

State of Maharashtra and Another

Vs

Umashankar Rajabhau and Others

Civil Appeal No. 1430 of 1984

(S. Saghir Ahmed, K. Ramaswamy JJ)

09.11.1995

ORDER

1. This appeal by special leave arise from the judgment and order dated 18-7-1979 made in Special Civil Application No. 92 of 1975 by the High Court of Bombay. Notification under Section 4(1) acquiring an extent of about 5 acres of land was published in the State Gazette on 17-9-1970 for public purpose, namely, construction of staff quarters for Maharashtra Road Transport Corporation employees. Declaration under Section 6 was published on 29-7-1971. The award also was made on 15-9-1971. It would appear that Respondents 1-3 had purchased three plots of land from Usmanshahi Mills which was under liquidation through the Official Liquidator on 17-6-1968. But the mutation of their names in the revenue records was not effected. In consequence, notices could not be issued. They, in turn, sold these plots to the fourth respondent in 1973. A writ petition was filed on 19-12-1947 challenging the validity of the notification and also the award. The High Court set aside the notification on the ground that notices as required under law have not been served on Respondents 1-3.

2. It is seen that Section 4(1) does not requires the service of the personal notice nor the one under Section 6 declaration. What is needed to be served in the locality and the Gazette which have been complied with. As regards the notice under Section 9, it now transpires from the revenue records that the original owner namely, Usmanshahi Mill was served. Since mutation had not been effected in the name of Respondents 1-3 though purchased prior to the publication of notification under Section 4(1), they could not be issued notices as required under Section 9. Notice to the fourth respondent is obviously impossible, since the award has already been made on 15-9-1971. His purchase thereafter is obviously illegal as it does not bind the State after the notification under Section 4(1) was published. Under these circumstances, the High Court was wholly unjustified in quashing acquisition in respect of three plots of land of Respondents 1-3.

3. It is brought to our notice that after the notification was quashed by the High Court, no further steps were taken by the Government. It is not necessary since it is being challenged in the appeal in respect of these three plots. A submission was made that the Corporation does not need these three plots of lands for the employees. So long as there is no notification published under Section 48(1) of the Act withdrawing from the acquisition, the Court cannot take notice of any subsequent disinclination on the part of the beneficiary.

4. The appeal is allowed and the writ petition stands dismissed. But, in the circumstances, without costs.