

(2015) 09 DEL CK 0365

In the Delhi High Court

Case No : W.P. (C) 3037/2015 and C.M. No. 5430 of 2015

Premadhar Memorial Charitable Trust

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 01-09-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 5A, 6

Citation : (2015) 234 DLT 120

Hon'ble Judges : Badar Durrez Ahmed and Sanjeev Sachdeva, JJ.

Bench : Division Bench

Advocate : Rajesh Gupta, Harpreet Singh and Moolchand Verma, Advocates, for the Appellant; Anuj Aggarwal, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Badar Durrez Ahmed, J.—This writ petition pertains to Khasra No. 29//16/1 comprising 4 bighas and 10 biswas in Revenue Estate of Village Pansali, Delhi. The case of the petitioner is that the acquisition proceedings which were initiated by virtue of the notification dated 27.10.1999 issued under Section 4 of the Land Acquisition Act, 1894 have lapsed on account of the fact that the Section 6 declaration has not been made within the stipulated period of one year. Reliance has been placed on the decision of the Supreme Court in the case of Padmasundara Rao and Others Vs. State of Tamil Nadu and Others, , as also on the decision of this Court in Sunil Goel & Ors. v. State & Ors., W.P. (C) No. 3049/2013, decided on 29.4.2014. As mentioned above, the Section 4 notification was issued on 27.10.1999. This was followed by a declaration under Section 6 on 3.4.2000, that is, after five months and 6 days of the Section 4 notification. The said acquisition was challenged by the petitioner in this Court as well as before the Supreme Court and, ultimately, on 21.3.2012 the Supreme Court in Civil Appeal No. 3009/2012 quashed the said Section 6 declaration dated 3.4.2000. The Supreme Court, however, gave liberty to the respondents to invite objections under Section 5A of the said Act in respect of the Section 4

notification dated 27.10.1999 and proceed with the matter in accordance with law.

2. Thereafter, notices were issued inviting objections under Section 5A of the said Act and, ultimately, a fresh Section 6 declaration was issued on 20.3.2013, that is, exactly 12 months after the decision of the Supreme Court which was rendered on 21.3.2012. It is the case of the petitioner that the Section 6 declaration dated 20.3.2013 is also liable to be set aside on account of the fact that it has not been issued within one year of the notification under Section 4 . Initially a period of 5 months and 6 days had elapsed between the issuance of the notification under Section 4 and the first declaration under Section 6 . The second Section 6 declaration ought to have been completed within the balance period of 6 months and 24 days but, the respondents took a full 12 months to issue the declaration under Section 6 . In other words, even if the period is computed by giving benefit of the period spent before the High Court and the Supreme Court, the Section 6 declaration issued on 20.03.2013 was issued after 17 months and 6 days of the Section 4 notification, which is clearly beyond the period of one year prescribed in Section 6 of the said Act. This being the position, following the decisions in the case of Padma Sundara Rao (supra) and Sunil Goel (supra), the declaration under Section 6 of the said Act dated 20.3.2013 is quashed insofar as the petitioner is concerned. As a result, the notification dated 27.10.1999 being notification No. F. 10(29)/96/L & B/LA/11394 issued under Section 4 of the said Act insofar as the petitioner's land is concerned, would also be regarded as having lapsed. The writ petition is allowed as above. There shall be no order as to costs.