

**SUPREME COURT OF INDIA**

Mangoo Ram

Vs.

State of Jammu and Kashmir

C.A.No.7283 of 2001

(B.N. Agrawal and G.S. Singhvi JJ.)

18.03.2009

**ORDER**

1. On 3rd November, 1998, a Notification under Section 4(1) of the *State Land Acquisition Act, 1990* (Act No.X of 1990) (for short, 'the Act') enacted by the Legislature of the State of Jammu and Kashmir, was issued for acquiring 50 Kanals 16 Marlas of the land situated in Village Kallar Himati, Tehsil and District Udhampur, which included 16 Kanals of land belonging to the appellant for construction of new fruit market. On coming to know of the said Notification, the appellant filed objection dated 13th November, 1998 by pointing out that other land was available within the village which was not being cultivated and, therefore, there was no justification to acquire his land which was being cultivated by him for his own livelihood and that of his family. The Collector Land Acquisition (ACR), Udhampur without giving the appellant opportunity of hearing in terms of Section 5-A (2) of the Act and without even disposing of his objection, submitted report dated 6th March, 1999 to the Commissioner-cum-Secretary to the Government, Revenue Department with the request that declaration under Section 6 and 7 of the Act may be issued. After 4 months of the receipt of report from the Collector Land Acquisition, the State Government issued declaration under Section 6 of the Act, which was published vide Notification dated 19th July, 1999.

2. The appellant unsuccessfully challenged the acquisition of land inasmuch as the writ petition and letters patent appeal filed by him were dismissed by the learned Single Judge and the Division Bench of the High Court respectively.

3. We have heard learned counsel for the parties and perused the record. Undisputedly, the Collector Land Acquisition submitted report without giving opportunity of hearing to the appellant as per the requirement of Section 5-A (2) which is mandatory and without even disposing of the objections filed by him. Therefore, there is no escape from the conclusion that the acquisition of the appellant's land was illegal and the learned Single Judge and Division Bench of the High Court committed an error by dismissing the writ petition and letters patent appeal filed by the appellant.

4. Accordingly, the appeal is allowed, the impugned orders passed by the learned Single Judge and Division Bench of the High Court are set aside. The declaration made under Section 6 of the Act by Notification dated 19th July, 1999 so far as the same relates to the appellant's land, is hereby quashed.

5. Needless to say that this order shall not preclude the State of Jammu and Kashmir from taking steps afresh for issuing declaration under Section 6 after the objections filed by the appellant are disposed of by the competent authority in accordance with Section 5-A of the Act. No costs.

I.A. No.2 of 2003

6. Since no one has appeared for the applicant, the application for impleadment is dismissed in default.