 5. It was said that if a notification under s. 4 included both arable and waste lands as also lands of other descriptions, it will be necessary to issue two separate declarations under s. 6 in respect of the different kinds of lands. It was also said that the vesting in respect of the two kinds of lands in the Government would also be by stages, All this, it was contended, would support the view that more than one declaration under s. 6 was contemplated in such a case. I do not feel called upon to ,express any opinion whether in such a case a number of declarations under s. 6 is contemplated. It is enough to say that it is not contended that this is a case of that kind. Therefore, it cannot be said that the disputed declaration under S. 6 was in this case justified under s. 17. On the contrary, if t the contention that S. 17 contemplates more declarations than one under s. 6 be correct, that would be because the statute specifically so provided for a particular case. It must follow that without a special provision, more than one declaration under S. 6 was not contemplated. The next contention was that s. 48 which gives the Government power of withdrawal from acquisition before taking possession implies that a notification under s. 4 remains in force for all purpose till such withdrawal, and if it so remains in force, successive declarations under s. 6 must be permissible for otherwise it would be useless to keep the notification under s. 4 in force. The substance of this argument is that the only way to get rid of a notification under s. 4 is by a withdrawal of the acquisition proceedings under s. 48; if the proceedings are not withdrawn, the notification remains and then there may be successive declarations. This argument seems to me clearly ill founded. Now a notification under s. 4 will be exhausted if a declaration is made under it in respect of the entire area covered by it. Likewise, it seems to me that if the correct interpretation is that only one declaration can be made under s. 6, that also would exhaust the notification under s. 4; that notification would no longer remain in force to justify successive declaration under s. 6 in respect of different areas included in it. There is nothing in the Act to support the view that it is only a withdrawal under s. 48 that puts a notification under s. 4 completely out of the way. The effect of s. 48 is to withdraw the acquisition proceedings, including the notification under s. 4 with which it started. We are concerned not with a withdrawal but with the force of a notification under s. 4 having become exhausted. That is a different case and has nothing to do with a withdrawal. Lastly, we were referred to sub-ss., (2) and (3) of s. 49. These sub-sections state that where a claim for

compensation is made on the ground of severance of the land acquired from the remaining land of the owner for which provision is made under s. 23, if the Government thinks that the claim is unreasonable it may, before the making of the award, order the acquisition of the whole land and in such a case no fresh declaration under s. 6 will be necessary. It is contended that these provisions support the view that successive declarations under s. 6 were contemplated. I do not think they do so. In any case, I even if they did, then that would be because in d particular case the statute specially provided for successive declarations under s. 6. The present is not that special case. Furthermore, as I have said in connection with the argument based on s. 17, the fact that a special provision was necessary to enable successive declarations under s. 6 to be made would go to support the view that without a special provision there is no power given by the Act to issue successive declarations under s. 6.

1 would for these reasons dismiss the appeal with costs. Wanchoo, J.-The only question raised in this appeal on a certificate granted by the Madhya Pradesh High Court is whether it is open to the appropriate government to issue successive notifications under s. 6 of the Land Acquisition Act, No. 1 of 1894, (hereinafter referred to as the Act) with respect to land comprised within one notification under s. 4(1) of the Act. The question arises in this way. On May 16, 1949, a notification was issued under s. 4 (1) of the Act by which it was declared that lands in eleven villages including village Chhawani was likely to be needed for a public purpose, i.e., the erection of an iron and steel plant. It appears that thereafter notifications were issued under s. 6 with respect to the villages notified in the notification under s. 4(1) and it is not in dispute that a number of such notifications under S. 6 were issued with respect to village Chhawani and some land in that village was acquired under those notifications, the last' of such acquisitions being in the vear 1956. Thereafter on August 12, 1960, another notification under s. 6 of the Act was issued by the appropriate government proposing to acquire 486-17 acres of land in village Chhawani and the area which was proposed to be acquired was demarcated on a map kept in the office of the Collector of Durg for inspection. The notification also stated that the provisions of S. 5-A of the Act shall not apply thereto. Thereupon the respondents who are interested in some of the land notified filed a writ petition in the High Court challenging the validity of the notification under s. 6. The principal contention raised on their behalf was that the notification under s. 6 of the Act was void as it had not been preceded by a fresh notification under s. 1) and the notification under S. 4(1) issued in 1949 had exhausted itself when notifications under s. 6 with respect to this village had been issued previously and could not support the issue of another notification under s. 6. In substance the contention of the respondents in their petition was that a notification under s. 4(1) could be followed only by one notification under s. 6 and that there could be no successive notifications under s. 6 with respect to lands comprised in one notification under s. 4(1). The petition was opposed on behalf of the appellant, and it was contended that it was open to the appropriate government to issue as many notifications as it deemed fit under s. 6 of the Act with respect to lands comprised in one notification under s. 4(1) and that it was not correct that the notification under s. 4(1) was ,exhausted as soon as one notification under s. 6 was issued with respect to a part of the land comprised in the notification under s. 4(1), and that it was always open to the appropriate government to issue successive notifications under s. 6 so long as these notifications were with respect to land comprised within the notification under s. 4(1).

The High Court has accepted the contention of the respondents and has held that a notification under s. 4 (1) can only be followed by one notification under S. 6 and that it is not open to the appropriate government to issue successive notifications with respect to parts of the land comprised in one notification under s. 4 and that as soon as one notification is issued under s. 6, whether it be with respect to part of the land comprised in the notification under s., 4(1) or with respect to the whole of it, the notification under s. 4(1) is exhausted and cannot support any further notification under s. 6 ,of the Act with respect to parts of land comprised in the notifi-

cation under s. 6. In consequence the petition was allowed and the notification dated August 12, 1960 quashed. The appellant then applied to the High Court for a certificate which was granted; and that is how the matter has come up before us.

The question whether only one notification under s. 6 can be issued with respect to land comprised in the notification under s. 4(1) and thereafter the notification under S. 4(1) exhausts itself and cannot support any further notification under s. 6 with respect to such land depends upon the construction of ss. 4, 5-A and 6 of the Act and on the connection between these provisions. Before however we deal with these provisions we may briefly refer to the scheme of the Act and the background in which these provisions have to be interpreted.

The Act provides for the exercise of the power of eminent domain and authorises the appropriate government to acquire lands thereunder for public purpose or for purposes of a company. The proceedings begin with a notification under S. 4 (1). After such a notification it is permissible under s. 4(2) for any officer of government, his servants and workmen to enter upon and survey the land in such locality, to dig or bore into the subsoil, to do all other acts necessary to ascertain whether the land is adapted for the purpose for which it was needed, to set out the boundaries of the land proposed to be taken and the intended line of the work proposed to be made thereon, to mark boundaries etc. by placing marks and fences and where otherwise the survey cannot be completed to cut down and clear away any part of any standing crop, fence or jungle. While the survey is being done under S. 4 (2), it is open to any person interested in the land notified under s. 4 (1) to object under s. 5-A before the Collector within thirty days after the issue of the notification to the acquisition of the land or of any land in the locality. The Collector is authorised to hear the objections and is required after hearing all such objections and after making such further enquiry as he thinks necessary to submit the case for the decision of the appropriate government together with the record of the proceedings held him and a report containing his recommendations on the objections. Thereaft the appropriate government decides the objections and such decision is final. If the appropriate government is satisfied after considering the report that any particular land is needed for a public purpose or for a company it has to make a declaration to that effect. After such a declaration has been made under s, 6 the appropriate government directs the Collector under S. 7 to take order for the acquisition of the land. Sections 8 to 15 provide for the proceedings before the Collector. Section 16 authorises the Collector to take possession after he has made the award under s. II and thereupon the land vests absolutely in the government free from all encumbrances. Section 17 provides for special powers in cases of urgency. If a person is not satisfied with the award of the Collector, ss. 18 to 28 provide for proceedings on a reference to court. Sections 31 to 34 provide for payment of compensation. Sections 38 to 44 make special provisions for acquisition of land for

companies. Section 48 gives power to government to withdraw from the acquisition of any land of which possession has not been taken. Section 49 provides for special powers with respect to acquisition of house,' building or manufactory and of land severed from other land. It will be seen from this brief review of the provisions with respect to acquisition of land that ss. 4 and 6 are the basis of all the proceedings which follow and without the notifications required under ss. 4 and 6 no acquisition can take place. The importance of a notification under s. 4 is that on the issue of such notification the land in the locality to which the notification applies is in a sense freezed. This freezing takes place intwo ways. Firstly the market value of the land to be acquired has to be determined on the date of the notification under s. 4(1) : [see s. 23(1) firstly]. Secondly, any outlay or improvements on or disposal of the land acquired commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under s. 4(1) cannot be taken into consideration at all in determining compensation : (see s. 24, seventhly).

It is in this background that we have to consider the question raised before us. Two things are plain when we come to consider the construction of ss. 4, 5A and 6. The first is that the Act provides for acquisition of land of persons without their consent, though compensation is paid for such acquisition; the fact however remains that land is acquired without the consent of the owner thereof and that is a circumstance which must be borne in mind when we come to consider the question raised before us. In such a case the provisions of the statute must be strictly construed as it deprives a person of his land without his consent. Secondly, in interpreting these provisions the court must keep in view on the one hand the public interest which compels such acquisition and on the other the interest of the person who is being deprived of his land without his consent. It is not in dispute that it is open to the appropriate government to issue as many notifications as it deems fit under s. 4(1) even with respect to the same locality followed by a proper notification under s. 6 so that the power of the appropriate government to acquire land in any locality is not exhausted by the issue of one notification under s. 4(1) with respect to that locality. On the other hand as the compensation has to be determined with reference to the date of the notification under S. 4(1) the person whose land is to be acquired may stand to lose if there is a great delay between the notification under s. 4(1) and the notification under s. 6 in case prices have risen in the meantime. This delay is likely to be greater if successive notifications under s. 6 can be issued with respect to land comprised in the notification under s. 4 with greater consequential loss to the person whose land is being acquired if prices have risen in the meantime. It is however urged that prices may fall and in that case the person whose land is being acquired will stand to gain. But as it is open to the appropriategovernment to issue another notification under s. 4 with respect to the same locality after one such notification is exhausted by the issue of a notification under S. 6, it may proceed to do so where it feels that prices have fallen and more land in that locality is needed and thus take advantage of the fall in prices in the matter of acquisition. So it is clear that there is likely to be prejudiceto the owner of the land if the interpretation urged on behalf of the appellant is accepted while there will be no prejudice to the govem-ment if it is rejected for it can always issue a fresh notification under s. 4(1) after the previous one is exhausted in case prices havefallen. It is in this background that we have to consider the question raised before us.

As we have said already, the process of acquisition always begins. with a notification under s. 4(1). That provision authorises the appropriate government to notify that land in any locality is needed'

or is likely to be needed for any public purpose. It will be noticed that in this notification the land needed is not particularised but only the locality where the land is situate is mentioned. As was. observed by this Court in Babu Barkya Thakur v. The State of Bombay,(1) a notification under S. 4 of the Act envisages a preliminary investigation and it is only under s. 6 that the government makes a firm declaration. The purpose of the notification under S. 4(1) clearly is to enable the government to take action under S. 4(2) in the matter of survey of land to decide what particular land in the locality specified in the notification under s. 4(1) it will decide to acquire. Another purpose of the notification under s. 4(1) is to give opportunity to persons owning land in that locality to make objections under s. 5-A. These objections are considered by the Collector and after considering all objections he makes a report containing his recommendation on the objections to the appropriate-government whose decision on the objections is final. Section 5-A obviously contemplates consideration of all objections, made to thenotification under s. 4(1) and one report thereafter by the Collectorto the government with respect to those objections. The government then finally decides those objections and thereafter proceeds to make a declaration under s. 6. There is nothing in s. 5-A to suggest that the Collector can make a number of reports dealing with the objections piecemeal. On the other hand S. 5-A specifically provides that the Collector shall hear all objections made before him and then make a report i.e. only a single report to the government containing his recommendation oil the objections.

(1) [1961] 1 S.C.R. 128).

It seems to us clear that when such a report is received from the Collector by the government it must give a decision on all the objections at one stage and decide once for all what particular land out of the locality notified under S. 4(1) it wishes to acquire, It has to be satisfied under s. 6 after considering the report made under S. 5-A that a particular land is needed for a public purpose or for a company and it then makes a declaration to that effect under s. 6. Reading ss. 4, 5-A and 6 together it seems to us clear that the notification under S. 4(1) specifies merely the locality in which the land is to be acquired and then under S. 4(2) survey is made and it is considered whether the land or part of it is adapted to the purpose for which it is required and maps are prepared of the land proposed to be taken. Then after objections under s. 5-A have been disposed of the government has to decide what particular land out of the locality specified in the notification under S. 4(1) it will acquire. It then makes a declaration under s. 6 specifying the particular land that is needed. Sections 4, 5-A and 6 in our opinion are integrally connected. 'Section 4 specifies the locality in, which the land is acquired and provides for survey to decide what, particular land out of the locality would be needed. Section 5-A provides for hearing of objections to the acquisition and after these objections are decided the government has to make up its mind and declare what particular land out of the locality it will acquire. When it has so made up its mind it makes a declaration as to the particular land out of the locality notified in S. 4(1) which it will acquire. It is clear from this intimate connection between ss. 4, 5-A and 6 that as soon as the ,government has made up its mind what particular land out of the locality it requires, it has to issue a declaration under S. 6 to that effect. The purpose of the notification under S. 4(1) is at this stage over and it may be said that it is exhausted after the notifi-cation under S. 6. If the government requires more land in that locality besides that notified-under S. 6, there is nothing to prevent it from issuing another notification under S. 4(1) making a further survey if necessary, heating objections and then making another

declaration under S. 6. The notification under S. 4(1) thus informs the public that land is required Or would be required in a particular locality and thereafter the Members of the public owning land in that locality have to make objections under S. 5-A; the government then makes up its mind as to what particular land in that locality is required and makes a declaration under s. 6. It seems to us clear that once a declaration under s. 6 is made, the notification under S. 4(1) must be, exhausted, for it has served its purpose. There is nothing in ss. 4, 5-A and 6 to suggest that S. 4 ,(1) is a kind of reservoir from which the government may from time to time draw out land and make declarations with respect to it :successively. If that was the intention behind sections 4, 5-A and 6 we would have found some indication of it in the language used therein. But as we read these three sections together we can only find that the scheme is that s. 4 specifies the locality, then there may be survey and drawing of maps of the land and the consideration whether the land is adapted for the purpose for which it has to be acquired, followed by objections and making up of its mind by the government what particular land out of that locality it needs. This is followed by a declaration 'Under s. 6 specifying the parti- cular land needed and that in our opinion completes the process and the notification under s. 4(1) cannot be further used thereafter. At the stage of s. 4 the land is not particularised but only the locality is mentioned; at the stage of s. 6 the land in the locality is particularised and thereafter it seems to us that the notification under s. 4(1) having served its purpose exhausts itself. The sequence of events from a notification of the intention to acquire (s. 4(1) to the declaration under s. 6 unmistakably leads one to the reasonable conclusion that when once a declaration under S. 6 particularising the area out of the area in the locality specified in the notification under s. 4(1) is issued, the remaining non- particularised area stands automatically released. In effect the scheme of these three sections is that there should be first a notification under S. 4(1) followed by one notification under S. 6 after the government has made up its mind which land out of the locality it requires. It is urged however that where the land is required for a small project and the area is not large the government may be able to make up its mind once for all what land it needs, but where as in the present case land is required for a large project requiring a large area of land government may not be able to make up its mind all at once. Even if it be so there is nothing to prevent the government from issuing another nonfication under s. 4 followed by a notification under S. 6. As we have said before, the government's power to acquire land in a particular locality is not exhausted by issuing one notification under s. 4(1) followed by a notification under S. 6. The interpretation which has commended itself to us therefore does not deprive the government of the power to acquire more land from the same locality if later on it thinks that more land than what has been declared under s. 6 is needed. It can proceed to do so by a fresh notification under s. 4(1) and a fresh declaration under s. 6. Such a procedure would in our opinion be fair to all concerned; it will be fair to government where the prices have fallen and it will be fair to those whose land is being acquired where the prices have risen. Therefore as we read these three sections we are of opinion that they are integrally and intimately connected and the intention of legislature was that one, notification under S. 4(1) should be followed by survey under S. 4 (2) and objections under s. 5-A and thereafter one declaration under S. 6. There is nothing in ss. 4, 5-A and 6 which supports the construction urged on behalf of the appellant and in any case it seems to us that the construction which commends itself to us and which has been accepted by the High Court is a fair construction keeping in view the background to which we have referred. Even if two constructions were possible, which we think is not so, we would be inclined to the construction which has commended itself to us because that construction does not restrict the power of the

government to acquire land at any time it deems fit to do and at the same time works fairly towards persons whose land is to be acquired compulsorily.

It now remains to consider certain other provisions of the Act to which reference has been made on behalf of the appellant to show that successive notifications under s. 6 are contemplated with respect to land in a locality specified in the notification under s. 4(1). The first provision is contained in s. 17(4). Section 17(1) gives power to government in cases of urgency to direct that the Collector should take possession of-the land before the award is made and such possession can be taken on expiration of fifteen days from the publication of the notice under s. 9(1). Further such possession can only be taken of waste or arable land and on such possession being taken such land vests absolutely in the government free from all encumbrances. To carry out the purposes of S. 17(1), S. 17(4) provides that the appropriate government may direct that the provisions of S. 5-A shall not apply in cases of urgency and if it so directs, a declaration under S. 6 may be made in respect of the land at any time after the publication of the notification under s. 4(1). It is urged that this shows that where the land notified under S. 4(1) includes land of the kind mentioned in S. 17 (1) and also land which is not of that kind it would be open to govern- ment to make a declaration under S. 6 with respect to the land mentioned in S. 17(1) immediately after the notification under s. 4(1) while notification with respect to the land which is not of the kind mentioned in s. 17(1) can follow later after the enquiry under s. 5-A is over and objections have been disposed of. So it is urged that more than one declaration is contemplated under s. 6 after one notification under s. 4(1). There are two answers to this argument. In the first place where the land to be acquired is of the kind mentioned in s. 17(1) and also of the kind not included in S. 17(1) there is nothing to prevent the government from issuing two notifications under s. 4(1) one relating to land which comes within s. 17(1) and the other relating to land which cannot come within S. 17(1). There- after the government may issue a notification under s. 6 following the. notification under s. 4(1) with respect to the land to which s. 17(1) applies while another notification under S. 6 with respect to land to which s. 17(1) does not apply can follow after the enquiry under S. 5-A. So section 17(4) does not necessarily mean that there can be two notifications under s. 6 where the provisions of that section are to be utilised, for, the government can from the beginning issue two notifications under s. 4 and follow them up by two declarations under s.

6. But even assuming that it is possible to make two declarations under s. 6 (though in view of what we have said above this is not necessary and we express no final opinion about it) where the land to be acquired is both of the kind mentioned in s. 17(1) and also of the kind not comprised therein, all that the government can do in those circumstances after one notification under s. 4 (1) comprising both lands is to issue one notification under s. 6 comprising lands coming within s. 17(1) and another notification under s. 6 with respect to land not coming within s. 17(1) sometime later after the enquiry under s. 5- A is finished. This however follows from the special provisions contained in s. 17(1) and (4) and in a sense negatives the contention of the appellant based only, on ss. 4, 5-A and 6. It may be added that that is not the position in the present case. Therefore even if it were possible to issue two notifications under s. 6 in the special circumstances arising out of the application of s. 17(4), all that is possible is to issue one notification relating to land to which S. 17(1) applies and another. notification relating to land to which s. 17(1) cannot apply. Further if both these kinds of land are included in the notification under S. 4(1), the issue of two notifications under s. 6 follows

from the special provisions contained in s. 17(1) and S. 17(4) and not from the provisions of ss. 4, 5-A and

6. The present is not a case of this kind, for the notification under S. 4(1) in this case issued in May 1949 did not contain any direction relevant to S. 17(4). It is true that the declaration under S. 6 dated August 12, 1960 contains a direction under s. 17(4), but the effect of that merely is to allow the government to take possession of the land within 15 days after the issue of notice under S. 9(1). This is on the assumption that a direction under s. 17(4) can be issued along with the notification under S. 6 as to which we express no opinion. We are therefore of opinion that the provisions in S. 17(4) do not lead to the conclusion that section 6 contemplates successive notifications following one notification under s. 4(1). As we interpret ss. 4, 5-A and 6 that is not the intention in a normal case. Even in a case of urgency there can at the most be only two notifications under s. 6 following one notification under s. 4(1), one relating to land which is covered by s. 17(1) and the other relating to land which is not covered by S. 17(1), provided both kinds of land are notified by one notification under s. 4(1). As we have said even that is not necessary for we are of opinion that in such a case the government can issue two notifications under s. 4(1), one relating to land to which S. 17(1) applies and the other relating to land to which s. 17(1) does not apply and thereafter there will be two notifications under s. 6 each following its own predecessor under s. 4(1).

Then reliance is placed on S. 48 which provides for withdrawal from acquisition. The argument is that S. 48 is the only provision in the Act which deals with withdrawal from acquisition and that is the only way in which government can withdraw from the acquisition and unless action is taken under S. 48(1) the notification under S. 4(1) would remain (presumably for ever). It is urged that the only way in which the notification under S. 4(1) can come to an end is by withdrawal under S. 48(1). We are not impressed by this argument. In the first place, under S. 21 of the General Clauses Act, (No. 10 of 1897), the power to issue a notification includes the power to rescind it. Therefore it is always open to government to rescind a notification under s. 4 or under s. 6, and withdrawal under S. 48(1) is not the only way in which a notification under s. 4 or S. 6 can be brought to an end. Section 48(1) confers a special power on government of withdrawal from acquisition without canceling the notifications under ss. 4 and 6, provided it has not taken possession of the land covered by the notification under S. 6. In such circumstances the government has to give compensation under S. 48(2). This compensation is for the damage suffered by the owner in consequence of the notice under S. 9 or of any proceedings thereafter and includes costs reasonably in- curred by him in the prosecution of the proceedings under the Act relating to the said land. The notice mentioned in sub-s. (2) obviously refers to the notice under S. 9(1) to persons interested. It seems that S. 48 refers to the stage after the Collector has been asked to take order for acquisition under S. 7 and has issued notice under S. 9(1). It does not refer to the stage prior to the issue of the declaration under s. 6. Section 5 says that the officer taking action under s. 4(2) shall pay or tender payment for all necessary damage done by his acting under s. 4(2). Therefore the damage if any, caused after the notification under S. 4(1) is provided in section 5. Section 48(2) provides for compensation after notice has been issued under S. 9(1) and the Collector has taken proceedings for acquisition of the land by virtue of the direction under s.

7. Section 48(1) thus gives power to government to withdraw from the acquisition without canceling the notifications under ss. 4 and 6 after notice under s. 9(1) has been issued and before possession is taken. This power can be exercised even after the Collector has made the award under S. 11 but before he takes possession under s. 15 Section 48(2) provides for compensation in such a case. The argument that S. 48(1) is the only method in which the government can withdraw from the acquisition has therefore no force because the government can always cancel the notifications under ss. 4 and 6 by virtue of its power under S. 21 of the General Clauses Act and this power can be exercised before the government directs the Collector to take action under S. 7. Section 48(1) is a special provision for those cases where proceedings for acquisition have' gone beyond the stage of the issue of notice under S. 9(1) and it provides for payment of compensation under. s. 48(2) read with S. 48(3). We cannot therefore accept the argument that without an order under S.48(1) the notification under S. 4 must remain outstanding. It can be cancelled at any time by government under s. 21 of the General Clauses Act and what s. 48(1) shows is that once government has taken possession it cannot withdraw from the acquisition. Before that it may cancel the notifications under ss. 4 and 6 or it may withdraw from the acquisition under s. 48(1). If no notice has been issued under s. 9(1) all that the government has to do is to pay for the damage caused as provided in s. 5; if on the other hand a notice has been issued under s. 9(1), damage has also to be paid in accordance with the provisions of s. 48(2) and (3). Section 48(1) therefore is of no assistance to the appellant for showing that successive declarations under S. 6 can be made with respect to land in the locality specified in the notification under s. 4(1).

Then reference is made to s. 49(2) and (3). These sub- sections. lay down a special provision applicable in certain circumstances. Among the factors to be taken into consideration in fixing the compensation is the damage if any sustained by the person interested at the time of the Collector's taking possession of the land by reason of severing such land from his other land. Section 49(2) provides. that if a person is claiming an unreasonable and excessive compensation for this kind of damage, the government can order the acqui-sition of the whole of the land even though under s. 6 only part of the land may have been declared. Sub-section (3) provides that in such a case no action under S. 6 to S. 10 would be necessary and that all that the Collector is to do is to give an award under s.

11. The argument is that S. 49(3) does not mention S. 4 and therefore it follows that successive notifications under S. 6 can be issued with respect to land in the locality specified in the notification under s. 4(1). We have not been able to understand how this follows from the fact that S. 4(1) is not mentioned in S. 49(3).. As we have said already s. 49(2) and (3) provide for a very special case and the order of government under s. 49(2) may in a sense be taken to serve the purpose of S. 4(1) in such a special case. Thereafter all that s. 49(3) provides is that the Collector may proceed straight off to determine compensation under s. 11, the reason for this being that all the other steps necessary for determining compensation under s. 11 have already been taken in the presence of the parties. Lastly it is urged that vesting is also contemplated in two, stages and that shows that successive notifications can be issued under s. 6 following one notification under s. 4(1). Section 16 provides for taking possession and vesting after the award hap, been made. Section 17 provides for taking possession and consequent vesting before the award is made in case of urgency. We fail to see how these provisions as to vesting can make any difference to the interpretation of ss. 4, 5-A and 6.

Section 16 deals with a normal case where possession is taken after the award is made while s. 17(1) deals with a special case where possession is taken fifteen days after the notice tinder s. 9(1). Vesting always follows taking of possession and there can be vestin either under s. 16 or under s. 17(1) depending upon whether the case is a normal one or an urgent one. What we have said with respect to s. 17(1) .and S. 17(4) would apply in this matter of vesting also and if the matter is of urgency the government can always issue two notifi-cations under s. 4, one relating to land urgently required and covered by S. 17(1) and the other relating to land not covered by S. 17(1). The argument based on these provisions in s. 16 and s. 17 can have no effect on the interpretation of ss. 4, 5-A and 6 for reasons which we have given when dealing with ss. 17(1) and 17(4). We are therefore of opinion that the High Court was right in holding :that there can be no successive notifications under S. 6 with respect to land in a locality specified in one notification under S. 4(1). As it is not in dispute in this case that there have been a number of notifications under s. 6 with respect to this village based on the notification under S. 4(1) dated May 16, 1949, the High Court was right in quashing the notification under s. 6 issued on August 12, 1960 based on the same notification under S. 4(1). The petition had also raised a ground that the notification .under S. 6 was vague. However, in view of our decision on the main point raised in the case we express no opinion on this aspect .of the matter.

The appeal therefore fails and is hereby dismissed with costs Appeal dismissed.