
(1988) 01 KL CK 0034
In the High Court Of Kerala
Case No : O.P. No. 6753 of 1985

Pierce Leslie India Ltd.

APPELLANT

Vs

Special Tahsildar (L. A.) and Others

RESPONDENT

Date of Decision : 04-01-1988

Acts Referred:

Kerala Land Acquisition Act, 1961 — Section 10, 3, 3(1), 5, 5(2)

Citation : (1988) 1 KLJ 111

Hon'ble Judges : K.S. Paripoornan, J

Bench : Single Bench

Advocate : V.V. Asokan, for the Appellant;

Final Decision : Dismissed

Judgement

K.S. Paripoornan, J.—The petitioner is a public limited company. It carries on the business of curing coffee etc. For the said business, it has its factory in Sy. No. 143/1 and 143/2 of Cheruvannur Village, Cheruvannur - Nallalam Panchayat at Kozhikode "District. The factory building, curing and garbling yard, workers rest rooms, canteen and others are all situate therein. Proceedings were initiated for the acquisition of a portion of the land in survey no. 143/2 for constructing staff quarters and office accommodation for Telephone Department. The notification u/s 3(1) of the Kerala Land Acquisition Act was promulgated as Ext. P2 dated 21st March 1983. Notice u/s 9(3) of the Act (Ext. P6) is dated 28-6-1985, which was followed up by Ext. P7, gazette publication dated 11-9-1984. In this Original Petition the challenge is against Exts. P2, P6 and P7. The only ground on which the acquisition proceedings are assailed is the non-specification of the land in Exts. P2, P6 and P7. It is stated that in R.S. No. 153/2, petitioner's property is being acquired. But in Ext. P2, which portion of the said survey number is going to be acquired is not exactly specified. The same vagueness continued in Exts. P6 and P7. So the acquisition is void. There is no force in this plea. Ext. P2 is the notification u/s 3 of the Land Acquisition Act. All that section 3 (1) of the Act contemplates is the promulgation of a notification to the effect that land in any

locality within the State of Kerala is needed or is likely to be needed for public purpose. After the promulgation of the said notification, it will be lawful to any officer authorised by the government or the Collector or any government servant under him to enter upon any property, survey the land, mark out the boundaries of the land proposed to be acquired and do such other things as is specified in section 3(1) of the Act. It is thereafter the filing of objections u/s 5 takes place. On the basis of the report made by the Collector u/s 5(2), if the Board of Revenue or the Government is satisfied that any particular land is needed for a public purpose, a declaration to that effect will be made. It is on the basis of this declaration, promulgated u/s 6, further proceedings u/s 9 and subsequent proceedings follow. All that is necessary at the stage when the notification u/s 3 is promulgated, is to specify "that land" in any locality within the Stage is needed or is likely to be needed for any public purpose. That will enable the officers of the Government to enter upon the land, survey the same and set out the boundaries etc. It is only when the declaration is promulgated u/s 6 of the Act, there is a duty cast on the authorities to specify that any "particular land" is needed for the public purpose. In this case, Ext. P2, notification u/s 3 (1) of the Act stated that O. 4047 hectares of land in R.S. No. 143/2 is needed for the public purpose. It is thereafter the officer of the Department surveyed the land and demarcated and specified the particular portion that was proposed to be acquired in the said, survey number. A separate sub division was given for the land proposed to be acquired as R.S. No. 143/4. On this basis, a declaration u/s 6 followed and Ext.P6 notification u/s 9 (3) read with section 10 of the Act was issued. Ext. P7 also contained the same details as in Ext. P6. Exts. P6 and P7 specified the "particular land" that was proposed to be acquired. It is true that in Ext.P2, the notification issued u/s 3(1) of the Act, the particular land proposed to be acquired was not exactly specified. But that is not contemplated by section 3(1) of the Act. It is only in the declaration u/s 6(1) of the Act the particular land" proposed to be acquired should be specified. There is no case that it is not specified in the declaration promulgated u/s 6 (1) of the Act which was followed if Exts - P6 and P7. The plea of the petitioner that particulars of land to be acquired is not specified and is uncertain is without force. As observed in Land Acquisition Officer v. Mathews Mar Ivanios (1975 KLT 584) page 586:

Section 3 notification of the Land Acquisition Act is clear that it is only after the issuance of the notification that the officers authorised by the Government or the Collector can enter upon and Purvey the land in the locality, work out the boundaries thereof and do all other acts necessary to ascertain whether the land is adopted for the purpose of the acquisition. It is only thereafter that the extent, measurement and boundaries of the land become crystallised and these are eventually effected in, the S. 6 declaration, after these operations are completed. In these circumstances, we are of the opinion that there is no merit in the objections that the S. 6 declaration takes an extent of land different from or at variance with what is covered by the S. 3 notification.

In the light of the above statement of law, the objections of the petitioner that

Exts. P2, P6 and P7 are void has no force. The Original Petition is without merits and is dismissed with costs. Counsel fee Rs. 1,000/-