SUPREME COURT OF INDIA

Singareni Collieries Co.Ltd.

Vs.

Vemuganti Ramakrishan Rao

C.A.Nos.7212-7213 of 2013

(T.S.Thakur and Vikramajit Sen JJ.)

29.08.2013

JUDGMENT

T.S. THAKUR, J.

1. Leave granted.

2. These appeals arise out of a judgment and order dated 7th September 2006 passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in Writ Appeal No.936 of 2006 and an order dated 21st August 2009 passed in W.A.M.P. No.2901 of 2008 in W.A. No.936 of 2006 whereby the High Court has dismissed the Writ Appeal and the review petition filed by the appellant holding that the LAO/Collector, Land Acquisition having made the Award beyond the period of two years stipulated in Section 11-A of the Land Acquisition Act, the acquisition proceedings initiated by the authorities have lapsed.

3. The appellant happens to be a Government company engaged in coal mining operations in the State of Andhra Pradesh. In terms of a notification dated 30th August, 1992 issued under Section 4(1) of the Land Acquisition Act, a large extent of land measuring 35 acres and 09 gts. in Survey Nos.285, 287 and 288 situated in village Jallaram, Kamanpur Mandal and Karimnagar Districts was notified for acquisition for the benefit of the appellant-company. A final declaration in terms of Section 6 was made on 2nd March, 1994, the validity whereof was assailed by four owners (Pattadars), respondents in this appeal in Writ Petition No.27/483 of 1995 primarily on the ground that the declaration under Section 6 had been issued beyond the period of limitation stipulated for the purpose. An application for interim stay was also moved by the writ-petitioners, in which a Single Judge of the

High Court of Andhra Pradesh granted an interim stay on 6th September, 1995. The writ petition was finally dismissed by the High Court by a judgment and order dated 20th July, 1999. Aggrieved by the said order of dismissal the respondent filed Writ Appeal No.1228 of 1999 which too failed and was dismissed by the Division Bench on 13th August, 1999.

4. With the dismissal of the writ petition and the appeal arising out of the same, the Collector made an Award under Section 11 of the Land Acquisition Act on 5th November, 1999. The appellant-company's case is that all the owners, except the four respondents who had moved the High Court, sought a reference of the dispute regarding the quantum of compensation payable to them to the Civil Court in which Senior Civil Judge, Manthani, District Karimnagar, A.P. held the expropriated owners entitled to receive compensation @ Rs.60,000/- per acre besides enhanced value of the structure, wells and trees standing on the same. The appellant-company claims to have deposited one third of the enhanced value of compensation in the appeal preferred by it against the Award made by the Civil Court. The appeal is, according to the appellant, pending for disposal by the High Court.

5. In the meantime respondents 1 to 4 in this appeal who apparently did not seek any reference to the Civil Court for enhancement of the compensation filed Writ Petition No.22875 of 1999 challenging the validity of the Award made by the LAO/Collector on the ground that the same was beyond the period of two years stipulated under Section 11-A of the Act. That contention found favour with the learned Single Judge of the High Court before whom the matter was argued. The Single Judge held that the Award having been passed beyond the period of limitation stipulated under Section 11-A of the Act, the land acquisition proceedings had lapsed.

6. Aggrieved by the judgment of the learned Single Judge, the appellant filed Writ Appeal Nos.1315 of 2001 and 936 of 2006 before the Division Bench of the High Court who affirmed the view taken by the Single Judge and dismissed the appeals by its order dated 7th September, 2006. The appellant- company then appears to have filed review petition No.2901 of 2008 which too failed and was dismissed by the Division Bench by its order dated 21st August, 2009 as already indicated. The present appeals call in question the said two judgments and orders.

7. We have heard learned counsel for the parties at length. Section 11-A of the Land Acquisition Act reads as follows:

"11-A. Period within which an Award shall be made. –

(1) The Collector shall make an Award under section 11 within a period of two years from the date of the publication of the declaration and if no Award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the Award shall be made within a period of two years from such commencement.

Explanation - In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded."

8. It is evident from the above that in order to be valid, the Award must be made within a period of two years from the date of the publication of the declaration under Section 6 of the Act. The declaration in the instant case was published on 2nd March, 1994 while the Award was made on 5th November, 1999. The same was, therefore, clearly beyond two years' period stipulated under the above provisions. Even so the Award could be held to be valid if the same was within two years of the declaration after excluding the period during which the High Court had stayed the proceedings in the writ petition filed by the respondent-landowners. That is because Explanation to Section 11-A (supra) permits exclusion of the period during which the Court had stayed the acquisition proceedings for the purpose of reckoning the period of two years prescribed for making the Award. In the case at hand the interim order of stay was issued by the High Court on 6th December, 1995 which order was finally vacated on 28th July, 1999 with the dismissal of the writ petition. This means that the restraint order remained in force for a period of 3 years, 7 months and 22 days. That period shall have to be added to the period of two years prescribed for making the Award in the light of Explanation to Section 11-A. The difficulty is that even if the said period is added to the time allowed for making an Award, the Award stands beyond the period prescribed. Confronted with this proposition Mr. Altaf Ahmad argued that the period taken to obtain a copy of the order by which the High Court vacated the stay earlier granted by it ought also to be excluded from consideration and when so excluded the Award would fall within the outer limit of two years stipulated under Section 11-A. Reliance in support of that submission was placed by Mr. Altaf

Ahmad on the decision of this Court in N. Narasimhaiah and Ors. v. State of Karnataka and Ors. Union of India and Ors. (1996) 3 SCC 88. It was contended that although the said decision was reversed by a Constitution Bench of this Court in Padma Sundara Rao (dead) and Ors. v. State of T.N. and Ors. (2002) 3 SCC 533, the law declared by this Court was made applicable prospectively. This would, according to Mr. Altaf Ahmad, imply that on the date the Award in question was made, the legal position stated in Narasimhaiah's case (supra) would hold the field. It would also, according to the learned counsel, mean that the time taken for obtaining a copy of the order of the High Court would have to be excluded in the light of the judgment in Narasimhaiah's case (supra).

9. On behalf of the respondents, on the contrary, learned counsel placed reliance upon a decision of this Court in R. Indira Saratchandra v. State of Tamil Nadu and Ors. (2011) 10 SCC 344 to contend that this Court having noticed the previous decisions on the subject had clearly repelled the contention that a stay order vacated by the Court should all the same remain operative till delivery or receipt of a copy of such order by the Collector/LAO. It was submitted that the view expressed in N. Narasimhaiah's case (supra) which was followed in State of Karnataka v. D.C. Nanjudaiah (1996) 10 SCC 619 having been overruled by this Court in case of Padma Sundara Rao's case, there was no question of placing reliance upon the ratio of the said two decisions. The contrary view expressed in A.S. Naidu and Others v. State of Tamil Nadu and Others (2010) 2 SCC 801 having been found to be the correct view, not only by the Constitution Bench in Padma Sundara Rao's case (supra) but also in R. Indira Sartchandra's case (supra), the ratio of the said decisions alone stated the correct legal position, which was squarely applicable to the case at hand.

10. It is, in our opinion, not necessary to delve deep into the merits of the contention urged on behalf of the appellant which is founded entirely on the ratio of the decision of this Court in N. Narasimhaiah's case (supra). Correctness of the view taken in N. Narasimhaiah's case (supra) was examined by the Constitution Bench of this Court in Padma Sundara Rao's case (supra) and overruled. If the matter rested there, we may have examined the question whether the prospective overruling of the decision in N. Narasimhaiah's case (supra) was of any assistance to the appellant in the facts and circumstances of the case at hand. That exercise is rendered unnecessary by the decision rendered by this Court in R. Indira Sartchandra's case (supra), which places the matter beyond the pale of any further debate on the subject. In R. Indira Sartchandra's case (supra) also the Award made by the Collector was sought to be supported on the ground that the period of two years prescribed under Section 11-A of the Act should be counted, not from the

date of the Judgment by which the interim stay order was vacated but from the date on which a copy thereof was supplied to the Collector. The High Court had accepted that contention relying upon the decisions of this Court in N Narasimhaiah and Ors. v. State of Karnataka and Ors. Union of India and Ors. (1996) 3 SCC 88; State of Tamil Nadu and Ors. v. L. N. Krishnan and Ors. 1996 (1) SCC 250; Executive Engineer, Jal Nigam Central Stores Division, U.P. v. Suresha Nand Juyal alial Musa Ram (Deceased) by Lrs. and Ors. 1997 (9) SCC 224; Municipal Corporation of Greater Bombay v. Industrial Development Investment Co. Pvt. Ltd. and Others 1996 (11) SCC 501; Municipal Council, Ahmednagar v. Shah Hyder Beig and Ors. 2000 (2) SCC 48; Tej Kaur and Ors. v. State of Punjab 2003 (4) SCC 48.

11. This Court, however, reversed the view taken by the High Court holding that Section 11-A did not admit of an interpretation by which the period of two years would start running from the date a copy of the order vacating the stay granted by the Court is served upon the Collector. This Court observed:

> "10. There is nothing in Section 11-A from which it can be inferred that the stay order passed by the court remains operative till the delivery of copy of the order. Ordinarily, the rules framed by the High Court do not provide for supply of copy of the judgment or order to the parties free of cost. The parties to the litigation can apply for certified copy which is required to be supplied on fulfillment of the conditions specified in the relevant rules. However, no period has been prescribed for making of an application for certified copy of the judgment or order or preparation and delivery thereof. Of course, once an application is made within the prescribed period of limitation, the time spent in the preparation and supply of the copy is excluded in computing the period of limitation prescribed for filing an appeal or revision."

12. The above, in our opinion, is a complete answer to the contention urged on behalf of the appellant that not only the period during which the interim order of stay remains in force but also the time taken for obtaining the copy of the order vacating the stay should be excluded for reckoning the period of two years stipulated under Section 11-A of the Act.

13. There is yet another dimension to the contention urged before us which too in our opinion stands concluded by the decision of this Court in Ravi Khullar and Another v. Union of India & Ors. (2007) 5 SCC 231. That was a case where a preliminary notification under Section 4 was issued on 23rd January, 1965 and a

declaration under Section 6 published on 26th December, 1968 i.e. before the commencement of the Amendment Act of 1984. In terms of sub-section (1) of Section 11-A applicable to such a declaration, an Award was required to be made within a period of two years from such commencement. So calculated, the Award ought to have been made on or before 28th September, 1986 when the period of two years from the commencement of the Amendment Act of 1984 expired. The land owner however had filed a writ petition before the High Court on 12th September, 1986 in which an order for maintenance of status quo was made on 18th September, 1986 restraining the Land Acquisition Officer from announcing the Award. That order continued to remain in force till 13th February, 2003. The High court, eventually, dismissed the writ petition on 13th February, 2003. An application was made for obtaining a certified copy of the judgment which was ready only on 27th February, 2003. The Award was then pronounced on 1st March, 2003 after excluding the period during which the interim stay order was operative. The Award should have been pronounced on or before 18th February, 2003. Having been pronounced on 1st March, 2003, the Award was made beyond the period prescribed under Section 11-A. The contention urged on behalf of the Land Acquisition Officer was that a public functionary had to look into the contents of the order passed by the Court before taking any action, including the pronouncement of the Award and, therefore, the time taken between 14th February, 2003 and 27th February, 2003 must also be excluded which meant that the Award could have been made up to any date till 4th March, 2003. Support was drawn for that proposition from the provisions of Section 12 of the Limitation Act which according to the Land Acquisition Officer ought to have applied for computing the period of limitation under Section 11-A of the Land Acquisition Act. Rejecting that contention, this Court observed:

> "54. ……The Land Acquisition Collector in making an Award does not act as a court within the meaning of the Limitation Act. It is also clear from the provisions of the Land Acquisition Act that the provisions of the Limitation Act have not been made applicable to proceedings under the Land Acquisition Act in the matter of making an Award under Section 11-A of the Act. However, Section 11-A of the Act does provide a period of limitation within which the Collector shall make his Award. The Explanation thereto also provides for exclusion of the period during which any action or proceeding to be taken in pursuance of the declaration is stayed by an order of a court. Such being the provision, there is no scope for importing into Section 11-A of the Land Acquisition Act the provisions of Section 12 of the Limitation Act. The application of Section 12 of the Limitation Act is also confined to matters enumerated therein. The time taken for obtaining a

certified copy of the judgment is excluded because a certified copy is required to be filed while preferring an appeal/revision/review, etc. challenging the impugned order. Thus a court is not permitted to read into Section 11-A of the Act a provision for exclusion of time taken to obtain a certified copy of the judgment and order. The Court has, therefore, no option but to compute the period of limitation for making an Award in accordance with the provisions of Section 11-A of the Act after excluding such period as can be excluded under the Explanation to Section 11-A of the Act."

14. This Court drew a comparison between Section 11-A and Section 28-A of the Act, and based on the difference between the two provisions, observed:

> "56. It will thus be seen that the legislature wherever it considered necessary incorporated by express words the rule incorporated in Section 12 of the Limitation Act. It has done so expressly in Section 28-A of the Act while it has consciously not incorporated this rule in Section 11-A even while providing for exclusion of time under the Explanation. The intendment of the legislature is therefore unambiguous and does not permit the court to read words into Section 11-A of the Act so as to enable it to read Section 12 of the Limitation Act into Section 11-A of the Land Acquisition Act."

15. We are in respectful agreement with the above line of reasoning. Section 11-A in terms does not provide for exclusion of the time taken to obtain a certified copy of the Judgment or order by which the stay order was either granted or vacated. Section 12 of the Limitation Act has no application to the making of an Award under the Land Acquisition Act. In the absence of any enabling provision either in Section 11-A of the Land Acquisition Act or in the Limitation Act, there is no room for borrowing the principles underlying Section 12 of the Limitation Act for computing the period or determining the validity of an Award by reference to Section 11-A of the Land Acquisition Act.

16. Mr. Altaf Ahmad made a feeble attempt to argue that omission of a specific provision in Section 11-A excluding the time taken in obtaining a copy of the order passed by the Court was casus omissus and that this Court could while interpreting the said provision supply the unintended omission of the Parliament. There is, in our view, no merit in that contention. We say so for more than one reasons. Firstly, because while applying the doctrine of casus omissus the Court has to look at the entire enactment and the scheme underlying the same. In the case at hand, we find that Parliament has, wherever it intended, specifically provided for exclusion of time requisite for obtaining a copy of the order. For instance, under Section 28A

which provides for re-determination of the amount of compensation on the basis of the Award of the Court, the aggrieved party is entitled to move a written application to the Collector within three months from the date of the Award of the Court or the Collector requiring him to determine the amount of compensation payable to him on the basis of the amount Awarded by the Court. Proviso to Section 28A specifically excludes the time requisite for obtaining a copy of the Award while computing the period of three months within which the application shall be made to the Collector. It reads:

> "28A. Re- determination of the amount of compensation on the basis of the Award of the Court.- (1) Where in an Award under this part, the court allows to the applicant any amount of compensation in excess of the amount Awarded by the collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the Award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the Award of the Court require that the amount of compensation payable to them may be re- determined on the basis of the amount of compensation Awarded by the Court:
>
> Provided that in computing the period of three months within which an application to the Collector shall be made under this sub- section, the day on which the Award was pronounced and the time requisite for obtaining a copy of the Award shall be excluded."
>
> (emphasis supplied)
>
> xxx xxx xxx

17. Absence of a provision analogous to proviso to Section 28A (supra) in the scheme of Section 11-A militates against the argument that the omission of such a provision in Section 11-A is unintended which could be supplied by the Court taking resort to the doctrine of casus omissus.

18. Secondly, because the legal position regarding applicability of the doctrine of casus omissus is settled by a long line of decisions of this Court as well as Courts in England. Lord Diplock in Wentworth Securities v. Jones (1980) AC 1974, revived the doctrine which was under major criticism, by formulating three conditions for its exercise namely, (1) What is the intended purpose of the statute

or provision in question; (2) Whether it was by inadvertence that the draftsman and the Parliament had failed to give effect to that purpose in the provision in question; and (3) What would be the substance of the provision that the Parliament would have made, although not necessarily the precise words that the Parliament would have used, had the error in the Bill been noticed. The House of Lords while approving the above conditions in Inco Europe v. First Choice Distribution (2000) 1 All ER 109, went further to say that there are certain exceptions to the rule inasmuch the power will not be exercised when the alteration is far-reaching or when the legislation in question requires strict construction as a matter of law.

19. The legal position prevalent in this country is not much different from the law as stated in England. This Court has in several decisions held that casus omissus cannot be supplied except in the case of clear necessity and when reason for it is found within the four corners of the statute itself. The doctrine was first discussed by Justice V.D. Tulzapurkar in the case of Commissioner Of Income Tax, Central Calcutta v. National Taj Tradus (1980) 1 SCC 370. Interpretative assistance was taken by this Court from Maxwell on Interpretation of Statutes (12th Edn.) pg. 33 and 47. The Court said:

> "10. Two principles of construction-one relating to casus omissus and the other in regard to reading the statute as a whole-appear to be well settled. In regard to the former the following statement of law appears in Maxwell on Interpretation of Statutes (12th Edn.) at page 33:
>
> Omissions not to be inferred-"It is a corollary to the general rule of literal construction that nothing is to be added to or taken from a statute unless there are adequate grounds to justify the inference that the legislature intended something which it omitted to express. Lord Mersey said: 'It is a strong thing to read into an Act of Parliament words which are not there, and in the absence of clear necessity it is a wrong thing to do.' 'We are not entitled,' said Lords Loreburn L.C., 'to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself.' A case not provided for in a statute is not to be dealt with merely because there seems no good reason why it should have been omitted, and the omission in consequence to have been unintentional.
>
> In regard to the latter principle the following statement of law appears in Maxwell at page 47:

A statute is to be read as a whole-"It was resolved in the case of Lincoln College (1595) 3 Co. Rep. 58 that the good expositor of an Act of Parliament should 'make construction on all the parts together, and not of one part only by itself.' Every clause of a statute is to 'be construed with reference to the context and other clauses of the Act, so as, as far as possible, to make a consistent enactment of the whole statute.' (Per Lord Davey in Canada Sugar Refining Co., Ltd. v. R: 1898 AC 735)

In other words, under the first principle a casus omissus cannot be supplied by the Court except in the case of clear necessity and when reason for it found in the four corners of the statute itself but at the same time a casus omissus should not be readily inferred and for that purpose all the parts of a statute or section must b
e construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the Legislature. "An intention to produce an, unreasonable result", said Danckwerts L.J. in Artemiou v. Procopiou [1966] 1 Q.B. 878 "is not to be imputed to a statute if there is some other construction available." Where to apply words literally would "defeat the obvious intention of the legislation and produce a wholly unreasonable result" we must "do some violence to the words" and so achieve that obvious intention and produce a rational construction, (Per Lord Reid in Luke v. I.R.C.-1968 AC 557 where at p. 577 he also observed: "this is not a new problem, though our standard of drafting is such that it rarely emerges. In the light of these principles we will have to construe Sub-section (2)(b) with reference to the context and other clauses of Section 33B."

20. Arijit Pasayat, J. has verbatim relied upon the above in Padmasundara Rao v. State of Tamil Nadu 2 (2002) 3 SCC 533, Union of India v. Dharmendra Textile Processors (2008) 13 SCC 369,Nagar Palika Nigam v. Krishi Upaj Mandi Samiti & Ors. (2008) 12 SCC 364, Sangeeta Singh v. Union of India (2005) 7 SCC 484, State of Kerala & Anr. v. P.V. Neelakandan Nair & Ors. (2005) 5 SCC 561, UOI v. Priyankan Sharan and Anr. (2008) 9 SCC 15, Maulavi Hussein Haji Abraham Umarji v. State of Gujarat (2004) CriLJ 3860, Unique Butyle Tube Industries Pvt. Ltd. v. U.P. Financial Corporation and Ors. (2003) 2 SCC 455, UOI v. Rajiv Kumar with UOI v. Bani Singh (2003) SCC (LS) 928, Shiv Shakti Coop. Housing Society, Nagpur v. Swaraj Developers and Ors. (2003) 6 SCC

659, Prakash Nath Khanna and Anr. v. Commissioner of Income Tax and Anr. (2004) 9 SCC 686, State of Jharkhand & Anr. v. Govind Singh (2005) 10 SCC 437, Trutuf Safety Glass Industries v. Commissioner of Sales Tax, U.P. (2007) 7 SCC 242.

21. In Padma Sundara Rao's (supra) this Court examined whether the doctrine of casus omissus could be invoked while interpreting Section 6(1) of the Land Acquisition Act so as to provide for exclusion of time taken for service of copy of the order upon the Collector. Repelling the contention this Court said:

> "12. The court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. The first and primary rule of construction is that the intention of the legislation must be found in the words used by the legislature itself. The question is not what may be supposed and has been intended but what has been said.
>
> xxx xxx xxx
>
> 14. While interpreting a provision the court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary."

22. There is in the case at hand no ambiguity nor do we see any apparent omission in Section 11-A to justify application of the doctrine of casus omissus and by that route re-write 11-A providing for exclusion of time taken for obtaining a copy of the order which exclusion is not currently provided by the said provision. The omission of a provision under Section 11-A analogous to the proviso under Section 28A is obviously not unintended or inadvertent which is the very essence of the doctrine of casus omissus. We, therefore, have no hesitation in rejecting the contention urged by Mr. Altaf Ahmad.

23. The High Court was in the above circumstances perfectly justified in holding that the Award made by the Collector/Land Acquisition Officer was non est and that the acquisition proceedings had elapsed by reason of a breach of Section 11-A of the Act. We, however, make it clear that the declaration granted by the High Court and proceedings initiated by the Collector shall be deemed to have elapsed only qua the writ petitioners- respondents herein. With those observations, these

appeals fail and are hereby dismissed but in the circumstances without any orders as to costs.