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**(1995) 08 SC CK 0100**

**In the Supreme Court Of India**

**Case No : Civil Appeal No's. 3077-78 of 1980**

State of Orissa

APPELLANT

Vs

Dhobei Sethi and Another

RESPONDENT

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**Date of Decision : 29-08-1995**

**Acts Referred:**

Constitution of India, 1950 — Article 136, 226

**Citation :** (1996) 81 CLT 161 : (1995) 6 JT 624 : (1995) 2 PLJR 95 : (1995) 5 SCALE 188 : (1995) 5 SCC 583 : (1995) 3 SCR 139 Supp : (1995) 2 UJ 816

**Hon'ble Judges :** K. Ramaswamy, J;B. L. Hansaria, J

**Bench :** Division Bench

**Advocate :** Raj Kumar Mehta, for the Appellant;

**Final Decision :** Allowed

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## **Judgement**

1. Though notice has been served on the respondents, no one has appeared in person or through counsel.

2. A notification u/s 4(1) of the Land Acquisition Act [for short, 'the Act'] was published on July 16, 1970 acquiring Ac. 2.02 dec. of land in Survey Nos. 2309-2316, 2318, 2501, 2506-10, 2530-32 situated at village Pubakhand for the purpose of construction of the Tahasil office building and staff quarters at Niali. Along with the said notification, the appellant invoked the urgency clause u/s 17(4) of the Act dispensing with the enquiry u/s 5-A of the Act. The declaration u/s 6 of the Act was published on April 27, 1972. Notice under Sections 9 and 10 was published in the locality in December, 1975 and possession of the land was taken on December 16, 1976. Sometime in 1977 O.J.C. No. 43 of 1977 was filed questioning the validity of the exercise of power u/s 17(4) dispensing with the enquiry u/s 5-A. Similarly, some other owners filed O.J.C. No. 1573 of 1978, claiming interest for part of the land pursuant to a sale made after the notification namely in November, 1973. Both the writ petitions were allowed by the High Court on the ground that there was no justification to dispense with the enquiry u/s 5-A and public purpose would have been served by allowing the

claimants to submit their objections.

3. As regards the second writ petition, namely, OJC 1573 of 1978, the petitioner therein cannot raise this objection because he fe at subsequent purchaser and that the High Court was unjustified in allowing the writ petition.

4. As regards OJC 43 of 1977, in view of the fact that the notification was issued as early as on July 16, 1970, the writ petition having been filed after 7 years, the High Court ought to have dismissed the writ petition on the ground of laches. We, therefore, hold that the High Court has not properly exercised its power under Article 226 of the Constitution in upsetting the notification dated December 16, 1970 after a lapse of 7 years.

5. The appeals are accordingly allowed but in the circumstances without costs.