

Syed Hasan Rasul Numa And Anr vs Union Of India And Anr on 15 November, 1990

Equivalent citations: 1991 AIR 711, 1990 SCR SUPL. (3) 165, AIR 1991 SUPREME COURT 711, 1991 (1) SCC 401, (1990) 4 JT 463 (SC), 1991 CHANDLR(CIV&CRI) 63, (1991) 1 LANDLR 595, (1991) 1 RRR 362, (1991) 43 DLT 10

Author: K.J. Shetty

Bench: K.J. Shetty, A.M. Ahmadi

PETITIONER:

SYED HASAN RASUL NUMA AND ANR.

Vs.

RESPONDENT:

UNION OF INDIA AND ANR.

DATE OF JUDGMENT 15/11/1990

BENCH:

SHETTY, K.J. (J)

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AHMADI, A.M. (J)

CITATION:

1991 AIR 711

1990 SCR Supl. (3) 165

1991 SCC (1) 401

JT 1990 (4) 463

1990 SCALE (2) 1007

ACT:

Delhi Development Act 1947---Section 44-- Master Plan for Delhi--Modifications made--Change proposed from 'residential' to 'recreational'--Requisites of the notice and necessity for publication--Mandatory.

HEADNOTE:

Respondent No. 2, Delhi Development Authority, issued a public notice dated 5th July 1975 stating that the Central Government proposes to make modifications to the Master Plan for Delhi with respect to an area known as 'Dargah Shaheed Khan'. It was notified that the land use of the area in question was proposed to be changed from 'residential' to

`recreational' and any person having any objection or suggestion to the proposed modification could send his objections/suggestions to the Delhi Development Authority within thirty days from the date thereof. The appellants sent in their objection on 18.10.1975 that is two and half months after the date of expiry of the last date for filing the objections. The authorities seem to have not considered that objection. Thereupon the appellants filed a writ petition in the High Court challenging the validity of the public notice contending that the public notice was not given publicity in the manner prescribed under Section 44 of the Delhi Development Act 1957; as it was neither affixed in CONspICUOUS place within the locality where the land is located nor was the same proclaimed by the beat of the drum. According to the appellants the provisions of section 44 are mandatory. The High Court having dismissed the writ petition, the appellants have/filed this appeal, after obtaining special leave. The same contentions have been reiterated by the appellants before this Court.

Allowing the appeal, this Court,

HELD: In matters of interpretation one should not concentrate too much on one word and pay too little attention to the other words. No provision in the statute and no word in the section may be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. [170E-F]

166

Section 44 requires that the notice signed by the Secretary of the Authority shall be widely made known in the locality to be affected by the proposed modification to the Master Plan. It shall be published by (i) affixing copies of the notice in conspicuous public places within the said locality or (ii) publishing the same by beat of drum; or (iii) advertisement in local newspaper. [170B-C]

There are three alternate methods prescribed. The authorities will have to follow any of the two methods. This is mandatory. There is no discretion in this regard. The discretion however, is to follow more than the two methods. It is also discretionary to follow any other means of publication that the Secretary may think fit. That is left to the Secretary. This appears to be the only reasonable and sensible view to be taken by the Overall structure of the section. [170G-I71A]

In the instant case, the notice has been published only in the local newspapers, namely, the Daily Pratap. The Hindustan Times. This is only one of the three means of publication provided under Section 44 and it apparently falls short of the mandatory requirements of the Section. Since the provisions of Section 44 have not been complied with, the notice in question has no validity and the action taken pursuant thereto has also no validity. [172B-C]

Khub Chand & Ors. v. State of Rajasthan, [1967] 1 SCR 120; Collector (District Magistrate) Allahabad and Anr. v.

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Raja Ram Jaiswal etc., [1985] 37 SCC 1, referred to.

JUDGMENT :