

C.K. Narayana Chary and Others

Vs

Pothepalli Ashanna and Others

Civil Appeal No. 2521 of 1984

(CJI P. N. Bhagwati, R. S. Pathak, A. N. Sen JJ)

30.09.1985

JUDGMENT

BHAGWATI, C.J. -

1. The notification under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 was issued by the Government of Andhra Pradesh in the present case on October 18, 1979 and it was published in the Government Gazette on the same day. The Revenue Divisional Officer directed public notice of the substance of the notification to be given in the locality and this direction was admittedly given on November 19, 1979. The report of compliance with this direction was submitted by the Village Officer on December 18, 1979. Before any further proceedings could take place pursuant to the notification, respondents 1 and 2 who are owners of the land notified for acquisition under the notification filed a writ petition in the High Court for quashing the notification on the ground that public notice of the substance of the notification in the locality was not given on the same day on which the notification was published in the Official Gazette. The High Court allowed the writ petition and quashed the impugned notification by a judgment dated June 28, 1983.

2. However, in the mean time, before the judgment was delivered by the High Court, the Land Acquisition (Andhra Pradesh Amendment and Validation) Act, 1983 had already been enacted on June 23, 1985. But the attention of the High Court was not drawn to it and the judgment delivered by the High Court, therefore, did not take into account this amending legislation. The appellant, for whose benefit the acquisition was going to be made, thereupon filed a review petition in the High Court. The review petition too was dismissed by the High Court on the view that, though the impugned notification was published in the Official Gazette on October 18, 1979, public notice of its substance was given only on December 18, 1979 and there was thus a time gap of more than forty days between the publication in the Official Gazette and the public notice of the substance of the notification in the locality and there was accordingly violation of the mandate contained in sub-section (1) of Section 4 as amended by the Land Acquisition (Andhra Pradesh Amendment and Validation) Act, 1983 with retrospective effect from September 12, 1975. The appellant thereupon preferred the present appeal with special leave obtained from this Court.

3. We have already held in a Judgment delivered by us today in Civil Appeals Nos. 5839-42 of 1983 (Land Acquisition Officer v. Mohd. Amri Khan, (1986) 1 SCC 3) that, in case of a notification issued under sub-section (1) of Section 4 on or after September 12, 1975, if public notice of the substance of such notification is not given in the locality within forty days from the date of publication of such notification in the Official Gazette, such notification would be invalid. Here the notification under sub-section (1) of Section 4 was published in the Official Gazette on October 18, 1979 and if public notice of the substance of such notification was given in the locality on

December 18, 1979, there would clearly be a time gap of more than forty days between the publication in the Official Gazette and the giving of public notice of the substance of the notification in the locality, and the notification would be liable to be struck down as invalid. But the appellant contended that there was no material before the High Court to come to the conclusion that public notice of the substance of the notification was given on December 18, 1979. What, according to the appellant, happened on December 18, 1979 was only this, namely, that the report of compliance with the direction given by the Revenue Divisional Officer for public notice being given in the locality was submitted by the Village Officer, but from that, contended the appellant, it did not follow that public notice of the substance of the notification was given on that day. We do not think there is any substance in this contention urged on behalf of the appellant. The appellant in support of the review petition did not place any material before the High Court to show as to when exactly and on what particular date, public notice of the substance of the impugned notification was given in the locality. When there was no such material produced before it, the High Court was justified in reaching the conclusion that public notice of the substance of the impugned notification must have been given on December 18, 1979 and the Village Officer must have immediately made a compliance report to the Revenue Divisional Officer. The High Court, in our opinion, could not be said to have erred in holding that public notice of the substance of the impugned notification was given on December 18, 1979.

4. We therefore dismiss the appeal but there will be no order as to costs throughout.

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