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The Executive Officer, Ttd Vs. N.S. Venugopal and ors.

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Court : Andhra Pradesh

Decided On : Jul-17-1991

Reported in : 1991(3)ALT427

Judge : M. Jagannadha Rao and ;Eswara Prasad, JJ.

Acts : Land Acquisition Act - Sections 4(1), 6, 6(1), 6(2) and 11A

Appeal No. : Writ Appeal Nos. 557, 606 and 879 of 1989

Appellant : The Executive Officer, Ttd

Respondent : N.S. Venugopal and ors.

Advocate for Def. : O. Manohar Reddy, Adv. for Respondent No. 1 and ;G.P. for Endowments for Respondent Nos. 2 and 3

Advocate for Pet/Ap. : M. Adinarayana Raju, Adv.

Judgement :

M. Jagannadha Rao, J.

1. These three writ appeals, W.A.Nos. 557, 606 and 879 of 1989, arise out of the common judgment passed in Writ Petition Nos. 1709, 1711 and 1713 of 1987 respectively. A learned single Judge of this Court allowed these three writ petitions on the ground that the declaration under Section 6 of the Land Acquisition Act

published in the gazette on 15-1 -1987 was beyond one year from the date of publication of notification under Section 4(1) of the gazette on 23-12-1985. It is against this common judgment that these three writ appeals have been preferred by the Tirumala Tirupati Devasthanams. In these three writ petitions, the date of publication of Section 4(1) notification in the gazette was 23-12-1985. The same was published in the locality on 21-12-1986 in the first two cases and on 22-1-1986 in the last case. They were published in the English Newspaper 'Indian Express' on 23-1-1986 and in the Telugu Newspaper 'Eenadu' on 3-2-1986. This is so far as Section 4(1) notification is concerned. So far as Section 6 declaration is concerned, the position is that the same was published in the gazette on 15-1-1987 and in the locality on 2-2-1987 and in Eenadu Newspaper on 2-2-1987.

2. For the purpose of computing the period of limitation prescribed in the second part of the proviso to Section 6, it is necessary to refer to the provisions of Section 4(1) of the Land Acquisition Act and also Section 6(1) and 6(2) of the Land Acquisition Act. Section 4(1) of the L.A. Act reads as follows:-

'4(1) Whenever it appears to the appropriate Government, that land in any locality is needed or is likely to be needed for any public purpose or for a company, a notification to that effect shall be published in the Official Gazette and in the two daily newspapers circulating in that locality of which at least one shall be in the regional language and the Collector shall within 40 days from the date of publication of such notification cause public notice of the substance of such notification to be given at convenient places in the said locality the last of the dates of such publication and giving of such public notice being herein after referred to as the date of the publication of the notification.'

Section 6(1) and 6(2) are in the following terms:

'6(1) Subject to the provisions of part VII of this Act, when appropriate Government is satisfied after considering the report, if any, made under Section 5A, Sub-section (2) that any particular land is needed for a public purpose or for a company, a declaration shall be made to that effect under the signature of a secretary to such Government or of some Officer duly authorised to certify its order and different declarations may be made, from time to time, in respect of

different parcels of land covered by the same notification under Section 4, Sub-section (1), irrespective of whether one report or different reports has or have been made (Wherever required) under Section 5A, Sub-section (2).

Provided that no declaration in respect of any particular land covered by a notification under Section 4, Sub-section (1)-

(i) Published after the commencement of the Land Acquisition (Amendment and validation Ordinance, 1967 (1 of 1967), but before the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of three years from the date of the publication of the notification or

(ii) Published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of publication of the notification:

Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

Explanation 1: In computing any of the periods referred to in the first proviso, the period during which any section or proceeding to be taken in pursuance of the notification issued under Section 4, Sub-section (1), is stayed by an order of a Court shall be excluded.

Explanation 2: Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by the State, such compensation shall be deemed to be compensation paid out of public revenues:

(2) Every declaration shall be published in the Official Gazette and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the date of such publication and the giving or such public notice being hereinafter referred to as the date of publication of the declaration) and such declaration shall state the district or other territorial division in which the land is situate, the purpose of which it is needed, its

approximate area, and where a plan shall have been made of the land, the place where such plan may be inspected.'

3. Taking up Section 4(1), the last of the dates of publication and giving of public notice is 'hereinafter referred to as the date of publication of Section 4(1) notification'. Therefore, wherever the words 'date of publication of the notification under Section 4(1)' are used in the provisions immediately following Section 4(1) in the Act, the above said method of computation is to be applied. Then coming to Section 6(2), the position again is that wherever the words 'date of publication of declaration under Section 6' are mentioned in the provisions immediately following Section 6(2), the method of computation mentioned in Section 6(2) is to be followed. For example, when we come to second proviso to Section 6(1), the words used so far as Section 6(1) declaration is concerned, are that no declaration under Section 6 shall be made after the period prescribed in the proviso to Section 6(1). It will be noticed that in Section 6(1) there is no mention of 'date of publication of the declaration'. Such words are only found in Section 6(2) and not in Section 6(1). When we come to Section 11A, the words 'date of publication of declaration' are used and in that context, it is stated that the method of computation mentioned in Section 6(2) is to be adopted.

4. In other words, the method of computation mentioned in Section 4(1) is applicable when we come to Sub-clause (1) of Section 6 of the Land Acquisition Act. So far as the method of computation mentioned in Section 6(2) is concerned, the same is applicable for purposes of Section 11A, and may be other provisions where subsequent to Section 6(2), the words date of declaration' are employed. But, in our view, the method of computation mentioned in Section 6(2) cannot be imported into the proviso to Section 6(1) that is because of the words 'hereinafter' used in Section 6(2).

5. Going by the said principle, it will be noticed that so far as Section 4(1) notification is concerned, the date of publication is to be treated as 'the last date of the publication' namely, 3-2-1986 when the notification was published in the newspaper. This is because such method of computation is mentioned in Section 4(1) itself. However, when we come to Section 6(1) declaration, we have to take

the publication as having been made on 15-1-1987 when the same was published in the gazette. But, we cannot for purposes of Section 6(1) adopt 2-2-1987 the last of the dates of resorting to Section 6(2) of the Act It may be that Section 6(2) is relevant for purposes of Section 11A. Therefore, the position is that the date of publication of Section 4(1) notification was 3-2-1986 while the publication of the declaration under Section 6 was made on 15-1-1987 and the same was within one year.

6. We may also add that, on the facts of the present case, even if the date of declaration is computed according to Section 6(2), the publication in Eeriadu of Section 6 declaration would be 2-2-1987 and the same would be within one year from the date of publication of Section 4(1) notification on 3-2-1986.

7. For the aforesaid reasons, the writ appeals are liable to be allowed. The learned counsel for the respondents however, contends that the respondents are being uprooted from their places from Tirumala Hills and that they should be provided alternative accommodation. The learned counsel appearing for the Tirumala Tirupati Devasthanams states across the Bar that there was a resolution of the T.T.D. (Resolution No. 34 dated: 5-7-1990) wherein it has been stated that the cases of various persons whose properties are acquired, will be considered for allotment of alternative sites. The said statement is recorded.

8. Subject to the above observations, the Writ appeals are allowed and the Writ Petitions are dismissed. There will be no order as to costs. Advocate's fee Rs. 250/- in each.

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