

(1991) 08 MAD CK 0069
In the Madras High Court

S. Balasubramanian

APPELLANT

Vs

Special Tahsildar (LA) III, Maraimalai Nagar Scheme and
Another

RESPONDENT

Date of Decision : 13-08-1991

Acts Referred:

Land Acquisition Act, 1894 — Section 11A

Citation : (1993) 1 MLJ 55

Hon'ble Judges : Nainar Sundaram, J

Bench : Single Bench

Judgement

Nainar Sundaram, J.—These writ appeals, which were dismissed earlier, for want of prosecution, have been restored today by orders passed by us in C.M.P. Nos. 9757 and 9758 of 1990.

2. These writ appeals are directed against the common order of the learned single judge in and by which he disposed of W.P. Nos. 3701 and 3702 of 1987. The challenge in the writ petitions was of the proceedings for acquisition under the Land Acquisition Act 1 of 1984, hereinafter referred to as the Act, and in doing that, there is a prayer to strike down Section 11-A of the Act as void. Two grounds were urged before the learned single Judge coveting interference in writ powers. The same grounds are being urged before us also. The first ground was that the award was not made within the time prescribed therefore by Section 11-A introduced into the Act by the Land Acquisition (Amendment) Act, 1984, hereinafter referred to as the Amendment Act. Section 11-A reads as follows:

11-A. Period within which an award shall be made : The Collector shall make an award u/s 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall

be made within a period of two years from such commencement.

Explanation : In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a court shall be excluded.

The declaration u/s 6 of the Act, in the instant case was made in 22.10.1977. The main part of Section 11-A enjoins the making of an award within the period of two years from the date of the publication of the declaration and further says, if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse. However, the proviso says that in a case where the said declaration has been published before the commencement the Amendment Act, the award shall be made within a period of two years from such commencement. The commencement of the Amendment Act was on 24.9.1984. The declaration here having come to be made before such commencement, the award could be made within a period of two years from the date of the commencement of the Amendment Act. That did happen here. Rightly, the learned single Judge discountenanced this ground of attack put forth on behalf of the petitioners, and we also repel it.

3. The second ground urged is that Section 11-A introduced into the Act by the Amendment Act has encouraged and maintained procrastination in the completion of acquisition proceedings, and as a result, the owner of the land acquired suffers on the question of compensation, which has got to be determined only as on the date of the notification u/s 4(1). The learned single Judge found that this contention has been repelled by him in an earlier pronouncement of his and on this ground chose to discountenance it. However, at the request of Mr. R. Ram Mohan, learned Counsel for the petitioner we proceeded to examine this contention on merits also, not concluding it on the earlier pronouncement of the learned single Judge. Learned Counsel for the petitioner would say that even though the declaration u/s 6 of the Act would have been made long back and the award comes to be made at a much later stage, compensation will be paid only as on the date of the publication of the notification u/s 4(1) of the Act and this will work undue hardship to the petitioner and that would amount to arbitrary deprivation of property. When we look into the statement of objects and reasons behind the Amendment Act, we could envisage and appreciate the scheme and framework of the provisions introduced by the Amendment Act and in our view, there are sufficient provisions balancing and ameliorating any complaint of hardship on account of delay. The statement of objects and reasons for the Amendment Act runs as follows:

Statement of objects and reasons : - With the enormous expansion of the State's role in promoting public welfare and economic development since independence, acquisition of land for public purposes, industrialisation, building of institutions, etc., has become far more numerous, than ever before. While this is inevitable, promotion of public purpose has to be balanced with the rights of the individual whose land is acquired, thereby often depriving him of his means

of livelihood. Again, acquisition of land for private enterprises ought not to be placed on the same footing as acquisition for the State or for an enterprise under it. The individual and institutions who are unavoidably to be deprived of their property rights in land need to be adequately compensated for the loss keeping in view the sacrifice they have to make for the larger interests of the community. The pendency of acquisition proceedings for long periods often causes hardship to the affected parties and renders unrealistic the scale of compensation offered to them. It is necessary, therefore, to restructure the legislative framework for acquisition of land so that it is more adequately informed by this objective of serving the interests of the community in harmony with the rights of the individual. Keeping the above objects in view and considering the recommendations of the Law Commission, the Land Acquisition Review Committee, as well as the State Governments, institutions and individuals, proposals for " amendment to the Land Acquisition Act, 1984, were formulated and a Bill for this purpose was introduced in the Lok Sabha on the 30th April, 1982. The same has not been passed by either House of Parliament. Since the introduction of the Bill, various other proposals for amendment of the Act have been received and they have also been considered in consultation with the State Governments and other agencies. It is now proposed to include all these proposals in a fresh Bill after withdrawing the pending Bill.

We have already extracted Section 11-A introduced by the Amendment Act and we have discussed its implications. By the Amendment Act, Sub-section (I-A) was also introduced into Section 23 relating to matters to be considered in determining compensation and Sub-Section (I-A) reads as follows:

(1-A). In addition to the market value of the land as above provided, the court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification u/s 4, Sub-section (1) in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Thus we find that Sub-section (I-A) contemplates the award of an amount calculated at the rate of 12 per cent per annum on the market value for the period commencing on and from the date of the publication of the notification u/s 4(1) in respect of such land to the date of the award or the date of taking possession of the land whichever is earlier, Prior to the Amendment Act, case law was replete even at the level of the highest court in the land, striking down acquisition proceedings on the ground of prejudice caused by delay. The Amendment Act has brought in redeeming provisions, and they, to a very great extent, ameliorate grievances with regard to delay. In our view, the provide adequate answers to this ground. Hence, we are not able to appreciate and sustain this grievance expressed by the learned Counsel for the petitioner to strike at Section 11-A of the Act. Thus, we uphold that decision of the learned single Judge and dismiss these two writ Appeals. No costs.