
(1996) 08 SC CK 0078

In the Supreme Court Of India

Case No : Civil Appeal No's. 11874-75 of 1996

State of Karnataka and Others

APPELLANT

Vs

D.C. Nanjudaiah and Others

RESPONDENT

Date of Decision : 26-08-1996

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1), 5A, 6, 6(1)

Citation : (1996) 7 AD 679 : (1996) 7 SCALE 117 : (1996) 10 SCC 619 : (1996) 5 SCR 222 Supp

Hon'ble Judges : K. Ramaswamy, J;G. B. Pattanaik, J

Bench : Division Bench

Advocate : M. Veerappa, for the Appellant;

Final Decision : Allowed

Judgement

1. We have heard learned Counsel for the appellant.

2. The controversy raised in this case is covered by the judgment of this Court in N. Narasimhaiah vs. State of Karnataka [(1996) 3 SCC 88] . The admitted facts are that notification u/s 4(1) of the Land Acquisition Act, 1894 was published on August 26, 1982 and enquiry u/s 5-A was conducted thereafter. But before the receipt of the report from the Land Acquisition Officer, the declaration u/s 6 was published on June 24, 1985 within three years. Two writ petitions were filed on December 10, 1985 challenging the notification u/s 4(1) and the declaration u/s 6. The High Court allowed the writ petitions and quashed the notification u/s 4(1) and declaration u/s 6 by the impugned judgment dated February 26, 1991 made in Writ Petition Nos. 19348 and 19349 of 1985. Thus, these appeals by special leave.

3. It is seen that the declaration u/s 6 was published within three years from the date of the notification u/s 4(1) as upheld by the High Court. But the High Court noted that the enquiry u/s 5-A was not properly conducted. The declaration u/s 6 dated June 24, 1985 quashed since the notification u/s 4(1) was dated August

26, 1982 and the declaration could not be published within three years even after excluding the period of pendency of the writ petitions under proviso to Section 6 of the Act, Thus, the notification u/s 4(1) was quashed. We find no justification for the view taken by the High Court. It is seen that declaration u/s 6 was published, as held by the High Court, within three years, but the conduct of the enquiry u/s 5-A was found fault with and it requires to be quashed. If it is quashed necessarily an enquiry u/s 5-A has to be conducted. The limitation, therefore, of conducting the enquiry and publication of the declaration within three years would start running from the date of the receipt of the order of the High Court and not from the date on which the original publication u/s 4(1) came to be made. This view was laid by this Court in Narasimiah's case (supra). For the same ratio, the appeals are to be allowed and the declaration has to be quashed. Accordingly the declaration is quashed. The appellant is permitted to conduct an enquiry within a period of four months from the date of the receipt of this order and have the declaration published within one month thereafter.

4. The appeals are accordingly allowed. No costs.