

Krishna Sah Vs. This Collector of Bareilly

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SooperKanoon Citation : sooperkanoon.com/452926

Court : Allahabad

Decided On : Apr-16-1917

Reported in : AIR1917All222; (1917)ILR39All534

Judge : Henry Richards, C.J. and ;Pramada Charan Banerji, J.

Appellant : Krishna Sah

Respondent : This Collector of Bareilly

Judgement :

Henry Richards, C.J. and Pramada Charan Banerji, J.

1. This appeal arises out of proceedings under the Land Acquisition Act. The learned District Judge has affirmed the award of the Collector on the sole ground that the appellant did not state 'the nature of his interest in the land and the particulars of his claim to compensation for such interest' by way of objection under Section 9, Clause (2), of the Land Acquisition Act. He appears to have considered that, such objection not having been put forward, he was justified (if not bound) under Section 25, to affirm the award of the Collector. Section 9 of the Land Acquisition Act provides that the Collector must cause public notice to be given at convenient places, at or near the land to be taken, stating that the Government intends to take possession of the land and claims to compensation for all interest in such land may be made to him. Clause (2) prescribes what the notice shall state, and amongst other things that the notice shall require all

persons interested in the land to appear before the Collector at a time mentioned in the notice. It has expressly provided that the time shall not be earlier than 15 days after the publication of the notice. In the present case the publication of the notice was on the 18th of July, and the date required for appearance before the Collector was the 24th of July, clearly a much shorter period than that prescribed by the section. Clause (3) provides for a second notice which is to be served on the occupier of the land, which is to the same effect as the notice prescribed by Clause (2). In the present case this personal notice was served on the 16th of July. This also is less than 15 days. The learned Judge seems to have thought that because the personal notice was served, the first notice was unnecessary and as no time was prescribed in the second notice the appellant is not entitled to complain that the notice served on him gave him less than 15 days to make his objection. 'We think that the learned Judge was wrong in the view he took. In the first place the Act requires that two notices are to be served, and accordingly the service of the first notice containing what is prescribed by the section was absolutely necessary. We think also that the 15 days ought to be allowed by the second notice. There is no reason why the occupier should not have same time allowed him within which to make his objection as other persons. We think that the words 'to the same effect ' in Clause (8), really mean that the second notice should have the same matters mentioned in it, including the time, as the first notice. The learned District Judge should therefore have tried the case and considered the evidence, and the appellant ought to be considered. as having had sufficient reason for not filing his objections before the Collector, We allow the appeal, set aside the order of the learned District Judge and remand the case to him with directions to re-admit the case on its original number on the file and proceed to hear and determine the same on the merits having regard to what we have said above. The respondent must pay that costs of this appeal.