
(1971) 09 KL CK 0002

In the High Court Of Kerala

Case No : Writ Appeal No. 63 of 1970

Special Tahsildar for Land Acquisition, Kozhikode and another

APPELLANT

Vs

P. Karthiayani Amma

RESPONDENT

Date of Decision : 15-09-1971

Acts Referred:

Kerala Land Acquisition Act, 1961 — Section 11, 12(2), 18(2), 18(2)(b), 20

Citation : (1971) KLJ 719

Hon'ble Judges : T.C. Raghavan, C.J;K.K. Mathew, J

Bench : Division Bench

Advocate : M.C. Sen, for the Respondent

Final Decision : Dismissed

Judgement

T.C. Raghavan, C.J.—A learned Judge of this Court allowed the writ petition filed by the respondent and quashed Ex. P 4 passed by the first appellant, the Special Tahsildar, rejecting the application of the respondent for reference u/s 20 of the Kerala Land Acquisition Act on the ground that the petition was barred. The Special Tahsildar and the Collector, the appellants, question the correctness of the said decision. The Special Tahsildar, after the award was passed issued Ex. P1, a notice u/s 12(2) of the Kerala Land Acquisition Act; and since the application for reference was not filed within six weeks of the said notice as contemplated by section 20(2)(b), first part, the application was rejected. The question for us to consider is whether the said decision of the Special Tahsildar was correct.

2. Two or three decisions have been brought to our notice. The first decision is Manavallabhan Karnamulpad v. State of Kerala (1965 K.L.J. 670) by a learned Judge of this Court. The second and third decisions are by the Supreme Court, the first in Raja Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer and Another, and the other in State of Punjab Vs. Mst. Qaisar Jehan Begum and Another, . In the first of these decisions, the Single Judge of this Court was considering section 12(2) of the Kerala Land Acquisition Act; and since

the relevant notice served on the landlord, who was the person interested, did not mention that fact, the learned Judge held that section 12(2) was not complied with. In the second decision cited, the Supreme Court was considering section 12(2) of the Indian Land Acquisition Act, which provision is the same as section 12(2) of the Kerala Act: and in considering the second part of section 18(2)(b), which corresponds to section 20(2)(b) of the Kerala Act, the Supreme Court held that the six months mentioned there should be six months from the date of knowledge, actual or constructive, by the person interested and not six months, mechanically, from the date of the award irrespective of knowledge-- And in the third decision, the Supreme Court was considering again the Indian Land Acquisition Act: and the Supreme Court referred to their earlier decision in Harish Chandra's case and observed:

Now, knowledge of the award does not mean a mere knowledge of the fact that an award has been made. The knowledge must relate to the essential contents of the award. These contents may be known either actually or constructively, if the award is communicated to a party under S.12(2) of the Act, the party must be obviously fixed with knowledge of the contents of the award whether he reads it or not. Similarly when a party is present in court either personally or through his representative when the award is made by the Collector, it must be presumed that he knows the contents of the award. Having regard to the scheme of the Act we think that knowledge of the award must mean knowledge of the essential contents of the award.

3. From the decisions of the Supreme Court, more particularly the later decision, the principle underlying section 12(2) and section 20(2) is clear; and that is that the interested party must have knowledge, actual or constructive, of the essential contents of the award, from which date alone limitation will start running against him limitation mentioned in section 20(2) of the Kerala Act section 18(2) of the Indian Act. If the person was present when the award was passed, it must be presumed that he knows the contents of the award: if a copy of the award was sent to him, then also he must be fixed with knowledge of its contents: the six months mentioned in the second part of clause (b) of section 20(2) starts from the date of knowledge, actual or constructive, of the essential contents of the award.

4. With this in mind, let us examine the position in the case before us. Ex.P1 is the notice sent by the Special Tahsildar to the respondent: and it mentions the survey number of the property of the respondent, its extent and the amount awarded. (Similar particulars of other properties belonging to others are also there.) Admittedly, there were improvements effected by the respondent for which also compensation was awarded. But Ex.P1 does not indicate as to what was the compensation for the improvements: it merely gives the total amount payable to the respondent. u/s 11 of the Act, an award should contain the true area of the land, the compensation which should be allowed for the land and the apportionment of the said compensation among all the persons known or

believed to be interested in the land, of whom, or of whose claims, the Collector has information. If there are improvements on the land, evidently, the compensation for the improvements should also form an essential content of the award, Looking at Ex.P1 in the light of section 11, we feel that it does not contain all the essential contents of the award. Since Ex.P1 is defective in this regard, sending Ex.P1 is not sufficient notice as contemplated by section 12(2). We sum up that the Collector need not necessarily send a copy of the award to the person interested; but it is necessary that all the essential contents of the award be made known to him by the notice. If that is done, there is a notice of the award as contemplated by section 12(2). In the light of the above discussion, it is clear that the decision of the Single Judge is correct. The decision is confirmed and the appeal is dismissed. However we do not pass any order regarding costs.