(8) No other point was urged.

(9) For the reasons recorded above, this appeal fails and is dismissed, but in the circumstances of the case we make no order as to costs.

K.S.K.

APPELLATE CIVIL

Before Prem Chand Pandit and Pritam Singh Pattar, JJ.

HARNAM SINGH, ETC.,—*Appellants.*

versus

THE STATE OF PUNJAB, ETC.,—*Respondents.*

RSA No. 920 of 1961.

January 8, 1974.

Patiala Land Acquisition Act (III of 1995 BK) Section 19—Appeal under—Revenue Commissioner holding the appellant competent to file the appeal—Such order even though erroneous—Whether void—Suit to set aside such order—Article 14 Limitation Act (IX of 1908)—Whether applicable—Erroneous decision of a Tribunal with undoubted jurisdiction regarding its competency to hear a matter—Whether can be void.

Held, that under Section 19 of Patiala Land Acquisition Act, 1959 BK the Revenue Commissioner has jurisdiction to entertain an appeal against the award made by the Collector under Section 11 of the Act. While exercising the powers of an appellate Court, the Revenue Commissioner is also within his rights to decide whether the appellant is competent to file the appeal or not. Where the Revenue Commissioner decides that the appellant has the right to file the appeal, his order even though erroneous, is not void *ab-initio* for want of jurisdiction. It may be a voidable order.

Held, that it is a familiar feature of modern legislation to set up bodies and tribunals, and entrust to them work of a judicial character, but they are not Courts in the accepted sense of that term, though they may possess some of the trappings of a Court. The Revenue Commissioner while deciding an appeal under Section 19 of the Act is a quasi judicial tribunal. His order is not an executive or administrative order, but is a quasi-judicial order. Hence Article 14 of the Limitation Act, 1908 will apply to a suit filed for setting aside this order.

Held, that jurisdiction of a Court or a quasi-judicial Tribunal means the authority or power to hear and decide a case or matter. There is a clear distinction between the jurisdiction of the Court or Tribunal to try and decide a matter and its erroneous action in exercise of the jurisdiction. The jurisdiction is the power to decide a matter and it does not depend on the regular or erroneous exercise of that power or upon the correctness of the decision pronounced because the power to decide necessarily carries with it the power to decide wrongly as well as rightly. If the Court or the Tribunal has the jurisdiction to decide a matter, then it is immaterial what may be the particular question presented for adjudication, whether it relates to jurisdiction of the Court or Tribunal itself or affects the substantive rights of the parties litigating, it cannot be said that the decision itself is without jurisdiction or is beyond the jurisdiction of the Court or Tribunal. The decision may be erroneous, but it cannot be void for want of jurisdiction.

Case referred by Hon'ble Mr. Justice D. K. Mahajan on 8th March, 1972 for decision of an important question of law involved in the above noted Regular Second Appeal. The Division Bench Comprising of Hon'ble Mr. Justice Prem Chand Pandit and Hon'ble Mr. Justice Pritam Singh Pattar finally decided the case on 8th January, 1974.

Regular Second Appeal from the decree of the Court of Shri H. S. Bhandari, District Judge, Patiala, dated the 1st day of April, 1961, affirming with costs that of Shri N. R. Sharma, Sub-Judge, 1st Class, Patiala 'C', dated the 13th July, 1960, dismissing the suit of the plaintiffs and leaving the parties to bear their own costs.

J. V. Gupta, Advocate, *for the appellants.*

D. N. Rampal, Assistant Advocate-General, *for respondent No. 1.*

D. S. Nehra, Advocate, *for respondent No. 2.*

JUDGMENT

PATTAR, J.—This is a regular second appeal filed by Harnam Singh and others plaintiffs against the judgment dated April 1, 1961, of the District Judge, Patiala, dismissing their appeal against the judgment dated July 13, 1960 of the Subordinate Judge First Class, Patiala (C), whereby their suit was dismissed.

(2) The facts of this case are that the appellants Harnam Singh and others were owners of land in Rajpura and it was acquired by the Patiala State Government for Patiala Biscuit Manufacturers

Limited, Rajpura, respondent No. 2, under the provisions of the Patiala Land Acquisition Act, Sambat 1995, (hereinafter called the Act). Shri Devinder Singh Chahl, Collector, Patiala gave an award under section 11 of the Act on 26. 1. 2001 B.K., which is equivalent to May 8, 1944 A.D. fixing the price of this land at the rate of Rs. 600 per Bigha. The Biscuit Factory, defendant No. 2, filed an appeal against this award before the Revenue Commissioner under section 19 of the Act. The Revenue Commissioner accepted this appeal *vide* his order dated July 25, 1944, whose copy is Exhibit P.W. 3/1 and remanded the case to the Nazim, Patiala for redecision according to the rules. After the remand the appellants participated in the proceedings before the Collector who gave his award on January 16, 1945, and the amount of compensation was fixed by him at Rs. 220 per Bigha. The plaintiffs received the amount of compensation awarded to them without protest. They filed the present civil suit on October 23, 1950, for a declaration that the order of the Revenue Commissioner, dated July 20, 1944, allowing the appeal of the defendant Biscuit Factory was without jurisdiction and was void and therefore, the proceedings in pursuance of that order would be of no consequence and the only award in the field would be the award dated May 5, 1944. This suit was contested by the Biscuit Factory and by the Patiala and East Punjab States Union, because in the meantime the State of Patiala had merged into this Union. On the pleadings of the parties the following issues were framed by the trial Court :—

"1. Whether the Court has jurisdiction ?

2. Whether the suit is barred by time ?

"3. Whether a valid notice under section 80, Civil Procedure Code, was given ?

4. Whether the plaintiff is estopped ?

5. Whether the order of Revenue Commissioner dated 10.4.2001 B.K. is void and *ultra vires* ?

6. If issue No. 5 is decided in favour of the plaintiffs, what is its effect on the suit ?

7. Whether a suit for mere declaration is not maintainable ?

8. Whether there is misjoinder of plaintiff ?

9. What is the effect of order of *Ijlas-i-khas* referred to by defendant No. 2 in his written statement on maintainability of the suit ?

10. Relief."

The trial Court decided issues Nos. 1 and 3, in favour of the plaintiffs and decided issues Nos. 2, 4 and 8, against the defendants. No finding was given on issue No. 9. The Trial Court held that the impugned order of the Revenue Commissioner was void, and *ultra vires* and decided issues Nos. 5 and 6 in favour of the plaintiffs. It was held that the suit for mere declaration was not maintainable under section 42 of the Specific Relief Act, and issue No. 7 was decided accordingly. As a result of the finding on issue No. 7, the suit of the plaintiffs was dismissed, but the parties were left to bear their own costs. Feeling aggrieved the plaintiffs filed an appeal against this judgment in the Court of the District Judge, Patiala. The District Judge held that the suit was barred by limitation and reversed the finding of the trial Court on issue No. 2. The decision of the trial Court on the other issues was maintained and the appeal was dismissed with costs on April 1, 1961. The Plaintiffs then filed this regular second appeal in this Court.

(3) This second appeal came up for hearing before Hon'ble Mr. Justice Mahajan. The decision of the lower appellate Court on issues Nos. 2 and 7 was contested by Shri Jatinder Vir Gupta, learned counsel for the appellants. Shri D. S. Nehra, counsel for the respondents contested the decision of the lower Courts on issue No. 5 before the learned Single Judge. The contention raised by Mr. D. S. Nehra was that the Revenue Commissioner under section 19 of the Act had the jurisdiction to hear the appeal and he did not lack inherent jurisdiction, that the appeal against the award could be filed by a person interested and even if it be held that the Biscuit Company was not a person interested and not competent to file the appeal then it is a case of illegal, improper or irregular exercise of jurisdiction and there was no want of inherent jurisdiction and the decision of the Revenue Commissioner is not void *ab initio*. The learned Single Judge held that the real question that required determination is "whether an order by a Court exercising its undoubted jurisdiction at the instance of a party not competent to move it is void *ab initio*." No decided case on this matter was brought to his notice and since the matter was of considerable importance, therefore, it was directed that the papers of this case be laid before the Hon'ble Chief Justice for constituting a Division Bench to dispose of this appeal. It was also directed that the question regarding limitation will also be settled by the Bench hearing the appeal. This is how this appeal is before us.

(4) The first question for decision is whether the impugned order dated July 25, 1944 of the Revenue Commissioner is void and

ultra vires. Section 19(1) of the Act provides appeal against the award of the Collector made under section 11 of the Act to the Revenue Commissioner. Section 19(1) of the Act reads as follows :—

> "Any person interested who has not accepted the award of the Collector may appeal to the authority, to whom appeals against the orders of the Collector do ordinarily lie."

Admittedly the authority appointed by the Patiala State to hear such appeals was the Revenue Commissioner. The appeal against the award could be filed by any person interested. This expression "person interested" has been defined in section 2(b) of the Act, which reads as under :—

> "the expression 'person interested' includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land."

(5) The appeal against the award dated May 8, 1944 of the Collector was filed by the Patiala Biscuit Manufacturers Limited, Rajpura, respondent No. 2, before the Revenue Commissioner. A preliminary objection was raised by the owners of the land that the Biscuit Company, defendant No. 2, was not a "person interested" within the meaning of section 2(b) of the Act and, therefore, it had no right to file the appeal and the same may be dismissed. The Revenue Commissioner held that the Company was a party interested in the award and was competent to file the appeal and he rejected this preliminary objection. The appeal was accepted and the case was remanded to the Collector as stated above.

(6) Admittedly this disputed land was acquired by the Patiala Government for the Patiala Biscuit Manufacturers Limited, Rajpura, defendant-respondent No. 2. Section 34 of the Act reads as follows :—

> "(1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund, controlled or managed by a local authority or of any company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or company.

(2) In any proceeding held before a Collector in such cases the local authority or company concerned may appear and adduce evidence for the purpose of determining the amount of compensation."

It is clear from this section that the compensation assessed by the Collector of the acquired land had to be paid by the company. Section 34(2) of the Act authorised the company to appear before the Collector during the enquiry and to adduce evidence for the purpose of determining the amount of compensation. This very impugned order of the Revenue Commissioner came up for consideration before the Pepsu High Court in *Government of Pepsu* v. *Partap Singh* (1) wherein a Division Bench of that High Court held as under :—

"All persons claiming an interest in compensation to be made and not persons against whom compensation is claimed or who are liable to pay compensation are covered by the definition.

So far as the Government is concerned, it must either accept the award and tender payment to the person interested in the land, or if it finds that the cost of acquisition as fixed by the Collector is disproportionate to the market value of the land or that at that cost it cannot be beneficial to itself or the company at whose instance or for whose benefit the Government had initiated proceedings for acquisition, to buy it, it must decline to acquire the land. If the Government does not wriggle out by adopting the latter alternative, the award of the Collector in the matter of compensation to be given for the land would be final. That finality would equally apply to the company. Except for the purpose mentioned in section 34(2) the Company does not have any *'locus standi'* to take part in the proceedings before the Collector. The company therefore has no right to file an appeal against the award of the Collector.

The object of the section is that the Government may be assisted by the Company in proving the value of the land, as the Company may in certain cases be in a better position than the Government to lead evidence on the question of compensation".

(1) A.I.R. 1952 Pepsu 119.

It was held in this ruling that the respondent Biscuit Company had no right to file the appeal as it was not a person interested within the meaning of section 19(1) read with section 2(b) of the Act. This decision is quite correct and I respectfully agree with the same.

(7) It was further held in this ruling that the impugned decision of the Revenue Commissioner was void and without jurisdiction because by deciding wrongly that the company was competent to file the appeal he wrongly assumed jurisdiction. The decision on this point was vehemently attacked by Mr. D. S. Nehra, counsel for the respondents. He maintained that by deciding the appeal under section 19 of the Act, the Revenue Commissioner did not lack inherent jurisdiction, that the appeal before him against the award was competent, but it could only be filed by a person interested, that the Biscuit Company respondent No. 2, was not competent to file the appeal and therefore, the Revenue Commissioner wrongly exercised the jurisdiction. But it is not a case of lack of inherent jurisdiction, and it is a case of illegal or improper or irregular exercise of jurisdiction and the impugned order is not void *ab-initio*. In support of this contention he relied upon a number of rulings. The first ruling relied upon by him is a Full Bench decision of the Calcutta High Court *Hriday Nath Roy* v. *Ram Chandra Barna Sarma* (2). The facts of this case were that the plaintiff filed suit for the recovery of possession of land upon declaration of title. The Court of first instance found in favour of the plaintiff upon the question of title and possession and decreed the suit. The Subordinate Judge on appeal affirmed the finding of the trial Court as to title and possession, but dismissed the suit on the ground that a previous suit instituted in respect of the same subject-matter had been improperly withdrawn under Order XXIII, rules 1(2) of the Code of Civil Procedure. In support of this view the Subordinate Judge in appeal had relied upon the decision in *Kali Prasanna* v. *Punchanan* (3). On second appeal to the High Court, the Division Bench dissented from the view taken in *Kali Prasanna's case* and referred four questions for decision, including the following question, by a Full Bench :—

> "If an order for withdrawal of a suit with leave to institute a fresh suit be made under Order XXIII, Rule 1, of the Civil Procedure Code, but on a ground not of the same nature as 'formal defect' mentioned in clause (a), can it be

(2) A.I.R. 1921 Cal. 34.
(3) (1916) 44 Cal. 367.

treated as an order made without jurisdiction and, therefore, null and void ?".

Mookerjee A.C.J., who spoke for the Bench, observed as follows :

"The question thus emerges for consideration, whether an order for withdrawal of a suit, with liberty reserved to the plaintiffs to institute a fresh suit in respect of the same subject-matter, is an order made without jurisdiction, if it is passed under circumstances, not contemplated by Order 23, rule 1(2). The answer to this question depends upon an analysis of the notion of jurisdiction of a Court.

This jurisdiction of the Court may be qualified or restricted by a variety of circumstances. Thus the jurisdiction may have to be considered with reference to place, value and nature of the subject-matter. The power of a tribunal may be exercised within defined territorial limits. Its cognizance may be restricted to subject-matters of prescribed value. It may be competent to deal with controversies of a specified character, for instance, testamentary or matrimonial causes, acquisition of lands for public purposes, record of rights as between landlords and tenants. This classification into territorial jurisdiction, pecuniary jurisdiction and jurisdiction of the subject-matter is obviously of a fundamental character. Given such jurisdiction, we must be careful to distinguish exercise of jurisdiction from existence of jurisdiction : for fundamentally different are the consequences of failure to comply with statutory requirements in the assumption and in the exercise of jurisdiction. The authority to decide a cause at all and not the decision rendered therein is what makes up jurisdiction; and when there is jurisdiction of the person and subject-matter, the decision of all other questions arising in the case is but an exercise of that jurisdiction."

It was further observed in this ruling that the distinction between the existence of jurisdiction and exercise of jurisdiction has not always been borne in mind and this has sometimes led to confusion. We must not thus overlook the cardinal position that in order that jurisdiction may be exercised, there must be a case legally before the Court and a hearing as well as a determination. A judgment pronounced by a Court without jurisdiction is void, subject to the well-known reservation that when the jurisdiction of a Court is challenged, the Court is competent to determine the question of jurisdiction,

though the result of the enquiry may be that it has no jurisdiction to deal with the matter brought before it. Since jurisdiction is the power to hear and determine, it does not depend either upon the regularity of the exercise of that power or upon the correctness of the decision pronounced, for the power to decide necessarily carries with it the power to decide wrongly as well as rightly. If the decision is wrong the aggrieved party can only take the course prescribed by law for setting matters right; and if that course is not taken, the decision, however wrong, cannot be disturbed. There is a clear distinction between the jurisdiction of the Court to try and determine a matter and the erroneous action of such Court in the exercise of that jurisdiction. The former involves the power to act at all while the latter involves the authority to act in the particular way until the Court does not act. The boundary between an error of judgment and the usurption of power is this: the former is reversible by an Appellate Court within a certain fixed time and is therefore only voidable, the latter is an absolute nullity. When parties are before the Court and present to it a controversy which the Court has authority to decide, a decision not necessarily correct but appropriate to that question is an exercise of judicial power or jurisdiction. So far as the jurisdiction itself is concerned, it is wholly immaterial whether the decision upon the particular question be correct or incorrect. Were it held that a Court had jurisdiction to render only correct decisions, then each time it made an erronous ruling or decision, the Court would be without jurisdiction and the ruling void. Such is not the law, and it matters not what may be the particular question presented for adjudication, whether it relates to the jurisdiction of the Court itself or affects substantive rights of the parties litigating, it cannot be held that the ruling or decision itself is without jurisdiction or is beyond the jurisdiction of the Court. The decision may be erroneous, but it cannot be held to be void for want of jurisdiction. A Court may have the right and power to determine the status of a thing and yet may exercise its authority erroneously; after jurisdiction attaches in any case, all that follows is exercise of jurisdiction, and continuance of jurisdiction is not dependent upon the correctness of the determination. To the same effect was the law laid down by a Division Bench of this Court in *Amar Sarjit Singh* v. *The Financial Commissioner, Revenue, Punjab and others*, (4) wherein the above authority of *Haridey Nath Roy* was followed. Similar was the law laid down in *State of Punjab* v. *Ujjagar Singh and others* (5).

(4) 1968 L.L.T. 19.

(5) I.L.R. 1967(1) Pb. & Hr. 773.

(8) In *Raman and Raman Ltd.* v. *State of Madras and another* (6), it was held as under :—

> "There may be cases where the jurisdiction of an inferior tribunal may depend upon the fulfilment of some condition precedent or upon the existence of some particular fact. Such a fact is collateral to the actual matter which the inferior tribunal has to try, and the determination of whether it exists or not is logically and in sequence prior to the determination of the actual question which the inferior tribunal has to try.
>
> In such a case, in *certiorary* proceedings a Court can enquire into the correctness of the decision of the inferior tribunal as to the collateral fact and may reverse that decision if it appears to it, on the materials before it to be erroneous. There may be tribunals, however, which by virtue of legislation constituting them, have the power to determine finally the preliminary facts on which the further exercise of their jurisdiction depends.
>
> With respect to them, in such cases, their decision even if wrong on facts or law cannot be corrected by a writ of *certiorari*. In cases where the fact in question is a part of the very issue which the inferior tribunal has to enquire into, a Court will not issue a writ of *certiorari*, although the inferior tribunal may have arrived at an erroneous conclusion with regard to it."

(9) In *Smt. Ujjam Bai* v. *State of Uttar Pradesh and another* (7), it was held as under :—

> "Jurisdiction means authority to decide. Whenever a judicial or *quasi- judicial* tribunal is empowered or required to enquire into a question of law or fact for the purpose of giving a decision on it, its findings thereon cannot be impeached collaterally or on an application for *certiorari* but are binding until reversed on appeal. Where a quasi-judicial authority has jurisdiction to decide a matter, it does not lose its jurisdiction by coming to a wrong conclusion, whether it is wrong in law or in fact. The question whether a tribunal has jurisdiction depends not on the truth or falsehood of the facts into which it has to enquire,

(6) A.I.R. 1956 S.C. 463.
(7) A.I.R. 1962 S.C. 1621.

or upon the correctness of its findings on these facts, but upon their nature and it is determinable at the commencement, not at the conclusion, of the enquiry.

A tribunal may lack jurisdiction if it is improperly constituted, or if it fails to observe certain essential preliminaries to the inquiry. But it does not exceed its jurisdiction by basing its decision upon an incorrect determination of any question that it is empowered or required (i.e., has jurisdiction) to determine."

(10) In *Raja Kulkarni* v. *The State of Bombay* (8), it was held as under :—

"Whether the appeal is valid or competent is a question entirely for the Appellate Court before whom the appeal is filed to determine, and this determination is possible only after the appeal is heard, but there is nothing to prevent a party from filing an appeal which may ultimately be found to be incompetent."

(11) In *Ishar Singh* v. *Sarwan Singh and others* (9), it was held as under :—

"The appellate Court has jurisdiction to construe the terms of section 96, Civil Procedure Code and even if the construction placed by the said Court be erroneous, the appellate judgment is not a nullity and cannot be disregarded or attacked collaterally as passed by a Court not competent to entertain the appeal."

(12) Therefore, the legal position is that jurisdiction of a Court or a quasi-judicial Tribunal means the authority or power to hear and decide a case or matter. There is a clear distinction between the jurisdiction of the Court or Tribunal to try and decide a matter and its erroneous action in exercise of that jurisdiction. The jurisdiction is the power to decide a matter and it does not depend on the regular or erroneous exercise of that power or upon the correctness of the decision pronounced because the power to decide necessarily carries with it the power to decide wrongly as well as rightly. If the Court or the Tribunal has jurisdiction to decide a matter, then it is immaterial what may be the particular question

(8) A.I.R. 1954 S.C. 73.

(9) A.I.R. 1965 S.C. 948.

presented for adjudication, whether it relates to jurisdiction of the Court or Tribunal itself or affects the substantive rights of the parties litigating, it cannot be said that the decision itself is without jurisdiction or is beyond the jurisdiction of the Court or Tribunal. The decision may be erroneous, but it cannot be void for want of jurisdiction. The law laid down in the above-mentioned authorities is fully applicable to the present case. In the instant case, as mentioned above, the Revenue Commissioner had jurisdiction, under section 19 of the Act, to entertain an appeal against the award made by the Collector under section 11 of the Act. The Revenue Commissioner held in the impugned order that the Biscuit Company, respondent No. 2, had power to file the appeal, and then decided the appeal. Therefore, in view of the law laid down in the aforesaid authorities, the Revenue Commissioner had jurisdiction to decide whether the company had the right to file the appeal or not and his decision is not void. If according to the appellants the decision was wrong, they should have filed a revision against the same before the Revenue Minister, Patiala, but this they did not do. The decision of the Revenue Commissioner might be wrong, but it cannot be held to be void for want of jurisdiction. Therefore, I hold that the decision of the Revenue Commissioner is not void *ab-initio*, but it is voidable and decide issues Nos. 5 and 6 against the plaintiffs and the decision to the contrary of the Courts below is reversed.

(13) The next question for determination is of limitation. The impugned order of the Revenue Commissioner is dated July 25, 1944, and its copy is Exhibit P.W. 3/1. This civil suit was filed on October 23, 1950. The trial Court held that the suit was governed by Article 120 of the Indian Limitation Act, 1908, and the plaintiffs had six years of period of limitation to file the suit from July 25, 1944. Besides this they were also entitled to deduct three months' notice period under section 80 of the Code of Civil Procedure as was allowed in the erstwhile State of Patiala. The suit was held by the trial Court to be within limitation. However, the District Judge, Patiala, held in para No. 8 of his judgment that the suit was barred by limitation, under Article 120 of the Limitation Act, as it was filed after the expiry of six years and three months from the date of the award dated May 8, 1944. This view of the District Judge is clearly erroneous because the impugned order is dated July 25, 1944, and the limitation started from that date. Mr. D. S. Nehra, learned counsel for the respondents frankly conceded that if the suit is held to be governed by Article 120 of the

Indian Limitation Act, 1908, it is clearly within limitation. However, he contended that the suit is governed by Article 14 of the First Schedule of that Act, which reads as follows : —

Description of suit	Period of limitation	Time from which period begins to run.
To set aside any act or order of an officer of Government in his official capacity, not herein otherwise expressly provided for.	One year.	The date of the act or order.

(14) In *Jagannath Hazarimal, Firm at Amarvati and others* v. *State of Bombay* (10), it was held as under :—

> "A judicial order is not an 'act or order of an officer of the Government' within the meaning of Article 14 of the Limitation Act. The Act or order of an officer of the Government referred to in Article 14 must necessarily refer to the executive act or administrative act. In a given case it may perhaps cover a quasi-judicial act but certainly not the decision of a Court of law which is a judicial act."

In *Bruusqaard Kiosteruds Dampskibs Aktieselkab* v. *Secretary of State* (11), it was held that Article 14 of the Limitation Act, 1908 applies if the suit involves the setting aside of an order which must be at least of a quasi-judicial character and this article does not apply to an act or order which is a nullity. In *M. S. Bhopshetti* v. *B. V. Bhat* (12), it was held that Article 14 of the Limitation Act applies to only those orders which required to be set aside in regular suits before any relief inconsistent with the order could be obtained and this Article can have no application to a suit for declaring that the order is null and void. With due respect, I agree with the law laid down in these rulings. I, therefore, hold that Article 14 of the Indian Limitation Act, 1908 prescribes one year limitation to set aside an executive or administrative or quasi-judicial order or act of an officer of the Government passed in his official capacity and it

(10) A.I.R. 1963 Bom. 83.
(11) A.I.R. 1940 Bom. 294.
(12) A.I.R. 1940 Bom. 188.

does not apply to an act or order of such officer, which is judicial or is void *ab-initio*.

(15) It is undisputed that the impugned order of the Revenue Commissioner is not an executive or administrative order. It has been held above under issue No. 5 that the impugned order is not void *ab-initio*. Mr. D. S. Nehra, counsel for the respondents contended that it is a quasi-judicial order while Shri Jatinder Vir Gupta, Counsel for the appellants maintained that it is a judicial order. In *Radeshyam Khare and another* v. *The State of Madhya Pradesh and others* (13), it was held that there are three requisites in order that the act of a body may be said to be quasi-judicial act, namely, that the body of persons (1) must have legal authority, (2) to determine questions affecting the rights of parties, and (3) must have the duty to act judicially. The question whether or not there is a duty to act judicially must be decided in each case in the light of the circumstances of the particular case and the construction of the particular statute with the assistance of the general principles laid down in judicial decisions.

(16) In *Virinder Kumar Satyawadi* v. *The State of Punjab* (14) it was observed that it is a familiar feature of modern legislation to set up bodies and tribunals, and entrust to them work of a judicial character, but they are not Courts in the accepted sense of that term, though they may possess some of the trappings of a Court. The distinction between Courts and tribunals exercising quasi-judicial functions is well established, though whether an authority constituted by a particular enactment falls within one category or the other may, on the provisions of that enactment, be open to argument. There is an obligation on the part of the authority to decide the matter. In *Shri H. K. Khanna* v. *The Union of India and others* (15), it was held that the Departmental proceedings against a Government servant under the Central Civil Service (Classification, Control and Appeal) Rules, 1965, whether original or appellate, are quasi-judicial in nature. Not only that the principles of natural justice have to be followed but the final order has to contain the reasons which have to be communicated to the delinquent Officer in order to enable him to effectively challenge those reasons in appeal or in other statutory proceedings available to him. The order passed in Departmental

(13) A.I.R. 1959 S.C. 107.
(14) A.I.R. 1956 S.C. 153.
(15) 1971 (1) S. L. R. 618.

proceedings is a quasi-judicial order. To the same effect was the law laid down in *State of Madras* v. *A. R. Srinivasan* (16) and in *Harinagar Sugar Mills, Ltd.*, v. *Shyam Sunder Jhunjhunwala and others* (17).

(17) According to sections 9 and 10 of the Patiala Act No. III of 1995 Bk., the Collector is required to give public notice to the parties claiming compensation for the acquired land and he is required to hold enquiry about the amount of compensation payable to them. Section 14 of the Act gives powers to the Collector to summon and enforce the attendance of witnesses and production of documents during that enquiry. In determining the amount of compensation to be awarded for the land acquired under the Act, the Collector is to take into consideration the matters referred to in section 15 of the Act. Thereafter, he is to make an award fixing the compensation payable for the acquired land and to partition the said compensation among all the persons interested in the land. An appeal at the instance of any "person interested" against the award is provided to the authority appointed by the Patiala State under section 19(1) of the Act and a revision lay to the Revenue Minister from the decision of the authority. It is thus clear that the Collector while holding the enquiry to determine the market value of land and the Revenue Commissioner, while hearing appeal against the award of the Commissioner under the Patiala Act had legal authority to determine the questions affecting the rights of the parties and they were to act judicially and were required to give reasons in support of their orders. Therefore, in view of the law laid down in the abovementioned rulings, the impugned order is a quasi-judicial order and consequently this suit is governed by Article 14 of the Indian Limitation Act, 1908. The plaintiffs had one year's period of limitation to file the suit from the date of this order which is July 25, 1944. The suit was filed on October 23, 1950, and was clearly barred by limitation. We, therefore, hold that the suit was barred by limitation and it is liable to be dismissed on that ground. The decision of the District Judge on issue No. 2 is affirmed but for different reasons.

(18) Both the Courts below decided that a suit for mere declaration was not maintainable and the plaintiffs were bound to claim by way of consequential decree for the amount due to them under the award dated 8th May, 1944 of the Collector in view of the proviso to

(16) A.I.R. 1966 S.C. 1827.
(17) A.I.R. 1961 S.C. 1669.

Section 42 of the Specific Relief Act, 1877. This Section reads as follows :—

> "Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny his title to such character or right and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief :
>
> Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so."

(19) It is common case of the parties that the award under Section 11 of the Patiala Act was not executable as a decree of the Court and a suit had to be filed on its basis to recover the amount due under it. Section 26 of the Land Acquisition Act, 1894 says that the award of the District Judge on reference shall be deemed to be decree of the Civil Court, but no such provision existed in the old Land Acquisition Act No. 10 of 1870. In *Nilkanth Ganesh Naik* v. *The Collector of Thana* (18), it was held as under :—

> "The Land Acquisition Act (X of 1870) did not provide for or contemplate an award for compensation being enforced against the Collector by execution proceedings, and there is no general law which enables a civil Court to enforce such a statutory liability, when imposed upon a Collector or other civil officer, by means of execution proceedings with a suit. The ordinary mode of enforcing such an obligation is by suit, unless the Legislature when it creates the obligation prescribes such other means of enforcing it."

Therefore, it is clear that even if the plaintiffs succeed in this appeal, they shall have to bring a separate suit on the basis of the award dated 8th May, 1944 of the Collector.

(20) The objection of the defendants-respondents is that the suit of the plaintiffs is to declare the order dated 25th May, 1944 of the Revenue Commissioner to be invalid and illegal and to restore the award of the Collector dated 8th May, 1944 and, therefore, the plaintiffs were bound to claim decree for the amount due to them on the

(18) 1898 (Vol. 22) I.L.R. Bombay Series 802.

basis of the award of the Collector dated 8th May, 1944 by way of consequential relief.

(21) The consequential relief is one that flows directly from the declaration prayed for. Mr. J. V. Gupta did not produce any ruling to show that the decision of the lower Courts was wrong on this issue No. 7. Mr. D. S. Nehra, the learned counsel for the respondents relied upon *Raja Udairaj Singh* v. *The Secretary of State for India in Council* (19) in support of his contention wherein it was held :—

> "Where the relief claimed was a declaration that the imposition of tax under Act No. 18 of 1871 is illegal and invalid against plaintiff. Held the plaintiff could have claimed further relief both by way of a refund of money paid by him under protest in the past in satisfaction of the demand which he alleges to be illegal, and also by way of a perpetual injunction for the future and hence mere suit for declaration is not tenable."

In Mosque known as Masjid Shahid Ganj and others v. *Shromani Gurdwara Parbandhak Committee, Amritsar* (20), it was held as under :—

> "Where a suit is filed on behalf of the Mahomedan community which could have sued for possession of a mosque in possession of non-Muslims even though the individuals of that community cannot sue for such relief, but the relief asked for is only for a mere declaration and injunction, the suit is not maintainable."

To the same effect was the law laid down in *Sureshchandra Jamietram* v. *Bai Ishwari and others* (21). *In Mahant Indra Narain Das* v. *Mahant Ganga Ram Das and another* (22), it was held :—

> "The proviso (to Sec. 42 of the Specific Relief Act, 1877) refers to a relief not such that the plaintiff may or may not ask for it, but one which the plaintiff must seek in order to get actual and substantial relief suitable for him—a relief

(19) A.I.R. 1924 All. 652.
(20) A.I.R. 1938 Lah. 369 (F.B.)
(21) A.I.R. 1938 Bom. 206.
(22) A.I.R. 1955 All. 683.

which the plaintiff will have to seek by means of some subsequent suit or application in order that he may make the declaratory relief fruitful to himself."

(22) The law laid down in these authorities is fully applicable to this case. I, therefore, hold that a suit for mere declaration is not maintainable and the plaintiffs were bound to claim relief for decree for the amount due under the award dated 8th May, 1944. The decision of the lower Courts on issue No. 7 is affirmed.

(23) No other point was urged before us.

(24) For the reasons given above, the appeal is dismissed, but there will be no order as to costs.

Pandit, J.—I agree with my learned brother that the Revenue Commissioner had jurisdiction to decide the appeal and therefore, his order was not void. On this finding alone, the Court could not grant the relief claimed in the suit. This appeal, consequently, deserves to be dismissed.

K.S.K.

REVISIONAL CIVIL

Before R. S. Narula, J.

CHAMAN LAL NARANG S/O GOKAL CHAND NARANG,—*Petitioner.*

versus

ASHWANI KUMAR AND OTHERS,—*Respondents.*

Civil Revn. No. 683 of 1973.

January 16, 1974.

East Punjab Urban Rent Restriction Act (III of 1949)—Section 13—Code of Civil Procedure (Act V of 1908)—Order VI Rule 17—Rent Controller—Whether has inherent jurisdiction to allow amendment of pleadings in eviction cases—Allowing amendment of pleadings to take notice of changed circumstances—Whether desirable.