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right of private defence. The same remarks apply to those appellants who injured Sundar Singh. I am, therefore, of the opinion in agreement with the finding of the trial Court that the appellants were entitled to acquittal under the charges framed against them under sections 302/34 and 324/34, Indian Penal Code. I would, therefore, dismiss this appeal also.

The result is that I would dismiss both Criminal Appeals Nos. 622 of 1954 and 81 of 1955.

Dulat, J.

DULAT, J. I agree.

APPELLATE CIVIL

Before Khosla, J.

DASONDHA SINGH AND OTHERS,—*Plaintiffs-Appellants.*

versus

THE PUNJAB STATE,—*Defendant-Respondent.*

Regular Second Appeal No. 268 of 1955

1955

October, 20th

Police Act (V of 1861)—Section 15—Notification posting punitive police published in the Official Gazette—Notification providing the proclamation to be further notified by being posted on the Court House, Post Offices, Police Stations and Patwarkhanas—No postings of proclamation on Post Offices and Patwarkhanas, whether makes the levy illegal—Provisions of section 15, whether directory or mandatory.

Held, that section 15 gives the State Government no option in the matter of one manner of notification. The proclamation has to be notified in the Official Gazette but with regard to any other means the State Government is given full liberty and if the State Government so chooses it may content itself with publication in the Official Gazette alone. Therefore, that part of section 15 which requires the State Government to notify the proclamation "in such other manner as the State Government shall direct" is clearly not mandatory and failure to comply with

this portion of section 15 will not render the proceedings invalid in any way. The mandatory provision is confined to the publication of the proclamation in the Official Gazette. The rest of the section is merely directory. That being so, failure to notify the proclamation at the Patwarkhanas and the Post Offices cannot be said to be an irregularity, and the levy is, therefore, valid.

Harla v. *The State of Rajasthan* (1), distinguished; *Jones* v. *Robson* (2), relied upon.

Second Appeal from the decree of the Court of Shri E. F. Barlow, Senior Sub-Judge, Ferozepore, dated the 11th January, 1955, reversing that of Shri Balwant Singh Sekhon, Sub-Judge, 3rd Class, Ferozepur, dated the 30th June, 1954, and dismissing the plaintiffs' suit with costs throughout.

Y. P. GANDHI, for Appellants.

S. M. SIKRI, Advocate-General, for Respondent.

JUDGMENT

KHOSLA, J. This second appeal arises out of a suit by the residents of three villages challenging the levy of a sum of Rs. 15,540 on account of expenses incurred in posting punitive police in the three villages of Ajitwal, Dhudike and Chuhar Chak. The plaintiffs' suit was a suit for injunction. It was decreed by the trial Court on the ground that certain irregularities of procedure invalidated the levy. On appeal the learned Senior Subordinate Judge dismissed the suit with costs throughout. The plaintiffs have come up in second appeal to this Court. Khosla, J.

A punitive police post was stationed in these three villages during the period August 1950, to July, 1951. The notification required by section 15 of the Police Act was published in the *Punjab Government Gazette* of the 25th of August, 1950.

(1) A.I.R. 1951 S.C. 467
(2) (1901) 1 Q.B. 673

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This notification provided that the proclamation would be further notified by being posted on—

(1) Court House at Moga;

(2) Post Offices at Chuhar Chak, Dhudike and Ajitwal;

(3) Police Station at Mehna; and

(4) Patwarkhanas of Chuhar Chak, Dhudike and Ajitwal.

The contention of the plaintiffs was that no proper notification in the manner laid down was, infact, made and, therefore, the levy was illegal. It has been found by the lower appellate Court, and this finding is binding upon me, that there was, in fact, no posting of the proclamations at Patwarkhanas and the Post Offices. Therefore, the sole question before me is whether this omission invalidates the entire proceedings. The contention of the State has throughout been that the provisions of section 15 with regard to the notification of the proclamation are directory and not mandatory. This is the view taken by the lower appellate Court.

A reading of the Police Act shows that the State Government is the sole judge of whether there is need for posting additional police in any particular area which is found to be in a disturbed or dangerous state. The Police Act makes no provision for calling objections and for hearing the residents of the area in which the police is to be posted. Even an absentee landlord may be required to pay his share of the cost. The State Government has the right of exempting any person or body of persons from the liability. From this it is clear that it is not essential to inform the villagers before they can be asked to pay the expenses of the additional police. Notice is usually

necessary only if the person to whom the notice is issued has the right of showing cause against it. This is clearly not the intention of the Police Act with regard to the posting of additional police. Again we see that section 15 gives the State Government no option in the matter of one manner of notification. The proclamation has to be notified in the Official Gazette but with regard to any other means the State Government is given full liberty and if the State Government so chooses it may content itself with publication in the Official Gazette alone. Therefore, that part of section 15 which requires the State Government to notify the proclamation "in such other manner as the State Government shall direct" is clearly not mandatory and failure to comply with this portion of section 15 will not render the proceedings invalid in any way. Maxwell while discussing the imperative or directory nature of a statutory enactment observes at page 374 of Interpretation of Statutes, 10th edition—

> "Where, indeed, the whole aim and object of the legislature would be plainly defeated if the command to do the thing in a particular manner did not imply a prohibition to do it in any other, no doubt can be entertained as to the intention."

Applying this principle we see that the object of the Act would not be defeated if the State Government were to publish the notification in the Official Gazette alone. The omission to notify the proclamation at the Patwarkhanas and at the Post Offices did not cause any detriment to the appellants. They would not have been any better off if the notification had been published. They had no right to raise objections to the posting of the punitive police. In point of fact, they did

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raise objections and these objections were entertained. The sole object of issuing the proclamation to the Post Offices was to warn the people of the posting of the additional police. This was done sufficiently by publication at the police stations and at the Court House at Moga. The learned counsel for the appellants cited *Harla* v. *The State of Rajasthan*, (1). The facts of this case, however, have no bearing on the matter before me. In that case a person was prosecuted for the breach of a special law which was not promulgated or published in the Gazette nor was it made known to the public by any other means. It was held by the Supreme Court that in the circumstances a member of the public could not be expected to know that a new law had been promulgated and that to act in a certain manner would render him liable to a criminal prosecution. In the case before me no one is being prosecuted and there has been no breach of any special law. The State Government has absolute power to post the additional police on the ground that the area comprising these three villages was a disturbed area. It is only the cost of the additional police which is being recovered and it is not a case of a prosecution for a breach of a law which is new and which has not been made known to the public. In *Jones* v. *Robson*, (2), it was held that the provisions of a statute requiring the Secretary of State to give notice of a prohibitory order was directory only. The provision was contained in section 6 of the Coal Mines Regulation Act, 1896. It was to the following effect :—

> "A Secretary of State on being satisfied that any explosive is or is likely to become dangerous, may, by order, of which notice shall be given in such manner as he may direct prohibit the use

(1) A.I.R. 1951 S.C. 467
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thereof in any mine, or in any class of mines, either absolutely or subject to conditions."

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It was held that although the word "shall" was used the provision with regard to notice was merely directory and not mandatory. This case is almost on all fours with the case before me.

For the reasons given above, I hold that there was no irregularity or non-compliance with the mandatory provisions of section 15. The mandatory provision is confined to the publication of the proclamation in the Official Gazette. The rest of the section is merely directory. That being so, failure to notify the proclamation at the Patwarkhanas and the Post Offices cannot be said to be an irregularity, and the levy is, therefore, valid. This appeal fails and I dismiss it, but as an important point of law was involved I make no order as to costs.

APPELLATE CIVIL

Before Bishan Narain, J.

HARI KISHAN DASS, BANKER,—*Defendant-Appellant.*

versus

UNION OF INDIA THROUGH MILITARY ESTATE OFFICER, DELHI,—*Plaintiff-Respondent.*

Civil Regular Second Appeal No. 146 of 1952

1955

October, 21st

Building Grants—Land in Cantonment granted for building—Ownership of such land retained by Government along with the power of resumption on giving one month's notice *and value of buildings—Power to transfer building by grantee given with the sanction of the prescribed authority—Standing trees on such land—Right to such trees, whether of the Government or the grantee—Trees not in existence at the time of the grant, effect of.*