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made as early as 1951 and under the second clause of rule 65 the petitioners' claim for allotment could not be defeated.

There are two unreported decisions of this Court to which my attention has been invited by Mr. Wasu, the learned counsel for the petitioner. In *State of Punjab* v. *Harjinder Singh,* L.P.A. No. 502 of 1958, decided by Mehar Singh and Grover, JJ., on 21st of February, 1961, rule 65 came for consideration and it was observed by the Bench that if a claim is withdrawn on behalf of the minor allottee, the compensation is admissible. Rule 65, in order to hit the right of a person to receive compensation, says that the person must actually be in possession of the property allotted to him. If the allotment is cancelled or the claim is otherwise withdrawn, then the right cannot be destroyed. The other Bench decision in *Diwan Chand* v. *The Union of India,* Civil Writ No. 286 of 1961, decided by Tek Chand and Dua, JJ., on 14th of February, 1962. In that case reliance was placed on *Harjinder Singh's* case in L.P.A. No. 502 of 1958. It was observed that the claimant in *Harjinder Singh's case* had withdrawn his claim for allotment of agricultural land and had only pressed his claim for residential house and *haveli.* In *Diwan Chand's case,* what happened was that though the claimant had not applied for any allotment of agricultural land, the Department had *suo motu* made such allotment and later cancelled the same because it was not taken possession of. Rule 65 was in the circumstances held to be inapplicable.

Following these decisions, I am of the view that the claim of the petitioner for allotment of small portion of agricultural land had been cancelled in 1951. This petition, therefore, must be allowed and the impugned orders of the authorities are set aside. The petitioner is entitled to get his costs of this petition.

B.R.T.

FULL BENCH

Before S. B. Capoor, H. R. Khanna and Inder Dev Dua, JJ.

HARBANS SINGH AND OTHERS,—*Petitioners*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents*

L.P.A. No. 24 of 1965.

Northern India Canal and Drainage Act (VIII of 1873)—S. 57—Scheme for the acquisition of land—Whether necessary to be framed—

Outright acquisition of land for drainage works—Whether can be made under Land Acquisition Act (I of 1894).

1965

April, 5th.

Held, that the scope of the Northern India Canal and Drainage Act, 1873, and the Land Acquisition Act, 1894, relating to acquisition of land is substantially different. Broadly speaking the procedure as given in section 57 of the Northern India Canal and Drainage Act, just as in the case of action taken under sections 21 and 23 and in the schemes prepared under section 30-A, is for the benefit of the private parties who are to be chargeable with the cost incurred and hence it is only just and fair that the authorities, preparing schemes under section 30 or section 57, publish these schemes and give the persons concerned an opportunity of lodging objections, if any. The Land Acquisition Act, 1894, is meant for the acquisition of land needed for public purposes or for companies. Where the drainage works are proposed to be undertaken for the benefit of the land-owners generally, it is not incumbent on the Government to draw up a scheme under section 57 of Act 8 of 1873, for the acquisition of land and the procedure available to the Government for acquisition of land for public purposes under the Land Acquisition Act can be adopted.

Letters Patent Appeal under clause 10 of the Letters Petent of the Punjab High Court, against the judgment of the Hon'ble Mr. Justice P. D. Sharma whereby Civil Writ No. 1426 of 1963, was dismissed on 7th January, 1965, with a prayer that the said judgment be set aside.

H. R. SODHI, MANMOHAN SINGH AND MAHARAJ BAKHASH SINGH, ADVOCATES, for the Appellants.

M. R. SHARMA, ADVOCATE, FOR THE ADVOCATE-GENERAL, for the Respondents.

JUDGMENT

CAPOOR, J.—This Letters Patent appeal is directed against the order, dated the 7th January, 1965, of a learned Single Judge of this Court whereby he dismissed the appellant's civil writ petition under Articles 226/227 of the Constitution of India. Capoor, J.

It has been placed before the Full Bench on account of the submission by Mr. H. R. Sodhi, learned counsel for the appellants, that there was a conflict of opinion between two Division Benches of our Court. These are *Chanan*

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Singh and others v. *The State of Punjab and others* (1), and unreported judgment in *Bhagat Singh and others* v. *The State of Punjab,* Civil Writ No. 1461 of 1963, decided on the 25th May, 1964.

The appellants are some of the land-owners in villages of Laroya, Sagranwali and Tandi, Tehsil and District Jullundur. It is alleged in the petition that there is a stream or Cho coming from Hoshiarpur District and passing through the districts of Jullundur and Gurdaspur. It is known as Mangrowal Cho. The canal authorities planned to dig out a drain for carrying away the water flowing in this Cho and initially the alignment of this drain was towards the western side of villages Tandi and Sagranwali, and the drain did not pass through village Laroya. The land through which this alignment was proposed was mostly Barani and some of it was unfit for cultivation. The canal authorities had not prepared any drainage scheme as required by the Northern India Canal and Drainage Act, 1873 (hereinafter to be referred to as the Act). But as the land of the appellants was not affected by the proposed drain, the appellants remained indifferent. However, certain persons owning the land affected by the alignment approached the higher authorities and managed to get the alignment changed so that now the proposed drain was to pass through the land of the appellants. No scheme as envisaged by section 57 of the Act was framed relating to the construction of this drain and the appellants were not given an opportunity to raise objections to the new proposal. It was said that the whole procedure adopted was arbitrary and illegal, that no land of the appellants could be taken except on payment of proper compensation and that the State Government, if it intended to acquire any part of the land, was bound to take action under the Land Acquisition Act as well. At the instance of the appellants the Executive Engineer, stayed the digging operation till the 31st July, 1963 to enable them to bring a stay order. The petition was instituted on the 31st July, 1963. It was admitted the next day and an interim stay of digging operation on the appellants' land was granted.

The petition was opposed on behalf of the Punjab State which was respondent No. 1 to the petition, and an affidavit

(1) 1963 P.L.R. 732.

in opposition has been furnished by the Executive Engineer of the Hoshiarpur Drainage Division, Jullundur, who was respondent No. 2 to the petition. It was pointed out that the previous alignment as suggested by the appellants was examined and not found to be technically suitable, and the alignment which is now objected to had been approved since 1961. It was asserted that the question of framing of any scheme under the Act did not arise as the Act related to the framing of the scheme for acquisition of water-course or canal whereas in the present case the land was being acquired. It was pointed out that notifications under sections 4 and 17 of the Land Acquisition Act, 1894 (Act No. 1 of 1894), had already been issued,—*vide* Punjab Government Notification No. 5191-IW-(7)-63/3554, dated the 19th April, 1963, and an area of 15.68, 65.26 and 52.00 acres had already been notified for the purpose of land acquisition respectively in villages Laroya, Tandi and Sagranwali. A notification under section 6 of the Act had also issued and a copy of Notification No. 26143, dated the 26th November, 1963, has now been placed on the record. The public purpose for which the acquisition at public expense was proposed to be made is stated in the notification, which is that the land was proposed to be acquired for training and canalising Mehangarwal group of Choes from R.D. 58670—81000 in Jullundur District. The land was proposed to be acquired not only in the three villages to which the appellants belong, but also in four other villages in Jullundur District. The allegations of *mala fides* were denied.

The learned Single Judge in the order under appeal has observed that the *mala fides* as alleged in paragraph 7 of the writ petition had not been substantiated, and Mr. Sodhi, learned counsel for the appellants, quite rightly did not at the hearing of the appeal raise any argument on the ground of *mala fides*. The writ petition was dismissed because the learned Judge considered that the other points raised in the writ petition were covered by the Division Bench decision of this Court in *Bhagat Singh and others* v. *The State of Punjab*.

The substantial question which has been canvassed by Mr. Sodhi in this appeal is that when the State Government proposes to construct any drainage-work it is incumbent on it under section 57 of the Act to cause to be drawn up a scheme for such drainage-work and to publish that scheme, and since admittedly no such scheme has either been drawn

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up or published, the proposal for constructing the drainage work in question is liable to be struck down. No reference was made in the writ petition to any proceedings initiated by the State Government under the Land Acquisition Act in respect of the land in question and, on the other hand, it was contended that the State Government, if it intends to acquire any land from the appellants, must proceed under the Land Acquisition Act and award compensation. When it was pointed out in the return that no proceedings were being taken under the Act and that on the other hand the State Government was taking steps to acquire the land of the appellants according to the procedure laid down in the Land Acquisition Act, the contention was advanced that proceedings under the Land Acquisition Act, which was a general Act, could not be in substitution of the proceedings laid down in section 57 of the Act, and the maxim *generalia specialibus non derogant* is involved.

For a proper appreciation of these arguments it is necessary to consider the respective schemes of the Northern India Canal and Drainage Act, 1873, and the Land Acquisition Act, 1894. Th purpose of the former is to regulate irrigation, navigation and drainage in Northern India. Various sections of the Act incidentally also provide for the award of compensation to those whose rights may be affected by the action taken by the State Government under the Act. Under section 5 the State Government is empowered to apply or use the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water for the purposes of any existing or projected canal or drainage-work, and it issues a notification for the purpose. Under section 7 the Collector is also required to issue public notice at convenient places stating that claims for compensation in respect of the matters mentioned in section 8 may be made before him. These matters do not include payment for any land which may have to be acquired outright for the purposes of any projected canal or drainage-work, and presumably compensation for such outright acquisition of land was to be governed by the provisions of the Land Acquisition Act. The claims which are to be enquired into by the Collector for the purposes of determining the amount of compensation are to be dealt with under sections 9 to 12 (inclusive), 14 and 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51, 57, 58 and 59 of the Land Acquisition Act, 1870. It is significant that

sections 24 and 25 of that Act, which roughly correspond to sections 23 and 24 of the Land Acquisition Act of 1894 and contain the principles for assessing the market value of the land acquired, are not made applicable to the Collector's proceedings under section 10 of the Act.

The next section in which reference is made to the procedure for awarding compensation is section 28. Section 21 provided for making an application by any person desiring the construction of a new watercourse, and section 23 for an application by any person desiring that an existing watercourse should be transferred from its present owner to himself. Under section 28, no such applicant shall be placed in occupation of such land or watercourse until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or watercourse so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer. This section further provides that in determining the compensation to be made under this section the Collector shall proceed under the provisions of the Land Acquisition Act, 1870, or, if the person to be compensated so desires, award such compensation in the form of a rent-charge.

Under section 30-A the Divisional Canal Officer is empowered, on his own motion or on the application of a shareholder, to prepare a draft scheme to provide for various matters including the construction, alteration, extension and alignment of any watercourse or realignment of any existing watercourse, the lining of any watercourse, etc. The scheme is to be published in the prescribed form inviting objections and suggestions and is to be finally approved by the Superintending Canal Officer. The shareholders are required, under section 30-C, to implement the scheme at their own costs. Under section 30-D, the Divisional Canal Officer may, after considering any objections to be made by any person interested, acquire any land required for inplementation of the scheme. Compensation to be fixed by the Divisional Canal Officer on the principles set out under section 23 of the Land Acquisition Act, 1894, shall be payable by the shareholders to the owner or occupier of any land for such acquisition. Appeal from the order of the Divisional Canal Officer lies to the Collector.

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It will be seen that the procedure is (apart from the principles to be observed in paying the compensation) substantially different from that given in the Land Acquisition Act. Moreover, inasmuch as the land under section 30-D is to be acquired outright, there is a specific reference to the principles of section 23 of the Land Acquisition Act, 1894, while in sections 28 and 10 the reference is to the provisions of the Land Acquisition Act, 1870. Then comes the directly relevant section which is 57, and is as follows:—

> "57. Whenever it appears to the State Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,
>
> or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,
>
> the State Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the State Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme."

Claims to compensation are to be disposed of in accordance with Section 61 which is as below:—

> "61. Wherever, in pursuance of a notification made under section 55, any obstruction is removed or modified,
>
> or, whenever any drainage-work is carried out under section 57, all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work may be made before the Collector, and he shall deal with the same in the manner provided in section 10."

The important points so far as these sections are concerned are, firstly, that the object is the improvement,.....proper cultivation, or irrigation, or protection from floods or from

erosion by river of specific lands and, secondly that primarily the owners of the land made chargeable in the scheme drawn up under section 57 are to pay for the scheme (*vide* section 59) though it is open to the State Government to decide that a certain proportion of the cost would be defrayed by it. The obvious reason for this is that by the works undertaken under the scheme drawn up under section 57, the benefit goes directly to the owners of the lands and the indication of this is given in the margin of section 59, which is "Rate on lands benefited by works." This is the very reason for which compensation awarded under section 28 is to be made payable by the private party which applied for and derived benefit from construction of the new watercourse or transfer of an existing watercourse to himself from its existing owner, and the reason for which compensation awarded under section 30-D is made payable by the shareholders who received the benefit from the scheme prepared under section 30-A. Thus, broadly speaking the procedure as given in section 57, just as in the case of action taken under sections 21 and 23 and in the schemes prepared under section 30-A, is for the benefit of the private parties who are to be chargeable with the cost incurred and hence it is only just and fair that the authorities, while preparing schemes under section 30 or section 57, publish these schemes and give the persons concerned an opportunity of lodging objections, if any.

Coming now to the Land Acquisition Act, the central feature is that it is meant for the acquisition of land needed for public purposes (and for companies) and this is so stated in the preamble. The proceedings start under section 4 with a notification made by the appropriate Government in the Official Gazette to the effect that the land is likely to be needed for any public purpose. Under section 5-A any person interested in any land which has been notified under section 4 may within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be, and the Collector, after giving hearing to the objector and due enquiry, has to report to Government the decision of which on the objections is made final. Under section 9 public notice is given by the Collector for claims to compensation being lodged before him, and the detailed procedure is laid down for the award of the Collector in any cases of

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dispute for reference to Court. Section 23 lays down various considerations which have to be kept in view in determining compensation, and section 24 relates to matters which are not to be taken into consideration for the purpose of compensation. The concept of "public purpose" is well-known; it means the general interest of the community or a section thereof, as opposed to particular interest of the individual who is directly and vitally concerned: *Hemabai Framjee Petit* v. *Secretary of State* (2). It tends to develop the natural resources of the State, or preserves or promotes the public health, comfort, safety or convenience of the public, or a section thereof, irrespective of the fact whether the individual members of the public may or may not make use of the acquired property: *Amulya Chandra* v. *The Corporation of Calcutta* (3).

Thus there is a clean cut and rational ground of distinction between acquisition of land for public purposes under the Land Acquisition Act and any acquisition of land which may become necessary under the schemes drawn up under section 57 of the Act or for the matter of that under section 30-A, which schemes are, as stated above, primarily for the benefit of the land-owners in a particular estate. As would be clear from the notification of the State Government No. 26143, dated the 26th November, 1963, the land stated in the notification is to be acquired at the public expense and for the public purpose of training and canalising Mehangrawal group of Choes in several villages in the Jullundur District. The revages caused by the Choes during the monsoon floods in the sub-mountain regions of this State are well-known, and as early as the year 1900 [*vide* Punjab Land Preservation Act (No. 2 of 1900], a special provision was made for control over the beds of Choes. *Prima facie* the training and canalising of this particular group of Choes is a public purpose and is a laudable public purpose. The argument advanced on behalf of the appellants, however, is that the proposed works come under section 57 of the Act and since this Act is a special Act, it will, on the principle of *generalia specialibus non derogant,* be necessary that the initial step should be the preparation of a scheme under section 57 and not the mere issue of a notification under section 4 or other sections of the Land Acquisition Act.

(2) A.I.R. 1914 P. C. 20.
(3) A.I.R. 1922 P.C. 333.

The above maxim has been explained and illustrated in Craies on Statute Law at pages 376 to 381 of the Sixth Edition. The rule in effect is that a subsequent general Act does not affect a prior special Act by implication. In *Barker* v. *Edger* (4), this rule was stated in the following words :—

> "When the legislature has given its attention to a separate subject and made provision for it, the presumption is that a subsequent general enactment is not intended to interfere with the special provision unless it manifests that intention very clearly. Each enactment must be constructed in that respect according to its own subject-matter and its own terms."

The latter qualification is important for the purpose of this case. It is not correct to say that the Land Acquisition Act is *vis-a-vis* Act No. 8 of 1873 a subsequent enactment because even before 1873 there was the Land Acquisition Act of the year 1870 (Act No. 10 of 1870) which the Act of 1894 replaced. More important, the scope of the two statutes is substantially different; the Land Acquisition Act relating to acquisition for public purposes (or for companies), section 57 (and other sections as mentioned above) of Act 8 of 1873 concerning acquisition of land for the benefit of landowners in particular estates and at their cost (except in so far as the State Government chooses to defray the cost or any proportion of it under section 57). I do not see how in such circumstances the legal maxim relied upon can be attracted and the procedure available to the Government for acquisition of land for public purposes under the Land Acquisition Act be deemed to be shut out by reason of the provisions of section 57 of Act 8 of 1873.

Mr. Sodhi to buttress his argument cited certain observations as to the interpretation of statutes in *Secretary of State* v. *Hindustan Co-operative Insurance Society Ltd* (5), at page 152, and *J. K. Cotton Spinning and Weaving Mills Co., Ltd* v. *State of Uttar Pradesh and other*, (6) at

(4) [1898] A. C. 748, 754 (P.C.).
(5) A.I.R. 1931 P.C. 149.
(6) A.I.R. 1961 S.C. 1170.

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page 1174. What was held in the former case was that where certain provisions from an existing Act have been incorporated into a subsequent Act, no addition to the former Act, which is not expressly made applicable to the subsequent Act, can be deemed to be incorporated in it, at all events if it is possible for the subsequent Act, to function effectually without the addition. This was just an illustration of the principle of *generalia specialibus non derogant* and of no direct application to the case before us. In the latter case their Lordships of the Supreme Court quoted with approval the following observations from *Pretty* v. *Solly* (7):—

> "The rule is that whenever there is a particular enactment and a general enactment in the same statute and the latter, taken in its most comprehensive sense, would overrule the former, the particular enactment must be operative, and the general enactment must be taken to affect only the other parts of the statute to which it may properly apply."

In the instant case, however, there are two statutes with essentially different scope, and, as laid down in *Ch. Tika Ramji and others* v. *The State of Uttar Pradesh and others* (8) at page 697 to 699, the question of repugnancy (and so also of exclusion) would not arise if the two pieces of legislation deal with separate and distinct matters though of a cognate and allied character.

Another ground of distinction which the learned counsel for the State sought to draw between the two statutes was that section 61 of Act No. 8 of 1873 did not contemplate claims for compensation on account of outright acquisition of any land, and in this connection pointed out that the Collector was to deal with the claims of compensation in the manner provided in section 10 which, as indicated above, does not seem to contemplate outright acquisition of land. It is, however, not necessary to consider this argument further because Mr. Sodhi's objection is not as to the particular statute under which the claim for compensation is to be entertained and decided, but it is that in

(7) [1859] 53 E.R. 1032.

(8) A.I.R. 1956 S.C. 676.

the case before us it was incumbent on the State Government to draw up a scheme under section 57, and I have already given reasons above for holding that it was not so incumbent.

The only two decided cases of our Court directly bearing on the point are *Bhagat Singh and others* v. *The State of Punjab* (C. W. 1461 of 1963), which also disposed of *Dilawar Singh and others* v. *The State of Punjab and others,* (C. W. 184 of 1964), and, the other case, *Chanan Singh and others* v. *The State of Punjab and others* (1). So far as the former case is concerned, the conclusion arrived at on the point in issue was the same as stated by me and it was held that the two Acts, viz., Act No. 8 of 1873 and the Land Acquisition Act do not necessarily cover the same ground relating to the same purpose that they can co-exist and there is no question of applicability of one to the exclusion of the other. *Chanan Singh's case* was cited before the Division Bench and Mehar Singh, J., who delivered the judgment in *Dalip Singh's case* and was one of the learned Judges constituting the Bench in *Chanan Singh's case,* observed as follows:—

> "In fact in *Chanan Singh* v. *The State of Punjab* (1), a concession by the counsel for the parties that 'the Land Acquisition Act and the Northern India Canal and Drainage Act can co-exist and there is no question of the applicability of one to the exclusion of the other' was accepted by a Division Bench of this Court, of which I was a member."

In *Chanan Singh's case* the objection was as to the acquisition made by the Govenment for a drain to carry away the *sem* (*sub-soil*) water in the village of the petitioners for which a draft scheme had neither been prepared under section 30-A, nor published under section 30-B of the Act. A point was taken during the arguments as to whether the acquisition of land was governed by the Land Acquisition Act or the Northern India Canal and Drainage Act. It appears from the report of that case that on account of the definition of drainage-work as contained in sub-section (3) of section 3, section 30-A of the Act was considered not to be attracted and it was in these circumstances that the above concession was made by the counsel.

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However, the learned counsel for the petitioners in that case pressed an alternative argument to the effect that the alignment of the water drain had been varied at the instance of the Minister concerned without complying with the provisions of section 57 of the Act, and my learned brother Dua J., who delivered that judgment, and with whom Mehar Singh, J. agreed, held that the Minister was not competent under the Act to pass any order changing the alignment and that it was the Chief Engineer alone who had to apply his mind to the facts of a particular case and make the necessary order with regard to the alignment. That is why the writ petition was allowed. Mr. Sodhi, learned counsel for the appellants, pointed out that in *Chanan Singh's case* also the State Government had issued a notification under the Land Acquisition Act for acquiring the land and it may be inferred that if the Bench was of the view that on account of such notification it was unnecessary to follow the procedure in section 57 of the Act, the writ petition ought to have been dismissed. However, it is evident from the report of the case that no such argument was pressed before the Bench by the counsel for the respondents. This could have been (as appears from the record of the case) in view of an application supported by an affidavit made on behalf of the petitioners to the effect that the provisions of section 9 of the Land Acquisition Act had not been complied with.

Thus *Chanan Singh's case* does not decide anything contrary to what was held on this particular point in *Dalip Singh's case*. It would also be relevant to note that in the proceedings under the Land Acquisition Act the entire cost of the acquisition is to be defrayed from the revenues of the State, while in case of a scheme prepared under section 57 of the Act, part of the cost at least is to be borne by the landowners, whose land would be benefited by the drainage-works and such sums can eventually under section 59 of the Act, be recovered from the landowners concerned as if they were in arrears of land revenue. There is nothing in the relevant sections of the Act or in the rules framed under sections 57, 59 and 60 of the Act providing specifically for objections against the acquisition itself, while under section 5-A of the Land Acquisitian Act, objections may be preferred to the acquisition of the land or any land. The procedure provided under the Land Revenue

Act is much more favourable to the landowners than under the relevant sections of Act No. 8 of 1873, and I fail to see what legitimate grievance the appellants can have if the State Government, considering that the acquisition of the Land is for a public purpose, proceeds under the Land Acquisition Act and not under section 57 of Act No. 8 of 1873.

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I would, therefore, dismiss the appeal, but in the circumstances of the case make no order as to costs.

H. R. KHANNA, J.—I agree.

Khanna, J.

INDER DEV DUA, J.—So do I.

Dua, J.

B.R.T.

LETTERS PATENT APPEAL

Before Daya Krishan Mahajan and S. K. Kapur, JJ.

M/S RUBBER CHAPPAL MANUFACTURERS ASSOCIATION, —*Petitioners*

versus

THE UNION OF INDIA AND ANOTHER, —*Respondents.*

L.P.A. 56-D of 1964.

1965

April, 6th.

Rubber Act (XXIV of 1947) as amended by Rubber (Amendment) Act (XXI of 1960)—S. 12—Whether violative of Art. 14 of the Constitution or suffers from the vice of excessive delegation of legislative power to Executive—Rubber (Amendment) Rules, 1961—Excise duty on rubber—Whether can be imposed on the consumers of rubber—Method of collection of tax—Whether affects the nature of tax—Practice— Letters Patent Appeal—Point of law not raised before single Judge—Whether can be raised in Letters Patent Appeal.

Held, that section 12 of the Rubber Act, 1947, as amended by the Rubber (Amendment) Act, 1960, is not violative of Article 14 of the Constitution nor does it suffer from the vice of excessive delegation of legislative power to the Executive. The perusal of section 12(1) clearly shows that the levy of duty is on all rubber produced in India and is consequently a levy on production or manufacture of the goods produced in the country. Sub-section (2) of section 12 deals merely with the collection of the duty. If the levy is on the production or manufacture, there can be no objection to a provision being made for the collection of the duty either from