

State of Mysore

Vs

Abdul Razak Sahib

Civil Appeal No. 2461 of 1968

A. N. Grover, D. G. Palekar, K. S. Hegde JJ )

11.08.1972

JUDGMENT

HEGDE, J. -

1. This appeal arises from certain land acquisition proceedings. The Government of Mysore notified the lands belonging to the respondent for acquisition. The notification under Section 4 of the Land Acquisition Act, 1894, was published in the official Gazette on August 17, 1961, but no notices as required by that section were published in the locality till November 1, and 9, 1961. The respondent filed his objections only on December 4, 1961. The question for consideration is whether the notification issued under Section 4 is a valid notification. The respondent challenged the validity of the notification before the High Court of Mysore by means of a writ petition under Article 226 of the Constitution. The High Court came to the conclusion that the impugned notification was invalid and consequently quashed the same. As against that decision this appeal has been brought after obtaining certificate under Article 133(1)(b) of the Constitution.

2. We shall now read Section 4(1) of the Land Acquisition Act, 1894. It says :

"4. (1) Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose a notification to that effect shall be published in the Official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality."

The section prescribes two requirements, namely, (1) a notification to be published in the Official Gazette, and (2) the Collector causing to give public notice of the substance of that notification at convenient places in the concerned locality.

3. Now, we may turn to Section 5-A(1) of the Act which says :

"5-A. (1) Any person interested in any land which has been notified under Section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company 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."

Section 5-A empowers the interested person to object to the acquisition of any land but his objection should be filed within thirty days from the date of the issue of the notification. Any objection filed thereafter need not be considered as the same is filed after the time stipulated in Section 5-A(1).

4. With the above background we have to consider the scope of Section 4(1). Under certain circumstances publication in the Official Gazettes are presumed to be notice to all concerned. But in the case of a notification under Section 4 of the Land Acquisition Act the law has prescribed that in addition to the publication of the notification in the Official Gazette the Collector must also give publicity of the substance of the notification in the concerned locality. Unless both these conditions are satisfied, Section 4 of the Land Acquisition Act cannot be said to have been complied. The publication of the notice in the locality is a mandatory requirement. It has an important purpose behind it. In the absence of such publication the interested persons may not be able to file their objections about the acquisition proceedings and they will be deprived of the right of representation provided under Section 5-A, which is very valuable right.

5. This very question came up for consideration before the High Court of Mysore in Gangadharaiyah v. State of Mysore and Others, ([1961] Mys LJ 883) and the High Court ruled that Section 4(1) requires that there should both be a notification in the Gazette as also a public notice in the locality in which the property proposed to be acquired is situate. It is only when the notification is published in the Official Gazette and it is accompanied by or immediately followed by the public notice, that a person interested in the property proposed to be acquired can be regarded to have had notice of the proposed acquisition. We are entirely in agreement with the rule laid down by that decision.

6. The impugned notification has not complied with the requirement of the law. Hence the High Court was justified in quashing the proceedings taken.

7. In the view that we have taken, it is not necessary for us to consider either the applicability or the scope of the Mysore Act 17 of 1961 to the present proceedings.

8. In the result the appeal fails and the same is dismissed. The respondent is not represented before this Court. Hence there will be no order as to costs.

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