

Supreme Court of India

N. Krishnamachari vs Managing Director, Apsrtc on 12 August, 1994

Equivalent citations: 1994 SCC (6) 74, JT 1994 (5) 391

Author: K Ramaswamy

Bench: Ramaswamy, K.

PETITIONER:

N. KRISHNAMACHARI

Vs.

RESPONDENT:

MANAGING DIRECTOR, APSRTC

DATE OF JUDGMENT 12/08/1994

BENCH:

RAMASWAMY, K.

BENCH:

RAMASWAMY, K.

VENKATACHALA N. (J)

CITATION:

1994 SCC (6) 74 JT 1994 (5) 391

1994 SCALE (3) 853

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. The Government of Andhra Pradesh published the notification under Section 4(1) of the Land Acquisition Act, 1894 on 8-7-1988 acquiring certain lands for the construction of bus stand complex in Tirupati town (Lord Balaji Pilgrimage Centre) followed by a declaration issued under Section 6 with which we would later deal with. The notification was challenged by the interested persons including the petitioner in WP Nos. 838 of 1990, 12450 of 1988, 12919 of 1988 and 13631 of 1988. In some of the writ petitions the APSRTC the beneficiary impleaded itself as a party respondent to the writ petitions. When the writ petitions had come up for final hearing, the name of the counsel for the Corporation was not printed in the cause list published by the High Court. Consequently the counsel could not notice the posting of the writ petitions and the disposal thereof. Thereafter, the counsel filed an application for review of the orders of the Division Bench. We are informed that in two cases, the review petitions seem to have been dismissed on the ground that Corporation was not a

party to the writ petitions and that, therefore, the review petition would not lie at their instance. The review petition relating to the interest of the petitioner in the lands is concerned, by the impugned order dated 15-4-1994 in Review WPMP No. 21806 of 1993, the Division Bench set aside the order quashing the notification under Section 4(1) and upheld quashing the declaration published under Section 6 of the Act. Thus, this special leave petition.

2. It is contended by Mr Madhava Reddy, learned Senior Counsel that there is a conflict of decisions as regards self same matters that two review petitions were dismissed relating to other claimants holding that the Corporation was not a necessary party, in other words, it was not an interested party and review petition in the impugned order was allowed by implication that the Corporation was an interested party. It is also further contended that on the question of locus standi of the beneficiary to be impleaded as a party, there is a conflict of decisions of this Court in *Municipal Corpn. of the City of Ahmedabad v. Chandulal Shamaldas Patel*¹ and *Himalayan Tiles and Marble (P) Ltd. v. Francis Victor Coutinho*² and when this conflict was brought to the notice of another Bench that Bench has distinguished the decision of the Ahmedabad Municipal Corpn. case¹ and that therefore, the conflict still subsists and requires to be resolved. We do not find force in the contentions. In *Ahmedabad Municipal Corpn. case 1* the Bench had held that when the property was acquired for the benefit of the Municipal Corporation by the State, though ultimately the municipality may be benefited, it has no right to file an appeal against the decision of the High Court as the Corporation is not an interested party. It would appear that 1 (1971) 3 SCC 821 2 (1980) 3 SCC 223: (1980) 3 SCR 235 Section 3(b) of the Land Acquisition Act, definition of "person interested" had not been brought to the attention of the learned Judges. When Section 3(b) defined in a wide language, would bring within its ambit the beneficiary to be a person interested, the omission to bring to the notice of the Court important provisions of the law constitutes an infirmity in the judgment. However, in later decisions starting with *Himalayan Tiles case*² this Court consistently has held that the beneficiary is a person interested to protect the interest which the beneficiary seeks to acquire in the land under the notification, including perfect title to the property and payment of proper compensation. Therefore, it is entitled to challenge the award when it was made without notice to it even by filing a writ petition under Article 226 of the Constitution, apart from impleading itself as a party respondent in the acquisition proceedings or pending appeal or independently filing an appeal under Section 54 of the Act. In view of this later development of law, we do not find that the conflict any longer subsists. Therefore, we hold that APSRTC is a person interested within the meaning of Section 3(d) of the Act and that, therefore, it is entitled to support the validity of the notification issued under Section 4(1) of the Act when it is the subject-matter of the challenge in the High Court. The High Court is, therefore, not right in its conclusion that the Corporation is not an interested party and the High Court has committed grievous error of law in refusing the review petition. But, however, that order is not before us.

3. It is next contended that there is a conflict of operation of the orders in two cases regarding the same notification published under Section 4(1) which was quashed at the instance of others and in this case the declaration alone has been quashed sustaining the notification under Section 4(1). A reading of the order of the Division Bench discloses that the entire notification under Section 4(1) has been sustained. Only declaration under Section 6 was quashed. It would be seen that notification under Section 4(1) was published on 8-7-1988 and subsistence was published on

28-7-1988, paper publication too was done. Immediately, the writ petitions were filed on 26-8-1988 and further proceedings were stayed by the High Court even before the declaration was published. Under these circumstances, the declaration under Section 6 published on 11-7-1988 obviously was illegal. Accordingly, the declaration alone was rightly quashed. It is represented that after filing the writ petition, the Corporation had negotiated with the petitioner confining the need to acquire only 54 cents of land out of the petitioner's land. We do not express any opinion on this. It is open to the petitioner, if he so desires, to negotiate with the Corporation or with the Government and it is for the Government to take appropriate decision.

4. The SLP is accordingly dismissed with the above clarification.