
(2006) 06 MAD CK 0277
In the Madras High Court
Case No : Writ Appeal No. 545 of 2002

Subramani

APPELLANT

Vs

The Special Tahsildar, Land Acquisition, Neighbourhood Scheme, The Special Commissioner and Secretary to Government, Housing and Urban Development Department, Gunaekaran and R. Senthilkumar

RESPONDENT

Date of Decision : 30-06-2006

Acts Referred:

Tamil Nadu Land Acquisition Act, 1978 — Section 4(1), 6

Citation : (2006) 3 MLJ 793

Hon'ble Judges : V. Dhanapalan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : P. Jagadeesan, for the Appellant; C. Thirumurugan, Government Advocate for Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—The above writ appeal has been filed against the order of the learned single Judge dated 23.04.2001 made in W.P.No.

4852 of 1994, in and by which, the learned single Judge dismissed the writ petition filed by the petitioners therein.

2. The first petitioner in W.P. No. 4852 of 1994 alone filed the present appeal.

3. Heard the learned Counsel appearing for the appellant as well as the learned Government Advocate for respondents 1 and 2.

4. Mr. P. Jagadeesan, learned Counsel appearing for the appellant, after taking us through the relevant materials, has raised the following

contentions:

(1) Inasmuch as Notification u/s 4(1) of the Tamil Nadu Land Acquisition Act (hereinafter referred to as ""the Act"") published in the Tamil Nadu

Government Gazette on 19.12.1984 and declaration u/s 6 of the Act published in the Tamil Nadu Government Gazette on 25.05.1986 are beyond the prescribed period.

(2) Inasmuch as Notification u/s 4(1) of the Act published in the Tamil Nadu Government Gazette as early as on 19.12.1984, there is no

justification for effecting local publication on 22.05.1985 and publication in the Tamil Daily ""Dina Thandhi"" on 21.05.1985 and in the English Daily

The Hindu"" on 28.05.1985. In view of the long gap, the action taken by the respondents is to be quashed.

5. Coming to the second contention that undue delay between the Tamil Nadu Gazette Notification and publication in the locality as well as

newspapers, it is true that Notification u/s 4(1) of the Act dated 16.11.2004 was published in the Tamil Nadu Government Gazette on

19.12.1984. However the same was published in the newspapers viz., in the Tamil Daily ""Dina Thandhi"" on 21.05.1985 and in the English daily

The Hindu"" on 28.05.1985 and the same was published in the locality on 22.05.1985. Though the gap appears to be on the higher side, the

learned Government Advocate has brought to our notice two decisions of the Supreme Court holding that such delay would not invalidate the

acquisition proceedings. In State of Haryana and Another Vs. Raghubir Dayal, in para 7 after referring about the notification u/s 4(1) and

declaration u/s 6 of the Act, their Lordships have held as follows:

Though there is a time gap of more than six months between the date of the notification u/s 4(1) in the State Gazette and the date of the publication

of the substance of the notification in the locality, the delay by itself does not render the notification u/s 4(1) published in the State Gazette, invalid.

6. In 2003 1 CTC 59 (Urban Improvement Trust v. Bheru Lal), in para 1, the Honourable Supreme Court reiterated the same principle in that

case. The Notification u/s 4(1) was first published in the Official Gazette in June 1992. Thereafter, substance of Notification was published in

November, 1992 and subsequently it was published in the local newspapers.

7. Taking note of the time gap, the Honourable Supreme Court, in para 20, has held as follows:

It is apparent that the Notification u/s 4 was first published in the official Gazette in June 1992. Thereafter substance was published in November

1992 at the conspicuous places and subsequently it was published in the local newspapers. Considering this sequence of publication, even if there

is some delay, it would not mean that on this ground the land acquisition proceedings u/s 4 require to be set aside. Similar view is expressed by this

Court in *State of Haryana and Anr. v. Raghubir Dayal and Ors.* 1995 1 SCC 7.

We have also relied on para 7 of the earlier decision reported in *State of Haryana and Another Vs. Raghubir Dayal*, .

8. In view of the decisions rendered by the Honourable Supreme Court, though the publication was effected in the locality and in the newspapers

after a period of four months, we are of the view that acquisition proceedings cannot held to be invalid. Accordingly, we reject the said contention

also.

9. Learned counsel appearing for the appellant has brought to our notice the decision of the First Bench of this Court dated 03.07.2002 in W.A.

No. 986 of 1986, wherein the Division Bench after finding that six months time for paper publication and local publication from the date of

Notification u/s 4(1) of the Land Acquisition Act, can, by no stretch, be termed as reasonable, confirmed the order of the learned single Judge,

who quashed the Notification issued u/s 4(1) of the Act on the point of delay. In view of the decision of the Supreme Court holding that on the

ground of delay in publication in daily newspaper and locality, the acquisition proceedings cannot be quashed, we are of the view that the said

decision cannot be applied to the case on hand. On the other hand, the decision of the Division Bench goes against the dictum laid down by the

Supreme Court. Accordingly, the argument based on the Division Bench judgment cannot be accepted.

10. In these circumstances, we do not find any valid ground for interference. Accordingly, the writ appeal fails and the same is dismissed. No

costs.