

S.P. Subramanya Shetty & Ors vs K.S.R.T.C. & Ors on 26 March, 1997

Equivalent citations: AIR 1997 SUPREME COURT 2076, 1997 (11) SCC 250, 1997 AIR SCW 1902, 1997 (3) SCALE 514, (1997) 4 JT 594 (SC), 1997 (4) JT 594, (1997) 3 SCR 370 (SC), (1997) 4 SUPREME 5, (1997) 3 SCALE 514, (1997) 2 CURCC 175, (1997) 1 LACC 446, (1997) 2 ICC 619, (1997) 2 LANDLR 324, (1997) 30 ALL LR 218, (1999) REVDEC 368, (1998) 2 KANT LJ 453

Bench: K. Ramaswamy, D.P. Wadhwa

PETITIONER:

S.P. SUBRAMANYA SHETTY & ORS.

Vs.

RESPONDENT:

K.S.R.T.C. & ORS.

DATE OF JUDGMENT: 26/03/1997

BENCH:

K. RAMASWAMY, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:

O R D E R We do not find any illegality in the order passed by the High Court on January 20,1997 in CRP No. 4097/96.

The admitted facts are that the acquisition of the petitioners' land has become final. Admittedly notification under section 4(1) of the land Acquisition Act, 1894 (for short, the `Act') was issued. The petitioners had challenged the notification in the year 1988. The High Court dismissed the writ petition on January 17,1990. The special leave petition filed by the petitioners was dismissed by this Court on November 21, 1994.

It is the case of the petitioner that he made a representation to denotify the part of the land on the ground that he was willing to give 5 out of 11 cents, free of cost. He claims that the secretary had examined the matter and favourably recommended for consideration. Since they were not been considered, he filed the civil suit for an injunction for restraining them from interfering with his possession. The District Judge vacated the interim injunction granted by the trial court and in the revision the High Court has dismissed it. Thus, this special leave petition.

In view of the settled legal position that the notification had become final and the proceedings had attained finality, the civil suit was not maintainable. This Court has repeatedly held that a civil suit relating to acquisition proceedings is not maintainable and by implication, cognizance under section 9, CPC, is barred. The Court cannot issue mandatory injunction against the state to denotify the acquisition under section 48. Therefore, the question of granting an injunction against the authority; from proceedings in accordance with the law does not arise. The High Court, therefore, was right in refusing to grant injunction. The Court cannot compel the Government to withdraw the notification under section 4(1) of the Act. It is for the Government to consider the same on merits and it keeping in mind subservience of public interest. In view of the fact that notification was upheld by this Court and has become final, the Government cannot retract from the steps taken.

The special leave petition is accordingly dismissed.