
(2003) 12 KL CK 0014
In the High Court Of Kerala
Case No : W.A. No. 2090 of 2003

Narayanan

APPELLANT

Vs

Land Revenue Commissioner

RESPONDENT

Date of Decision : 17-12-2003

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4(1)

Citation : (2004) 1 ILR (Ker) 528 : (2004) 1 KLT 561

Hon'ble Judges : K. Padmanabhan Nair, J; Cyriac Joseph, J

Bench : Division Bench

Advocate : P. Chandrasekhar, for the Appellant; K.V. Sadananda Prabhu and P.V. Lonachan, Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Cyriac Joseph, J.—This Writ Appeal is filed against the judgment dated 24.11.2003 in W.P. (C) No. 36879 of 2003 which was dismissed by the learned Single Judge. The appellant is the petitioner in the Writ Petition.

2. The appellant claims to be a businessman conducting a hotel business in shop room No. 376 of Parappanangadi Panchayat. The said shop room is owned by the 4th respondent and the appellant is the tenant of the building. The appellant filed the Writ Petition challenging Ext. P4 notification issued u/s 4(1) of the Land Acquisition Act, 1894 proposing to acquire certain lands for the construction of a railway over bridge at Parappanangadi. It is stated that the land and the building occupied by the appellant as tenant are proposed to be acquired. The learned Single Judge dismissed the Writ Petition holding that the writ petitioner being a tenant occupying the building has no right to object to the acquisition proceedings. According to the learned Single Judge, the appellant is not entitled to challenge the notification issued under Sections 4(1) and 17(4) of the Land Acquisition Act. Aggrieved by the dismissal of the Writ Petition, the writ petitioner has filed this appeal.

3. Having heard Mr. Chandrasekhar, learned counsel for the appellant and having considered the facts and circumstances of the case, we are inclined to agree with learned Single Judge that the appellant being a tenant of the building proposed to be acquired has no locus standi to challenge the notification issued under Sections 4(1) and 17(4) of the Land Acquisition Act. Learned counsel relied on the judgment of the Hon"ble Supreme Court in M/s. Neyveli Lignite Corpn. Ltd. Vs. Special Tahsildar (Land Acquisition), Neyveli and others, and contended that a liberal interpretation should be given to the expression "person interested". However, the appellant in the above mentioned case before the Supreme Court was the person for whose benefit the land was acquired and in that context the Supreme Court said that the expression "person interested" should be given a liberal interpretation. Even on giving a liberal interpretation for the expression "person interested", a tenant of the building proposed to be acquired cannot be considered as a "person interested". Hence the contention based on the above mentioned judgment of the Supreme Court has no merit.

4. Learned counsel also relied on the judgment of a Division Bench of Andhra Pradesh High Court in Katari Satyanarayana and others Vs. The District Collector, Krishna at Machilipatnam, . For convenience, paragraph 8 of the said judgment is extracted hereunder.

"The next question that follows is whether a tenant covered by the Andhra Tenancy Act is a "person interested". This can be answered on knowing whether he is entitled to claim an interest in compensation for the land. A tenant who is governed by the Andhra Tenancy Act is statutory tenant on whom certain rights have been conferred under the said Act- the lease is deemed to be in perpetuity; his rights are heritable and change in the ownership of the land does not affect them. His interest in the compensation for the land in case it is acquired is not quantified as is done under the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act - a tenant is entitled to 60% of the compensation of the land which he is holding as protected tenant-, but then the Court would have to determine the same in each case having regard to all the relevant factors. Therefore, a statutory tenant, in our view, would be a "person interested" and we see no reason why he should be denied the right to approach this Court under Article 226 of the Constitution".

It is clear that the question before the Andhra Pradesh High Court was whether a tenant covered by the Andhra Tenancy Act was a person interested. The High Court held that a statutory tenant would be a person interested. Such a view was taken by the Court in view of the fact that a tenant who is governed by the Andhra Tenancy Act is a statutory tenant on whom certain rights have been conferred under the said Act. For example, the lease is deemed to be in perpetuity, the rights of the lessee are heritable and change in the ownership of the land does not affect them. The judgment also indicates that such a tenant has an interest in the compensation for the land in case it is acquired. But in the case before us, the appellant has absolutely no interest in the compensation for

the building sought to be acquired and the appellant has no case that he has any such interest. Therefore, the appellant and the tenant covered by the Andhra Tenancy Act cannot be treated alike in deciding whether they are "persons interested". Hence the contention raised on the basis of the judgment of the Andhra Pradesh High Court also is devoid of merit.

5. In the above circumstances, the Writ Appeal has no merit and it is accordingly dismissed.