

Jaimon Vs. the District Collector and ors.

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SooperKanoon Citation : sooperkanoon.com/725164

Court : Kerala

Decided On : Jun-19-2008

Reported in : 2008(2)KLJ965; 2008(3)KLT614

Judge : Pius C. Kuriakose, J.

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

Appeal No. : W.P. (C) 17453 of 2008

Appellant : Jaimon

Respondent : The District Collector and ors.

Advocate for Def. : Shyson P. Manguzha, GP

Advocate for Pet/Ap. : P.P. Jacob, Adv.

Disposition : Petition dismissed

Judgement :

Pius C. Kuriakose, J.

1. This writ petition raises an important question. The question is whether, when an erratum notification is published to the original notification under Section 4(1) of the Land Acquisition Act, the period of one year for making declaration as envisaged by the first proviso to Section 6 can be reckoned from the date of the

erratum notification. The Supreme Court has held in its judgment in State of Tamil Nadu and Anr. v. Mahalaskhmi Ammal and Ors. AIR 1996 Supreme Court 866 that in an erratum notification is published to an original notification under Section 4(1) of the Land Acquisition Act, the same will date back to the date of the original notification. As for the facts of the present case, the original notification under Section 4(1) was published in the Gazette on 25-4-2005 and in Malayala Manorama daily on 8-6-2005. Going by Section 4, which provides different modes of publication of the notification under Section 4, it is the last date of publication and giving of public notice which is to be treated as the date of publication of the notification. Thus it is 31-8-2005 which is to be treated as the date of the notification under Section 4(1) of the Act in this case. Erratum notification was issued on 22-5-2006 and published on 3-8-2006 in Mathrubhoomi daily followed by a subsequent errata notification published in the Gazette on 17-7-2006. Both these errata notifications will date back to the date of the original notification under Section 4(1) of the Act i.e. to 31-8-2005.

2. It is seen that the declaration under Section 6 has been published in this case in the gazette on 31-8-2006. It was argued that since the last date of the publication of the declaration under Section 6 is only on 11-10-2006 the declaration is to be found to be time barred. This argument also has to fail. A reading of the first proviso to Section 6 will show that the time of one year is for making the declaration under Section 6 and not for its publication. The Hon'ble Supreme Court also has reiterated this aspect in Urban Improvement Trust v. Bheru Lal and Ors. : [2002]SUPP2SCR512 . The file will show that declaration under Section 6 was made on 30-8-2006 though it was published only on subsequent dates. The making of the declaration under Section 6 in this case is within the period of one year of the publication of the notification under Section 4(1). Hence the challenge against the declaration on the ground of limitation fails.

3. This writ petition will stand dismissed. No costs.