
(1975) 07 KAR CK 0010
In the Karnataka High Court
Case No : Writ Petition No. 2625 of 1974

K. Nanjundappa

APPELLANT

Vs

The State of Karnataka and Another

RESPONDENT

Date of Decision : 02-07-1975

Acts Referred:

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

Citation : AIR 1976 Kar 40 : (1975) 2 KarLJ 202

Hon'ble Judges : E.S. Venkataramiah, J

Bench : Single Bench

Advocate : C.B. Srinivasan, for the Appellant; M. Ramakrishna, Government Pleader, for the Respondent

Judgement

1. The petitioner who is the owner of a certain piece of land situated in Kinkier Village in Gowribidanur Taluk, has filed this Writ Petition questioning the notification issued by the State Government declaring that a portion of his land is acquired for public purpose, that is, for opening a feeder channel from the river Kumudwathi to Mudigere Tank.

2. The first contention urged in support of the petition is that the declaration made u/s 6 of the Land Acquisition Act, is contrary to law, because the declaration is made beyond the period prescribed u/s 6 of the said Act. The Notification u/s 4 of the Land Acquisition Act was published in the Mysore Gazette on 22-4-1971. The declaration is made by the State Government on 17-4-1974. The declaration, is however, published in the Mysore Gazette on 2-5-1974. It is contended on behalf of the petitioner that when the interval between the date of publication of the notification u/s 4(1) and the date of publication of the declaration u/s 6 of the Act, is more than three years the declaration would be ineffective. I do not think that there is any substance in this contention. Section 6 of the Act provides that no declaration shall be made after expiry of three years from the date of publication of notification u/s 4(1) in the Gazette. It does not say that the publication of declaration in the Gazette should

be made within three years from the date of publication of notification u/s 4(1) of the Act. The relevant date for purpose of determining the validity of land acquisition proceedings that should be taken into consideration is the date on which the Government makes the declaration and not date on which the declaration is published in the Gazette. In the circumstances of the case, it has to be held that Section 6 has not been contravened by the State Government.

3. The next contention is that the declaration which was contrary to the recommendation said to have been made by the Land Acquisition Officer should be declared as invalid. As mentioned earlier, the acquisition of the land belonging to the petitioner, which according to him, measures in all 111/2 guntas, was intended for the purpose of opening a feeder channel from a river to a tank. Along with the land belonging to the petitioner, several other bits of lands have been acquired for the purpose of this channel. It is for the State Government to decide whether the land is intended for the public purpose or not. In the absence of any allegations of mala fides a declaration made by the State Government that the land is intended for public purpose cannot be questioned in Court. The fact that the Land Acquisition Officer had made recommendation that there was no necessity to acquire the land, would not be of any assistance to the petitioner as u/s 6, the decision of the State Government is conclusive on that question.

4. There is no substance in the third contention urged by the petitioner that he was not given reasonable opportunity to make his submission before the Land Acquisition Officer. The records disclose that he was notified by the Land Acquisition Officer and the petitioner has filed his representation before him. It is also seen that he has appeared before the Land Acquisition Officer through his counsel.

5. In the result, this petition fails and is dismissed. No order as to costs.

6. Petition dismissed.