

S. Ramachandran Vs. the Special Tahsildar No. 18, Land Acquisition Lignite Project and anr.

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Court : Chennai

Decided On : Sep-13-1983

Reported in : (1984)2MLJ257

Appellant : S. Ramachandran

Respondent : The Special Tahsildar No. 18, Land Acquisition Lignite Project and anr.

Judgement :

ORDER

T. Sathiadev, J.

1. This petition is filed seeking for a reference under Section 18 of the Land Acquisition Act. At the outset itself, it is interesting to take note of the contents in the counter-affidavit. It is stated in paragraph 2 as follows:

The notice under Section 12(2) of the Land Acquisition Act was served on the petitioner on 10-10-1979 and the 'C' Form was issued to him on 15-10-1979. The petitioner put in a petition dated 6-12-1979 requesting the respondent to refer the case to the competent court for enhanced compensation under Section 18 of the Land Acquisition Act. The petition was received by the Land Acquisition Officer by registered post on 10-12-1979 and an endorsement was given to him on the same

day informing him in his No.A. 69/79 dated 10-12-1979 that his application has been rejected as time-barred. It is against this order, the above writ petition has been filed.

Whereas in paragraph 3, it is stated as follows:

The 12(2) notice dated 21-10-1979 was served on the petitioner on 21-10-1979 and the 'C' Form Check was issued to him on 29-10-1979. He put in a petition dated 6-12-1979 by registered post to the respondent requesting him to refer the case to a competent court for enhanced compensation under Section 18 of the Land Acquisition Act. The petition was received by the respondent only on 12-12-1979 and an endorsement was given to him on 19-1-1980 in his No.A/1314/79 dated 19-1-1980 informing him that his petition has been rejected as time barred. It is against this order, the writ petitions have been filed.

2. It is quite obvious that the respondent is not certain even with regard to the date of service of notice under Section 12(2) and the like. It is needless to state that the State should always avoid imperfections and incorrect statements in solemn counter-affidavits filed into Court. Taxing note of the contradictory dates furnished, even in respect of basic facts pertaining to the case, cost is awarded in this matter.

3. The main pain on which these two writ petitions are allowed is because of the stand taken by the respondent, that a copy of the award need not be given to any awardee. It is stated that the provisions of the Act and the rules framed thereunder do not require the furnishing of an award copy. The actual rule or the relevant section had not been adverted to. Unless a copy of the award is furnished, it would not enable the awardee to know as to how far, the grounds or reasons taken into account in the award are irrelevant or illegal or improper, and to what extent, the assessment of value arrived at, is wrongly determined. When the lands belonging to each of the awardees are acquired, it is outrageous on the part of the Land Acquisition Officer to claim that every owner of the property affected by the award, would not be entitled to the copy of the award and that only a bald notice under Section 12(2) would be issued. Not stopping with this, it is also sworn to that the issue of notice under Section 12(2) is intended mainly for persons, who have not appeared in the enquiry and who are not physically present personally or by their

representatives when the award is made; whereas in the instant matter, the petitioner had appeared in person at every stage and given statements, and therefore it is up to him to have been present at the time of the pronouncement of the award. Nowhere it has been stated that if a person is not present at the time of the passing of the award, a notice under Section 12(2) need not be issued to him or that the contents of the award need not be made known to him. It is open to a party to be present in the earlier stages of the enquiry, and later on, he takes the risk in not participating in the further proceedings, but the right which inheres in him under the provisions of the Act to get a notice under Section 12(2) would not be deprived to him because of his absence at the time of the passing of the award. When the respondent had chosen to issue the notice, and the date of the issue of the notice or its service not having been precisely stated in the counter-affidavit it is not proved how service was effected. Admittedly which the copy of the award had not been served on him, it cannot be said that he had the proper notice of the contents of the award.

4. This Court in Writ Appeal No. 111 of 1980. The Special Deputy Collector, Land Acquisition, Saidapet, Chengalpattu District v. Dhanalakshmi, disposed of on 26-3-1980, has held that it is incumbent on the acquiring authority to make known to the affected persons the full texts of the award. In *State of Punjab v. Qaisar Jehn Begum* : [1964]1SCR971 , it has been held:..The knowledge must relate to the essential contents of the award. These contents may be known either actually or constructively. If the award is communicated to a party under Section 12(2) of the Act, the party must be obviously fixed with knowledge of the contents of the award whether he reads it or not. Similarly, when a party is present in court either personally or through his representative when the award is made by the Collector it must be presumed that he knows the contents of the award. Having regard to the scheme of the Act we think that knowledge of the award must mean knowledge of the essential contents of the award. Looked at from that point of view, we do not think that it can be inferred from the petition dated December 24, 1954 that the respondents had knowledge of the award....

Therefore, when the petitioner had not been made known about the full text of the award and of the ingredients or contents of the award, the notice already issued,

not being in order, it is now open to the respondent to serve a copy of the award along with a notice under Section 12(2) of the Land Acquisition Act, and thereafter, it will be open to the petitioner to seek for reference, if he so chooses, within the time provided under Section 18 of the Land Acquisition Act.

5. Hence, the petitioner is entitled to the relief as prayed for thereby quashing the impugned order, and with a direction to the respondent to serve a fresh notice along with the copies of the award.

6. Hence these two writ petitions are allowed with costs (advocate's fee fixed at Rs. 250/- (one set)).

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