the adjudication being professedly complete and *de praemissis,* that the claim in that respect was not upheld. This would not render the award incomplete. We consider therefore that none of the three points urged in challenge of the validity of the award on the ground of its incompleteness has any substance.

The appeal fails and is dismissed with costs.

NANDESHWAR PRASAD AND ANOTHER

v.

THE STATE OF U. P. AND OTHERS

(P. B. GAJENDRAGADKAR, K. N. WANCHOO, and K. C. DAS GUPTA JJ.)

Land Acquisition—Notification by Governor—Land required for construction of industrial tenements—Second notification—Collector directed to take possession—Collector's notification stating possession would be taken over—Acquisition for Kanpur Development Board—Action if must be taken under s. 114 of the Kanpur Act—Notification under s. 6 could be issued without first taking action under s. 5A—Land acquisition Act, 1894(1 of 1894), ss. 4,5,5A, 6,9, 17(1), 17(4), Kanpur Urban Area Development Act, 1945(Act VI of 1945), ss. 71,114.

In these two appeals the same questions of law arise and the facts in C.A. No. 166 of 1962 are similar to those in C.A. 167 of 1962 which are stated below.

The appellant in C.A. No. 167 of 1962 is the owner of certain lands situated in the city of Kanpur. The land is occupied by a Mill and godowns and no part of the land is waste land or arable land. In 1932 the U. P. Government sanctioned by a notification a Scheme (Scheme No. XX) of the Improvement Trust, Kanpur. This Trust has been replaced by the Development Board, Kanpur, by reason of the Kanpur Urban Area Development Act, 1945.

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In 1955 the Housing Department of the Government of U.P, sponsored a scheme for building industrial tenements. Part of the scheme concerned the locality in which the land in dispute is situated. In 1956 a notification was issued under s. 4 of the Land Acquisition Act, 1894, by the Governor of U.P. to the effect that the plots in dispute were required for the construction of tenements under the subsidized industrial housing scheme of the U.P. Government as well as for general improvement and street scheme No. XX of the Board. This was followed by a notification under s. 6 of the Land Acquisition Act stating that the case being one of urgency the Governor was pleased under sub-ss. (1) and (1-A) of s. 17 of that Act to direct that the Collector of Kanpur, though no award under s. 11 had been given, might on the expiration of the notice mentioned s. 9(1) take possession of land mentioned in the schedule. Subsequently a notice under s. 9 was issued which stated that possession of the land will be taken within 15 days. The appellant thereupon filed a writ petition under Art. 226 of the Constitution in the High Court. Two main points were raised in the petition. Firstly, it was contended that as the acquisition was for the purpose of Scheme No. XX of the Board action had to be taken in accordance with s. 114 of the Kanpur Act and the schedule thereto and as no action had been so taken the proceedings for acquisition were bad. In the second place, it was urged that it was not open to the Governor to issue the notification under s. 6 of the Land Acquisition Act without first taking action under s.5A thereof. The High Court rejected both these contentions and in the result dismissed the writ petition. The present appeal was filed with a certificate issued by the High Court.

In the appeal before this Court the same questions which were agitated before the High Court were raised.

Held it is only when the Board proceeds to acquire land by virtue of its powers under s. 71 that s. 114 comes into play and the proceedings for acquisition have to take place under the Land Acquisition Act as modified by s. 114 read with the schedule. But where the acquisition is, as in the present case, by the Government under the Land Acquisition Act, for public purposes though that purpose may be the purpose of the Board, the Kanpur Act has no application at all and the Government proceeds to acquire under the provisions of the Land Acquisition Act alone.

From the scheme of the Act it is clear that compliance with the provisions of s.5-A is necessary before a notification

can be issued under s. 6. Even where the Government makes a direction under s. 17(1) it is not necessary that it should also make a direction under s. 17(4). If the Government makes a direction only under s. 17(1) the procedure under s. 5-A would still have to be followed before a notification under s. 6 is issued. It is only when the Government also makes a declaration under s. 17(4) that it becomes necessary to take action under s. 5-A and make a report thereunder. Under the Land Acquisition Act an order under s. 17(1) or s. 17(4) can only be passed with respect to waste or arable land and it cannot be passed with respect to land which is not waste or arable land on which buildings stand.

Just as s. 17(1) and s. 17(4) are independent of each other, s. 17(1-A) and s. 17(4) are independent of each other and an order under s. 17 (1-A) would not necessarily mean that an order under s. 17(4) must be passed.

The right to file objections under s. 5-A is a substantial right when a person's property is being threatened with acquisition and that right cannot be taken away as if by a side-wind because s. 17(1-A) mentions s. 17(1). Section 17(1-A) mentions s. 17(1) merely to indicate the circumstances and the conditions under which possession can be taken.

It was not open to the State Government to say in the notification under s. 4 that proceedings under s. 5-A will not take place. This part of the notification under s. 4 is beyond the powers of the State Government and in consequence the notification under s. 6 also, as it was issued without taking action under s. 5-A, must fail.

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 166 and 167 of 1962.

Appeals from the judgment and decrees dated October 25, 1957 of the Allahabad High Court in Special Appeals Nos. 140 and 139 of 1957.

J.B. Goyal, for the appellants (in C.A.No. 166 of 62).

C. B. Agarwala and *P. C. Agarwala,* for the appellants (in C.A. No. 167 of 62).

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K. S. Hajela and *C. P. Lal*, for respondent No. 1 (in both the appeals).

C. P. Lal, for respondent No. 2 (in both the appeals).

1963. April 26. The Judgment of the Court was delivered by

Wanchoo J.

WANCHOO J.—These two appeals on certificates granted by the Allahabad High Court raise common questions and will be dealt with together. It will be enough if we mention the facts in appeal No. 167, for the facts in the other appeal are exactly the same, except that the lands in dispute are different in the two cases, though lying in the same area in the city of Kanpur.

Deoki Nandan, appellant in appeal No. 167, is the lessee of two plots in Anwarganj, Bans Mandi, Kanpur, and his lease is for a period of 99 years from 1943. On these plots there exists a mill known as Om Cotton Ginning and Oil Mill. Besides the mill there are pacca godowns also on the plots and two-thirds of the area is under buildings while one-third is open land paved with bricks. No part of the land is waste or arable.

It appears that in February 1932 the Government of U. P. sanctioned by notification a scheme known as Pechbagh Dalelpurwa Scheme No. XX (hereinafter referred to as scheme No. XX) of the Improvement Trust Kanpur. It may be mentioned that the Improvement Trust Kanpur has now been replaced by the Development Board Kanpur (hereinafter referred to as the Board) by the Kanpur Urban Area Development Act, No. VI of 1945, (hereinafter referred to as the Kanpur Act), which repealed the U. P. Town Improvement Act, No. III of 1920, insofar as it applied to Kanpur. It is not clear what

happened to scheme No. XX after 1932; but it does appear that it was not fully carried out.

It appears that in 1955 a scheme known as subsidized industrial housing scheme was sponsored by Housing Department of the U.P. Government. This scheme was to be put in force in four phases. and we are concerned in the present appeal with the fourth phase. For that phase the Government of India had sanctioned over rupees two crores and it was decided to build 6973 tenements of which 1368 were to be in an Ahata on the Hamirpur road. We are concerned with this part of the scheme, for the lands in dispute are in this locality. The decision in this connection was taken by the Government of U. P. in May 1955. Thereafter on January 6, 1956, a notification was issued under s. 4 of the Land Acquisition Act, (No. 1 of 1894) by the Governor of U. P. to the effect that the two plots in dispute were required for the construction of tenements in the fourth phase of the subsidized industrial housing scheme sponsored by the Government of U. P. as well as for general improvement and street scheme No. XX of the Board. This was followed by a notification under s. 6 of the Land Acquisition Act on January 31, 1956. That notification further said that the case being one of urgency the Governor was pleased under sub-ss. (1) and (1-A) of s. 17 of the Land Acquisition Act to direct that the collector of Kanpur, though no award under s. 11, has been made, might on the expiration of the notice mentioned in s. 9(1) take possession of lands, buildings and structures forming part of the land mentioned in the schedule for public purposes. Then followed a notice under s. 9 by the Collector on February 10, 1956, which said that possession would be taken over 15 days after the issue of the notice *i. e.* on February 25, 1956. On receipt of this notice, Deoki Nandan appellant filed his objections before the Collector on February 21, 1956,

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Two days later, on February 23, 1956, he filed the writ petition in the High Court out of which the present appeal has arisen.

In this writ petition two main points were urged on behalf of the appellant. It was first urged that as the acquisition was for the purposes of scheme No. XX of the Board, action had to be taken in accordance with s. 114 of the Kanpur Act and the schedule thereto and as no action had been so taken, the proceedings for acquisition were bad. In the second place, it was urged that it was not open to the Governor to issue the notification under s. 6 of the Land Acquisition Act without first taking action under s. 5-A thereof. It is not in dispute that no action was taken under s. 5-A and no report was made as required therein.

The writ petition was dismissed by the learned Single Judge who heard it. On the first question he held that this was not a case to which the Kanpur Act applied. On the second question, he held that s. 17 (4) applied and therefore it was not necessary to take proceedings to comply with s. 5-A before issuing a notification under s. 6. Then followed an appeal which was heard by a Division Bench of the High Court. The appeal court upheld the view taken by the learned Single Judge and dismissed the appeal. However, the appeal court granted a certificate as prayed for, and that is how the matter has come up before us.

The same two questions which were agitated in the High Court have been raised before us. In the first place, it is urged that as the acquisition was for scheme No. XX of the Board, action should have been taken under the Kanpur Act and as this was not done the entire proceedings are bad including the issue of the notifications under s. 4 and s. 6. In the second place, it is urged that s. 17 (4) could not

apply in the present case and no notification under s. 6 could be issued unless s. 5-A had been complied with. As no such compliance was admittedly made, the notification under s. 6 in any case is bad, even if the notification under s. 4 is good.

Turning now to the first point, the main reliance of the appellant is on s. 114 of the Kanpur Act, which is in these terms :—

> "*Modification of the Land Acquisition Act, 1894*—For the purpose of the acquisition of land for the Board under the land Acquisition Act, 1894—
>
> (a) the said Act shall be subject to the modification specified in the Schedule to this Act;
>
> (b) the award of the Tribunal shall be deemed to be the award of the court under the Land Acquisition Act, 1894."

We may also refer to s. 108 which provides for constitution of the tribunal and s. 109 which lays down that the tribunal shall perform the functions of the court with reference to the acquisition of land for the Board under the Land Acquisition Act, 1894. Further, it is necessary to refer to s. 71 (1) also which provides that "the Board may, with the previous sanction of the State Government, acquire land under the provisions of the Land Acquisition Act, 1894, as modified by the provisions of this Act, for carrying out any of the purposes of this Act". The argument on behalf of the appellants is that where land is acquired for the purposes of the Board action has to be taken under ch. VII which provides for various kinds of development schemes for the Board and the procedure for making such schemes. After this procedure laid down in ch. VII is gone through, (and it is not in dispute that no such procedure was gone through in the present case insofar as scheme No. XX is concerned), s. 114 comes

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into play and acquisition has to take place under the modified provisions of the Land Acquisition Act even where the Government is acquiring the land. Stress in this connection is laid on the words "acquisition of land for the Board" in s. 114, and it is said that whenever there is acquisition of land for the Board, action can only be taken, even though it is the Government which is acquiring the land, under the modified provisions of the Land Acquisition Act contained in the Kanpur Act.

We are of opinion that this argument is fallacious. If one looks at the scheme of the Kanpur Act, one finds that ch. VII provides for various kinds of development schemes and the procedure for finalising them. After the scheme is finalised under ch. VII, power is given to the Board to purchase the land required for the scheme or take it on lease under s. 70. Then s. 71 provides in the alternative that the Board may with the previous sanction of the State Government acquire land under the provisions of the Land Acquisition Act as modified by the provisions of the Kanpur Act. It is only when the Board proceeds to acquire land by virtue of its powers under s. 71 that s. 114 comes into play and the proceedings for acquisition have to take place under the Land Acquisition Act as modified by s. 114 read with the schedule. It is true that s. 114 speaks of acquisition of land *for* the Board, and the argument is that when s. 114 speaks of acquisition of land *for* the Board, it applies to acquisition of land for the Board by the Government and not to acquisition by the Board, which is provided by s. 71 (1). This interpretation of s. 114 is in our opinion incorrect. Section 71 certainly provides for acquisition of land by the Board when it says that the Board may acquire land under the provisions of the Land Acquisition Act as modified by the Kanpur Act; but that acquisition is also by that very section for carrying out the

purposes of the Act *i.e.* for the Board. Therefore when s. 71 authorises the Board to acquire land under the Land Acquisition Act as modified by the Kanpur Act, the acquisition is for the Board. Section 71 further speaks of the modification of the provisions of the Land Acquisition Act. This modification is not provided in s. 71 itself. In order to find out the modification we have to go to s. 114. Therefore, s.114 merely serves the purpose of indicating the modification which has been mentioned in s. 71. There is no reason to hold, because the words "acquisition of land for the Board" appear in s.114, that this acquisition is by the Government for the Board. The scheme of the Kanpur Act clearly shows that the Board frames a scheme and then decides to acquire the land for itself under s. 71 with the previous sanction of the State Government. If it so decides, s. 114 applies to such an acquisition by the Board for itself with the necessary modification in the Land Acquisition Act. We may in this connection refer to s. 109, which describes the duties of the tribunal. Now there is no doubt that where the Board is acquiring land under s. 71 of the Kanpur Act, it is the tribunal which takes the place of the court in the Land Acquisition Act. But s. 109 also uses the same words, namely acquisition of land for the Board. As the acquisition by the Board is also for the Board, there can be no doubt that the scheme of the Kanpur Act is that the Board first proceeds under ch. VII, then decides to acquire land under s. 71. and if it so decides s.114 comes into play with the modifications in the Land Acquisition Act mentioned in the schedule. Two modifications in the schedule are the replacement of the notification under s.4 by the notification under s. 53 in ch. VII and the replacement of notification under s. 6 by the notification under s.60 also in chap. VII. It is obvious that ch. VII, s. 71, s.114 and the other provisions in ch. XI dealing with modifications and the modifications in the schedule are all part of one scheme, where the Board is acquiring

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land itself for its own purpose with the previous sanction of Government; but where the acquisition is, as in the present case, by the Government under the Land Acquisition Act, for public purpose though that purpose may be the purpose of the Board, the Kanpur Act has no application at all, and the Government proceeds to acquire under the provisions of the Land Acquisition Act alone. The contention therefore on behalf of the appellants that the Kanpur Act has not been complied with and therefore the proceedings for acquisition of land are bad has no force and must be rejected.

We now come to the second point raised on behalf of the appellants. For that purpose we may briefly refer to the scheme of the Land Acquisition Act. The proceedings for acquisition start with a preliminary notification under s.4. By that notification the Government notifies that land in any locality is needed or is likely to be needed for any public purpose. On that notification certain consequences follow and authority is conferred on an officer either generally or specially by Government and on his servants and workmen to enter upon and survey and take levels of any land in such locality, to dig or bore into the sub-soil, to do all other acts necessary to ascertain whether the land is adapted for such purpose, to set out the boundaries of the land proposed, to be taken, and so on. Then s. 5-A provides that any person interested in any land which has been notified in s.4, may within thirty days of the issue of the notification object to the acquisition of the land or of any land in the locality as the case may be. Every such objection shall be made to the Collector in writing and the Collector has to give the objector an opportunity of being heard. After hearing all objections and after making further inquiry if any, as he thinks fit, the Collector has to submit the case for the decision of the Government together with the record of the proceedings held by him and the report

containing his recommendations on the objections. The decision of the Government on the objections is final. Then comes the notification under s.6, which provides that when the appropriate government is satisfied after considering the report, if any, made under s. 5-A that any particular land is needed for a public purpose, a declaration shall be made to that effect and published in the official gazette. After such a declaration has been made under s.6, the Collector has to take order for acquisition of land. It is marked out, measured and planned under s.8 if necessary and notice is given under s. 9 to persons interested. The Collector then holds inquiry under s. 11 and makes an award. After the award is made the Collector has got the power to take possession of the land under s.16 and the land then vests absolutely in the Government free from all encumbrances.

It will be clear from this scheme that compliance with the provisions of s. 5-A is necessary before a notification can be issued under s. 6. As soon as the preliminary notification is issued under s.4, the officer authorised by Government may enter upon the land to survey it and to do all other necessary acts to ascertain whether the land is adapted for the purpose for which it is to be acquired, and this action, if taken, will give sufficient notice to those interested to object. If objections are made the Collector will consider those objections and make his recommendation thereon in his report to Government. If no objections are made the Collector will report that no objection has been made and the Government then proceeds to issue a notification under s.6. In either case however, the Collector has got to make a report with his recommendations on the objections if they are filed or inform the Government that there are no objections filed in pursuance of the notification under s. 4 and it is thereafter that the Government is empowered under s. 6 to issue a notification. This, as we have said, is the usual procedure to be followed

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before the notification under s.6 is issued. To this usual procedure there is however an exception under s.17, and that is why in s. 6 we find the words "if any" in the clause "after considering the report, if any, made under s. 5A". When action is taken under s. 17 (4), it is not necessary to follow the procedure in s. 5-A and a notification under s.6 can be issued without a report from the Collector under s. 5-A. In the present appeals we are concerned with ss. 17 (1) and 17 (4), which we now read:—

> "17 (1). In cases of urgency, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a company, such land shall thereupon vest absolutely in the Government, free from all encumbrances."

> "17 (4). In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1) or sub-section (2) are applicable, the appropriate Government may direct that the provisions of section 5A shall not apply, and if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1)."

It will be seen that s. 17 (1) gives power to the Government to direct the Collector, though no award has been made under s. 11, to take possession of any waste or arable land needed for public purpose and such land thereupon vests absolutely in the Government free from all encumbrances. If action is taken under s. 17 (1), taking possession and vesting which

are provided in s. 16 after the award under s. 11 are accelerated and can take place fifteen days after the publication of the notice under s. 9. Then comes s.17 (4) which provides that in case of any land to which the provisions of sub-s. (1) are applicable, the Government may direct that the provisions of s. 5-A shall not apply and if it does so direct, a declaration may be made under s. 6 in respect of the land at any time after the publication of the notification under s. 4 (1). It will be seen that it is not necessary even where the Government makes a direction under s. 17 (1) that it should also make a direction under s. 17 (4). If the Government makes a direction only under s. 17 (1) the procedure under s. 5-A would still have to be followed before a notification under s. 6 is issued, though after that procedure has been followed and a notification under s. 6 is issued the Collector gets the power to take possession of the land after the notice under s. 9 without waiting for the award and on such taking possession the land shall vest absolutely in Government free from all encumbrances. It is only when the Government also makes a declaration under s. 17 (4) that it becomes unnecessary to take action under s. 5-A and make a report thereunder. It may be that generally where an order is made under s. 17 (1), an order under s. 17 (4) is also passed; but in law it is not necessary that this should be so. It will also be seen that under the Land Acquisition Act an order under s. 17 (1) or s. 17 (4) can only be passed with respect to waste or arable land and it cannot be passed with respect to land which is not waste or arable and on which buildings stand.

This brings us to s. 17 (1-A) introduced in s. 17 of the Land Acquisition Act by the Land Acquisition (U. P. Amendment) Act, (No. XXII of 1954). Section 6 of that Act is in these terms :—

> "After sub-section (1) of section 17 of the Principal Act (*i. e.* Land Acquisition Act) the

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following shall be inserted as a new sub-section (1-A) :

> '(1-A). The power to take possession under sub-section (1) may also be exercised in the case of other than waste or arable land, where the land is acquired for or in connection with sanitary improvements of any kind or planned development."

It is not in dispute before us that the land in the present case was required for planned development. Therefore sub-section (1-A) as inserted by the U. P. Act into the Land Acquisition Act applies. The contention on behalf of the appellants however is that sub-s. (1-A) gives merely power to take possession of land other than waste or arable land where the land is acquired for or in connection with sanitary improvements of any kind or planned development. It is further urged that sub-s. (1) is mentioned in sub-s. (1-A) merely to import the circumstances in which the power to take possession may be exercised with respect to land other than waste or arable and the time when such power may be exercised. The argument further is that s. 17 (4) was not amended by the U. P. Act XXII by including the new sub-s. (1-A) also in that sub-section. Sub-section (4) still stands as it was; therefore it still applies to waste and arable land only.

There is force in this argument. There has been no change by the U. P. Act in sub-s. (1) and therefore when sub-s. (4) speaks of any land to which sub-s. (1) applies it still refers only to waste or arable land and no other. It is true that by sub-s. (1-A) as introduced by U. P. Act in s. 17, power has been given to take possession in case of land other than the waste or arable; but this does not necessarily mean that sub-s. (4) will also apply to a case of land other than waste or arable simply because power has been

given by sub-s. (1-A) to take possession of land other than waste or arable. It seems to us that when sub-s. (1) is mentioned in sub-s. (1-A) as introduced by the U. P. Act it only means that the power can be exercised to take possession of land other than waste or arable in the same circumstances and at the same time as it could be exercised with respect to arable or waste land as provided in sub-s. (1), and nothing more. Sub-section (1-A) as introduced by the U. P. Act therefore has the effect only of accelerating the taking of possession which normally can take place after the award has been made under s. 11 in the case of land other than waste or arable in the circumstances and under the conditions mentioned in sub-s. (1). But sub-s. (1-A) does not amend sub-s. (1) so as to include within that sub-section land other than waste or arable. Therefore when sub-s. (4) was not amended by the U. P. legislature to include sub-s. (1-A) as introduced by it, it can apply only to waste or arable land mentioned in sub-s. (1), which also remained unamended. We have already pointed out that it is not necessary in law that when an order is passed under s. 17 (1), an order under s. 17 (4) must also be passed. Similarly if an order is passed under sub-s. (1-A) it does not necessarily follow that an order must be passed under s. 17 (4). Sections 17 (1) and 17 (4) are independent of each other in the sense that an order under the former does not necessarily require an order under the latter. Similarly s. 17 (1-A) must be independent of s. 17 (4) and an order under s. 17 (1-A) would not necessarily mean that an order under s. 17 (4) must be passed. In these circumstances it seems to us that if the legislature intended that provisions of sub-s. (4) should also apply to a case falling under sub-s. (1-A), it has failed to carry out that intention. Sub-section (1-A) has been added as an independent sub-section and no amendment has been made either in sub-s. (1) or sub-s. (4); nor has any separate provision been made

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for applying sub-s. (4) to a case falling under sub-s. (1-A) and so sub s. (4) cannot be applied to sub-s. (1-A). The right to file objections under s. 5-A is a substantial right when a person's property is being threatened with acquisition and we cannot accept that that right can be taken away as if by a side-wind because sub-s. (1-A) mentions sub-s. (1). As we have already pointed out sub-s. (1) has been mentioned in sub s. (1-A) merely to indicate the circumstances and the conditions under which possession can be taken. The legislature has mentioned sub-s. (1) in sub-s. (1-A) as a measure of economy; otherwise sub-s. (1-A) would have read as follows :—

> "In cases of urgency, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any land other than waste or arable land for public purposes where the land is acquired for or in connection with sanitary improvements of any kind or planned development."

Now if there had been no economy of words and sub-s. (1-A) had read as we have indicated above, it could not have been possible to argue that sub-s. (4) of s. 17 also covered cases of s. 17 (1-A). Therefore, simply because for the sake of economy of words the legislature has used the words which it did in sub-s. (1-A), it cannot be said that it was either amending sub-s. (1) or sub-s. (4). In the absence of such amendment either in sub-s. (1) or sub-s. (4) and in the absence of any specific provision being introduced in s. 17 by which sub-s. (4) was also to apply to the new sub-s. (1-A), it cannot be said that power was conferred on the State Government to apply sub-s. (4) also to a case falling under sub-s. (1-A),

simply by the introduction of sub-s. (1-A) in the form in which it was introduced in s. 17. We are therefore of opinion that it was not open to the State Government to say in the notification under s. 4 that proceedings under s. 5-A shall not take place. This part of the notification under s. 4 is therefore beyond the powers of the State Government. In consequence the notification under s. 6 also as it was issued without taking action under s. 5-A must fall. The appeals must therefore be allowed and the notification under s. 6 and that part of the notification under s. 4, which says that the Governor was pleased to direct that under sub-s. (4) of s. 17, the provisions of s. 5-A shall not apply, are bad and are hereby set aside. Rest of the notification under s. 4 will stand and it will be open to the Government if it so chooses to proceed with the acquisition after action is taken under s. 5-A and thereafter to issue a notification under s. 6 of the Land Acquisition Act. In the circumstances we feel that the appellants should be given an opportunity under s. 5-A now, though the period for making objections provided in that section expired long ago in view of the misunderstanding of the law on the part of the Government by treating the objections made before the Collector after the issue of the notices under s. 9 as objections under s. 5-A. The appellants will get their costs of this Court from the respondents; one set of hearing fee.

Appeals allowed.