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> compensation as determined by us under this order along with other benefits, which the respondents give to parties whose lands are acquired under the Act, should be given to the writ petitioners along with what has been directed by us in this judgment."

56. The said position of law was followed by the Supreme Court in its judgement in the case of **Special Agricultural Produce Market Committee for Fruits and Vegetables, Golimangla vs. N. Krishnappa and others** ( ). The Supreme Court rejected the challenge to an order passed by the High Court, whereby relief was moulded by shifting the date of notification under Section 4(1) of the L. A. Act, while specifically referring to the said earlier judgement in the case of **Competent Authority vs. Barangore Jute Factory and others** ( ).

57. In a recent judgement in the case of **Bernard Francis Joseph Vaz and others Vs. Government of Karnataka and others** ( ), the Supreme Court dealt with the said issue in detail. It is significant to note that in the said judgement, the Supreme Court held that only the High Court, under Article 226 of the Constitution of India and the Supreme Court, under Article 32/142, could shift the date of issuance of notification under Section 4(1) of the L. A. Act to a later or subsequent date. It was specifically held that such power is not available with the SLAO or the State Government. The relevant portion of the said judgement in this context reads as follows:-

> "15. It can thus be seen that the learned Single Judge of the High Court, upon appreciation of the material placed on record, was of the view that insofar as the opinion of the learned Advocate General with regard to shifting of the date of the preliminary notification to a later date is concerned, the said opinion was beyond the scope and ambit of the query put forth to him and consequently, the said opinion could not have been made the basis by the SLAO to pass the award. It is further to be seen that the learned Single Judge of the High Court after considering the provisions of the 1894 LA Act, the KIAD Act and various decisions of this Court, observed that the market value of the acquired land has to be taken as on the date

of the preliminary notification as contemplated under Section 11 of the 1894 LA Act. Further, the learned Single Judge of the High Court observed that only in exceptional circumstances, where either this Court or the High Court comes to the conclusion that the acquisition proceedings themselves were liable to be quashed on account of certain illegalities or infirmities in the acquisition process/procedure, it was permissible only for this Court in exercise of its powers under Article 32/142 or the High Courts under Article 226 of the Constitution of India to shift the date to a later/subsequent date. It was further observed that this power to shift the date is available only to either this Court or the High Courts and not definitely/certainly to the SLAOs or the State Government.

16. We are in agreement with the findings of the learned Single Judge of the High Court, inasmuch as the SLAO cannot shift/postpone the date of preliminary notification. In case, upon appreciation of the material placed on record if this Court or the High Court, in exceptional circumstances, came to the conclusion that the acquisition proceedings themselves were liable to be quashed only then by exercising inherent powers this Court under Article 32/142 or the High Courts under Article 226 of the Constitution of India, respectively, can shift/postpone the date of preliminary notification to a later date. In our considered opinion, therefore, the learned Single Judge of the High Court rightly came to the conclusion that the award dated 22-4-2019 be quashed and set aside and ordered accordingly.

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53. No doubt that as already observed by us hereinabove, we do not find any error in the approach adopted by the learned Single Judge of the High Court in holding that the SLAO could not have shifted the date and it could have been done only by this Court in exercise of powers under Article 32/142 of the Constitution of India or by the High Court under Article 226 of the Constitution of India. However, the learned Single Judge of the High Court instead of relegating the appellants to again go through the rigours of determination by SLAO, ought to have exercised powers under Article 226 of the Constitution to do complete justice. Even the Division Bench of the High Court on a hypertechnical ground has

non-suited the appellants."

58. In the said judgement, the Supreme Court took into consideration the long period of time for which the land owners had been deprived of their legitimate dues and in that context, observed as follows:-

> "49. It cannot be gainsaid that the appellants herein have been deprived of their legitimate dues for almost 22 years ago. It can also not be controverted that money is what money buys. The value of money is based on the idea that money can be invested to earn a return, and that the purchasing power of money decreases over time due to inflation. What the appellants herein could have bought with the compensation in 2003 cannot do in 2025. It is, therefore, of utmost importance that the determination of the award and disbursal of compensation in case of acquisition of land should be made with promptitude."

59. Thus, we find that in such situations, where the acquisition itself is liable to be quashed and it is held that the same has lapsed, as in the present case, this Court exercising jurisdiction under Article 226 of the Constitution of India, has the power to shift the date of notification under Section 4(1) of the L. A. Act to address the concerns of all parties. We find that if such an approach is not adopted, either the said unacquired land will have to be returned to the petitioners at grave inconvenience and cost to the public at large or the petitioners may claim that compensation be granted for the value of the land as on today.

60. But, by following the position of law enunciated by the Supreme Court in the aforementioned judgements, we are inclined to shift the date of notification under Section 4(1) of the L. A. Act and to issue consequential directions to the respondents, while disposing of the present writ petition. In this context, various submissions were made on behalf of the rival parties, but we find that in order to balance the interests of all the parties, it would be appropriate to shift the date of notification issued under Section 4(1) of the L. A. Act to the date on

which the present writ petition was filed.

61. The record shows that this petition was lodged in this Court on 26.08.2011 and in the light of the observations made hereinabove, we are inclined to shift the date of notification issued under Section 4(1) of the L. A. Act to the said date. By treating the same as the date of notification, the SLAO shall calculate the quantum of compensation payable to the petitioners, in accordance with law.

62. In view of the above, the writ petition is disposed of as follows:-

(a) The impugned order dated 19.07.2011 passed by the SLAO is quashed and set aside;

(b) It is held that in the light of the declaration under Section 6 of the L. A. Act being issued beyond the mandatory period of one year from issuance of notification under Section 4 thereof, the said declaration is rendered a nullity and the acquisition process to that extent, is found to be illegal;

(c) In the light of the observations made hereinabove and following the position of law laid down by the Supreme Court in such cases and in order to balance the interests of all the parties, the notification issued under Section 4(1) of the L. A. Act, is shifted to 26.08.2011;

(d) The SLAO shall now undertake the exercise of calculation of quantum of compensation, by passing a fresh award, taking the market value as on 26.08.2011;

(e) The SLAO shall complete the said exercise within a period of three months from today;

(f) The petitioners shall be entitled to all statutory benefits as available in law and after the award is passed, the rights of all parties with regard to further proceedings shall remain

open;

(g) Since there was no clarity as to whether the amounts deposited in this Court under the earlier proceedings, were withdrawn by the respondent municipal corporation or not, it is directed that in the event the amount is still lying with the Prothonotary and Senior Master of this Court, the same shall be taken into account and adjusted when the quantum of compensation is determined by the SLAO in terms of the directions given hereinabove. Such amount, if any, lying in this Court along with accrued interest, shall be disbursed forthwith to the petitioners after the award is passed by the SLAO;

(h) If the amount has been already withdrawn by the respondent municipal corporation from this Court, the entire amount of compensation, as may be determined by the SLAO, shall be disbursed in favour of the petitioners;

(i) In any case, the awarded amount shall be made over to the petitioners within four weeks of the award being passed by the SLAO.

63. Rule is made absolute in above terms.

64. Pending applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**

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