

(2010) 03 KL CK 0031
In the High Court Of Kerala
Case No : WP (C) . No. 27479 of 2009 (D)

Basith C. and Others

APPELLANT

Vs

The State of Kerala and Others

RESPONDENT

Date of Decision : 19-03-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1), 6, 6(1)

Citation : (2010) 03 KL CK 0031

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : K. Muhammed Salahudheen, for the Appellant; G.S. Reghunath, for the Respondent

Final Decision : Dismissed

Judgement

Antony Dominic, J.—The issue raised in these writ petitions are connected and therefore, the Writ Petitions are heard together and are disposed of by this common judgment.

2. The petitioners challenge the notification issued u/s 4(1) of the Land Acquisition Act for the purpose of acquisition of 32.0479 hectares of land for establishing a Knowledge Park by the Kerala Industrial Infrastructure Development Corporation.

3. The first contention raised is that Section 4(1) notification was issued on 3/12/2007 and that declaration u/s 6(1) was made only on 26/2/2009. It is contended that since Section 6(1) declaration was made beyond one year from Section 4(1) notification, the proceedings have lapsed. 4. From the counter affidavit filed by the KINFRA, it is seen that Section 4(1) notification was issued by the Land Acquisition Officer on 3/12/2007, published in the Gazette on 4/12/2007 and in the newspaper on 1/1/2008 and 4/1/2009. It is stated that this notification was published in the locality on 29/2/2008. There is nothing available on record to prove this averment in the counter affidavit to be wrong. If

that be so, the last date of publication of Section 4(1) notification being on 29/2/2008, Section 6 declaration made on 26/2/2009 is well within the one year period prescribed under the Land Acquisition Act. Therefore, this contention has to be failed.

5. The second contention raised by the learned Counsel for the petitioners is that under the Kerala Conservation of Paddy Land and Wet Land Act 2008, conversion of paddy fields is prohibited and therefore, paddy field cannot be acquired. It is stated that the substantial portion of the land notified under Ext.P1 is paddy field and that therefore, the acquisition proceedings are illegal. It is true that the provisions of the aforesaid Act 2008 imposes stringent conditions to prevent conversion of paddy lands. However, that does not by itself mean that paddy land cannot be acquired under the provisions of the Land Acquisition Act. At best, it may mean that after acquisition, if paddy land is to be converted, the requirements of the Act 2008 have to be complied with. So long as there is no law prohibiting acquisition of paddy land, this Court will not be justified in holding that the notification for the acquisition proceedings in relation to paddy land is illegal. Therefore, this contention also fails.

6. The third contention raised by the learned Counsel for the petitioner is that if the paddy lands are acquired, reclaimed and converted into industrial plots, that will affect the water table of the area and result in drought. However, in the paragraph 12 of the counter affidavit filed by the third respondent, it is seen that they propose to develop water harvesting facilities utilising about 20% of the land proposed to be acquired. Be that as it may, having regard to my finding that the two contentions urged by the learned Counsel for the petitioners are not having any substance, the acquisition proceedings cannot be interfered.

The writ petitions are liable to be dismissed and I do so.