

PETITIONER:
L.N. VENKATESAN

Vs.

RESPONDENT:
THE STATE OF TAMIL NADU & ORS.

DATE OF JUDGMENT: 04/04/1997

BENCH:
K. RAMASWAMY, G.B. PATTANAIK

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

These special leave petitions arise from the judgment of the Division Bench of the Madras High Court, made on July 19, 1996 in W. M.P. No. 5231/88. Notification under Section 4(1) of the Land Acquisition Act was published on 11.6.1975. Declaration under Section 6 was published on March 3, 1978. The petitioner filed W.P. No. 7645/86 and obtained stay of dispossession. Since the award was not made within two years under Section 11-A, he filed another writ petition, viz., W.P. No. 3450/88. The High Court holding that the bar of proviso does not attract the operation of the stay obtained by the petitioner in the earlier writ petition. Therefore, the acquisition does not stand lapsed. Learned counsel for the petitioner contends that the interim stay granted was "not to dispossess" the petitioner and there is no impediment for authorities to proceed further in passing the award. We find no force in the contention.

Section 11-A of the Act which reads as follows:

"11-A. Period within which an award shall be made. The Collector shall make an award under section 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."

The principle laid down by this Court in Yusufbhai Noormohamed Nendoliya v. State of Gujarat [AIR 1991 SC 2153] is that the owner of the land or a person, who is interested in the land and wants to take advantage of Section 11-A of the Act, must not have obtained an interim order, against the Land Acquisition officer, of whatsoever nature. The relevant portion of the Said judgment, which is contained in paragraph 8 is as follows:-

"The said explanation is in the widest possible terms and, in our opinion, there is no warrant for limiting the action or proceedings referred to in the Explanation to actions or proceedings, proceeding the making of the award under Section 11 of the said Act. In the first place, as held by the learned single judge himself where the case is covered by Section 17, the possession can be taken before an award is made and we see no reason why the aforesaid expression in the Explanation should be given a different meaning depending upon whether the case is covered by Section 17 or otherwise. On the other hand, it appears to us that the Explanation is intended to confer a benefit on a land-holder whose land is acquired after the declaration under. Section is made in cases covered by the explanation. The benefit is that the award must be made within a period of two years of declaration, failing which the acquisition proceedings would lapse and the land would revert to the Land-holder. In order to get the benefit of the said provision, what is required, is that the land-holder who seeks the benefit must not have obtained any order from a court restraining any action or proceeding in pursuance of the declaration under Section 6 of the said Act so that the Explanation covers only the cases of those land-holders who do not obtain any order from a court which would delay or prevent the making of the award or taking possession of the land acquired. In our opinion, the Gujarat High Court was right in taking a similar view in the impugned judgment."

It is not in dispute in this case that the petitioner filed W.P. No.10351/1982, seeking quashing of the acquisition proceedings in question, in respect of the remaining area of 6 acres comprised in S.No. 232/1C in Kottivakkam Village, Saidapet Taluk and obtained an interim order which disabled the Land Acquisition Officer, even though it related to a portion of the survey number in question, to proceed in the matter, much less to pass an

Award. The said writ petition was allowed on 8.1.1988. Acquisition, in so far as it related to the extent of 6 acres, comprised in the survey No. referred to above was quashed. Even during the pendency of W.P. No. 10351/1982, petitioner had filed another writ petition, viz., W.P. No. 7645/1986 and obtained an interim order. W.P. No. 7645/1986 related to the remaining portion of 4-33 acres and that writ petition is heard along with this writ petition. However, we pass a separate order in that writ petition. The interim order obtained in W.P. No. 7645/1986 disabling the land Acquisition officer to obtain possession of the land in question, is still in operation. Therefore, from the year 1982 till today, there has been an interim order passed in one of the writ petitions referred to above, operating against the Land Acquisition officer, disabling him to take possession of the land.

Under the circumstances, declaration under Section 6 does not get lapsed and consequently notification under section 4(1) also does not lapse.

The special leave petitions are accordingly dismissed.