

State of Karnataka and Others

Vs

D.C. Nanjudaiah and Others

Civil Appeals Nos. 11874-75 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

26.08.1996

ORDER

1. Though the respondents have been served, no one is appearing either in person or through counsel.

2. Leave granted.

3. We have heard learned counsel for the appellant.

4. The controversy raised in this case is covered by the judgment of this Court in N. Narasimhaiah v. State of Karnataka [(1996) 3 SCC 88]. The admitted facts are that notification under Section 4(1) of the Land Acquisition Act, 1894 was published on 26-8-1982 and enquiry under Section 5-A was conducted thereafter. But before the receipt of the report from the Land Acquisition Officer, the declaration under Section 6 was published on 24-6-1985 within three years. Two writ petitions were filed on 10-12-1985 challenging the notification under Section 4(1) and the declaration under Section 6. The High Court allowed the writ petitions and quashed the notification under Section 4(1) and declaration under Section 6 by the impugned judgment dated 26-2-1991 made in Writ Petitions Nos. 19348 and 19349 of 1985. Thus, these appeals by special leave.

5. It is seen that the declaration under Section 6 was published within three years from the date of the notification under Section 4(1) as upheld by the High Court. But the High Court noted that the enquiry under Section 5-A was not properly conducted. The declaration under Section 6 dated 24-6-1985 was quashed since the notification under Section 4(1) was dated 26-8-1982 and the declaration could not be published within three years even after excluding the period of pendency of the writ petitions under proviso to Section 6 of the Act. Thus, the notification under Section 4(1) was quashed. We find no justification for the view taken by the High Court. It is seen that declaration under Section 6 was published, as held by the High Court, within three years, but the conduct of the enquiry under Section 5-A was found fault with and it requires to be quashed. If it is quashed, necessarily an enquiry under Section 5-A has to be conducted. The limitation, therefore, of conducting the enquiry and publication of the declaration within three years would start running from the date of the receipt of the order of the High Court and not from the date on which the original publication under Section 4(1) came to be made. This view was laid by this Court in Narasimhaiah case [(1996) 3 SCC 88]. For the same ratio, the appeals are to be allowed and the declaration has to be quashed. Accordingly, the declaration is quashed. The appellant is permitted to conduct an enquiry within a period of four months from the date of the receipt of this order and

have the declaration published within one month thereafter.

6. The appeals are accordingly allowed. No costs.