

(1984) 11 MAD CK 0001
In the Madras High Court
Case No : W.A. No. 1175 of 1983

Appu Gounder

APPELLANT

Vs

State of Tamil Nadu and Another

RESPONDENT

Date of Decision : 26-11-1984

Acts Referred:

Land Acquisition Act, 1894 — Section 4(I)

Citation : AIR 1986 Mad 278

Hon'ble Judges : M.N. Chandurkar, C.J.;Sathiadev, J

Bench : Division Bench

Advocate : K. Doraiswami and R. Balasubramaniam, for the Appellant; Govt. Pleader, for the Respondent

Judgement

M.N. Chandurkar, C.J.—The only question raised in the appeal, which is directed against the order of the learned single Judge is whether,

the delay in the publication of the substance of the notification under S. 4(I) of the Land Acquisition Act, vitiates the proceedings for acquisition of

land. The notification under S. 4(I) of the Land Acquisition Act was published on 2-6-1982 in the Gazette but the substance of the said notification

was published at a convenient place only on 25-6-1982. The contention that the proceedings for acquisition under the Land Acquisition Act was

vitiated on account of this delay in publishing the substance of the notification was not accepted by the learned single Judge, who dismissed the writ

petition on the ground that the same was premature.

2. An appeal against this order has been admitted. When the matter came up for confirmation of stay in C. M. P. No. 17290 of 1983, the learned

Government Pleader has brought, to our notice a decision in Deepak Pahwa and Others Vs. Lt. Governor of Delhi and Others, , in which the

Supreme Court has held that, if there is a gap of time between the publication of the notification under S. 4(I) of the Land Acquisition Act in the Gazette and the public notice in the locality of the substance of such notification, the delay cannot always be fatal. In that decision, the Supreme Court has clearly laid down that the time factor was not a vital element of S. 4(I) and that there was no warrant for reading the words "simultaneously" or "immediately thereafter" into S. 4(I). It was pointed out that publication in the Official Gazette and public notice in the locality are the essential elements of S. 4(I) and not the simultaneity or immediacy of the publication and the public notice. It was also pointed out by the Supreme Court that since the steps contemplated by S. 4(I) of the Act cannot be undertaken unless publication is made and public notice given as contemplated by S. 4(I), it was implicit that the publication and public notice must be contemporaneous though not simultaneous or immediately after one another and contemporaneity may involve a gap of time, and by the very nature of the things, the publication in the Official Gazette and the public notice in the locality must necessarily be separated by a gap of time. The Supreme Court further pointed out that, what was necessary was that the continuity of action should not appear to be broken by a deep gap and if there is publication in the Gazette and there is public notice in the locality, the requirements of S. 4(I) of the Act must be held to be satisfied, unless the two are unlinked from each other by a gap of time so large as may lead one to the prima facie conclusion of lack of bona fides in the proceedings for acquisition. In the same decision, the Supreme Court further pointed out that there was no reason to confine the period of 30 days prescribed by S. 5A of the Act, to one mode of publication in the Gazette and the period of 30 days may be reckoned from either the date of publication in the Gazette or the date of public notice of the substance of the notification, in the locality, whichever is later. The delay in publishing the notification in this case is not such as will make the proceedings mala fide. In view of these decisions of the Supreme Court, it is obvious that no error can be found in the view taken by the learned Judge that the writ petition was premature.

3. The writ appeal is, therefore, dismissed. The interim stay granted earlier is vacated. It is open to the appellant to take part in the proceedings for

land acquisition hereafter. There will be no order as to costs.

4. Appeal dismissed.