

SUPREME COURT OF INDIA

A.S. Naidu & Ors.

Vs.

State of Tamil Nadu & Ors

SLPs Nos. 11353-55 of 1988

(Ranganath Misra,C.J. M.M. Punchhi and K. Ramaswamy, JJ.)

21.08.1990

ORDER

M.M. Punchhi, J.

1. The special leave petitions are restored. We find that in the main matter notice had already been issued to the State of Tamil Nadu and there is a appearance through counsel. Heard counsel for both sides and with their consent the matters are disposed of at the SLP stage.
2. Notice under Section 4(1) of the Land Acquisition Act was issued on 12-11-1975 and the declaration under Section 6 was made on 10-11-1978. The High Court on the basis of a writ petition of the petitioners quashed the declaration under Section 6 by its order dated 8-1-1988 leaving the b preliminary notification intact.
3. The State has not challenged the order of the High Court and the landowners are the petitioners before this Court. The short question raised is that the Tamil Nadu Amendment to the Land Acquisition Act which came into force in 1967 required the declaration to be made within three years from the date of the preliminary notification. 0
4. On the date the declaration was made there were hardly two days left for completion of three years and after the High Court order on 8-1-1988, the period has already lapsed but no declaration has been published and the same can no longer be made on the basis of preliminary notification at present. In the absence of challenge by the State, the order of the High Court against it ^ has become final.
5. We are of the view that in these circumstances it would no more be available to the State to make the requisite declaration under Section 6 of the Act. The acquisition itself is quashed but we make it clear that it is open to the State Government in case it is satisfied that acquisition is necessary in public interest, it is free to exercise its power of eminent domain

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and make a e fresh preliminary notification. The special leave petitions are disposed of accordingly. No costs.