

(2012) 09 AHC CK 0278

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 32317 of 2012

Hare Krishna Public School

APPELLANT

Vs

Project Manager Dedicated, Freight Corridore Corp. and
Others

RESPONDENT

Date of Decision : 25-09-2012

Acts Referred:

Advocates Act, 1961 — Section 2

Land Acquisition Act, 1894 — Section 11, 11A, 4, 4(1), 5A

Railways Act, 1989 — Section 2, 2(26), 20A, 20A, 20A(1)

Citation : (2012) 10 ADJ 202 : (2013) 1 ALJ 201

Hon'ble Judges : Ashok Bhushan, J;Abhinava Upadhya, J

Bench : Division Bench

Advocate : Ashish Agrawal, for the Appellant; Govind Saran, S.P. Gupta and C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Hon"ble Ashok Bhushan, J.—The petitioner by this writ petition, has prayed for quashing the entire proceedings for acquisition of land initiated by notification dated 10th February, 2009 published in the Gazette of India in exercise of power u/s 20A(1) of the Railways Act, 1989 (hereinafter referred to as the Railways Act). We have heard Sri Ashish Agrawal, learned counsel for the petitioner, Sri S.P. Gupta, learned Advocate General for respondent Nos. 1, 2 and 3 and Sri Govind Saran appearing for respondent Nos. 1 and 4.

2. Brief facts of the case as emerge from pleadings of the parties are; the petitioner is purchaser of Plot No. 270/2 by sale-deed dated 11th April, 2008. A notification dated 10th February, 2009 u/s 20A(1) of the Railways Act, as amended by the Railways (Amendment) Act, 2008, was published in the Gazette of India notifying its intention to acquire the land situate in district Aligarh for carrying out special railway project, namely, Eastern Dedicated Freight Corridor. Plot No. 270 was also included in the notification. The substance of notification

was also published in local newspaper "Amar Ujala" dated 6th March, 2009. The declaration of acquisition as contemplated by Section 20E of the Railways Act was issued by gazette notification dated 15th February, 2010 published in the gazette of India Extra Ordinary dated 18th February, 2010. The substance of notification dated 15th February, 2010 was also published in the newspapers on 4th March, 2010. The petitioner claimed to have filed objection on 26th March, 2010. The award was passed by the Special Land Acquisition Officer on 19th January, 2011. The petitioner, after coming to know about the award, made an application to the Special Land Acquisition Officer requesting that Plot No. 270/2 should not be acquired and an application to above effect was submitted by the petitioner on 16th March, 2012. The petitioner was communicated by letter dated 23rd March, 2012 that objection raised by the petitioner after 29th February, 2010 cannot be accepted since the land acquisition was proposed keeping in view the alignment of railway track after considering all technical aspects, hence the land of the petitioner cannot be exempted from acquisition. The petitioner has come up in this writ petition challenging the entire acquisition proceedings as well as the order dated 23rd March, 2012.

3. Sri Ashish Agrawal, learned counsel for the petitioner, challenging the entire acquisition proceedings, has submitted that notification u/s 20A of the Railways Act having been published on 10th February, 2009 and declaration u/s 20E(1) having not been published within one year from 10th February, 2009, the entire acquisition has lapsed and ceased to have any effect by virtue provisions of Section 20E(3) of the Railways Act. He submits that the relevant date for reckoning one year period for publication of declaration u/s 20E(1) is the date when notification u/s 20A(1) was published i.e. 10th February, 2009 and the declaration having been published on 15th/18th February, 2010, the notification dated 10th February, 2010 shall cease to have any effect and the entire acquisition proceedings deserve to be set-aside on this ground alone. He further submits that the date of publication of substance of notification in local newspapers as contemplated u/s 20S(4) of the Railways Act is not relevant for reckoning the period of one year. He further submits that requirement of publication of substance of the notification u/s 20A(4) is only procedural requirement and non compliance of the same may have different consequences but the said publication is not relevant for reckoning the period of one year. He has placed reliance on a judgment of the Apex Court in the case of Dedicated Freight Corridor Corporation of India Vs. Subodh Singh and Others, .

4. Sri S.P. Gupta, learned Advocate General, refuting the submissions of learned counsel for the petitioner, contends that relevant date for start of limitation is the date when substance of notification is published in local newspapers and the publication in the local newspapers having been made on 6th March, 2009, the declaration issued by notification dated 15th February, 2010 published on 18th February, 2010 is within the period of one year. He submits that Section 20A(4) mandates publication of substance of notification in the newspapers and the publication of notification u/s 20A(1) shall be complete only when the substance

is published in the local newspapers. He submits that the judgment of the Apex Court in Dedicated Freight Corridor's case (supra) is not applicable in facts of the present case since in the said case the Apex Court was considering the provisions of Section 20E(1) in context of Sections 20F(2) and (4) of the Railways Act. Sri Gupta has also placed reliance on judgments of Gujarat High Court and Rajasthan High Court considering Sections 20A and 20E of the Railways Act and submitted that Gujarat High Court and Rajasthan High Court have taken the view that running of limitation of one year period shall start from the date when the notification u/s 20A(1) is published in local newspapers.

5. Sri Govind Saran, learned counsel for the Railways, has adopted the submissions raised by Sri S.P. Gupta and submitted that declaration u/s 20E(1) has been issued within the period of limitation and there is no error in issuing the declaration. Sri Saran has also placed reliance on the judgments of Gujarat High Court and Rajasthan High Court in support of his submissions.

6. We have considered the submissions of learned counsel for the parties and have perused the record.

7. Before we proceed to consider the rival submissions raised before us, it is useful to have a look on the statutory provisions of the Railways Act.

8. Chapter-IVA has been inserted in the Railways Act by Act No. 11 of 2008 providing for "Land Acquisition for a Special Railway Project". Section 20A relates to power to acquire land, Section 20B contains power to enter for survey, Section 20C provides for evaluation of damages during survey, measurement etc, Section 20D deals with hearing of objection and Section 20E deals with declaration of acquisition. Sections 20A, 20D and 20E, which are relevant in the present case, are as follows :

20-A. Power to acquire land, etc.-(1) Where the Central Government is satisfied that for a public purpose any land is required for execution of a special railway project, it may, by notification, declare its intention to acquire such land.

(2) Every notification under subsection (1), shall give a brief description of the land and of the special railway project for which the land is intended to be acquired.

(3). The State Government or the Union territory, as the case may be, shall for the purposes of this section, provide the details of the land records to the competent authority, whenever required.

(4) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which shall be in a vernacular language.

20-D. Hearing of objections, etc.--(1) Any person interested in the land may, within a period of thirty days from the date of publication of the notification under sub-section (1) of Section 20-A, object to the acquisition of land for the

purpose mentioned in that sub-section.

(2) Every objection under sub-section (1), shall be made to the competent authority in writing, and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.--For the purposes of this sub-section, "legal practitioner" has the same meaning as in clause (i) of sub-section (1) of Section 2 of the Advocates Act, 1961 (25 of 1961).

(3) Any order made by the competent authority under sub-section (2) shall be final.

20-E. Declaration of acquisition.--(1) Where no objection under sub-section (1) of Section 20-0 has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification, that the land should be acquired for the purpose mentioned in sub-section (1) of Section 20-A.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of Section 20-A for its acquisition, but no declaration under sub-section (1) of this section has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect:

Provided that in computing the said period of one year, the period during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of Section 20-A is stayed by an order of a Court shall be excluded.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any Court or by any other authority.

9. As noted above, the bone of contention between the parties is as to whether one year period provided for issuance of declaration u/s 20E(1) of the Railways Act shall begin from the date of notification issued u/s 20A(1) or from the date when the cause of substance of notification is published in the local newspapers. Section 20A(1) provides that where the Central Government is satisfied that for a public purpose any land is required for execution of a special railway project, it may by notification declare its intention to acquire such land. Sub-section (4) of Section 20A mandates that competent authority shall cause the substance of the

notification to be published in two local newspapers.

10. Section 20D of the Railways Act, which provides for hearing of objection, contemplates that any person interested in the land may, within a period of thirty days from the date of publication of the notification under sub-section (1) of Section 20A of the Railways Act, object to the acquisition of land. Section 20D uses the phrase "... 30 days from the date of publication of notification under sub-section (1) of Section 20A".

11. Section 20E(3) provides that where a notification has been published under sub-section (1) of Section 20A and no declaration has been published within a period of one year from the date of publication, the said notification shall cease to have any effect. Section 20E(3) also uses the phrase "from the date of publication of that notification". The words "that notification" obviously refer to notification under subsection (1) of Section 20A. Both the Sections 20D(1) and 20E(3) contemplate "publication of notification" issued under subsection (1) of Section 20A. The word "notification" has been defined in Section 2(26) of the Railways Act in following manner :

2(26) "Notification" means a notification published in the Official Gazette.

12. The notification u/s 20A(1) is thus required to be published in the official gazette. The word "notification" itself inhere the concept of publication in the official gazette that is why in Section 20A(1) of the Railways Act the legislature had not used the words "publication of the notification in the official gazette" because publication in the official gazette is already contemplated in the word "notification". In sub-section (4) of Section 20A the legislature has provided for publication of the substance of the notification in two local newspapers. The words "notification to be published" have been used in sub-section (4). Sections 20D(1) and 20E(3), as quoted above, use the phrase "publication of the notification". The use of the words "notification to be published" in Section 20A(4). has to be given some meaning because legislature does not waste a single word or use any superfluous word in a statute which is one of the accepted principles of statutory interpretation.

13. The interpretation, which we have put to the words "notification to be published" as used in Section 20A (4) has to be tested in another manner also. Suppose u/s 20D(1), which also uses the words "publication of the notification", the date of notification as published in the official gazette u/s 20A(1) is taken for the start of period of 30 days of limitation for filing an objection, the land owner may not see gazette publication and thus shall be deprived of exercising his right of objection within 30 days and in the event the publication of substance of notification is after one month from the date of publication of notification in the official gazette, he may have no right of objection even though he may file an objection within 30 days from the date the substance of notification was published. Putting this interpretation to Section 20D(1) shall obviously defeat the purpose and object of providing 30 days time to a land owner to submit his

objection to the proposed acquisition of land. Thus we have no doubt that the words "publication of the notification" occurring u/s 20D(1) has to be interpreted to mean the publication of substance of the notification as contemplated by Section 20A(4). If any other meaning is put to the aforesaid words that will defeat the very purpose and object of Section 20D of the Railways Act.

14. When for the purposes of Section 20D the words "publication of the notification" are to be treated to be publication of substance of the notification in two local newspapers, we cannot impute any other meaning of the words "publication of the notification" u/s 20E(3) since Section 20E(3) also uses the same words "publication of the notification". The embargo in issuing declaration u/s 20E(1) has been put with the object and purpose that declaration u/s 20E be issued within a period of one year so that the proceeding may not keep on hanging for a period longer than one year. One year period has been prescribed keeping in view the statutory scheme which provides for filing of objection within one month giving opportunity by the competent authority to an objector and after deciding the objection filed u/s 20D(1). In series of the events beginning from declaration of intention by the Central Government to acquire land by notification all steps have to be given meaning and purpose. The submission of the learned counsel for the petitioner that subsection (4) of Section 20A is only procedural and may have different consequences but is not relevant for reckoning the limitation, cannot be accepted.

15. The Apex Court had occasion to consider as to whether publication of the substance of notification is mandatory or not u/s 4 of the Land Acquisition Act, 1894 in the case of State of Haryana and Another Vs. Raghubir Dayal, . Section 4 of the Land Acquisition Act, 1894 provides for publication of the notification in the official gazette as well as in two daily newspapers and also public notice of the substance of notification in the locality. Following was laid down by the Apex Court in paragraph 4 of the said judgment:

4.....It is true that the publication of the substance of the notification u/s 4(1) in the locality is mandatory. The object of publication of notification u/s 4(1) is that the owner of the land sought to be acquired has to exercise his valuable right to file his objections u/s 5-A. The publication of the substance of such notification in the locality must, therefore, be mandatory.

16. The Apex Court had also occasion to consider the question as to which is the date to be taken for reckoning the period of limitation for issuing a declaration u/s 6 of the Land Acquisition Act, 1894 in several cases. In the case of Krishi Utpadan Mandi Samiti and Another Vs. Makrand Singh and Others, , the Apex Court laid down following in paragraphs 4 and 5:

4. The question, therefore, is that which date of the publications in three steps i.e. publication in the Gazette, two news papers and local publication to be the last date for the purpose of computing three years limitation prescribed in Clause (i) of the proviso to Section 6(1) of the Act. Prima facie, it gives an impression

that the last of any of the three steps puts in motion, the running of limitation of three years. But on deeper probe, it does not appear to be so and such a construction would easily defeat the public purpose and deflects the course of justice. So it is necessary to understand the scheme and policy of the Act to get the crux of the question. It is seen that Sub-section (1) of Section 4 gives power of eminent domain to the State to acquire the land, whenever it appears to it that the land is needed or likely to be needed for any public purpose or for any company, by a notification published in the official gazette and two daily newspapers circulating in that-area and at least one of them should be in the regional language and also the Collector is enjoined to cause public notice of the substance of notification to be given at convenient places in the said locality in which the land is situated. It is also mentioned thereunder that the last date of such publication and the giving of such public notice "being hereinafter referred to " as the date of publication of the notification. It would be seen that the purpose of notification u/s 4(1) is an intimation to the owner or person having an interest in the land that Government exercised the power of eminent domain in relation to his land and for public purpose his land is needed or likely to be needed; puts an embargo on his freedom to deal with the land as an unencumbered land and also pegs the price of the land prevailing as on that date. It also is a caveat to the Collector to make the award u/s 11 as well as to determine the market value prevailing as on the last of the dates to be the date and the award should be made within a period prescribed by Section 11-A. Lest the entire acquisition shall stand lapsed. The word "hereinafter" is for such purposes as well as for the purpose of determination of the compensation under Chapter III of the Act as well. Therefore, the word "hereinafter" referred to as the last date of the publication of the notification is the date from which the prevailing prices of the land is to be computed etc.

5. Clause (i) of the proviso to Section 6(1) mandates the publication of the declaration in the official gazette and it should be within three years from the date of the publication of the notification u/s 4(1) i.e. the last of the dates referred to in Section 4(1). The word "publish" emphasises the act accomplished i.e. declaration u/s 6(1) being published in the official Gazette. The last date u/s 6(2) shall be the date for the purposes "hereinafter referred to" would be not for computing the period of three years prescribed in Clause (i) of proviso to Section 6(1) of the Act as it was already done, but purposes to be followed hereinafter. Otherwise language would have been "hereinbefore done". Sub-section (2) as such did not prescribe any limitation within which the declaration u/s 6(1) or other steps hereinafter to be taken, in other words, the steps to be taken thereafter in making the award u/s 11 or in computation of the period prescribed in Section 11A. The publication of the declaration" in two daily newspapers having circulation in the locality one of which in the regional language and the publication of the substance of the declaration in the locality are ministerial acts and is a procedural part. It appears that these publications are required to be done to make the declaration published in the manner, to be conclusive evidence

of the public purpose u/s 6(1) and also to provide limitation to make the award u/s 11 by the Collector. In other words, the limitation prescribed u/s 11A is for the purpose of making the award and if the Collector fails to do so, the entire proceeds u/s 4(1) and 6(1) shall stand lapsed. If this consistent policy of the Act is understood giving teeth to the operational efficacy to the scheme of the Act and public purpose the Act seeks to serve, we are of the considered view that publication in the official gazette already made under Clause (i) of proviso to subs.(1) of Section 6 is complete, as soon as the declaration u/s 6(1) was published in the official gazette. That will be the date for the purpose of computation of three years period from the last of the dates of the publication of the notification u/s 4(1). The procedural ministerial acts prescribed under sub-section (2) are only for the purpose of the procedure to be followed "hereinafter", In other words, the steps to be taken subsequent to the publication of the declaration u/s 6(1) of the Act. We cannot agree with Sri Rana, the learned senior counsel, that the date of making the declaration by the Secretary to the Government or the authorised officer is the date for computing period of three years. Equally, we cannot agree with the learned counsel for the respondents, Sri Padhaya, that publication of the substance being the last date from which the period of three years needs to be computed. Acceptance of either contention would easily defeat the public policy under the Act by skillful manner or management with the lower level officials. The High Court, therefore, was not right in its conclusion that since declaration was published in the newspapers on June 4, 1987, after the expiry of three years, the declaration u/s 6(1) and the notification u/s 4(1) stood lapsed. It is clearly illegal. The further contention of the learned counsel for the respondent that other contention raised in the writ petitions need to be dealt with and so the cases need to be remanded; has no force for the reason that though they were pleaded but the parties have chosen to argue only the above contention. So it is not a fit case for remand. The writ petitions would stand dismissed. The appeals are accordingly allowed but in the circumstances without Costs.

17. Similar was the view taken by the Apex Court in the case of *Eugenio Misquita and Others Vs. State of Goa and Others*, .

18. Much reliance has been placed by the learned counsel for the petitioner on the judgment of the Apex Court in *Dedicated Freight Corridor's case* (supra). In the said case the Apex Court had occasion to consider Section 20E and 20F of the Railways Act. It is useful to note the facts of the said case and issues decided. The notification u/s 20A was issued and thereafter declaration u/s 20E(1) was issued on 12th December, 2008 (gazetted on 16th December, 2008). The public notice referring to the notification dated 12th December, 2008 was published in the newspapers on 20th February, 2009. An order was passed by the competent authority determining the compensation u/s 20F(1) on 8th February, 2010. The acquisition was challenged before the Apex Court and it was contended that since the award was published one year after the publication of substance in newspapers, the acquisition proceeding lapsed as contemplated by

Section 20F(2). The Apex Court considered the issue in context of Sections 20E and 20F. One of the questions which was framed for consideration was, "Whether the period of one year, stipulated u/s 20-F(2) of the Act, for making the award, has to be reckoned from the date of publication of the declaration u/s 20-E(1) of the Act in the Official Gazette or from the date of any subsequent publication of the declaration in newspapers". The Apex Court in the said judgment had laid down that for purposes of computing period of one year for making an award as contemplated by Section 20F(2), the date of declaration u/s 20E(1) has to be taken a beginning point of limitation and the date of publication of substance of notification is not relevant. There cannot be any dispute to the proposition laid down by the Apex Court in the aforesaid case. It is also relevant to note that Apex Court while considering the issue of beginning point for reckoning the limitation for giving the award has also referred to Section 20A(4) and has laid down that there is a contrast in the statutory scheme as laid down by Section 20A(4) as well as the scheme as laid down in Section 20F which is clear from the observations of the Apex Court made in paragraph 6 of the said judgment. Paragraph 6 of the said judgment is reproduced below:

6. Sub-section (1) of Section 20E of the Act provides that the central Government shall, on receipt of the report of the competent authority, declare by notification that the land should be acquired for the purpose mentioned in Section 20A(1). Sub-section (2) of Section 20E of the Act provides that on the publication of such declaration by notification, by the central Government, under sub-section (1), the lands shall vest absolutely in the central Government free from all encumbrances. Clause (26) of Section 2 defines "notification" as a notification published in the official gazette. Section 20E thus requires the notification to be published only in the official gazette. The section does not require the notification of declaration to be published in any newspaper or by any other mode. By way of contrast, we may refer to Section 20A(4) relating to preliminary notification and 20F(4) relating to public notice inviting claims before making the award of the Act. Section 20A(4) requires that in addition to publication of a notification by the central Government, of the declaration of its intention to acquire any land, the competent authority shall cause the substance of the notification to be published in two local newspapers one of which will be in a vernacular language. Section 20F(4) of the Act requires that before proceeding to determine the compensation, the competent authority shall give a public notice in two local newspapers inviting claims. Wherever newspaper publication is required, it has been specifically provided by the legislature. The absence of a similar provision in Section 20E for publication in newspapers, makes it clear that the publication of the declaration u/s 20E(1) is complete when it is published in the official gazette. The publication of the notification u/s 20E(1), or its substance, in any newspaper, is not therefore a requirement under the Act. Even if it is published in any newspaper, such publication will be only for general information and will not serve any purpose under the Act.

19. The ratio of the judgment of the Apex Court, as quoted above, clearly

distinguishes the statutory scheme u/s 20A in context to Section 20E and statutory scheme of Section 20F in context to Section 20E. The Apex Court in the said case was considering the starting point of limitation for purposes of Section 20F(2) which is entirely different from the scheme given u/s 20A. Thus the aforesaid judgment does not help the petitioner in the present case and is clearly distinguishable, rather the said judgment supports the interpretation which has been put by us of Section-20A(4) where while referring to Sections 20E and 20A(4) following was observed,".....By way of contrast, we may refer to Section 20A(4) relating to preliminary notification and 20F(4) relating to public notice inviting claims before making the award...". Thus the Apex Court itself has also referred to provisions of Section 20A(4) as contrast to statutory scheme u/s 20F.

20. Now we come to the judgment of the Rajasthan High Court and Gujarat High Court relied by the learned Advocate General. The Gujarat High Court in Special Civil Application No. 6097 of 2010 (Raghjibhai Kanjibhai Kharsan v. Union of India) decided on 17th January, 2011 had considered the same issue which has come up in the present case as to whether the period contemplated u/s 20E(3) of the Railways Act is to be reckon from the date of publication of the notice in gazette or from the date of publication of the notification in the newspapers. The facts of the said case were noted in paragraph 4 of the judgment, which is quoted below:

4. As noted hereinabove, the notification was published in a gazette on 10.2.2009 under sub-section (1) of Section 20A. But, this very notification was published in newspaper on 27.2.2009. Whereas, the notification under sub-section (3) of Section 20E was published on 24.2.2010. The contention of the petitioner is that if one year is to be reckoned from the date of publication of the notification in a gazette, one year has already expired on 9.2.2010 and therefore, this notification u/s 20E(3) is beyond the period prescribed and therefore, notification dated 10.2.2009 shall cease to have any effect.

21. The Gujarat High Court after considering the rival submissions laid down following in paragraphs 8, 8.1, 9 and 10, which are as under :

8. The Court after giving thoughtful consideration to the rival submissions of the learned advocates for the parties, is of the opinion that requirement under the law of "publishing notification in a newspaper" is not an empty formality. It is definitely with "a purpose" and that "purpose" is that the public at large takes "note" of the same and "acts" on the same. That being so the date of publication in newspaper is to be given due recognition. This recognition can be given by reckoning the period prescribed from the date of publication of notification in a newspaper.

8.1. Learned advocate for the respondent authorities submitted that the Act being recent one, i.e. of 1989, he is not able to lay hand on any decision wherein period for publication of a notification u/s 20E(3) is reckoned from the date of publication of the notification u/s 20A(1) of the Act in a newspaper. He submitted

that if his submission that period be reckoned from the date of publication in newspaper is accepted, it is not going to cause any absurd result and it is not going to cause any prejudice either. In support of his submission that no prejudice is going to be caused to the petitioner, he submitted that though the notification was published in a Government gazette u/s 20A(1) on 10.2.2009 and the same was published in newspaper on 27.7.2009 till the filing of the petition, the petitioner has not filed any objection, as contemplated under the law, meaning thereby the petitioner has not objected to the acquisition of his land.

9. The learned advocate for the respondent Railways also submitted that the present acquisition of the land is for the purpose of Special Railway Project, Western Dedicated Freight Corridor, which is going to be as important as an "artery" in human body. He submitted that accepting the submission of the learned advocate for the petitioner will amount to allowing a too technical submission to frustrate the object of very important project.

10. The Court has found the submissions of learned advocate for the railway acceptable, and is convinced of the fact that in the matter of publication of the notification u/s 20E(3) of the Act, "the period is to be reckoned from the date of publication of the notification in a newspaper and not in a official gazette".

22. The Rajasthan High Court in S.B. Civil Writ Petition No. 9839 of 2011 (Pushpa Devi Maloo v. Land Acquisition Officer and others) decided on 2nd April, 2012 had considered the same issue and laid down following in paragraphs 8 and 9 :

8. Consequently, for the purpose of a declaration u/s 20E(1), the period of one year within which such a declaration has to be made is to be reckoned from the date of publication of the substance of notification u/s 20A(4) in two local newspapers which completes the Section 20A of the Act of 1989 process. The language of Section 20E(3) of the Act of 1989 also mandates that a declaration u/s 20E(1) has to be made within one year from the publication of the acquisition proceedings u/s 20A(4) of the Act of 1989. Publication of the notification is u/s 20A(4) of the Act of 1989 and has to be contra-distinguished from the gazetting of the notification u/s 20A(1) of the Act of 1989 and not confused with it. Hence Section 20E(3) of the Act of 1989 also provides that the period will be reckoned from the date of publication of the notification. I find no force in the contention of the counsel for the petitioner that the publication of the notification referred to sub-section 3 of Section 20E of the Act of 1989 pertains to the gazetting of the notification with reference to Section 20A(1) of the Act of 1989 and not to publication thereof u/s 20A(4) thereof. If the notification u/s 20A of the Act of 1989 were to be complete only on being gazetted, there would be no requirement in Sub-section 4 of Section 20A of the Act of 1989 of its publication. In my considered view, the word publication under sub-section 3 of Section 20E of the Act of 1989 refers to the publication under sub-Section 4 of Section 20A of the Act of 1989.

9. In the aforesaid context, the substance of the notification u/s 20A(1) of the

Act of 1989 having been published on 21/22.6.2009 and the declaration u/s 20E(1) having been made on 23.1.2010 well within one year, it is wholly valid, legal and regular and no legal deficiency can be attributed thereto. This view also finds support in the judgment of the Gujarat High Court in the case of Raghjibhai (Supra). As far as the contention of the counsel for the petitioner with regard to the judgment of the Hon"ble Supreme Court in the case of Dedicated Freight Corridor Corporation of India (Supra) is concerned, I am afraid that the said judgment is of no succour to the petitioner as the said judgment only seeks to interpret Section 20E(1) of the Act of 1989 with reference to the making of an award u/s 20F(2) of the Act of 1989 and has no manner of concern or relation to the interpretation of Section 20A(1) and Section 20A(4) of the Act of 1989 juxtaposed to Section 20E(3) of the Act of 1989. The issue in the present writ petition is totally foreign to the matter before the Hon"ble Supreme Court.

23. Against the judgment of the learned Single Judge of Rajasthan High Court in Pushpa Devi's case (supra), special appeal was filed before the Division Bench and the Division Bench dismissed the appeal by affirming the view of the learned Single Judge in Pushpa Devi's case (supra). The judgment of the Division Bench dated 18th May, 2012 was in D.B. Special Appeal (Writ) No. 566 of 2012. The Division Bench after considering the provisions of Sections 20A(1), 20A(4), 20E(1) and 20E(3) had laid down following in paragraphs 15, 16 and 17 :

15. A conjoint reading of sub-sections (2) to (4) of Section 20A makes it clear that unless a notification, which is issued under sub-section (1) gives a brief description, as required under sub-section (2) and unless the details thereof is furnished to the competent authority, as required under sub-section (3) and unless the said notification is published by the competent authority in two local newspapers, one of which shall be in a vernacular language, the proceedings u/s 20A of the Act cannot be said to be completed. If any of the chain between sub-sections (1) to (4) of Section 20A is missing then the notification issued under sub-section (1) can be declared as illegal or vitiated. The notification, which is issued and published in Gazette of India under sub-section (1) is required to be published in two local newspapers also by the competent authority under sub-section (4), one of which shall be in a vernacular language also. Therefore, the period of one year used in sub-section (3) of Section 20A of the Act will commence from the date of publication of two local newspapers, one of which shall be in a vernacular language under subsection (4) of Section 20A and not from the publication of notification in Gazette of India alone under sub-section (1) of Section 20A of the Act.

16. Now, we examine the contention of learned counsel for the appellant that the words "published under sub-section (1) of Section 20A for its acquisition" used in sub-section (3) of Section 20E are concerned, the later part of this sub-section (3) has used the words "within a period of one year from the date of publication of that notification". These words "from the date of publication of that notification" make it abundantly clear that the notification has to be published

not only in the Gazette of India, as required under sub-section (1), but it has to be published under sub-section (4) of Section 20A of the Act. If the notification was not required to be published in two daily newspapers, one, in vernacular language, then there was no necessity to introduce sub-section (4) in Section 20A and further there was no necessity to use, word, "publication of that notification" in sub-section (3) of Section 20E of the Act. The legislature has intentionally used the word "publication" in sub-section (3) of Section 20E. If notification was required to be published in Gazette only, then using of word "notification" was sufficient, as word notification has already been defined u/s 2(26) that, it means notification published in the Official Gazette. Therefore, the limitation of one year for the purpose of issuance of declaration for acquisition u/s 20E of the Act will commence from the date of last publication of the notification in two local newspapers, one which shall be in a vernacular language. It is pertinent to mention that unless the notification is published in two local newspapers, one of which shall be in a vernacular language, the publication of notification under sub-section (1) of Section 20A cannot be said to be completed. In these circumstances, we find no force in the submission of learned counsel for the appellant. Since notification u/s 20A(1) was issued on 6th November, 2008, it was published in two local newspapers including a paper in a vernacular language on 21st June, 2009 and 22nd June, 2009 and notification/declaration u/s 20E of the Act was issued on 23rd January, 2010, therefore, it was well within time. The period of limitation of one year in the present case will commence from 22nd June, 2009. The notification u/s 20E was issued on 21st January, 2010 and it was published in Gazette of India on 23rd January, 2010, therefore, it was well within time, the same view has been taken by the learned Single Judge while dismissing the writ petition of the petitioner. We find that the reasons assigned by learned Single Judge are absolutely legal and justified and no interference in the same is called for.

17. Learned counsel for the appellant also submitted that the notification was earlier issued for land to be acquired for Chomu, Mujaamad and Phulera but another or the second notification was issued only in respect of Chomu and Mujaamad and not for Phulera. The petitioner is aggrieved only in respect of land situated in Phulera and since there is no second notification for Phulera, therefore, proceedings are vitiated. We do not find any substance in the submission of learned counsel for the appellant in this regard. There is no bar in issuing another or second notification. He is required to challenge the notification on the basis of relevant provisions of law. He has not pointed out any illegality in issuance of the notification. Therefore, we find no force in his this submission also.

24. The submission of learned Advocate General thus finds full support from the aforesaid decisions of the Gujarat High Court and Rajasthan High Court.

25. In view of foregoing discussions. We are of the view that declaration issued u/s 20E(1) of the Railways Act, dated 15th February, 2010 published in the gazette

on 18th February, 2010 was well within one year from the date of publication of substance of notification i.e. 6th March, 2009. Thus the prayer of the petitioner for quashing the entire acquisition proceeding on the aforesaid ground cannot be accepted. In view of the above, we do not find any error in the declaration dated 15th February, 2010 u/s 20E(1) gazetted on 18th February, 2010 and none of the prayer of the petitioner can be allowed.

The writ petition is dismissed.