

addition to the sum of Rs. 9,630-2-0, four further items should be credited to the account of the appellant, namely, Rs. 600, Rs. 3,600, Rs. 50 and Rs. 250. The decree against the appellant would, therefore, be reduced to Rs. 1,82,623-8-3.

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Bahadur, J.

It may be observed in passing that Mr. Dalip Chand Gupta had submitted that the appeal had abated, the legal representatives of Parmeshwari Dass plaintiff, who died during the pendency of the appeal not having been impleaded as respondents. It is argued that a decree passed against Parmeshwari Dass in his personal capacity would fall on his estate. In our view, there is no force in this contention. Indeed, this objection should fail on the short ground that new appointments have been made in place of the trustees who are dead and the new trustees have been brought on the record.

The result is that the appeal is partially allowed, the decree against the first defendant being reduced from Rs. 1,87,123-8-3 to Rs. 1,82,623-8-3. The costs of the appeal would fall on the parties proportionately. In all other respects the decree is upheld. The decree against the second defendant who has not appealed will remain undisturbed.

MEHAR SINGH, J.—I agree.

B.R.T.

CIVIL MISCELLANEOUS

*Before Prem Chand Pandit, J.*

RANJIT SINGH,—Petitioner

*versus*

THE STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ No. 74 of 1961:

*Land Acquisition Act (I of 1894)—S. 5—A—“after the issue of the notification”—meaning of—S. 6—Notification*

1962

October, 19th.

*under—Whether bad in law if issued before deciding objections.*

*Held*, that the words “after the issue of notification” appearing in section 5-A of the Land Acquisition Act, 1894, mean “after the publication of the notification in the Official Gazette”, because the objections can only be filed after the land has been notified in the Official Gazette under section 4 of the Act. The words “after the issue of the notification” do not mean “after the date of the preparation of the notification by the Department concerned”, because the notification becomes effective only after the public comes to know about the same. It is only then that they can file objections under section 5-A of the Act.

*Held*, that a notification issued under section 6 of the Land Acquisition Act would be bad in law if it is issued before the objections are decided.

*Petition under Article 226 of the Constitution of India praying that an appropriate Writ, Order or direction be issued declaring the declaration and notification, dated 10th June, 1960 issued under section 6 of the Land Acquisition Act, and all the proceedings taken thereunder to be invalid and void and also praying that the respondents may further be prohibited from taking any action under the said Notification or interfering with the possession of the petitioner over his lands situate in Patti Shamashabad, tehsil Sirsa, district Hissar.*

H. S. GUJRAL, ADVOCATE, for the petitioner.

H. L. SONI, ADVOCATE, for the ADVOCATE-GENERAL, for the Respondents.

#### ORDER

Pandit, J.

PANDIT, J.—This is a petition by Ranjit Singh under Article 226 of the Constitution for quashing the notification, dated 10th June, 1960 issued under section 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) and all proceedings taken in pursuance thereof.

The petitioner is a displaced land-holder from West Pakistan. He was allotted a garden measuring 123 *kanals* and 13 *marlas* in village Shamshabad, tehsil Sirsa, district Hissar, in lieu of his garden left in Pakistan. The State of Punjab, respondent No. 1, propose to acquire some land in this village for remodelling scheme of Sirsa Major Distributary and the land of the petitioner is also being taken for this purpose. A notification under section 4 of the Act was issued on 22nd April, 1960 and was published in the Punjab Government gazette, dated 6th May, 1960. In this notification it was stated that this land was likely to be acquired for the construction of Bhambur Minor and any person interested could within 30 days of the publication of the notification file objections in writing before the Land Acquisition Officer, Bhakra Nangal Project, Hissar. The petitioner, consequently, filed objections under section 5-A of the Act on 31st May, 1960. Thereupon, the Land Acquisition Officer issued notices to the petitioner for the hearing of the objections on a number of dates, but they are still pending and the next date for the hearing of the same was fixed for 16th January, 1961. In the meantime the impugned notification, dated 10th June, 1960 under section 6 of the Act was published in the Government gazette on 17th June, 1960. It was mentioned in this notification that the lands were needed by the Government at public expense for a public purpose, namely, for the construction of Bhambur Minor and under the provisions of the Act, the land Acquisition Officer, Hissar, was directed to take orders for the acquisition of the said land.

Learned counsel for the petitioner contended that the notification under section 6 of the Act was illegal, because the same could not be issued before

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disposal of the objections filed under section 5-A of the Act. The reply of the respondents is that the petitioner had not filed the objections within 30 days after the issue of the notification under section 4 of the Act. They were barred by time and were not, therefore, taken into consideration.

The only point that arises for determination is whether 30 days' limitation for filing the objection under section 5-A of the Act is to be computed from the date of the notification under section 4 of the Act or from the date of its publication in the Government gazette.

The relevant portions of sections 4 and 5-A are as under:—

“S. 4(1). Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

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S. 5-A(1). Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality as the case may be.

(2). Every objection under sub-section (1), shall be made to the Collector in writing and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for decision of the appropriate Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the appropriate Government on the objections shall be final.

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A bare reading of these two provisions would show that first of all a notification under section 4 of the Act has to be published in the Official Gazette and the Collector has also to give public notice of the substance of this notification at convenient places in the locality. Then under section 5-A of the Act, any person, who is interested in the land which has been notified under section 4, can within 30 days after the issue of the notification file objections to the acquisition of the land. The words "after the issue of the notification" appearing in section 5-A obviously mean "after the publication of the notification in the Official Gazette", because the objections can only be filed after the land has been notified in the Official Gazette under section 4 of the Act. The words "after the issue of the notification" do not mean "after the date of the preparation of the notification by the Department concerned", because the notification becomes effective only after the public comes to know about the same. It is only then

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that they can file objections under section 5-A' of the Act. In the present case, the notification was published in the Official Gazette on 6th May, 1960 and the objections were, admittedly, filed on 31st May, 1960, that is to say within 30 days of the publication of the notification. The same are, consequently, within time. Learned Counsel for the State conceded that if the objections were not barred by limitation, then the notification under section 6 of the Act would be bad in law, because those objections had to be disposed of before issuing this notification. Moreover, in the present case, the notification under section 4 clearly stated that the objections had to be filed within 30 days of the *publication* of the notification and various dates were fixed by the Land Acquisition Officer for hearing of the same. They were still pending and the said officer had not informed the petitioner that they were barred by limitation and would not be considered.

In view of what I have said above, this petition succeeds and the notification, dated 10th June, 1960 issued under section 6 of the Act and all proceedings taken thereunder are quashed. In the circumstances of this case, however I will make no order as to costs in these proceedings.

*B.R.T.*

APPELLATE CIVIL

*Before Mehar Singh and Shamsher Bahadur, JJ.*

BHAGWAN DASS MEHRA AND ANOTHER,—*Appellants.*

*versus*

BHARAT NIDHI LTD.,—*Respondent.*

Regular First Appeal No. 39 of 1956:

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October, 26th. *Limitation Act (IX of 1908)—Suit by a creditor against  
guarantee broker—Article applicable to—Whether 57, 83 or*