HIGH COURT OF JUDICATURE AT BOMBAY

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2776 OF 2018
WITH
WRIT PETITION NO. 4083 OF 2018

WRIT PETITION NO. 2776 OF 2018

1. Sandeep S. Metange
2. Vimal Motiram Lathe
3. Panjabrao G. Duge
4. Someshwar M. Durge
5. Santosh V. Talware
6. Kishor M. Wankhede
7. Satish S. Metange
8. Shankarrao L. Tayade
9. Chandrashekhar V. Kahdnekar
10. Subhash B. Chavan
11. Dilip B. Chavan
12. Vitthalrao S. Metange
13. Gopalrao K. Girnare
14. Bharat Dashrath Mankar
15. Dilip L. Babulkar
16. Laxmibai A. Badhe
17. Sumitrabai D. Chavan
18. Shubham G. Wankhade
19. Ramesh B. Wankhade
20. Sudhir D. Wankhade
21. Haroon Shaha

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22. Syed Shabbir
23. Shriramji Gaoner
24. Pundlikrao S. Tayade
25. Gajanan Gaoner
26. Sasnjay T. Dhoke
27 Mahadeorao F. Tayade
28. Sanjay U. Bhakre
29. Dnyaneshwar Mankar
30. Anil T. Sairase
31. Mohanrao Mankar
32. Syed Hasan
33. Balu P. Nawale
34. Prakash K. Girnare
35. Shitabai T. Sarise
36. Ajabrao Sanke
37. Kisanrao B. Girde
38. Vishwanath S. Itkare
39. Vinayakrao Tayade
40. Dnyaneshwar Dhawale
41. Shaukat Shaha
42. Vilasrao M. Gawner
43. Vijay J. Karanjkar
44. Pankaj S. Durge
45. Mandabai S. Shirsat
46. Anil M. Sanke
47. Bhaurao S. Billewar
48. Govardhan S. Billewar
49. Dattakrushna S. Metange

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50. Hasan K. Shaha
51. Kailash M. Gaoner
52. Himmatrao A. Sanke
53. Gajanan A. Mankar
54. Bhagwan S. Chavan
55. Sanjay B. Nemade
56. Rameshrao S. Tayade
57. Shrikrushna Khairkar
58. Avi L. Mankar
59. Shevantabai V. Talware
60. Dinesh D. Mankar
61. Shankarrao Nandane
62. Shamrao V. Ghongde
63. Vishnu M. Khadse
64. Vidyadhar Pawar
66. Rajesh M. Sanke
67. Pramod V. Mankar
68. Jabir Shaha
69. Bhimraoji Lothe
70. Bandraji B. Nemade
71. Ramkrushna K. Girnare
72. Dadarao C. Naik
73. Vijay C. Durge
74. Kailash B. Navale
75. Sahebrao B. Durge
76. Rulsiram Naik
77. Mahadeo B. Nemade
78. Haridas Z. Nade

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79. Bhorao V. Ghongde
80. Amol S. Ghongde
81. Deepak V. Mankar
82. Prabhakar P. Wankhade
83. Sachin S. Metange
84. Shrikrushnarao S. Metange
85. Ashokrao J. Mankar
86. Arvind U. Gajbhiye
87. Balu C. Naik
88. Sudhakar D. Gajbhiye
89. Gajanan S. Tayade
90. Namdeo S. Tayade
91. Motiram Khadse
92. Rambhau S. Billewar
93. Manohar N. Purbhe
94. Sanjay K. Durge
95. Kesardas Durge
96. Rameshwar K. Durge
97. Vinod K. Durge
98. Vilas K. Durge
99. Ravi K. Durge
100. Gangadhar I. Badge
101. Krushnarao M. Wankhade
102. Someshwar B. Sanke
103. Jagannath Durge
104. Pramod J. Durge
105. Gajanan V. Durge
106. Ashokrao D. Mankar

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107. Vishwas V. Mankar
108. Sayyad M. Chand
109. Pramod A. Sanke
110. Arun K Chavan
111. Pravin A. Durge
112. Manish A. Durge
113. Ayub Shaha
114. Swapnil K. Wankhade
115. Kishor V. Wankhade
116. Sahadeorao B. Chavan
117. Amarsingh S. Chavan
118. Deepak S. Chavan
119. Chandrakala S. Chavan
120. Ashok S. Shrinath
121. Vitthalrao B. Chavan
122. Haridas M. Ghate
123. Durgabai P. Bilerao
124. Bhaskarrao Wankhade
125. Wasudeo K. Nandane.
126. Bapuraoji Ugade
127. Jiwanrao I. Badge
128. Raju G. Badge
129. Pradip G. Badge
130. Bhaskar Ganorkar
131. Sahebrao S. Metange
132. Pramod S. Lothe
133. Omkar K. Chavan
134. Vilasrao G. Sanke

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135. Arvind L. Girde
136. Nabubai K. Girnare
137. Ramesh N. Purbhe
138. Abdullah K. Shaha
139. Shankar K. Chavan.
140. Manohar C. Tayade
141. Gajanan K. Chavan
142. Vimlabai B. Nandane
143. Rambhau Kharchan
142.Panchabai L. Babulkar
142. Halimabhi S. Hussain
143. Mainabai J. Naik
144. Ramesh B. Sonone
145. Dilip S. Mankar
146. Kokila H. Chavan
147. Chayabai S. Chavan
148. Rameshrao Sanke
149. Sham S. Lothe
150. Dnyaneshwar K. Nandne
151. Balu K. Chavan
152. Ramesh D. Tholke
153. Mankarna K. Chavan
153. Vinod A. Sanke
154. Sudhakarrao B. Nawale
155. Bendaji R. Nawale
156. Pandurangji Fakirji Tayade
157. Mininath D. Wankhade
158. Jagdeorao P. Solanke

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159. Khurshidbi Abdul Shah
160. Sheshrao W. Mesare
161. Gumfabai G. Naik
162. Moreshwar S. Gaoner
163. Abdul S. Gafurshah
167. Pralhadrao R. Nawale
168. Sanjay P. Nawale
169. Prakashrao S. Chavan
170. Gajanan B. Wankhade
171. Shantabai H. Talware
172. Rashid Shaha Haider Shaha
173. Dharmadip S. Shirsat
174. Sanghadip S. Shirsat
175. Syed Jabbar S. Bholu
176. Kisanrao L. Lothe
177. Shevantabai B. Raut
178. Indubai B. Wankhade
179. Ashok B. Wankhade
180. Vilasrao Ramaji Saisir
181. Babibai P. Pawar.
182. Dewanand R. Ingale
183. Tanaji S. Bagade
184. Kishor T. Bagade
185. Prashant T. Bagade
186. Ismail Shaha
187. Bandu M. Sanke
188. Mangesh S. Belewar
189. Dinkarrao K. Ganorkar

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190. Ramkrushan B. Sanke
191. Rajkumar J. Durge
192. Vishal G. Solanke
193. Dharmadas G. Chavan
194. Sukhdeo Pawar
195. Hargovind R. Ingale
196. Kishro Wasudeo Kharsan
197. Kusum S. Billewar
198. Rajjak Shahk
199. Shabbir Shah
200. Chandrakala R. Tayade
201. Mohan K. Durge
202. Kashirao P. Durge
203. Shankar R. Shrinath
204. Ashok U. Gajbhiye
205. Prabhakar K. Girnare
206. Shantabai S. Naik
207. Vilasrao K. Girnare
208. Gopalrao S. Solanke
209. Vitthalrao G. Khadekar
210. Manish P. Khadekar
211. Sahadeo Mahadeo Mahinge

All residents of Alangaon, Tq. Bhatkuli, Distt. Amravati.

... **PETITIONERS**

VERSUS

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1. The State of Maharashtra, through Secretary, Department of Revenue and Forest, Mantralaya, Mumbai-32

2. The Secretary, Water Resources Department,Mantralaya, Mumbai – 32

3. Vidarbha Irrigation Development Corporation, through its Executive Director, Civil Lines, Nagpur.

4. The Executive Engineer, Amravati Irrigation Project Division, Amravati.

5. The Collector, Amravati.

6. The Land Acquisition Officer (Deputy Collector, Land Acquisition) Upper Wardha Project Benefited Zone No.2, Amravati.

... RESPONDENTS

AND

WRIT PETITION NO. 4083 OF 2018

1. Ashok Devidas Mowad
2. Makhan Shankar Bhosale
3. Rambhau Chimnya Pawar
4. Kapurchand Lalsa Bhosale
5. Shankar Zagdu Bhosale
6. Shaikh Majid Shaikh Rahman
7. Shaikh Ismail Shaikh Habib

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8. Shaikh Habib Shaikh Rahman
9. Shaikh Rahman Shaikh Gulab
10. Tukaram Khushalrao Munde
11. Sopan Tukaram Munde
12. Deokabai Khanduji Girnare
13. Nurkhan Gulabkhan Pathan
14. Shankarrao Pandurang Singare
15. Govind Pandurang Singare
16. Govind Pandurang Singare
17. Vitthalrao Rambhau Shingare
18. Sanjay Vittharao Singare
19. Shaikh Salim Shaikh Habit
20. Shaikh Habib Shaikh Rahman
21. Shaikh Sharif Shaikh Ramjan
22. Prabhakar Gulabrao Shingare
23. Tulsabai Babanrao Shingare
24. Pralhad Pundlik Bhatkar
25. Dadarao Pundlik Bhatkar
26. Shatrughna Pundlik Bhatkar
27. Marotrao Yashvant Bhatkar
28. Bhaurao Shivram Shirsat
29. Janabai Sudam Naik
30. Omkar Baban Parvatkar
31. Mahendra Devidas Vighe
32. Raosaheb Sukhdeo Vighe
33. Yashvant Lahuji Galfade
34. Bhuraji Lahuji Galfade
35. Gangubai Nagorao Sabde

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36. Sonabai Marotrao Gaikwad
37. Kusum Bisan Manmode
38. Prabhakar Gulabrao Shingare
39. Tulsabai Babanrao Shingare
40. Mahendra Devidas Vighe
41. Manikrao Parashram Lokhande
42. Gunvant Gulab Nimkar
43. Chandrakala Banshalal Nake
44. Prabhakar Gulabrao Shingare
45. Suresh Tulshiram Nimkar
46. Raju Tulshiram Nimkar
47. Suresh Tulshiram Nimkar
48. Rukhmabai Jagatrao Vighe
49. Uttamrao Ramchandra Olokar
50. Ramkrushna Kashirao Vighe
51. Narayan Sampatrao Chavan
52. Haridas Sampatrao Chavan
53. Kaushlyabai Tarachand Solanke
54. Sahebrao Ramchandra Vighe
55. Prakash Gangadhar Vighe
56. Kisan Shamrao Solanke
57. Shantaram Sakharam Chavan
58. Namdeorao Damduji Solanke
59. Kusumbai Vishwasrao Vighe
60. Domaji Balaji Pedhekar
61. Rukhmabai jagatrao Vighe
62. Sanjay Rambhau Vighe
63. Manohar Vinayak Vighe

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64. Suresh Vinayak Vighe
65. Ramesh Vinayak Vighe
66. Arun Vinayak Vighe
67. Ramesh Vinayak Vighe
68. Chandrabhaga Gangadhar Vighe
69. Nivrutti Tukaram Munde
70. Milind Devidas Vighe
71. Sukhdeorao Baliram Vighe
72. Sahebrao Domaji Maske
73. Narayan Rambhau Shingare
74. Manik Narayan Maske
75. Keshaorao Narayan Maske
76. Dnyaneshwar Tukaramji Munde
77. Sopan Tukaramji Munde
78. Bandu Panjabrao Maske
79. Yamunabai Kisanrao Girnare
80. Suresh Keshaorao Pedhekar
81. Naresh Suresh Pedhekar
82. Raosaheb Sukhdeorao Vighe
83. Mahendra Devidasrao Vighe
84. Gajanan Sahebrao Vighe
85. Gangadhar Haribhau Pedhekar
86. Namdeo Haribhau Pedhekar
87. Wasudeo Haribhau Pedhekar
88. Raosaheb Sukhdeo Vighe
89. Panjabrao Maroti Maske
90. Vijay Panjabrao Maske
91. Devidas Sahebrao Mowad

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92. Dnyaneshwar Sahebrao Mowad
93. Sunil Gangadhar Karale
94. Bandu Gangadhar Karale
95. Devidas Sahebrao Mowad
96. Gajanan Gulabrao Mowad
97. Ramdas Tulshiram Mowad
98. Panjabrao Bapurao Mowad
99. Sundarabai Tukaram Mowad
100. Ramdas Tulshiram Mowad
101. Babarao Sahebrao Mowad
102. Vijay Bharat Mowad
103. Gajanan Gulabrao Mowad
104. Dhanraj Devidas Wankhede
105. Baynabai Pedhekar
106. Arun Kisanrao Girnare
107. Eknath Tukaram Munde
108. Bhojraj Devidas Wankhade
109. Godabai Kisanrao Mowad
110. Shankarrao Shingare
111. Ramdas Vinayak Vighe
112. Sahebrao Ramchandra Vighe
113. Ambadas Sitaram Pawar
114. Ajabrao Marotrao Mowad
115. Ganesh Madhukar Jawanjal
116. Vinod Vitthal Shingare
117. Narayan Rambhau Shingare
118. Hiraman Waman Gawar
119. Suresh Keshavrao Pedhekar

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120. Nurkhan Gulabkhan Pathan
121. Narayan Shingare
122. Shrikrushna Khushal Munde
123. Suresh Hiraman Gawar
124. Bandu Vitthal Pedhekar
125. Shrikrushna Khushalrao Munde
126. Ramesh Vitthal Pedhekar
127. Narayan Bajirao Zulak
128. Shankarrao Balaji Pedhekar
129. Omkar Haribhau Pedhekar
130. Bhimrao Narayan Sairose
131. Rangrao Kisanrao Kevatkar
132. Shaikh Sattar Shaikh Mansab
133. Barikrao Haribhau Pedhekar
134. Sushma Gajanan Pedhekar
135. Sahebrao Sakharam Chavan
136. Rajesh Kamlakar Chavan
137. Yenutai Sukhdeo Pawar
138. Himmat Rangraoji Kobde.
139. Bapurao Rangraoji Kobde
140. Bhaskar Rangraoji Kobde
141. Purushottam Vasantrao Bhatkar
142. Lilabai Shamrao Wankhade
143. Pramod Ambadas Surwade
144. Waman Purnati Chavan
145. Sau. Mala Bhatkar
146. Fuljabai Rambhau Pawar
147. Visan Rambhau Pawar

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148. Kamlabai Vitthal Wadekar

149. Pisabai Madhukar Jawanjal

150. Punlabi Raheman Khan

151 Suman Pralhad Chavan

152. Sushila Jankiram Chavan

All residents of Gopgavan, Tq. Bhatkuli,

Distt. Amravati. ...PETITIONERS

VERSUS

1. The State of Maharashtra, through Secretary, Department of Revenue and Forest, Mantralaya, Mumbai-32

2. The Secretary, Water Resources Department,Mantralaya, Mumbai – 32

3. Vidarbha Irrigation Development Corporation, through its Executive Director, Civil Lines, Nagpur.

4. The Executive Engineer, Amravati Irrigation Project Division, Amravati.

5. The Collector, Amravati.

6. The Land Acquisition Officer (Deputy Collector, Land Acquisition) Upper Wardha Project Benefited Zone No.2, Amravati.

... RESPONDENTS

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Shri S.B. Bhandarkar, Advocate with Shri Manish Sharma, Advocates for petitioners.
Shri Shishir Ukey, Additional Government Pleader for Respondent nos. 1, 2, 5 and 6.
Shri S.G. Jagtap, Advocate with Shri J.B. Kasat, Advocate for respondent nos. 3 and 4.
Shri A.V. Gupta, Senior Advocate with Shri Akash Gupta, Advocate for Assisting the Court.
Shri A.M. Kinkhede, Advocate – Assisting the Court.

CORAM : A.S. CHANDURKAR, VINAY JOSHI AND G.A. SANAP, JJ.

DATE WHEN THE ARGUMENTS WERE HEARD : 27/10/2021
DATE WHEN THE JUDGMENT IS PRONOUNCED : 17/12/2021

JUDGMENT (PER : VINAY JOSHI, J.) :

1. Division Bench of this Court was conflicted with an issue, as to which stage of the land acquisition proceedings shall be construed as 'initiation of proceedings' within the meaning of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the New Act" for short). In other words, whether issuance of preliminary notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Old Act' for short) or declaration under Section 6 of the Old Act amounts to initiation of land acquisition proceedings within the meaning of Section 24 of the New Act.

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2. In order to effectively address the issue, it necessitates us to understand factual background under which the Referral Bench of this Court thought it fit to make the reference to a Full bench for authoritative pronouncement. In those petitions, validity of the land acquisition award passed under the provisions of the Old Act, was called in question.

3. The entire conflict centers around the question as to what amounts to initiation of land acquisition proceedings, in given cases. Admittedly, in those cases, preliminary notification under Section 4 of the Old Act, was issued before datum line i.e. 01.01.2014 (date of commencement of the New Act) whilst declaration under Section 6 of the Old Act, was issued thereafter. Rival claims were put-forth about the applicability of the Old or the New Act by interpreting the term “initiation of the land acquisition proceedings”. Petitioners have challenged the awards by contending that on issuance of declaration under Section 6 of the Old Act, the proceedings have deemed to be initiated. It is contended that, since preliminary notification under Section 4 of the Old Act was published prior to 01.01.2014, it does not amount to initiation. On the other hand, rival stand was taken by respondents stating that, no sooner preliminary notification under

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Section 4 has been published, it amounts to initiation of land acquisition proceedings within the meaning of Section 24(1) of the New Act. The controversy is obvious as it would decide the applicability of the provisions of the Old or New Act, while determining the compensation which has different parameters.

4. In the light of said controversy, the Full bench has called upon to answer the following questions :

(i) What amount to 'initiation of land acquisition proceedings' for the purposes of Section 24(1) of the 2013 Act?

(ii) Whether publication of preliminary notification under Section 4 of the Old Act amounts to 'initiation of land acquisition proceedings'? OR

(iii) Whether publication of declaration under Section 6 of the Old Act amounts to 'initiation of proceedings'?.

5. The New Act, came into force on 01.01.2014. Section 24 of the New Act, clarifies the position of land acquisition proceedings, with reference to the determination of compensation in terms of Old or New Act. It necessitates us to reproduced Section 24 of the New Act for ready reference, which reads as below :

"Section 24 : ***Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases*** *- (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894)*

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(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply ; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act :

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

6. Section 24 of the New Act contemplates three contingencies. Two of them are contend in Section 24 (1)(a) and Section 24(1)(b) respectively whilst the third is under Section 24(2) of the New Act. Contingency stated in sub-clause (2) of Section 24 is not of much relevance in context to the question called to be answered, which speaks about lapsing of proceedings. The two contingencies stated in Section 24 (1) would determine as to the compensation to be paid either under the Old Act or the New Act. Section 24(1)(a) states that

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notwithstanding anything contend under the Old Act, if the proceedings have been initiated under the Old Act and no award has yet been made under Section 11 of the Old Act, then all the provisions of the New Act shall apply as to the determination of compensation. Whilst Section 24(1)(b) visualizes another situation where the proceedings have been initiated as well as award has also been made under Section 11 of the Old Act, then all further proceedings shall continue as per the Old Act.

7. There is third contingency under Section 24(2) of the New Act which states that notwithstanding anything contained in sub-section (1) of Section 24 of the New Act, even if an award has been made under Section 11 of the Old Act, but such an award has been made 5 years prior to the commencement of the new Act and the physical possession of the land has not been taken or the compensation has not been paid, the proceeding (i.e. proceedings initiated under the old Act) shall be deemed to have "lapsed".

8. The challenge posed before us is about interpretation of term 'initiation of land acquisition proceedings' employed in Section 24 of the New Act. Whether publication of preliminary notification under Section 4 amounts to initiation or declaration under Section 6 amounts

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to initiation, is the precise issue.

9. Before Referral Bench, the petitioners by relying on two decisions rendered by the Division Benches of this Court in case of ***Nilima Mahesh Bhole vs. State of Maharashtra (Writ Petition No.5870 of 2016) and Sheetalkumar Sadashiv Zambare vs. State of Maharashtra and ors. 2018 SCC OnLine Bom 249***, urged that publication of preliminary notification under Section 4 of the Old Act, is a primary step whilst declaration under Section 6 of the Old Act, being definite declaration it amounts to initiation of the proceedings.

10. Referral Bench recorded its disagreement to the said proposition by expressing that the law laid down in above cases of *Nilima Bhole* and *Sheetalkumar Zamabare* is not a correct exposition of law. Referral Bench expressed that the publication of preliminary notification under Section 4 of the Old Act amounts to initiation and accordingly, the applicability of the Old Act or New Act, is to be decided in context with Section 24 of the New Act. In such a background, the matter is referred to the Full Bench for answering the referred questions, which centers around the limited issue as to what amounts to initiation of land acquisition proceedings within the meaning of Section 24(1) of the New Act.

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11. Bare reading of Sub-section (1) of Section 24 of the New Act makes it clear that for invocation of sub-clauses (a) and (b) of sub-section (1) of Section 24 of the New Act, the pre-condition is that land acquisition proceedings should have been initiated under the Old Act. Therefore, it is necessary to ascertain as to when the acquisition proceedings can be said to have been initiated. The conflict is whether it is on publication of preliminary notification under Section 4 of the Old Act or on declaration of notification under Section 6 of the Old Act.

12. The genesis of the reference is the decision of this Court in case of *Nilima Bhole*. Though one another decision of this Court in case of *Sheetalkumar Zamabare* is cited, however, in said case the issue was answered by affirming the earlier view expressed in *Nilima Bhole's* case. It necessitates us to understand the view expressed in case of *Nilima Bhole*. In said case, notification under Section 4 of the Old Act, was published in the Government Gazette on 18.07.2013 i.e. prior to the commencement of the New Act (01.01.2014) whilst declaration under Section 6 was published on 18.07.2014 and Award under Section 11 was made on 10.05.2015. In such set of facts, it was submittd that since no acquisition proceeding was initiated prior to the commencement of the New Act, award could not have been passed under the Old Act. The said submission was countered by the

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respondent-State (Special Land Acquisition Officer) (SLAO) by contending that the proceedings has already been initiated by way of publication under Section 4 of the Old Act hence, the provisions of the Old Act, would apply.

13. The Division Bench (Nilima Bhole's case) by relying on the decision of the Supreme Court in case of ***Babu Thakur vs. State of Bombay and ors AIR 1960 SC 1203*** and Gujarat High Court in case of ***Patel Gandalal Somnath vs. State of Gujarat AIR 1963 GUJ 50*** concluded that publication of notification under Section 4 of the Old Act, would not tantamount to initiation of acquisition proceedings. It was held that the land acquisition proceedings can be said to have been commenced after the declaration under Section 6 of the Old Act.

14. The Referral Bench while expressing its disagreement with a view taken in *Nilima Bhole's* case, stated that the said view was based on the observations of the Supreme Court in *Babu Thakur's* case. However, the issue before the Supreme Court was about absence of word 'company' in Section 4 notification. The Supreme Court has only explained the purpose of notification under Section 4 of the Old Act, which can not be construed as a ratio to hold that issuance of notification under Section 4 does not amounts to initiation of the

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proceedings.

15. We have heard batch of learned Counsel appearing for both sides to substantiate their respective contentions. Advocate Bhandarkar took lead in arguing that publication of Section 4 notification is just a preliminary stage, which does not amount to initiation. His view is supported by Advocate Manish Sharma. They relied on various decisions in support of their stand, to which we would make contextual reference.

16. Since the genesis of the reference is the view taken by this Court in case of *Nilima Bhole*, we have revisited to the said decision. On deeper examination, we find that by relying on certain observations from paragraph 8 and 12 of the judgment in case of *Babu Thakur* and observations made in paragraph 12 of the decisions of Gujarat High Court in case of *Patel Gandalal,* this Court took a view as aforesaid mentioned. In the circumstance, we feel it necessary to examine both aforesaid decisions, which has formed a basis for this Court (in *Nilima Bhole's* case) to hold that publication of notification under Section 6 of the Old Act, amounts to initiation of land acquisition proceedings.

17. In case of *Babu Thakur*, the petitioner-land owner has impugned the notification published under Section 4 of the Old Act, on

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account of non-mention of 'public purpose' in said notification. Moreover, challenge was whether the construction of dwelling houses and providing amenities for the benefit of workman/employee by the Company can be construed as public purpose. In the light of the said challenge, the Supreme Court has observed that, it is not absolutely necessary for the validity of the land acquisition proceedings that, there should be a statement in the Section 4 notification to the effect the land sought to be acquired is for public purpose. Moreover, it is held that the acquisition for construction of dwelling houses of the employees has to be construed as an acquisition for public purpose. In that light, the Supreme Court made certain observations regarding the very intent, purpose and effect of Section 4 notification. The procedural aspect under Sections 4, 5-A and 6, has been narrated. There was no occasion for Supreme Court to answer whether publication of Section 4 notification can be construed as initiation of land acquisition proceedings. Therefore, the observations made by the Supreme Court in different context, cannot be understood as a ratio to hold that issuance of notification under Section 4 amounts to initiation of the land acquisition proceedings.

18. Similarly, we have considered the decision of Gujarat High Court in case of *Patel Gandalal* since it was referred in *Nilima Bhole's*

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case. In said case, the Court has explained the nature of inquiry contemplated under Section 5-A and scope of Sections 4 and 6 notification. In that light, the Gujarat High Court by referring paragraph 12 of the *Babu Thakur's* case, has merely expressed about the purpose, use and consequence of Section 4 notification. Neither we find any ratio in the said judgment about the issue involved nor it has been pointed by the petitioners. In the result even on careful examination, we are unable to get any clue to infer that issuance of Section 6 notification amounts to initiation of land acquisition proceedings.

19. While making a reference, this Court has doubted correctness of the decisions in *Nilima Bhole's* case. The Referral Bench observed that (paragraph nos. 24 to 28) provisions of Section 4(2) of the Old Act give some powers to the Officers. These powers are given for ascertaining suitability for acquisition. Considering these acts, it can be said that proceedings had been initiated. Further it is expressed that the phrase 'land acquisition proceedings have been initiated' has been used in a general sense. It nowhere specifies particular stage of land acquisition proceedings. We cannot keep the acts permitted as per the provisions of Section 4(2) of the Old Act outside the purview of the land acquisition proceedings. Thus, in the opinion of the Referral

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Bench, the land acquisition proceedings is said to be initiated when Section 4 notification, has been issued.

20. We have heard learned Counsel for the parties in *extentio*. The members of the Bar were also permitted to address on the legal issue. To bring the issue in sharper focus for convenience, we may modulate the issue to be answered as, whether publication of preliminary notification under Section 4 of the Old Act or Section 6 of the Old Act amounts to initiation of proceedings for the purposes of Section 24(1) of the New Act?.

21. We are confronted with divergent submissions on the issue. One set of advocates are supporting the view that declaration under Section 6 of the Old Act amounts to initiation of proceedings whilst another set supported the contention that publication of preliminary notification under Section 4 of the Old Act amounts to initiation of proceedings.

22. Advocate Bhandarkar took lead in contending that, publication of declaration under Section 6 of the Old Act, amounts to initiation of proceedings. The central theme of his submission is that preliminary notification issued under Section 4 of the Old Act, is just a primary step in the acquisition proceedings, which may or may not result into firm

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declaration by publication under Section 6 of the Old Act. It is not a mandate on Government to definitely acquired land though in respect of which preliminary notification under Section 4 of the Old Act, was issued. After verifying suitability, compatibility and on dealing objections, it is for the Government to take final call about acquisition. Either Government may drop the proposal of acquisition or may finalize the same in the shape of issuing declaration under Section 6 of the Old Act.

23. According to learned Advocate Bhandarkar, publication of notification under Section 4 of the Old Act, is nothing but mere proposal for acquisition of a land in a particular locality. Sub-section (2) of Section 4 of the Old Act empowers the Government to take certain preliminary steps to verify the suitability of the land for acquisition. Not only that, it is a legal mandate under Section 5-A of the Old Act to call objections on the notice issued under Section 4 of the Old Act and to decide the same. Initial step of expressing desire to acquire the land would ripe into a definite proceedings only when declaration under Section 6 of the Old Act about intended acquisition has been published. In other words, he would submit that preliminary step of issuing notification under Section 4 of the Old Act, is of no consequence as the definite proceedings of acquisition would start from publication of

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declaration under Section 6 of the Old Act, from which the acquisition proceedings would definitely roll further.

24. Learned Advocate Bhandarkar took us through various decisions to impress his aforesaid submission. We would like to deal relevant cases from which Advocate Bhandarkar feels that he would derive support to his contention. First reliance is on the decision in case of *Babu Thakur* with special emphasis on paragraph 8 and 12 of the judgment. We may remind ourselves that Division Bench of this Court in case of *Nilima Bhole* was influenced by those observations while expressing the view that publication of Section 6 notification amounts to initiation of the land acquisition proceedings. In fact, in case of *Babu Thakur,* the Supreme Court expressed in paragraph 12 of the judgment that the purpose of the notification under Section 4 is to carry on a preliminary investigation with a view to finding out its adaptability by doing the preliminary investigation. It is only under Section 6 that the firm declaration has to be made by the Government that land with proper description and area needed for public purpose. Similarly, in paragraph 8, it is observes that, once the declaration under Section 6 has been made, it shall be conclusive evidence that the land is needed for a public purpose or for a Company.

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25. In short, in case of *Babu Thakur*, the purpose of Section 4 notification, its use and the effect of declaration under Section 6, has been explained. No doubt, the predominant nature of publication under Section 4 is to start the process of acquisition by carrying preliminary investigation and the definite result would be in the shape of declaration under Section 6 of the Old Act. We are unable to see there from any proposition that, the land acquisition proceedings would be deemed to be initiated only on publication of Section 6 of the Old Act.

26. We were taken through the decision in case of ***M/s Fomento Resorts and Hotels Ltd. vs. Gustavo Ranato Da Cruz Pinto and ors (1985) 2 SCC 152*** wherein the Supreme Court by referring its earlier decision in case of *Babu Thakur* observed that though preliminary steps for initiation of acquisition proceedings are necessary and those can only be taken by the authority of the notification under Section 4 of the Old Act, the initiation of the acquisition proceedings for all practical purposes begins after Section 6 notification. The stress is led on the observation that initiation of the acquisition for all practical purposes, begins after Section 6 notification.

27. Always the observations of particular decision are to be read in context. Mere use of some words here and there disjunctive to the

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context makes the difference. At the time of pronouncement of above decision, the New Land Acquisition Act was not in existence. Section 24 of the New Act does not states about initiation of the land acquisition proceedings for practical purposes, but merely states about initiation of the proceedings. Therefore, the above observations made in different context cannot be construed as an initiation within the meaning of subsequent statute in the form of new Land Acquisition Act.

28. In this regard we can make useful reference to the decision of the Supreme Court in the case of ***Union of India & Ors. Vs. Dhanvanti Devi & Ors. (1996) 6 SCC 44***, wherein it was observed that what is of the essence in decision is its ratio and not every observation found therein nor what logically follows from the various observations made in the judgment. Every judgment must be read as applicable to the particular facts proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. It would, therefore, be not profitable to extract a sentence here and there from the judgment and to build upon it because the essence of the decision is its ratio and not every observation found therein.

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29. On the same line our attention is invited to paragraph 5.6 from the decision of Supreme Court in case of ***Women's Education Trust and anr. vs. State of Haryana and ors. (2013) 8 SCC 99***, which reads as below :

> *"5.6. The declaration under Section 6(1) of the Act can be issued only if the appropriate government, on an objective application of mind to the objections filed by the interested persons including the land owners and the report of the Land Acquisition Collector, is satisfied that the land is needed for a particular purpose specified in the notification issued under Section 4(1) of the Act."*

Our attention is invited to these observations to stress the importance of declaration under Section 6(1) of the Old Act for which there could be no dispute.

30. Then reference is made to one another decision of Division Bench of this Court in case of ***Shri Shyamsunder Rajaram Chandak vs. The Additional Commissioner and ors. 2017 SCC OnLine Bom 1853*** wherein a view was taken that Section 4 notification is only a declaration of intention to acquire the land. Initiation of land acquisition proceedings would mean only if a notification under Section 6(1) is made. These expressions would support the contention of Advocate Bhandarkar, however, we are called upon to answer the correctness of the said view similarly expressed by the Division Bench of this Court in *Nilima Bhole's* case.

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31. In order to canvass the importance of Section 6 notification, reliance is placed on the decision of ***Sakharam Anant Sathaye and anr. vs. Deputy Commissioner Dharwar District, Dharwar AIR 1982 KARNATAKA 221*** in which the Court expressed that the declaration shall became final only when the other steps and procedure mentioned in Section 6 of the Act are scrupulously followed and not otherwise. Though learned Advocate Bhandarkar relied on the decision of ***Neelkanth Mali vs. State of Rajasthan AIR 1957 Raj 59*** and ***Indore Development Authority vs. Manoharlal and ors (2020) 8 SCC 129,*** however, we are unable to see any material which could either support his view or assist us, on the issue involved.

32. Learned Advocate Bhandarkar also relied on the decision of *Patel Gandalal,* which was in fact relied by this Court in *Nilima Bhole's* case. In said case Full Bench of Gujarat High Court stated that the notification under Section 4 is merely an introductory measure. It is tentative in its nature and there is no finality or immutability about it. It is of an exploratory character and it does not prio motu result in acquisition. True, the observations of Gujarat High Court also swayed this Court in *Nilima Bhole's* case while reaching to the conclusion. Reading of these observations would definitely convey that notification under Section 4 has no consequence, but it initiates the proposal for

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acquisition for further process as contemplated in following Sections 5-A and 6 of the Act. However, it does not convey that notification under Section 6 amounts to initiation.

33. Advocate Bhandarkar's another line of argument is that, land acquisition Act is a beneficial piece of legislation, which requires liberal construction. He would submit that it being beneficial or welfare statute, interpretation shall be in consonance with the object of the Act, which is made for the benefit of the persons, for whom the Act was made. In this regard he relied on the decision in case of ***Union of India vs. Prabhakaran Vijaya Kumar and ors (2008) 9 SCC 527***. Lastly, Advocate Bhandarkar would submit that though Section 4, even if assumed to be initiation of proceeding in literal sense, however, in context with the Section 24(1) of the Act, the meaningful beginning for all purposes, would be by publication under Section 6 of the Act.

34. It takes us to consider rival view expressed by another batch of learned Counsel, consisting of Senior Counsel Shri A.V. Gupta, Advocate A.M. Kinkhede, Additional Government Pleader Shishir Ukey, Advocate Shri S.G. Jagtap and Advocate Shri J.B. Kasat. All of them supported the differing view expressed by Referral Bench. In short, they would submit that acquisition proceedings initiate on the publication of

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preliminary notification under Section 4 itself. By avoiding separate reference of each learned Counsel, we have considered the submissions cumulatively. All of them argued that the land acquisition proceeding begins with publication of notification under Section 4. They lend support from various decisions rendered by the Supreme Court and this Court. Besides that, we were taken through certain provisions of the Old Act as well as New Act to imbibe the submission advanced on their behalf.

35. These submissions are centered around certain propositions advanced by learned Counsel. It is argued that when the words of 'statute' are plain and clear, they are to be understood in the sense as it stood. The crucial phrase employed in Section 24(1) is clear, which states about initiation of proceedings without defining what amounts to the term "initiation". It is argued that the dictionary meaning of the word "initiation" means to start, originating, to begin. According to them, notification under Section 4 is the first step towards land acquisition and the process begins or initiates from publication of said notification. Starting point of acquisition proceedings is by Section 4 notification and therefore, no different meaning could be given to the plain legislative words.

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36. It is argued that issuance of notification under Section 4 is a mandatory step in the acquisition proceedings. In absence of valid notification under Section 4, the land acquisition proceeding vitiates and therefore, it amounts to beginning of the process by all means. It is the submission that after publication of notification under Section 4, the owner of land loses his rights in the land to certain extent. After notification under Section 4, the statute puts certain restrictions on the land. In one sense, the rights are freezed on issuance of said notification.

37. It is argued that first step of publication of notification under Section 4 is decisive in the sense of determining compensation. We have been taken through Clause seventhly to Section 24 of the Old Act, to state that any improvements made on the land after notification under Section 4 of the Act, shall be neglected in determining compensation. Section 11 of the Old Act has been referred, which equally speaks that while making an inquiry and passing an Award, the date of publication of notification under Section 4 is a relevant date. Basing on these contentions, it is argued that publication of Section 4 notification is a commencement, beginning which amounts to initiation of land acquisition proceedings with reference to Section 24(1) of the New Act.

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38. To support above contention our attention is invited to paragraph 7 of the observations made in *Babu Thakur* case (*referred supra)* wherein, while examining the provisions of the Old Act, it has been stated that the proceedings begins with the Government notification under Section 4 that land in any locality is needed or is likely to be needed for any public purpose. Then we were taken through the observation made in paragraph 3 in case of ***State of Madhya Pradesh and ors vs. Vishnu Prasad Sharma and ors. (1966) 3 SCR 557***, where it is expressed that, "a*fter the issue of a notification under Section 4, an owner of land in the locality notified cannot have full beneficial enjoyment of his property; he cannot, for example, build on his land for if he does so and the land is acquired, he will get no compensation for the building put up and will lose the costs incurred for it."* Further it is observed (paragraph 14) that, the importance of notification under Section 4 is that on the issue of such notification, the land in the locality to which the notification applies, is in a sense freezed.

39. To impress the importance of notification issued under Section 4 reliance is placed on the decision of ***Aflatoon and ors vs. L.T. Governor of Delhi and ors. 1974 AIR 2077*** wherein it is stated that *"a valid notification under Section 4 is a sine qua non for initiation of proceedings for acquisition of property."* We were taken through the

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observations of Supreme Court in case of ***Indrapuri Griha Nirman Sahakari Samiti Ltd. vs. The State of Rajasthan and ors. (1975) 4 SCC 296*** wherein it is observed that "Land acquisition proceedings commence with the notification under Section 4 of the Act." It is brought to our notice that the Supreme Court in case of ***Collector (District Magistrate) Allahabad and anr. vs. Raja Ram Jaiswal (1985) 3 SCC 1*** held that Section 4 notification is a mandatory step of acquisition proceedings. In paragraph 12 it is expressed that, a notification under Section 4(1) initiates the proceedings for acquisition of land and the use of expression "shall" makes the mandate of the legislature clear. Besides that reliance is placed on some other decisions, however, we do not find it relevant in the context.

40. In case of ***Pimpari Chinchwad New Township Development Authority Vs. Vishudev Co-operative Housing Society, 2019(3) Mh.L.J. 562,*** the Supreme Court has made passing remark (para 51) that having regard to the scheme of the Act, acquisition of land begins with the process of issuance of notification under Section 4 of the Act. Likewise, in the decision of the ***Mehtab Laiq Ahmed Shaikh and another Vs. State of Maharashtra and others, 2017(6) Mh.L.J. 408***, Full Bench of this Court took note that the Constitutional Bench in the case of Girnar Traders (3) Vs. State of Maharashtra and others has more

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than three places, reiterated that the proceeding under the L.A. Act commences under Section 4 of the Act and under the provisions of the MRTP Act. Concededly, though these observations are made in different context, however, it states that the land acquisition initiates on issuance of notification under Section 4 of the Act.

41. As it has already been referred above, the new Act, was enforced from 01.01.2014, and by virtue of Section 114 of the New Act, the old Act stand repealed. Section 114 of the New Act, reads as under:-

> *"114. **Repeal and saving**-(1) The Land Acquisition Act, 1894 (1 of 1894) is hereby repealed.*
>
> *(2) Save as otherwise provided in this Act the repeal under sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals."*

42. The above provision, however, has to be read in the light of Section 24 of the New Act. Section 24 is an exception or rather a saving clause, which saves certain "actions" done under the old Act. Neither in Section 24 (1)(a) nor in Section 24(1)(b) of the New Act, there is any question of the proceedings having "lapsed". It only speaks as to when the compensation has to be given under the old Act and when it has to be given under the new Act.

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43. We have revisited to the different provisions of the Old Act. The first step towards acquisition is in the shape of publication of preliminary notification under Section 4 of the Old Act. By issuance of notification under Section 4, the Government expresses its desire about requirement of land in certain locality. Undoubtedly, it was tentative expression of the Government made public for commencing the process of acquisition. The very purpose of notification under Section 4 is to give empowerment to the Government officials to carry preliminary investigation about the suitability of the land for acquisition. On such a publication, the authorized Officer gets power to enter upon, carry survey and take levels of the land. In said process he is permitted to dig or bore in the subsoil. Inasmuch as, the Officer is vested with residuary powers to do all other acts, which are necessary to ascertain whether the land is adapted for such purpose. He sets out the boundaries and mark the levels. These are the preliminary steps in the process of investigation carried with a view to find out the suitability.

44. Undeniably, after dealing objections in terms of Section 5-A, definite action would be taken in terms of publication under Section 6(1) of the Old Act. In other words, preliminary investigation would culminate into a firm declaration of a Government on issuance of

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Section 6 notification. The initial proposal under Section 4 would turn into definite proceedings for acquisition by way of Section 6 notification. We can gather from the entire scheme that the first step would be in the form of preliminary notification under Section 4 of the Act. There could be no dispute that notification under Section 4 is *sine qua non* in the acquisition proceedings meaning thereby a mandatory step to be taken *sans* the entire proceedings would vitiate.

45. The purpose of preliminary notification may be of primary nature for assessing the suitability, however, it is a mandatory step towards acquisition process. Therefore, though we find reference in various decisions about preliminary nature of Section 4 notification, however, it is undeniable that it is a mandatory requirement. The mandatory nature of preliminary notification itself conveys its importance in the process. Though the purpose of notification under Section 4, is limited to the extent of starting the process, however, unless, the said mandatory step is followed, there could be no definite declaration under Section 6 of the Old Act. One cannot skip the first step of issuance of notification under Section 4 out of the process, as converse it would vitiate the whole. Had it been the fact that Section 4 notification was optional, in that case one could say that the same cannot be termed as initial step, because, it can be overlooked. In that

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view, an opinion cannot be formed that Section 4 notification is not a commencement, because it is in the preliminary form. We find it difficult to agree with the submission that merely because of Section 4 notification of preliminary nature, it does not amounts to commencement or initiation of the land acquisition proceedings.

46. We have taken the brief resume of relevant provisions relating to land acquisition. The proceeding begins with notification under Section 4(1), after which it is permissible under Section 4(2) for the Government Officers to carry survey and do necessary things specified in sub-clause 2 to ascertain feasibility and suitability. On issuance of notification under Section 4(1), it is open for a person interested to raise objection under Section 5-A before the Collector within stipulated period. These objections are to be decided by appropriate Government and its decision would be final. On satisfaction of Government that the particular land is needed for a public purpose or for a company, it would make a declaration to that effect in terms of Section 6 of the Act. Thereafter, further steps are taken regarding taking order for acquisition, possession and passing of the award.

47. The brief resume of these provisions conveys that Sections 4 and 6 are the basis of the acquisition proceedings without which there could

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be no acquisition. While emphasizing the importance of Section 4 notification, the Supreme Court in above referred case of ***State of Madhya Pradesh and ors. vs. Vishnu Sharma and ors.*** expressed the importance of notification under Section 4 that, on the issue of notification the land in the locality to which the notification applies, is in a sense freezed. This freezing takes place in two sense. Firstly, the market value of the land at the date of the publication of the notification under Section 4 has to be considered in terms of Section 23 of the Old Act and Secondly, any outlay or improvement on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under Section 4, cannot be taken into consideration for determining the compensation in terms of Section 24 of the Old Act. Thus, the effect of Section 4 notification makes marked difference in assessing the compensation. The date of publication of notification under Section 4(1) is decisive in the sense that the then market value of the land would be an indicator for determining the compensation. Likewise, after publication of notification, even if any improvements are made, they are to be ignored while assessing the compensation.

48. The relevant provisions of Section 23(1) and Section 24 makes clear that the legislature has given importance to the stage of

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preliminary notification under Section 4(1) as it would be a decisive factor in determining the compensation. From said angle, in one sense, Section 4 notification amounts to initiation because, it has certain repercussions in computing compensation as stated above. The Act has not given any importance to the definite notification under Section 6, in context of determining the quantum of compensation. In other words, the step towards notification under Section 6, is held to be interregnum step of the acquisition, and therefore also it cannot be termed as initiation of proceedings.

49. Though several judgments are cited by both sides by inviting certain observation of the decisions made in different context, however, no ratio could be culled out from these decisions. The new enactment came into force on 01.01.2014 meaning thereby prior to that there was no occasion for Courts to consider and express about what amounts to initiation in terms of Section 24 of the New Act. Certainly, we are guided by these decisions in arriving on the conclusion about the issue failed for consideration.

50. It is a settled rule of interpretation that the plain and ordinary meaning is to be given to the words and only if plain meaning leads to an absurdity, then a purposive interpretation, can be resorted. The phrase, that “initiated under land acquisition Act” employed in Section

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24 of the New Act, is plain and unambiguous. The literal meaning of the word "initiation" is originating, to start, to begin, to take first step or setting a ball in motion. The scheme of the Act provides first step of acquisition in the form of Section 4 notification, though preliminary but mandatory one. The legislature in Section 24 of the New Act has not used the words "effective initiation" or "purposive initiation" or "substantive initiation" so as to construe the definite intention by Section 6 notification as initiation. However, the plain language employed in the statute with no uncertain words speaks that it is just a mere initiation of the land acquisition proceedings. We do not find any justification in ignoring the first step of Section 4 notification to construe the next step of the process of Section 6 to consider as initiation of the land acquisition process. Though land acquisition proceedings is beneficial piece of legislation, the plain and unambiguous words cannot be interpreted differently, when there is no room for interpreting the same in the way which does not exists.

51. It is a well settled principle in law that the Court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. The first and primary rule of construction is that the intention of the Legislation must

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be found in the words used by the Legislature itself. The question is not what may be supposed and has been intended but what has been said.

52. Having relook to the provisions of Section 4(1), 5-A, 6, 8, 9 and 11 of the Old Act, it reveals that the process of land acquisition commences from issuance of notification under Section 4(1) under which the Government first time expresses its desire to acquire a land in the locality. It was followed by a survey, which was permitted in terms of Section 4(2) of the Act. Since it is a compulsory acquisition, objections are called and heard in terms of Section 5-A. The Collector used to decide the objections as well as send report to the appropriate Government. Upon which, the Government expresses its definite intention to acquire particular land by way of declaration under Section 6 of the Act. As such the whole process begins from Section 4 notification and would culminate in passing award in terms of Section 11 of the Old Act. Notably, the notification under Section 4(1), is a mandatory initial step of the process. In several decisions, it has been held that requirement of giving public notice in terms of Section 4, is a mandatory step and on its non-compliance, would vitiate the proceedings. These mandatory steps cannot be kept out of the whole process.

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53. In other words, unless the first step contemplated under Section 4 is complied, the matter cannot be proceeded. Next step of calling and entertaining objections under Section 5-A, also assumes significance since the same is also a statutory requirement failing which proceeding would vitiate. For this purpose, we may refer the decision of the Supreme Court in case of ***Usha Stud and Agricultural Farms Pvt. Ltd., and ors. vs. State of Haryana and ors. (2013) 4 SCC 210***. The mandatory nature of requirement of preliminary notification under Section 4 and calling objections under Section 5-A conveys that these are essential steps, which must be followed before issuance of declaration under Section 6 of the Act. It means that the process commences from the preliminary notification under Section 4 of the Act and on its mandatory compliance coupled with procedure under Section 5-A, the stage of declaration under Section 6 would come. Therefore, in our view publication of preliminary notification under Section 4 is the first or initial step, from which the entire process begins. The plain reading of the scheme indicates that declaration of Section 6 is an interregnum step of the process which comes later on earlier mandatory compliance. Therefore, it cannot be said that the process stood initiated only on declaration under Section 6 by ignoring earlier essential steps. In other word, when once the earlier steps are

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held to be mandatory the next step shall have to be construed as the further step in the process meaning thereby it does not amount to initiation of land acquisition proceedings.

54. We are of the considered view that the land acquisition proceeding stands initiated on issuance of preliminary notification under Section 4 of the Act for the purposes of Section 24 of the New Act. In view of above, we concur with the view expressed by Referral Bench and hold that the view expressed in case of Nilima Bhole, is not the correct exposition of law.

55. In the result, we answer the reference as under :

(i) Publication of preliminary notification under Section 4 of the Old Act amounts to initiation of the land acquisition proceedings for the purposes of Section 24(1) of the New Act.

56. We place on record out appreciation for the efforts taken by all the learned Counsel appearing in the matter for their able assistance.

57. The Registry shall place the petition before the Division Bench, for further consideration of the Writ Petitions.

(G.A. SANAP, J.) **(VINAY JOSHI, J.)** **(A.S.CHANDURKAR, J.)**

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