(1985) 02 BOM CK 0022

Bombay High Court

Case No: Writ Petition No. 43 of 1984

Francisco Ferreira Martins and Others		APPELLANT
	Vs	
Union of India and Others		RESPONDENT

Date of Decision: Feb. 4, 1985

Acts Referred:

- Goa, Daman and Diu Land Acquisition Rules, 1972 - Rule 4(2)
- Land Acquisition Act, 1894 - Section 17(4), 4(1), 55, 5A, 6

Citation: AIR 1985 Bom 312 : (1985) ILR (Bom) 2125

Hon'ble Judges: Kamat, J; Couto, J

Bench: Division Bench

Advocate: S.K. Kakodkar, for the Appellant; V.B. Nadkarni Govt. Advocate, for the Respondent

Judgement

Couto, J.

Petitioners challenge in this Writ Petition under Art, 226 of the Constitution, the legality of the Notification No. 22/80/83-RD dated 6th Dec. 1983, issued under Sec. 4(1) of the Land Acquisition Act, 1894 and the vires of the Rule 4(2) of the Goa, Daman and Diu Land Acquisition Rules, 1972 to the extent it allows objections under Sec. 5A after the expiry of 30 days from the publication of the Notification under Sec. 4 and within such further period of time as may be fixed by the Collector.

2. The admitted and relevant facts may be stated. There exists a plot of land situated at Altinho, Panjim. It admeasures approximately 2, 280 sq. mts., is assigned to one Antonio Ferreira Martins under title No. 718 dated 27th Sept, 1935 and a bungalow consisting of two floors stands thereon. This bungalow was let out to the Government in the year 1962 and has been, since about Mar. 1981, occupied by the Chief Minister of Goa, Daman and Diu as his official residence. The said Antonio Ferreira Martins was declared as on evacuee, under the provisions of the Goa,

Daman and Diu Administration of Evacuee Property Act, 1964 by an order of the Custodian of Evacuee property dated 19th Nov. 1966 and in consequence, his properties including the said bungalow, vested in the Custodian. This order was successfully challenged in a civil suit, being the civil suit No. 33 of 1969, for the learned District Judge, Panjim, declared it to be without jurisdiction, void and inoperative, by his judgement and decree dated 27th Sept. 1983. Then, by the impugned Notification dated 6th Dec. 1963, issued under Sec. 4(1) of the Land Acquisition Act, 1894, hereinafter referred to as "the Act" it was notified that the land specified in its schedule, namely land admeasuring 2, 280 sq. mts. And assigned under title No. 718 dated 17th Sept. 1935 to Antonio Ferreira Martins was likely to be needed for public purpose, viz, residential house for the Chief Minister at Altinho. It was also notified that, in the opinion of the Government, the provisions of Sec. 17(1) of the Act were attracted and therefore, it was directed under Sec. 17(4) that the provisions of Sec. 5-A would not apply in respect of the said land.

3. We may also mention at this stage, as relevant for the disposal of this petition, that at the time of the admission, the learned counsel for the respondents stated across the Bar that the urgency clause inserted in the impugned Notification would not be pressed into service and in the event of the petitioners filing their objections under Sec. 5-A, the Department would consider them, On this statement being made, the learned counsel for the petitioners informed this Court that the requisite objections under Sec. 5-A would be filed within two weeks by the petitioners without prejudice however to their rights and contentions. It is common ground that such objections were actually filed within the said time.

4. Petitioners, alleging to be the heirs and legal representatives of the said Antonio Ferreira Martins, since deceased, and successors to his estate, assail the said Notification dated 6-12-83, solely on two grounds, namely (I) provision of a residential house for the Chief Minister is not a public purpose within the meaning of Sec. 4(1) of the Act and in any event, was clearly non-existent at the time of the issuance of the impugned Notification ; and (ii) in the facts of the case, urgency declaration under Sec. 17(1) was unwarranted and therefore, having deprived the petitioners of their right of filing objections under Sec. 5-A, vitiates the said Notification, its withdrawal at the time of admission of this petition being of no consequence and insufficient to save it. In fact, thought several other grounds had been advanced in the petition to challenge the same Notification, the learned counsel appearing for the petitioners restricted his attack to the above two grounds and did not press the remaining. We will, therefore, address ourselves to the two questions only.

5. As regards the first point, Mr. S. K. Kakodkar, learned counsel appearing for the petitioners, contended that since, admittedly, the bungalow standing on the land sought to be acquired is being occupied from Mr. 1981 by the Chief Minister of Goa, Daman and Diu and since the said bungalow is let out to the Government, the

declared purpose for the proposed acquisition cannot be termed, and is not, a "public purpose" within the meaning of Sec. 4(1) of the Act. We find it rather difficult to accept this contention, and actually, we find no merit in it. In fact, it is not disputed that the bungalow with the land where it stands, is sought to be acquired for the purpose of making it the official residence of any one who holds the office of Chief Minister. The said acquisition is not meant for occupation of a particular individual in his private capacity as a common citizen, but by one who holds an office to which high responsibilities are attached, in his official capacity. These responsibilities and the status of the office may require special specifications for the official residence of the Chief Minister. These requirements are not private, but necessitated by public and officials needs. Thus, the declaration made in the impugned Notification that the land was likely to be required for a public purpose, viz., residential house for the Chief Minister is made conclusive by the above circumstances. In any event, it is not open for us to go beyond it and try to satisfy ourselves whether in fact the acquisition is for a public purpose. We are supported in this view by the observations of the Supreme Court in Smt. Somavanti and Others Vs. The State of Punjab and Others, , reiterated in Raja Anand Brahma Shah Vs. State of Uttar Pradesh and Others, , to the effect that it is for the Government to be satisfied, in a particular case, that the purpose for which the land is needed is a public purpose and that the declaration of the Government under s. 6(1) of the Act will be final, subject however, to one exception, namely in the case of colourable exercise of power, since in such a case, the declaration is open to challenge.

6. The learned counsel for the petitioners further contended that even if the purpose of acquiring the land for a residential house for the Chief Minister is a public purpose within the meaning of Sec. 4(1) of the Act, the fact remains that, in the circumstances of the present case, such purpose was in existent. He submitted that admittedly the bungalow standing in the land to be acquired was let out to the Government in the year 1962 and is ever since in possession of the Government. It is occupied by the Chief Minister since about March, 1981 and there is no threat or danger of eviction. Therefore, according to him, the need of acquiring the said bungalow and the land for providing residence to the Chief Minister was non-existing at the time of the issuance of the impugned Notification and as such, the same was issued in a colourable exercise of power in order to circumvent the judgment and decree of the District Court dated 27th Sept. 1983 quashing the Custodian''s order declaring the late Antonio Ferreira Martins as an evacuee.

7. It is not disputed and it is common ground that the bungalow standing in the land sought to be acquired was let out to the Government in the year 1962 and ever since had been in occupation of several of its officers and of various minister. It is also an admitted fact that the said bungalow is being occupied since about March 1981 by the Chief Minister of Goa, Daman and Diu as his official residence. It was argued by Mr. V.B. Nadkarni, the learned counsel for the respondents, that these facts in no manner warrant the proposition that the public purpose professed in the

impugned Notification was not existing. He contended that the residence of a Chief Minister has to satisfy manifold requirements, inter alia, of security. These requirements may demand many alterations in the building itself and in the land , alterations which would not be possible to be executed in a rented premises. Hence, the need of acquiring the said land and bungalow existed, and still exists, even at the present. He further submitted that in the circumstances, it is wrong to contend, as the petitioners do, that the issuance of the impugned Notification amounts to a colourable exercise of power. There is great force in these submissions of Mr. Nadkarni. In fact, it does not necessarily follow from the circumstance that the bungalow is let out to the Government and is being occupied since about March, 1981 by the Chief Minister of Goa, Daman and Diu that there is no need of acquiring the bungalow and the land and that, therefore, the sought acquisition is not for a public purpose. The Government has only lease-hold rights and therefore, will not be able to make alterations in the building and fresh constructions in the land which may be required to satisfy the needs of a Chief Minister''s house. It is for the Government to assess the situation and to satisfy itself if, for the above reasons or others, it is necessary to install the official residence of the Chief Minister in a building belonging to it and not in rented premises. Thus, since as observed by the Supreme Court in Smt. Somavanti and Others Vs. The State of Punjab and Others, , it is for the Government to satisfy itself if in a particular case, the purpose for which the land is sought to be acquired is a public purpose, we are of the view that it is not open to us to go into the question and try to satisfy ourselves whether or not the sought acquisition is for public purpose. In any event, the final decision on the point will be taken by the Government after the hearing of the objections under Sec. 5A and the submission of the report by the Collector, and hence, even if it was permissible for us to inquire into the matter, such investigation would be premature, for the impugned Notification was issued under Sec. 4(1) of the Act and merely speaks of the likelihood of the land in question being needed for public purpose, viz., residential house for the Chief Minister. It is true that since the learned counsel for the petitioners contended that the impugned Notification was issued in a colourable exercise of power because, according to him, that was done to circumvent the judgement and decree of the District Court dated 27th Sept. 1983, and since it was observed in Smt. Somawanti''s case that the declaration of the Government under Sec. 6(1) of the Act is final, subject to the exception that in case of colourable exercise of power it can be challenged, it would appeal that not only it will be open for us to go into the matter in order to satisfy ourselves about the alleged public purpose, but also that we are found to do so. However, it is not so, because what the Supreme Court held is that the declaration made by the Government under Sec. 6(1) of the Act that the purpose for which the land is needed is public purpose is final, subject to the exception of colourable exercise of power, for in such a case, the declaration can be challenged. Thus, the challenge can only come against a declaration which, had not been for the colourable exercise of power, would have been final. In the case before us, though declaration under Sec.

17(4) was made, the fact remains that respondents agreed to allow the petitioner to file their objections under Sec. 5-A and such objections were actually filed. Hence, on consideration of the objections, the Government may be satisfied that, in this case, the purpose for which the land is said to be likely to be needed is not a public purpose. That is why we are of the view, as already said, that in any event, it will be premature to go into the said question in the case before us. Be it as it may, however, the petitioners had not made out a case justifying their contention that the impugned Notification was issued mala fide or in a colourable exercise of power. In fact, the only ground advanced to justify such submission was that the impugned Notification was issued in order to circumvent the District Court''s decree dated 27th Sept. 1983. We fail to see in what manner the said decree is endangering the respondents or creating such problems as to cause them to act mala fide. The said decree merely quashed the order of the Custodian of Evacuee property declaring the Antonio Ferreira Martins as an evacuee. The order of the Custodian was not benefiting the respondents in any manner, nor the decree dated 27th Sept. 1983 was prejudicing them. Particularly, the lease-hold rights of the respondents were not, and are not, affected by the said judgment and decree. In the circumstances, therefore, we are unable to accept the submissions of the petitioners that the impugned Notification was issued in a colourable exercise of power or mala fide, that the purpose for which the land is needed viz., residential house for the Chief Minister, is not a public purpose and that in any event was not existing at the time the said Notification was issued.

8. We turn now to the second ground of challenge. The learned counsel for the petitioners contended that the very fact that, at the time of admission of this petition, it was stated on behalf of the respondents that they would not press into service the urgency clause and that the Department would consider objections under Sec. 5-A, if any, filed by the petitioners, goes to show that there was no urgency at all. The petitioners, he argued, have been deprived of their right to file their objection under Sec. 5-A on account of the direction under Sec. 17(4) inserted in the impugned Notification and therefore, as held by a Division Bench of this Court in Navnitlal Ranchhodlal Vs. State of Bombay and Another, the whole Notification is vitiated and liable to be quashed. He further submitted that the withdrawal of the urgency clause does not help the respondents because on one hand, the Notification cannot be severed and on the other, there is no power on the Government to extend the time prescribed under Sec. 5-A to file the objections, R. 4(2) of the Goa, Daman and Diu Land Acquisition Rules, 1972 being ultravires.

9. We already recorded that at the time of the hearing of this petition on admission, the learned counsel for the respondents made a statement across the Bar that the urgency clause inserted in the impugned Notification would not be pressed into service and that in the event of the petitioners filing objections under Sec. 5-A, the Department would consider such objections. This statement made on behalf of the respondents undoubtedly supports the contention of the petitioners that there was

no proper application of mind while inserting the said urgency clause in the impugned Notification, since, impliedly it connotes an admission that there was no such an urgency as to make a direction under Sec. 17(4) that the provisions of Sec. 5-A would not apply. Does this fact vitiate the Notification in toto, or only the part thereof directing that the provisions of Sec. 5-A would not apply in the question to which we have to address ourselves.

10. Joining issue with the learned counsel for the petitioners, it was contended by Mr. Nadkarni that the decision of the Division Bench in Navnitlal Ranchhodlal Vs. State of Bombay and Another, does not constitute an authority for the proposition that a Notification under Sec. 4(1) with a direction under Sec. 17(4) in unseverable, he submitted that the said decision applies only to the facts of that particular case. In any event, he urged, the said decision was not followed by another Division Bench of this Court in Yesho Nathu Mahajan and Another Vs. The State of Maharashtra and Others, and that there is ample authority to support the view that where the original notification is a single one containing within itself a Notification under Sec. 4(1) and also an order under Sec. 5-A, the dispensing with the provisions of Sec 5-A, the invalidity of the latter part will not vitiate the validity of the former, i.e. the part of the Notification which comes under Sec. 4(1) of the Act. Reliance was placed on S. Sivaprakasa Mudaliar Vs. The State of Madras and Another, , B. Vijaya Laxmi Devi and Others Vs. The Government of Andhra Pradesh and Others, and Raja Anand Brahma Shah (supra).

11. In Navnitlal Ranchhodlal Vs. State of Bombay and Another, a Notification under Sec. 4 of the Act had been issued by the Commissioner Ahmedabad Division, notifying for acquisition of some plots and a direction under Sec. 17(4) had been made to the effect due to the provisions of Sec. 5-A would not apply due to the urgency. The urgency clause was challenged and the Division Bench found that the necessary opinion had not been formed by the Government in respect of the urgency and therefore, the said clause was not in accordance with law. The Division Bench then, observing that in that particular case the insertion of the urgency clause had deprived the petitioner of the valuable right to object to the acquisition proceedings under Sec. 5-A, quashed the whole Notification. The Division Bench did not deal with the problem in detail and no law on the point was laid down. Hence, as rightly pointed out by the learned counsel for the respondents, the said decision of the Division Bench is not an authority for the proposition that a Notification under Sec. 4(1) with a direction under Sec. 17(4) is unseverable, and holds good only on the facts and circumstances of that particular case. We may, however, point out that the whole Notification was quashed because the petitioner was entirely deprived from filing objections under Sec. 5-A, a situation that does not occur in the case before us.

12. The decision of the Supreme Court in Raja Anand Brahma Shah Vs. State of Uttar Pradesh and Others, and of this Court in Yesho Nathu Mahajan and Another Vs. The State of Maharashtra and Others, do not deal directly with the problem, though

impliedly show that a Notification under Sec. 4(1) with a direction under Sec. 17(4) inserted is not vitiated in toto if the clause of urgency is unwarranted. We therefore dispense ourselves from going through them in detail. We will however, turn to the authorities of S. Sivaprakasa Mudaliar Vs. The State of Madras and Another, and B. Vijaya Laxmi Devi and Others Vs. The Government of Andhra Pradesh and Others, which are directly on the point. They support the view that such a Notification is severable and that the vice of the urgency clause does not vitiate the Notification under Sec. 4(1) in toto. In fact, in Sivaprakasa''s case, the learned Judges of the Madras High Court, placing reliance on ''Ramanrahman v. State of Andhra Pradesh'' AIR 1957 AP 450 , Madhavi Amma Vs. Revenue Divisional Officer, Kozhikode and Others, and ''Naga Hills Tea Co. v. State of Assam'' AIR 1962 Ass 132 , held that where the original Notification is a single one containing within itself a Notification under Sec. 4(1) and also an order under Sec. 17(4) dispensing with the provisions of Sec. 5-A, the invalidity of the latter part will not vitiate the validity of the former, namely of the part of the Notification that comes under Sec. 4(1). And in B. Vijaya Laxmi Devi and Others Vs. The Government of Andhra Pradesh and Others, a Division Bench of the Andhra Pradesh High Court observed, in the facts of the case, that it was manifest that the challenged Notification as published was but an amalgam of a Notification under Sec. 4 and a direction under Sec. 17(4) of the Act. It was observed that whereas the first two parts of the Notification were concerned with Sec. 4(1) and (2) respectively, the province of the last part is altogether different for it contains a direction by the Government as contemplated in Sec. 17(4) that Sec. 5-A which relates to hearing of objections, making inquiry and decision on the objections shall not apply. The Court further observed that :

"The question of raising objections and making inquiry cannot arise unless a valid notification has been made under Sec. 4 of the Act. Publication of the notification is thus condition precedent for raising objections which have to be necessarily raised within 30 days from the date of notification. So then the application of Sec. 5-A must only be an aftermath of issuance of notification. The Government may, by its direction in cases coming under sub-secs. (1) and (2) of Sec. 17, dispense with the requirement of Sec. 5-A under the provisions of Sec 17(4). The occasion therefore arises only in the event of a valid notification under Sec. 4 being made. It is therefore clear that Sec. 4 notification is neither dependent on nor affected by any irregular or legal exercise of power under Sec. 17(4)."

We find ourselves in respectful agreement with the learned Judges of the Madras and Andhra Pradesh High Courts and therefore, we hold that though the direction under Se. 17(4) to dispense with the provisions of Sec. 5-A appears to have been inserted in the impugned Notification without proper and necessary application of mind, its invalidity does not vitiate the part of the same Notification under Sec. 4(1) of the Act.

13. This takes to the other limb of Mr. Kakodkar''s argument to the effect that, even if the impugned Notification is severable, nevertheless it will be invalid because since there is no power in the Government to extend the period of 30 days specified in Sec. 5-A to file objections, petitions were deprived of their valuable right to file such objections within the prescribed time. The learned counse, placing reliance on the decisions of the Supreme Court in State of Mysore Vs. Abdul Razak Sahib, and of the Gujarat and Allahabad High Courts in Natwarlal Jerambhai Patel Vs. State of Gujarat and Others, and Shrimati Daya Wati and Another Vs. Collector, Saharanpur and Another, , respectively contended that the circumstance that the petitioners were allowed to file their objections under Sec. 5-A beyond the prescribed time of 30 days is of on consequence and the Notification under Sec. 4(1) itself, is vitiated because the said period of 30 days had long expired.

14. This view was strongly opposed by Mr. Nadkarni. He urged that the decisions of the Supreme Court in Abdul Razak''s case and of the Allahabad High Court in Daya Wati''s case do not advance the petitioner''s cause. In fact, according to the learned counsel, the said decisions are on different facts and different footing, and hence, do not help the petitioners. So far as the decision of the Gujarat High Court, Mr. Nadkarni submitted that the correct law on the point was not laid down therein and in any event, was subsequently overruled by the same High Court in The State of Gujarat and Another Vs. Dashrathlal Fakirbhai Mukhi and Another, He further argued that there is no particular sanctity in the prescribed period of 30 days to file objections under Sec. 5-A, since objections filed even before the publication of the Notification under Sec. 4 are valid as held by a Full Bench of the Patna High Court in Kaushlendra Prasad Narain Singh and Another Vs. The State of Bihar and Others, . He thus urged, relying on the decision of this Court in Jamnadas Devsibhai Bhate and Others Vs. The Commissioner, Nagpur Division, Nagpur and Another, , that in given case, it is open to the Government to extend the time to file objections.

15. Sec. 5-A of the Act provides for hearing objections sub-sec. (1) lays down that any person interested in a land which has been notified under Sec. 4(1) as being needed or likely to be needed for a public purpose or for a Company may, within 30 days after the issue of the Notification, object to the acquisition of the land or any land in the locality, as the case may be. Sub-sec. (2) provides that every such objection should be in writing to the Collector, who after hearing all the objections and after making an inquiry, if he thinks necessary, shall make a report to the appropriate Government containing his recommendations on such objections for the decision of the Government. This decision on the objections is final. A plain reading of Sec. 5-A clearly denotes, in our view, that its scope is to give a fair opportunity to a person whose land is notified to be needed or likely to be needed for a public purpose to be heard on the matter before his land is taken from him. The provisions of Sec. 5-A are therefore meant to comply with the principles of natural justice and enacted for the benefit of the person whole land is sought to be acquired. The period 30 days was prescribed only for sake of convenience and the need of fixing a time limit for the

interested party filing his objections, if any, or otherwise, in the absence of any such time limit, it would have been permissible to file such objections at an advanced stage, hampering thereby the process of acquisition proceedings which, by nature, require expeditious disposal. This being in our view the reason for prescribing the time limit for filing objections, we find that, if in a given case the authority is of the opinion that the rules of fair play and natural justice require that time to file objections be extended , it is permissible for it to grant such extension. While so holding, we are supported by the decision of the Gujarat High Court in The State of Gujarat and Another Vs. Dashrathlal Fakirbhai Mukhi and Another, and of our High Court in J.D. Bhate''s case as well as by R. 4(2) of the Goa, Daman and Diu Land Acquisition Rules 1972, which empower the Collector to extend the time to file objections under Sec. 5-A of the Act. A different view was, no doubt, taken earlier by a Division Bench of Gujarat High Court in Natwarlal Jerambhai Patel Vs. State of Gujarat and Others, but with utmost respect, we are of the opinion that the law laid down therein in this connection is not good and correct law. We may, however, advert to it.

16. In Natawarlal''s case, the Division Bench, departing from the view earlier taken by two other Division Benches of the same High Court in ''Hararlal Harjivandas v. State of Gujarat'' (1964) 5 Guj. L.R. 924 and in ''Ishwarlal Girdharilal v. State of Gujarat'' (1967) 8 Guj. L.R. 729 on the ground that such decisions were passed per incuriam since it was not considered that the Collector is an independent entity acting on his own while exercising statutory power, held that the Government cannot take into consideration objections filed after the statutory period has expired. It was observed that the period within which the objections are to be filed is an essential requirement and that only those objections which are filed within the period provided in the section can be considered, for the consideration of the objections filed within the statutory time is a condition procedure to exercise of power under Sec. 5-A of the Act. The Court also observed that any undertaking given by the Government to allow filing objections beyond the statutory period of 30 days is not binding on the Collector. With respect, we are unable to persuade ourselves that this is a correct view, for, as we earlier observed, the provisions of Sec, 5-A are meant to comply with the principles of natural justice and fair play, giving an opportunity to a person whose land is sought to be acquired to represent against the proposed acquisition. We therefore, respectfully agree with and adhere to the Gujarat High Court in The State of Gujarat and Another Vs. Dashrathlal Fakirbhai Mukhi and Another, In the latter case, after observing that the decision in Natawarlal''s case itself was passed per incuriam since it goes on the footing that the Collector has no power to extend the time limit of 30 days when, in fact the relevant rules framed by the State Government vest such powers in him, Thakkar J. (as he then was) spoke for the Court as under :-

"It is abundantly clear on examination of Rule 2 that the time-limit of 30 days contemplated by Sec. 5-A for presentation of the objections can be extended by the

Collector. We have no doubt that if these rules had been brought to the notice of the learned Judges who decided Natwarlal''s case, the view would not have been taken by them that the collector has no legal competence to entertain any objections after the expiry of the dead line of 30 days envisaged by Sec. 5-A. The statutory rules in terms provide for such an eventuality. So also the attention of the Court was not called to the circumstance that the provision enabling a party whose lands are placed under acquisition to lodge objections is designed for the benefit of such a party and that the essence of the matter is that an opportunity is afforded to them before notification under Sec. 6 is issued. The essence of the matter is giving such opportunity, not giving it within a particular number of days".

He further observed that the said time limit operates as a limitation on the right of the party and not as a limitation on the power of the Collector to hear the objections and further that :

"Even if the rules had not provided for extension of the time-limit, under no principle of law could it have been said that the Collector acted in violation of the principles of fair-play in affording him such an opportunity. All that the Collector does by extending the time-limit of 30 days is to pay homage to the principles of natural justice and no more. He does a good turn to the land owner, not an eve, act. Even if the rules are silent the Court usually read into the relevant provisions the principles of fair-play and natural justice and insist on compliance with such principles notwithstanding the fact that there is no positive command by the Legislature".

These observations in D.F. Mukhi''s case are in no manner inconsistent with the view taken by the Supreme Court in State of Mysore Vs. Abdul Razak Sahib, In the latter case, indeed, the question before the Court was whether a Notification under Sec. 4 which was published in the official gazette, but where notice of its substance was not given at convenient places, was valid. The Court held that such Notification was invalid and passingly observed that Sec. 5-A empowers the interested person to object to the acquisition of any land, but his objection should be filed within 30 days from the date of the issue of the Notification, adding that "any objection filed thereafter need not be considered as the same is filed after the time stipulated in Sec. 5-A". It is clear that the Supreme Court did not hold that objections filed beyond the time stipulated in Sec. 5-A cannot be considered, but only observed that such objection need not be considered. The possibility of such objections being heard beyond the said time at the discretion of the authority was not excluded, and therefore, Abdul Razak''s case is no authority for the proposition that the time prescribed in Sec. 5A to file objections cannot be extended. We may also record that Shrimati Daya Wati and Another Vs. Collector, Saharanpur and Another, is equally no authority for the same proposition because, in that case, the learned single judge of the Allahabad High Court dealt with a different situation and merely held that publication of substances of the Notification under Sec. 4 after the expiry of the statutory period to file objections under Sec. 5-A constitutes a vice that renders the

Notification invalid.

17. We now come to the last contention of the learned counsel for the petitioners. He submitted that R. 4(2) of the Goa, Daman and Diu Land Acquisition Rules, 1972, is ultra vires such it is inconsistent with the provisions of Sec. 5-A of the Act. Sec. 55 of the Act no doubt empowers, he argued the appropriate Government to make rules for the guidance of officers in all matters connected with its enforcement, but such rules should be consistent with the Act to be valid. Sec. 5A(1) prescribes a period of 30 days for filing objections and its sub-sec. (2) provides that every objection under sub-sec. (1) shall be made in writing to the Collector, etc. Therefore, he urged, the only objections that can be considered are those filed within the prescribed time and consequently, any rule empowering an authority to extend such time will be inconsistent with Sec. 5A and, as such, ultra vires.

18. There is no merit in these submissions. We already observed that Sec. 5-A has in view the compliance with the rules of natural justice and fair play. It provides for an opportunity to the person whose land is proposed to be acquired to object to it. Therefore, the essence of Sec. 5-A is the right to file objections against a proposed acquisition of land by its owner. The time limit for filing such objections was prescribed merely for sake of convenience and as pointedly observed in The State of Gujarat and Another Vs. Dashrathlal Fakirbhai Mukhi and Another, it operates as a limitation on the right of the party and not as a limitation on the power of the Collector to hear objections. In the circumstances, a rule that empowers a Collector to extend the time limit prescribed in Sec. 5-A to file objections and that does not reduce such time limit cannot be said to be inconsistent with the Act, particularly with its Sec. 5-A. In fact, such rule does not touch the essence of the said provision of law and is entirely consistent with it.

19. We thus find no merit in the petitioner''s case. The result is that the petition fails. The rule is, accordingly, discharged. There will be no order as to costs in the circumstances of the case.