

Puttarudrappa Vs. State of Karnataka and Others

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Court : Karnataka

Decided On : Sep-08-1997

Reported in : 1999(4)KarLJ141

Judge : R.P. Sethi, C.J. and; S.R. Bannurmath, J.

Acts : [Constitution of India](#) - Article 226; [Land Acquisition Act, 1894](#) - Sections 4(1) and 6(1)

Appeal No. : Writ Petition No. 9674 of 1996

Appellant : Puttarudrappa

Respondent : State of Karnataka and Others

Advocate for Def. : Sri Basavaraju Belavangala, ;Sri R.S. Hegde, Advs. and ;Sri A.V. Srinivasa Reddy Additional Government Advocate

Advocate for Pet/Ap. : Sri Mohandas N. Hegde, Adv.

Judgement :

R.P. Sethi, C.J.

1. Notice under Section 4(1) of the Land Acquisition Act proposing to acquire land measuring four acres comprising Survey No. 28/1 of Mallathahalli was issued on 28-12-1992 which was challenged by the appellant in the Writ Petition No. 29081 of 1993. The writ petition was dismissed on the ground that as final notification

under Section 6(1) of the Act had not been issued, the writ petition was premature. Liberty was given to the appellant to approach the Court in the event the notification under Section 6(1) of the Act was issued. It is contended that the impugned order has been passed completely ignoring the facts of the case inasmuch as notification under Section 6(1) of the Act in fact had been issued by the Competent Authority and the appellant was permitted to challenge the same by amending his writ petition.

2. The record of the proceedings supports the contention of the learned Counsel appearing for the appellant. It appears that during the pendency of the writ petition a final notification was issued which was published in the Karnataka Gazette on 14-4-1994. The appellant thereafter filed an interlocutory application praying therein for quashing the final notification Annexure-E for the reasons already detailed in the writ petition and further on the ground that as the final notification had been issued after a lapse of one year from the date of preliminary notification the same was liable to be quashed. The appellant prayed for amendment of the writ petition by adding the following prayer:

'The petitioner prays that this Hon'ble Court may be pleased to quash the notification dated 16-3-1994 published in Karnataka Gazette dated 14-4-1994 (Annexure-E), in the interest of justice'.

It is submitted by the learned Counsel appearing for the parties that the application for amendment was allowed by the learned Single Judge on 2-6-1995, admittedly before the date of hearing which was later fixed in the case on 30-9-1996. The learned Single Judge was therefore not justified in holding the writ petition to be premature by assuming that no notification under Section 6 of the Act had been issued. The order of the learned Single Judge is therefore liable to be set aside. As the pleas raised by the appellant have not been considered on merits, it is deemed proper to remit the case back to the learned Single Judge with request to decide the same on merits after affording the parties opportunity of being heard.

3. Under the circumstances of the case the appeal is allowed by setting aside the order of the learned Single Judge. The case is remanded back with the request to the learned Single Judge to rehear the matter and decide the writ petition on

merits in the light of the submissions made in the writ petition and I.As filed for the purpose of seeking amendment to challenge the notification under Section 6(1) of the Act.

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