A LAW FOR BREAKING

By

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> "The laws can act as a catalyst provided public opinion is adequately conditioned. After all, it is not the severity of the punishment that deters crime but the certainty of it."*

In view of changing global environment, the society feels the need for new legislations, new instrumentalities and new tools to bring in social change. The bane of our society is that we lack clarity of thought and purpose when we embark on major legislative changes to combat the menace of modern crime. It is a known fact that all legislations intend to cure ills in the society, which existed in the immediate past. In the present context, it is too much to expect the lawmakers to be statesmen and see farther than their immediate future to embark on investigation into social engineering and future well being of the society. Since the purpose of the present investigation is concerning one aspect of legislation, it is found proper to concentrate on one subject and point out the deficiencies in the system, for the purpose of rectification and caution.

Drafting

Drafting of statutes is one of the important aspects of statute making and its reach is too far and wide to be taken lightly. There is no single statute which is not found wanting in brevity, clarity and easily understood by the citizens and implementing authorities. The statutes are being drafted in such a manner; the draftsmen have no time to study the effect of new legislation on the existing statutes. The drafting is one of the essential features of effective statutes. On this occasion, it is apt to remind ourselves of a quote **(AIR 1994 December 317)**:

> "I am the Parliamentary draftsman. I draft the country's laws. And half of the litigations, I am undoubtedly the cause."

The above quote summarises the present problems faced by our society.

2. The law-makers formulate guidelines and the legal draftsmen thereafter take over to play their part in creating havoc. They look for similar statutes in the libraries, make drafts without thinking about the implementability, ability of the affected people to understand, its effect on the current legislations and practicability. The law-makers, unfortunately, stand on similar pedestal.

3. For the present topic, the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') ideally fills the vacuum of all that is bad, cumbersome, repetitive, betraying imitation, creating lacunae and defeating the very purpose of the statute in an effective manner from the very inception till the present day. The beauty of the statute is that even the Courts are confused about the various provisions applicable to the fact situations, not to mention the complete ignorance of the implementing machinery like the police, excise and other enforcement authorities about the provisions and the procedure prescribed under the statute, thereby creating havoc and law-lessness in the state of affairs in narcotic control, violating the very spirit of the international covenants it wanted to implement.

* From Editorial, Indian Express, dated 5-8-1996.

4. The NDPS Act intended to consolidate and amend the law relating to Narcotic Drugs, to make stringent provisions for the control and regulation of operations relating to Narcotic Drugs and Psychotropic Substances, to provide for forfeiture of the property derived from or used in illicit traffic in Narcotic Drugs and Psychotropic Substances, to implement the provisions of the international conventions on NDPS and for matters concerning therewith. This Act is a recent legislation. It is highly technical in nature containing host of details, procedure and punishments.

5. It has been a long story of missed opportunities, shady implementation, and proverbial mis-management all arising from the statutory provisions themselves in the NDPS Act, as the discussion infra would show.

6. Implementation of any statute would depend mainly on the procedure prescribed to be followed. It starts with the empowered officers under the Act :—

Section 41 contains 3 provisos and these refer to same officers empowered by the State Governments. These are of three categories. Section 42(1) also refers to empowered officers. The Andhra Pradesh Government issued three GOs., one issued in exercise of powers conferred under Section 41(2), one under Section 42(1) and another under Section 53(2) of the Act. Supposing these GOs., were not issued? There would have been utter chaos. If the States are lazy and have not woken up to issue notifications, the implementation of the Act would be dormant. Why this empowerment is provided in the Act, which is nothing but an exercise in imitation of past practices, one fails to fathom. This empowerment becomes a big issue for legal bodies when high stakes are involved.

7. Section 53 is another provision in the procedure giving the Central Government a power, after consultation with the State Government to issue notification to invest any officer or Department of Government Agency with the power of an Officer-in-charge of a Police Station. This is with reference to registration of crimes and investigations. The intention of the Legislature in creating additional authorities to look after this specialised subject is laudable. We would not be sure if we go through the procedure and how they have been drafted and implemented.

8. Section 41 of the NDPS Act provides for an *empowered* Magistrate of First Class or Magistrate of Second Class to issue warrant for arrest of any persons suspected of the offences under Chapter IV whether by day or by night, committed in any building, conveyance etcetera.

9. Section 41(2) enables an empowered officer to arrest any person or search any building or conveyance or place in search of Narcotic Drugs and Psychotropic Substances. This empowering business of the provisions of the statute really is a funny appendage, which has absolutely no meaning at all. When the Central Government is making a statute, when there is uniform system of governance including administration, executive, police, revenue and judiciary, why resort to insertion of innocuous terms except to confuse the people and give a fig-leaf for gaping holes open to attack by the interested parties, is not known. But one thing is certain, that they are inspired measures which are deliberately left to cripple the system instead of making a statute easily understandable by the people and implementable by the concerned. Whether these appendages are resorted to make the Act appear as a specialised one may be one of the reasons, but not all reasons are honourable.

10. Under Section 36-A(1)(d), complaints have to be filed by similar officers authorised in this behalf before the Special Court. (These appear to be no similar

notifications for A.P., the thought of which is dreadful for law enforcers).

11. The effects of the innocuous provisions of Sections 41 and 42 and the judicial perception would reveal how these provisions have created an utter chaos as the discussion supra would reveal;

In a case which came up before the Honourable Supreme Court involved seizure of ganja from the appellant therein by the Excise Officials on 21st November, 1990 (*Roy V.D. v. State of Kerala*, 2000 (1) ALD (Crl.) 71 (SC)). The main attack of the appellant therein was that the Excise Inspector who seized ganja was not the empowered officer. The Government of Kerala issued G.O. Ms. No.168/92, TD authorising officers of and above the rank of Inspectors of Excise Department to file complaint under Section 36-A(1)(d) of NDPS Act on 20th October, 1992. It was held by the Honourable Supreme Court that the Excise Inspector who initially filed the complaint was not empowered to file complaint and quashed the proceedings against the appellant.

12. Under Section 41(2), if the empowered officer has reason to believe from personal knowledge or information given by any person and taken in writing that any person has committed an offence punishable under Chapter IV or that any NDPS in respect of which any offence punishable under Chapter IV has been committed or any document or any article which may furnish evidence of the commission of such offence has been kept or concealed in any building, conveyance or place, may authorise any officer subordinate to him, but superior in rank to a peon, sepoy or constable, to arrest such person or search a building, conveyance or place whether by day or by night or himself arrest a person or search a building, conveyance or place.

13. What is this knowledge or information that a person has committed an offence etcetera? One can understand that if NDPS is kept in a building, place etcetera, what if the contraband is kept in a conveyance? This word '*conveyance*' signifies a motor vehicle or any other vehicle like train, bicycle, rickshaw, ship or even an aeroplane. Did the law-makers think that the conveyance would remain stationary for the empowered officer to fulfil the procedural requirements before being detained? Section 42 also uses the word '*conveyance*' with fatal consequences.

14. A case arose on this aspect which came up before the Honourable Supreme Court in *Abdul Rashid Ibrahim Mansuri v. Gujarat*, 2000 (1) ALD (Crl.) 404 (SC) = (2000) 2 SCC 513. In this case, on 12-1-1988 police personnel intercepted an auto-rickshaw while it was proceeding to Shahpur (Gujarat). Four gunny bags containing charas (cannabis hemp) were found in the vehicle. The appellant who was the auto driver was arrested. In the trial Court, he was acquitted, but on appeal, the High Court of Gujarat set aside the order of acquittal and convicted him for the offence under Section 20(b)(ii) of NDPS Act. It was found that two persons loaded the contraband into the auto-rickshaw. Those persons could not be traced. The charge-sheet was laid against the auto driver. The auto-rickshaw driver, during the trial, in his examination under Section 313 Cr.PC, admitted that the police party intercepted his vehicle and seized the gunny bags, but claimed his ignorance about contents of the gunny bags. The High Court found that the appellant failed to prove that he did not know the contents of the load and hence, the presumption under Section 35 of the Act held as un-rebutted. In this case, the Honourable Supreme Court held that "non-recording of the vital information collected by the police at the first instance can be counted as a circumstance in favour of the appellant". The benefit of such finding was given to the appellant therein.

15. There are many number of cases where violation of provisions of Section 42 was held as vital and vitiating the trial (*Veeradapu Reddy Sammanna v. State of A.P.*, 1999 (1) ALT (Crl.) 518 (AP), *State of Punjab v. Balbeer Singh*, AIR 1994 SC 1872 (Para 7), *Abdul Rasheed Ibrahim Mansuri v. State of Gujarat*, (2000) 2 SCC 513. These decisions show how the Courts give importance to strict adherence to the procedural laws when punishment prescribed is severe and the statute prescribes a set procedure.

16. There is one more nuisance available a plenty in Section 42 of the Act providing for power of entry, search, seizure and arrest without warrant or authorisation. It provides for search concerning NDPS concealed in any building, conveyance or enclosed space between *sunrise and sunset*, however with a rider that "*if the empowered officer has reason to believe from personal knowledge or information given by any person and taken down in writing that NDPS relating to offences punishable under Chapter IV has been committed or any other material kept or concealed in any building, conveyance or enclosed place*".

17. In a case (*K. Venkatesham and another v. State of A.P.*, 2000 (2) ALD (Crl.) 64 (AP), an accused was apprehended while going in a car on 24-3-1997 at about 6.45 p.m., transporting 200 Kgs., of diazepam. The Inspector of Police received information about it and on the basis of such information; he along with his staff intercepted the car and apprehended the accused persons. This was found to be after *sunset* and the proviso to Section 42(1) of the Act was found to be applicable. In this case, the search took place between *sunset* and *sunrise* and the investigating officer did not record the information in writing when he received the same from an outsider. Though he claimed to have recorded the information in the general diary, he failed to produce it in the Court for scrutiny. Thus the entire prosecution was held as vitiated with incurable defect basing on several Supreme Court decisions.

18. In *Abdul Rasheed Ibrahim Mansuri v. State of Gujarat* (supra) an auto-rickshaw was intercepted at about 4-00 p.m., on 12-1-1988 carrying charas in four gunny bags valued at Rs.5.29 lakhs on the road. This was between *sunrise and sunset*. The accused auto driver was caught in a public place. The auto-rickshaw is considered as conveyance and the requirement of Section 42 that the empowered official should record his reason was found necessary. For any offence that takes place in public place, the relevant provision applicable is Section 43. Under this provision, there is no requirement for recording reasons when seizure of any NDPS is effected in a public place. This provision sometimes is not highlighted in many cases, thereby defeating the purpose of the statute.

19. There is a proviso under Section 42(1)(d) that if the empowered officer has reason to believe that a search warrant or authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between *sunset* and *sunrise* after recording the grounds of his belief. Under Section 42(2) he should send a copy thereof to his immediate official superior of his grounds of belief. What is this *between sunset and sunrise, sunrise and sunset?* Sending a copy of his belief to his immediate official superior? Do they really help in a situation where split second decision and quick action is needed? May be the law-makers thought that such classification creates safeguards against excesses and abuses. Did they envisage any training programme to all the empowered and un-empowered officers in the country? Where they sensitised? Did they believe that the officers, who are on tenterhooks, dealing

with day-to-day matters, have time to follow these fine points found in fine print to uphold the law? Are we not showing escape routes for the scum of the society, which the international community abhors? The society is greatly affected by these escape routes provided by the statute itself, no doubt under the guise of safeguards.

20. Now let us go to the most important provision, widely interpreted, which has its reach far and wide. This provision made the efforts of the entire enforcement authorities nugatory till the Honourable Supreme Court rendered an authoritative decision in the year 1999. It is Section 50.

21. Under Section 50, any empowered/ authorised officer shall take a person apprehended without unnecessary delay to a nearest Gazetted Officer of any department or to the nearest Magistrate for search. There was utter chaos until the decision of the Honourable Supreme Court, which explained as to what constitutes personal search. Most of the Courts in the country were of the view that if a person is found carrying NDPS either on his person physically or in any container, bag, vessel, he should be brought before a Gazetted Officer or a Magistrate and searched. This chaos was contained by the Honourable Supreme Court in (*State of Punjab v. Baldev Singh*, (1999) 6 SCC 172), which clarified the issue setting at rest the earlier uncertainty by declaring that personal search means search of a person and not the containers like bags, vessels and other things the person carries, meaning thereby if a person is carrying anything concealed in his dress or inside his body, he should be searched personally before a Gazetted Officer or a Magistrate. Imagine upto 1999 how the requirement of personal search before a Gazetted Officer or a Magistrate was twisted and confused with search of bag, baggage, containers, vessels and conveyance etcetera. One can agree if the search is concerning hidden contraband on a person but it is practical knowledge in this country that ganja, charas, etcetera in large quantities are being carried in bags, suit-cases, etcetera to be viable by the culprits and prescribing search and seizure of these things before a Gazetted Officer or a Magistrate would be impracticable. Imagine how much efforts of the law enforcing authorities went in vain and how the society suffered because of the lacunae found in the statute. There are host of decisions regarding this controversy. Violation of Section 50 regarding affording opportunity to the accused to be searched before a Gazetted Officer or a Magistrate was found to be essential right of the accused and denying of such right was found to vitiate the trial. (*C. Ali v. State of Kerala*, (1999) 7 SCC 88, *Nandi Francis Nwazor v. Union of India*, (1998) 8 SCC 534, *Sule Kareem v. Assistant Collector of Customs*, 1998 Crl.LJ 3052 (DB), *Manikchand Jain v. State*, 1995 Crl.LJ 3246).

22. Section 44 concerns with power of entry, search, seizure and arrest in offences relating to cocoa plant, opium poppy and cannabis plant. There is unnecessary reference to these specific substances. When narcotic substances are shown in the schedule, is it not easier to mention as "*the scheduled narcotic substances*" thereby avoiding unnecessary difference concerning ganja and other narcotic substances apart from the items mentioned herein. This creates confusion in the mind of the investigating officers in the first instance as if there is a separate and special provision. The empowered officers are mentioned in the Act and all of them are not exclusively concerned with the implementation of NDPS Act. There is one Narcotic Bureau in New Delhi and the statutory basis of such Bureau has been questioned, which is a subject of litigation wholly unnecessary.

23. *Disposal :*—There is an identifiable lacuna regarding disposal of narcotic substances after trial. The relevant provisions are Sections 52, 52(A), 55, Sections 60

to 63 and 65 (since omitted by Act 2/89). Careful readings of these provisions show that the Court is empowered to confiscate narcotic substances. What should be done to confiscated NDPS to be decided under Section 65 is omitted by amendment (Act 2/89) and a void is left leaving the space open for mis-use. Neither in the rules nor in the Act there is any clear provision for disposal of the confiscated narcotic substances.

24. There is one more aspect on this subject. Under Section 48 of the Act, any Metropolitan Magistrate, JFCM or a Magistrate specifically empowered in this behalf by the Government, or any officer of a gazetted rank empowered under Section 42, may order attachment of any opium poppy, cannabis plant or cocoa plant (only three items are specified), which he has reason to believe to have been illegally cultivated and in doing so, pass such order (including an order to destroy such crop) as he thinks fit. The Special Court under Section 36 is given power of an empowered Magistrate to dispose off cannabis or cocoa plants and also exercise power under Section 167 Cr.PC. However, under Section 45 of the NDPS Act, an order can be passed by the empowered officer directing the owner or the person in possession of the goods not to part with or otherwise deal with the goods, except with the previous permission of such an officer. To what effect is not mentioned. There is unnecessary reference to a particular narcotic substance like cannabis, opium poppy, cocoa plants under same sections leaving other NDPS in the schedule, which creates confusion in the investigating officers eventually affecting the result in prosecutions. There is absolute need to rationalise these provisions and avoid repetitions, so that the implementing authorities are focussed on the object of the statute.

25. Section 52-A deals with disposal of seized NDPS. There is a provision for preparing inventory, taking photographs of such drugs or substances and certifying such photographs in the presence of such Magistrate, allowing drawal of samples of such drugs in the presence of such Magistrate and certifying the correctness of any list of samples drawn. This is only on application to the Magistrate. Under the same section, the documentation is considered as primary evidence of such offence. As far as the disposal of the property is concerned, there is again an usual clause *i.e.*, (Section 52-A(1)) whereunder it shall be disposed of by such officer and in such manner as that Government may, from time to time, determine after following the procedure hereinafter specified; *i.e.*, the same procedure concerning preparation of document which is treated as primary evidence. Again these numerous provisions for specified items of NDPS, creates avoidable confusion.

26. It is well known that ganja is being grown in Government lands, forest lands and on hillocks where ownership cannot be certain and even in the back yards of houses and sometimes in agricultural fields as an inter-crop. If there is no clear-cut provision and guidance as in Section 52-A of the Act to make the proceedings as primary evidence like permitting destruction of standing crop or gathered crop (narcotic substances), taking photographs, video, the entire exercise in this respect would be made nugatory.

27. There is a detailed procedure concerning forfeiture of property derived from or used in illicit traffic. Chapter V deals entirely with the subject. A reading of the Sections from 68(A) to 68(Y) and Chapter VI from Sections 69 to 83 would clearly show that there are so many repetitions and overlapping powers of the Central Government and the State Governments, one would be amazed, atleast the person who implements the law, as to where he is, unless he is a person specifically and solely entrusted with implementing NDPS Act. The drafters might have thought

that in giving these details, a scholarly exposition was made. Look at the end result. Confusion reigns everywhere. There is absolutely no clarity of thought, purpose and no care for the officer who will be dealing with several other statutes including the present one. Whether it is practical to go through the unnecessary procedures, before embarking on curbing night-marish traffic in NDPS? Did the law-makers intend this confusion and obfuscation to remain?

28. This is the time to correct the situation and revise the entire statute to make it simple, understandable even by a constable upto the highest Court of law, not to speak of the affected people.

29. The statutes must be epitomes of brevity, clarity and implementability. There is no meaning in giving one thousand safeguards by claiming that it is a harsh statute, without giving a second thought to its social implications and implementability. Observing compliance with the statutory rules and law is one aspect and creating a major hurdle and making a statute and rules un-implementable, a different thing altogether, which is neither desirable nor permissible in a democratic society.

30. There is already a schedule appended to the Act describing various narcotic substances. These are mainly chemicals. There is an absolute need to prepare a fresh schedule including other NDPS and update the schedule by including fresh NDPS by mere notification in the official gazette and by giving wide publicity to it. This would obviate different rules for different substances thereby making a bulky act with startling negative results.

31. There is an unnecessary appendage in the shape of Section 57 of the Act concerning report of arrest and seizure to the immediate official superior within 48 hours next after arrest or seizure by the empowered officer. What is the purpose of this provision, when under general law under Section 167 Cr.PC and more so under NDPS Act, an accused should be produced before the nearest Magistrate within 24 hours of his arrest? When a report has to be submitted before the Magistrate within 24 hours in the shape of case diary, is there any meaning in adding this provision to the statute, thereby making one more big escape route for the criminals, who not only make themselves rich out of NDPS business, but make generations of youth of this unfortunate country to get addicted to drugs and narcotic substances? Fortunately it needed a Supreme Court decision rendered in *Gurbax Singh v. State of Haryana*, 2001 AIR SCW 670, to say that non-compliance of this section does not *ipso facto* violate the trial and conviction and that it is only directory in nature.

32. Under Section 42(2) when an officer takes down any information in writing under sub-section (1) or records grounds for his belief before he embarks on search and seizure, he shall forthwith send a copy thereof to his immediate official superior. The officers rarely do that, naturally these escape routes, unless properly explained by the law-makers as to why they were therein the first instance, are found very beneficial to the criminals who indulge in their nefarious activities. May be as legal experts we may read fine print and release a criminal by interpreting these provisions. But do they show any inclination to carry out the purpose of the Act and international conventions? Do these criminals who indulge in these activities need so fine points in their favour, either kept deliberately or out of ignorance or a feeling to take extra precautions? This is the time to revise the Act and make it more intelligent.

33. There is an unnecessary controversy regarding complainants investigating the cases under NDPS Act and filing charge-sheets created by our creativity and genius.

It is well known that after seizure of NDPS and arrest of the suspects, there is nothing to be investigated (*except in rare cases* like conspiracy, taking out kingpins, *etc.*), except securing judicial custody of the accused and sending the representative sample to the laboratory.

The Honourable Supreme Court in *State of Punjab v. Balbir Singh*, AIR 1994 SC 1872, observed that under NDPS Act only an empowered officer could conduct search and investigate into the cases under NDPS Act. If such is the case, there can be no argument that the complainant and IO cannot be one person. Thus the complainant (who conducts search and seizure) cannot be called technically a complainant (observation from *Pancharam v. State of Rajasthan*, 1995 Crl.LJ 1025). In stray cases under NDPS Act, the complainant was held as not competent to investigate and there was violation of principles of natural justice - *Gyanchand v. State of Rajasthan*, 1993 Crl.LJ 3716. If a clear provision is made in the statute itself, unnecessary controversies can be avoided.

34. *Rules :*—The Central Government framed NDPS Rules, 1985 by virtue of Sections 9 and 76 of the NDPS Act, 1985. Many of the States in our country framed rules by virtue of Sections 10 and 78 of NDPS Act. For the Union Territories, rules were framed under Article 239(1) of the Constitution. Some of the States made provisions for disposal of confiscated drugs and articles *e.g.*, (a) the State of Andhra Pradesh under Rule 105; (b) the State of Uttar Pradesh under Rule 81(3); (c) the State of Kerala under Rule 53(3); (d) the State of Karnataka under Rule 40(4). It may be noted that disposal of confiscated NDPS under these rules have been made purportedly under Section 65 of NDPS Act, which is no more on the statute book (omitted by Act 2/89). Moreover, the rules framed under the NDPS Act are concerned mainly with issue and cancellation of licences for regulating NDPS. These bulky rules framed by the individual States no doubt may provide for situations, which are particular and peculiar to those States, but it is at the cost of consistency, brevity and clarity. It would have been easy for the law-makers to have made the Principal Act and the rules framed thereunder applicable to all the States with a provision to suggest amendments wherever there was need, so that uniform rules could be framed. It is not the case of these States that different administration like police and other enforcement agencies exist to control the menace of drugs. These elaborate procedures stare at the face of the Constitutional Authorities with their cumbersome procedures; most impracticable to say the least, different forms and formats, only because the statute permitted these States to frame rules, instead to follow common rules. If the geographical locations of some of the States permit the use of narcotic drugs in a limited manner, let it be done through the Central Rules. That would make the law transparent, understandable and implementable by the concerned. By making bulky rules and a sea of procedures, we are mocking at ourselves, presumably to control the drug menace, which is a new enemy of our society. I saw a bulky book of around 1800 pages for a small statute like the present one, which should have been 1/20th of its volume, which is neither understandable by the public, enforcement authorities, most importantly the general public including the offenders. The bulky nature of the book of 1800 pages betrays the nature of the statute as a Penal Statute and social legislation, creating more loopholes for an offender to escape than to catch him. Naturally these traits area jolly-ground for legal eagles to step-in and fill the lacunae in favour of anarchy created by NDPS use in the country.

35. There is absolutely no need to ape old generation of statutes, which are past

their prime. The draftsmen should be encouraged to be creative with clarity of thought for drafting concise, clear, understandable and implementable statutes. Instead of looking back to ancient drafts, it is better to go through similar statutes in advanced and enlightened countries where implementation is fast, people understand the provisions of law and the offenders are put in fear of certainty of punishment.

JUDGMENT OF THE SUPREME COURT REPORTED IN AIR 2001 SC 1117 - UPSETTING THE APPLE CART ?

By

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In the present system of administration of justice, it is not uncommon to come across conflicting and contrary judgments from various High Courts on the same subject-matter of law. While this does pose a problem for the subordinate Courts especially in the absence of any judgment of the Supreme Court on the point, the real difficulty arises when the Supreme Court itself takes a view contrary to its own earlier judgments rendered by a co-ordinate Bench.

A rent judgment of the Supreme Court in the case of land *Acquisition Officer and Mandal Revenue Officer v. Narasaiah*, AIR 2001 SC 1117, under Section 51A of the Land Acquisition Act is a case in point. The said judgment has not only failed to consider the earlier Supreme Court judgments rendered by Benches of equal strength which have taken a different view on the same point of law, but in the process has also failed to correctly appreciate some of the important aspects of Evidence Act.

The short question before the Supreme Court in the above referred case was whether it is necessary for the claimants in the Land Acquisition cases to examine the persons connected with the sale deeds which are filed in support of their claim for higher compensation before the said sale deeds are accepted as evidence by the reference Court. Till *Narasiah's* case, there has been no discordant note struck by any Court including the Supreme Court in the past and the accepted position of law was that such examination of the party connected with the sale deed is a *sine quo non*. For the first time, a three-member Bench of the Supreme Court held otherwise. The final observations of the Supreme Court in *Narasaiah's* case (supra) are summarized as follows:

(a) The purpose of introducing Section 51-A in the Land Acquisition Act by way of an amendment is to obviate the difficulties for the State Officials to trace out the persons connected with the sale deeds and examine them in the Court for the purpose of proving such transactions.

(b) Therefore certified copies of sale deeds can be considered without examining the persons connected with the transaction.

(c) In land acquisition cases for enhanced compensation the State has the burden to prove the market value of the land acquired by it for which the State may have to depend upon the prices of lands similarly situated which were transacted or sold in the recent past, particularly those lands situated in the neighbouring areas.

The above judgment will have a far reaching effect not only in all the Land acquisition cases, but also in other cases, for