

(1994) 08 MAD CK 0083

In the Madras High Court

Case No : Writ Petition No. 11531 of 1984

Seethalakshmi/Ramakrishnananda

APPELLANT

Vs

The Special Tahsildar (LA) II, Bharathiyar University,
Coimbatore-18 and The State of Tamil Nadu

RESPONDENT

Date of Decision : 03-08-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 11A, 5A, 6, 9(3)

Citation : (1994) 08 MAD CK 0083

Hon'ble Judges : Mishra, J

Bench : Single Bench

Advocate : V. Ramasubramaniam, for the Appellant; P. Chandrasekaran, Additional Government Pleader on behalf, for the Respondent

Judgement

Mishra, J.—Petitioner is a purchaser for valid consideration of a piece of land in S. No. 68/2 in Somayam-palayam Village, Coimbatore, vide sale deed dated 29.8.1981. The said land has been subjected to a proceeding under the Land Acquisition Act and, the preliminary notification for the said purpose has been issued and published in the Tamil Nadu Government Gazette on 2.6.1982. According to the petitioner, she was shown as the owner of the said property in the proceedings after the preliminary notification including the enquiry u/s 5-A of the Act and she received no information or copies of the proceedings. Later, however, in the proceedings, a declaration u/s 6 of the Act has been made according to the petitioner on 9.4.1983/27.4.1983. She, however, received a notice u/s 9 (3) of the Act dated 28.4.1984 in May, 1984. She moved this Court accordingly on the ground that the proceedings have been held without affording to her opportunity of being heard and some other grounds. In W.M.P. No. 18477 of 1984, a learned Judge of this Court on 12.9.1985 has passed the following order:

Government Pleader reports that on verifying the plans, the extent involved in the writ petition is towards the peripheral portion under acquisition. Therefore, as

already directed on 29.8.1985, interim stay is made absolute, subject to the condition that the respondents could proceed with the acquisition proceedings and pass an award, but not to take possession without prior orders of this Court, In the course of taking further proceedings, it is entirely left to the discretion of the respondents to take note of the points taken in the writ petition, and if there are any infirmities as claimed, they could even be rectified, and thereafter proceed further with the matter. This order is confirmed only to the petitioner and none else.

2. It is seen from the said order that this Court has not stayed the proceedings and ordered only that the petitioner as a consequence of the acquisition shall not be dispossessed. It is conceded, however, before me that award has not yet been made.

3. Section 11-A of the Land Acquisition Act reads as follows:

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.

3-A. To a query why when this Court has indicated in the above order that proceedings should be completed, care has not been taken to abide by the time schedule as contemplated under the Act itself, Learned Counsel for the respondents has pointed out that the requisitioning authority has not yet made available the compensation money and until such compensation money is made available by the requisitioning authority, it is not possible to make the award. Be that as it may, this case in my opinion is fully covered by Section 11-A of the Act and the acquisition for the said reason has lapsed. Learned Counsel for the respondents has, however, pointed out that the period stipulated u/s 11-A of the Act has to be calculated after excluding the period consumed in the instant proceedings on account of the interim order aforementioned. There can be no exception to the rule that in case a proceeding is stayed by a competent Court of law, the period of limitation shall run only after the stay is vacated or when the matter is finally adjudicated by the Court. In the instant case, however, the above rule is obviously not applicable. There has been no stay ordered by the Court, which acted as an impediment to the proceedings for award. While no petitioner can take advantage of the order of stay on the one hand and the statutory limitation u/s 11-A of the Act on the other hand, the respondents similarly cannot come forward and say that since the petition has been admitted and is pending even though there is no order of stay, it has decided not to

proceed in accordance with law. For the reasons aforementioned, I am inclined to interfere with the proceedings of the respondents in G. O. Ms. NO. 694, Education, Science and Technology dated 9.4.1983 and published in Tamil Nadu Government Gazette dated 27.4.1983. The same is accordingly quashed. The Writ Petition is allowed. There shall be, however, no order as to costs.