

(1987) ILR (Kar) 2809 : (1987) 3 KarLJ 643

Karnataka High Court

Case No: Writ Petition No"s. 5901 to 5931 of 1986

N.S. Nandeesh Gowda

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision: March 20, 1987

Acts Referred:

- Constitution of India, 1950 - Article 226
- Land Acquisition Act, 1894 - Section 4, 4 (1), 4 (1A), 5 A

Citation: (1987) ILR (Kar) 2809 : (1987) 3 KarLJ 643

Hon'ble Judges: K.A. Swami, J

Bench: Single Bench

Advocate: N.B. Bhat, for the Appellant; H.B. Narayan and M. Papanna for R-3 and 4, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K.A. Swami, J.

On 6-3-1987, the interim order passed in these petitions was vacated. However, Learned Counsel for the petitioners could not be heard as he was not present, but before the order was signed, Learned Counsel for the petitioners submitted to the Court that he may be heard. Accordingly, on a direction of the Court, these petitions came to be posted "for being spoken to". It was at that stage, both sides agreed that the petitions may be heard for final disposal. Hence, these petitions were taken up for final hearing. In view of this, the order dated 6-3-1987 is recalled. The petitions are heard on merits for final disposal.

2. In these petitions under Article 226 of the Constitution the petitioners have sought for the following reliefs :

"Wherefore the petitioners pray that this Hon"ble Court may be pleased to :

(i) Issue a writ of certiorari or any other appropriate writ, order or direction to quash Respondent-2's, Notification No. LAQ(2) SR 33/82-83. dated 15-2-1983 published in Karnataka Gazette dated 9-2-1984 (Annexure-D) and Respondent-1's Notification No. RD/267/84 ACQ dated 2-12-1985 published in Karnataka Gazette dated 23-1-1986 (Annexure-F).

(ii) Direct Respondent-1 and Respondent-2 not to acquire the petitioners' lands in question ; and

(iii) Grant such other or further relief as this Hon'ble Court may deem fit in the circumstances including costs."

3. Annexure - D is the preliminary Notification issued under Sub section (1) of Section 4 of the 1 and Acquisition Act as amended by the Karnataka Act 17 of 1961 (hereinafter referred to as the Act). It is published in the Karnataka Gazette dated 9-2-1984.

Annexure-F is the final Notification issued u/s 6 of the Act, and it is published in the Karnataka Gazette on 23-1-1986. Under these impugned Notifications, an extent of 10 acres 34 guntas of land comprised in several bits, is acquired by the State Government for the purpose of Karnataka Housing Board for implementation of housing scheme at Hoskote.

4. The petitioners claim to be the owners of several bits of lands comprised in 10 acres 34 guntas acquired under the impugned Notifications. They have challenged the impugned Notifications on several grounds. Sri N.B. Bhat, Learned Counsel for the petitioners has advanced the following contentions :-

(i) That under Sub-section (1) of Section 4 of the Act public notice of the substance of the Notification published in the Official Gazette is required to be given at convenient places in the area in which the lands proposed to be acquired are situated and such a public notice shall have to be given 30 days before the last date fixed for filing the objections ; that as in the instant case no such public notice has been caused to be given at the convenient places in the locality 30 days before the last date fixed for filing the objections the entire acquisition proceeding is vitiated ;

(ii) That even if it is shown by the respondents that such a public notice of the substance of the Notification published in the Official Gazette has been caused to be given at the convenient places in the locality in question, such public notice is bad in law because the time gap between the last date fixed for filing the objections and the date on which the public notice is caused to be given is less than 30 days.

(iii) That the petitioners have filed their objections as required by Section 5A of the Act within the last date fixed in the Gazette Notification for filing the objections; but the Land Acquisition Officer-Respondent-3 has not enquired into those objections and has not heard the petitioners and he has held farce of an enquiry. Therefore, there is no compliance with the provisions of Section 5A of the Act. Hence the impugned

Notifications are vitiated.

(iv) That the petitioners have not been communicated of the fact of having submitted the report; consequently they have lost the right to make a representation to the State Government u/s 15A of the Act and as such the important stage in the acquisition has not been complied with therefore the impugned Notifications are vitiated.

(v) That the petitioner in W.P. 5929 of 1986 sought for a copy of the report submitted by the 3rd Respondent to the State Government u/s 5A(2) of the Act as per Annexure-G dated 26-12-1985. In spite of this no copy was supplied to him. Consequently, the right to invoke the power of the State Government u/s 15A of the Act was rendered impossible. Hence, the impugned Notifications, at any rate and in so far they relate to the land of the Petitioner in W.P. No. 5929/86 is vitiated.

(vi) Lastly, it is submitted that there is vast Government land available. Therefore, there is no need to acquire the land in question. In addition to this, the petitioners have purchased several sites in the land proposed for acquisition and have also formed layout for the purpose of constructing houses, and in some cases they have even obtained the permission for constructing houses from the relevant authorities.

5. Respondents 1 and 2 though served with the notice have remained absent and unrepresented.

Respondents-3 and 4 are represented by Learned Counsel Sri M. Papanna. They have filed the statement of objections and have also made available the records of the case. It is also contended on their behalf that the acquisition in question has been made in accordance with the provisions of the Act and no provision of the Act is infringed. The Learned Counsel further submits that the several contentions urged by the petitioners are not valid both in fact and law.

6.1. I will now take up for consideration in seriatim the contentions urged by the petitioners. Contentions (i) and (ii) are inter-related therefore they are considered together.

Contentions (i) and (ii).

7. The preliminary Notification (Annexure-D) issued under Sub-section (1) of Section 4 of the Act is dated 15-2-1983 and it is published in the Official Gazette dated 9-2-1984. It also fixes the date for filing the objections by the persons interested in the lands proposed for acquisition. The persons interested are required to file objections on or before 31-3-1984. In para-6 of the Statement of Objections respondents-3 and 4 have stated thus :

"It is submitted that after conducting the enquiry in accordance with law, final notification as per Annexure-F was published. The said notification was also published, in daily pews

paper of 2-12-1985. Section 4(1) notification has also been duly published as per the report of the Tahsildar vide letter No. LAQ/CR/9/83-84 dated 5-3-1984 addressed to the Special L.A.O. The same was also published in the notice board of the T.M.C. Hoskote as required under Rule 3 of the Rules. All these clearly go to show that there is no procedural irregularity."

As it is already pointed out, the records also are produced before the Court. The records reveal that on 5-3-1984, the Tahsildar has caused, public notice of the substance of the Notification published in the Official Gazette u/s 4(1) of the Act, to be affixed on 5-3-1984 on the Notice Board of his office, as well as on the Notice Board of the Town Municipal Council, Hoskote on 6-3-1984. The records contain compliance reports made by the respective officials. Therefore, in this case it is established that public notice of the substance of the preliminary Notification has been caused to be given at convenient places in the locality where the lands in question are situated. Explanation to Sub-section (1) of Section 4 of the Act provides that the expression "convenient places" includes, in the case of land situated in a village, the office of the panchayat within whose jurisdiction the land lies. Rule 3 of the Karnataka Land Acquisition Rules, 1965 (hereinafter referred to as the Rules) also provides that such public notice has to be published in the locality where the land proposed for acquisition is situated and copies thereof affixed in the office of the Deputy Commissioner of the District, Tahsildar of the Taluk and the Village Chavadi, if any, of the village in which the land is situated. A copy of the notice may also be caused to be served individually, on every person known or believed to be interested in the land to be acquired. In the instant case, it is not the case of the Petitioners that the public notice of the substance of Notification had not been affixed on the Notice Board of the Office of the Deputy Commissioner. It is also not the case of the petitioners that they were not individually served with a copy of the Notification as per the last sentence in Sub-section (1) of Section 4 of the Act. Therefore it is not necessary to find out whether the Public Notice was affixed on the Notice Board of the Office of the Deputy Commissioner and also whether a copy of the Notification was served upon the petitioners.

6.2. The contention of the petitioners is that even if the public notice of the substance of the Notification is caused to be given at the convenient places in the locality where the lands are situated, such Public Notice is bad in law because as revealed from the statement of objections, it is caused to be given on 5th and 6th of March 1984 whereas the last date fixed for filing the objections is 31-3-1984. As such it falls short of 30 days. Therefore, the Public Notice is invalid. It is not possible to accept this contention. Firstly, the period of 30 days for filing the objections by the persons interested in the lands proposed to be acquired is relatable to the Notification published in the Gazette u/s 4(1) of the Act. No doubt, learned Counsel has placed reliance on a decision of the Supreme Court in [Deepak Pahwa and Others Vs. Lt. Governor of Delhi and Others](#). In that case also, the Supreme Court has held in categorical terms that the publication of the Notification u/s 4(1) of the Act and the Public Notice of the substance of that Notification,

need not be simultaneous. It has also been further held that the fact that the Public Notice of the substance of the Notification is caused to be given subsequent to the date of the publication of the Notification in the Official Gazette under Sub-section (1) of Section 4 of the Act, does not ipso facto lead to invalidate the acquisition. It all depends upon the time gap that is left between the last date fixed for filing the objections and the date on which the Public Notice of the substance of the Notification is caused to be given. Learned Counsel has laid stress on the statement of law made in para-4 of the Judgment that 30 days for the purpose of filing the objections has to be counted from the date on which the Preliminary notification Published in the Official Gazette or on the date Public Notice of the substance of the Notification is caused to be given in the locality, whichever is later. Such a situation does not arise in the present case. The Land Acquisition Act as applicable to the State of Karnataka and the wordings contained in Section 4(1) of the Act are not similar to those contained in the Section 4(1) of the Land Acquisition Act which is considered by the Supreme Court in the aforesaid Deepak Pahwa etc. case¹. In that case the Supreme Court has considered the land Acquisition Act which did not contain the provisions similar to the one contained in Section 4(1) of the Act as applicable to the State of Karnataka. For immediate reference it is necessary to reproduce Section 4(1) and 1(A) of the Act which is as follows :

"4. Publication of preliminary notification and powers of officers thereupon :

(1) Whenever it appears to (the appropriate Government) (for the Deputy Commissioner) that land in any locality (is needed or) is likely to be needed for any public purpose a (notification stating the purpose for which the land is needed, or likely to be needed, and describing the land by its survey number, if any, and also by its boundaries and its approximate area) : shall be published in the Official Gazette and the (Deputy Commissioner) shall cause public notice of the substance of such notification to be given at convenient places in the said locality. (The Deputy Commissioner may also cause a copy of such notification to be served on the owner, or where the owner is not the occupier, on the occupier of the land.)

Explanation: The expression "convenient places" includes, in the case of land situated in a village, the office of the panchayat within whose jurisdiction the land lies.

(1A) The notification under Sub-section (1) shall also specify the date, (such date not being less than 30 days from the date of publication of the notification) on or before which, and the manner in which, objections to the proposed acquisition may be made, u/s 5A."

Sub-sections (1) and (1A) of Section 4 of the Act read together make it clear that the last date to be specified for the purpose of filing the objections by the persons interested in the land proposed to be acquired shall not be less than 30 days from the date of the publication of the Notification. Therefore, the period of 30 days has to be counted from the date of publication of the Notification in the Official Gazette and not from the date of

causing public notice of the substance of the Notification to be given at convenient places in the locality. The last date shall have to be specified in the Notification itself, published u/s 4(1) of the Act as per the mandate contained in Section 4(1A) of the Act.

6.3. The situation that arose in a case governed by the Land Acquisition Act which did not contain the provisions similar to Sub-section (1) and (1A) of Section 4 of the Act was considered by a Division Bench of this Court in *Fakirappa Dyappa Anchatgeri -v.- State of Mysore & Ors.* 1966 (2) Mys. L.J. 126. In that decision it was also noticed that the predicament into which the acquisition proceeding might get involved due to failure on the part of the acquiring authority to simultaneously publish in the Gazette the Notification u/s 4(1) of the Act, and cause public notice of the substance of the Notification, to be given at convenient places in the locality. In this connection with reference to the provisions of Sub-section (1) and (1A) of Section 4 of the Act as they stand now, it was observed as follows :-

"The predicament in which a proposed acquisition may get involved in this situation now stands removed by amendment made to Section 4 and 5 by the Land Acquisition (Mysore Extension) Amending Act (Mysore Act XVII). By those amendments the Gazette Notification has to specify the date within which the objection to the acquisition may be produced and that date should not be less than thirty days from the date of the publication of the Notification.

Under Section 5A an objection to the acquisition may be produced on or before the date specified by the Notification u/s 4(1). In consequence the difficulty presented by Section 5A as it stood before the amendment, now stands removed by the creation of power in the State Government to specify a longer date for the production of objections without restricting it to a period of thirty days from the date of Notification.

But now we are concerned only with Sections 4 and 5 as it stood before the amendment to Sections 4 and 5 came into force."

The position that was obtaining prior to the Amending Act 17 of 1961 was also considered by another Division Bench of this Court in *H.K. Gangadharaiah & Ors. -v.- State of Mysore & Ors.* 1961 Mys. L.J. 883. However in *Gangadharaiah's* case³ the terminus a quo for the period of 30 days referred to in Section 5A of the Act as it stood then was not considered and this aspect was considered in *Fakirappa Dyappa Anchatgeri's* case². Thus, it emerges from all the aforesaid three decisions and the provisions contained in Sub-section (1) and (1A) of Section 4 of the Act, and Rule 3 of the Rules ; that apart from publishing the Notification issued under Sub-section (1) of Section 4 of the Act in the Official Gazette, (a) public notice of the substance of the Notification shall be caused to be given at the convenient places in the locality where the land proposed for acquisition is situated, (b) copies of such public notice are required to be affixed in the office of the Deputy Commissioner of the District, Tahasildar of the Taluk and the village Chavadi, if any, of the village in which the land is situated; and (c) a copy of the Notification may also

be served on the owner or where the owner is not the occupier on the occupier of the land;(d). The Notification published in the Official Gazette u/s 4(1) of the Act shall specify the last date for filing the objections and such date shall not be less than 30 days from the date of publication of the Notification in the Official Gazette under Sub-section (1) of Section 4 of the Act; (e) the Public Notice of the substance of the Notification published in the Official Gazette u/s 4(1) of the Act caused to be given at convenient places in the locality and the publication in the Gazette of the Notification u/s 4(1) of the Act need not be simultaneous; (f) As a corollary to this, it also follows that the public notice of the substance of the Notification to be given at the convenient places in the locality need not be 30 days prior to the last date fixed for filing the objections; (g) It also further emerges that it all depends upon the facts and circumstances of each case as to whether the acquisition is vitiated because of the delay in causing the Public Notice of the substance of the Notification to be given at convenient places in the locality. For example, if the Public Notice of the substance of the Notification is given at convenient places after the last date fixed for filing the objections in the Gazette Notification, it does not amount to complying with one of the requirements of Section 4(1) of the Act because there will be no time left to the persons interested to file the objections. It is because the Jaw contemplates that knowledge of publication of the Notification u/s 4(1) of the Act by the persons interested in the land proposed to be acquired is complete only on causing the Public Notice of the substance of the Notification published u/s 4(1) of the Act in the Gazette, to be given at the convenient places in the locality where the land is situated. But both need not be simultaneous. In the instant case, more than 20 days were available to the persons interested to file objections because, the Public Notice of the substance of the Notification published u/s 4(1) of the Act was caused to be given on 5th and 6th March 1984. Therefore, the persons interested, including the petitioners has sufficient time to file the objections, on or before 31-3 1984. Therefore, it is not possible to hold that the acquisition proceeding is vitiated, merely because of the fact that the publication of the Notification in the Official Gazette u/s 4(1) of the Act and the Public Notice of the substance of it caused to be given at the convenient places in the locality have not taken place simultaneously. Accordingly, Contentions (i) and (ii) are negated.

7. Contention (iii)- The records reveal that the 3rd respondent has not only enquired into the objections, he has also heard such of those-petitioners who were present at the enquiry, and has noted down the say of the objectors. Except 8 petitioners viz., the petitioners in W. P. Nos. 5903 to 5908, 5923 and 5926/86, the rest of the petitioners have filed their objections. As far as the petitioners in W. P. Nos. 5903 to 5908, 5923 and 5926/86 are concerned they were ;absent at the time of enquiry. Whenever a person interested in the land after filing the objections in time, remains absent inspite of service of notice regarding the date of enquiry into the objections, such a person must be deemed to have abandoned his objections to the acquisition. Provisions contained in Sections 4 to 6 of the Act contain a time bound schedule, for completing the acquisition proceedings. The Land Acquisition Officer and State Government are required to complete the acquisition proceedings within the schedule laid down in the aforesaid

provisions. Therefore, the question of suo-moto adjournment of the proceedings does not arise as the authority is required to complete the proceedings within the period mentioned. If the period exceeds the prescribed limit, the acquisition proceedings are likely to be invalidated. Therefore, a party interested in the proceedings for acquisition, having filed the objections and having served with the notice of hearing of the objections, is required to be present on the date fixed for hearing the objectors; failing which he must be deemed to have abandoned his objections. As far as those who were present at the time of the enquiry, the Land Acquisition Officer has enquired into their objections. He has maintained a file in respect of each of the objectors and has recorded the say of the objectors. The contention is not based on correct facts and it is contrary to the records of the case. Therefore it is not possible to accept the contentions of the petitioners that there was no proper enquiry and it was only a farce of an enquiry. Accordingly the Contention No. (iii) is rejected.

8.1. Contention No. IV- The contention of the petitioners is that they have a right to be communicated of the fact of submission of the report by the Land Acquisition Officer to the State Government, as they have a right to invoke the power of the State Government u/s 15A of the Act to drop the proceedings. The further case of the petitioners is that they have not received any communication intimating the fact of submission of the report u/s 5A of the Act by the Land Acquisition Officer.

8.2. On the contrary, respondents- 3 and 4 in their statement of objections have stated thus :

"The contention raised by the petitioner in grounds (ii) and (iii) are not correct. The allegation in the Writ Petition that Respondent No. 3 has not communicated to the petitioners the fact of having submitted his report u/s 5A of the Act to the Government are false. This fact has been communicated to the petitioner by Respondent No. 3 by letter dated 28-4-1984, under certificate of posting, to each of the petitioners. The necessary reference will be produced at the time of hearing of the Writ Petition. Similarly, the further allegations in the Writ Petition that the petitioner No. 29 gave a letter dated 26-12-1985 to the 3rd Respondent, requesting for copy of there port u/s 5A of the Act, that he has credited the fee to the treasury, that the 3rd Respondent has not granted there port and has impliedly refused to grant the copy of the report and that the same has vitiated the notification u/s 6 of the Act are false. Even if the petitioner No. 29 credited any amount to the treasury it does not necessarily follow that the said amount was for obtaining the copy of the report in question or that he had filed the necessary application for grant of copy. Even if the allegations are true, the final notification u/s 6 of the Act is not in any way vitiated or affected. The petitioner at the time of applying for the certified copy he had to deposit the necessary amount in the office itself and (here is no procedure of depositing the amount in treasury."

In addition to this, the records produced before the Court also clearly indicate that the communication intimating the fact of submission of the report to the State Government

had been dispatched by post to each one of the petitioners under certificate of posting. In this regard the contention of the petitioners is that the communication sent under certificate of posting is not sufficient to comply with the requirement of Section 5A(2) of the Act, as there is no guarantee that such a communication is or will be delivered to the person to whom it is addressed ; that sending of the communication under certificate of posting only proves that such a communication has been sent and it does not prove that it is delivered to the addressee.

8.3. It is not possible to accept this contention also-Further, this contention is no more resister as far as this Court is concerned. In Achamma Thomas -v.- E.R. Fairman 1969 (2) Mys. L.J. 179 this Court while considering the notice sent under certificate of posting terminating the tenancy u/s 106 of the Transfer of Property Act has held as follows :

"Quite apart from what I have stated with regard to the service of registered notice or affixation of the notice on a conspicuous part of the premises, it is enough to hold that in this case, there has been due service of notice by virtue of the fact that the notice has been sent by post under "certificate of posting" and the presumption arises u/s 114(f) of the Indian Evidence Act that the letter has been duly delivered to the addressee as the letter has been addressed to the residential address of the Respondent-tenant."

Again in Peera Saheb -v.- Balachandra Rao & Ors. 1971 (2) Mys. L.J. 143 following the aforesaid decision in Achamma"s case, it has been held as follows :

"Both the Courts below have held that the notice sent by ordinary post with a certificate of posting, must be presumed to have reached the tenant within a day or two and that such notice was sufficient to determine the tenancy.

However, Mr. Chengappa contended that a notice sent by ordinary post could not be regarded as one contemplated in Section 106 of the Transfer of Property Act and that the notice sent by registered post did not reach the tenant 15 clear days before the end of the month of the tenancy and that hence there was no valid notice determining the tenancy.

The question whether a notice sent by ordinary post is a valid one is no longer res integra in view of the decision of this Court in Achamma Thomas -v.- C.R. Fairman¹ wherein it was held that Section 106 of the Transfer of Property Act does not provide that a notice of termination of the tenancy, should be sent by registered post, that such notice can also be sent by ordinary post and that where such notice is sent under a certificate of posting a presumption arises u/s 114 of the Evidence Act that there has been due service of such notice."

In addition to this, under the Act itself, a Division Bench of this Court in G. H. Sridevi -v.- State of Mysore 19 LR 415 has held that communication of the fact of submission of the report to the Government need not be sent to the objectors by registered post and if it is sent under certificate of posting it is sufficient in as much as if it is proved that a letter addressed to the addressee had been handed over to the postal department, the

presumption is that it has been handed over to the addressee. The relevant portion of "the decision is as follows :-

"It was next urged that there was disobedience to Section 5A(2) of the Act for the reason that no intimation was sent by the concerned Land Acquisition Officer to the petitioner that the report which had to be submitted by him to Government under the provisions of that sub-section, had been forwarded. This contention in the affidavit of the petitioner's representative is repudiated in the counter affidavit produced on behalf of the respondents in which it is asserted that the intimation which is insisted upon by Section 5A(2) of the Act was indeed dispatched to the petitioner on September 1, 1965. Mr. Doddakalegowda, the Learned Government Pleader, has produced before us the concerned register which makes a record of the communications dispatched by the concerned authority, and that register contains a record that on September 1, 1965 a communication was sent to the petitioner.

It is seen from the record made available to us by Mr. Doddakalegowda that the report was submitted to Government on August 18, 1965, and if on September, 1, 1965 according to the register produced before us a communication was sent by the Land Acquisition Officer to the petitioner, that entry in that register more than substantially corroborates the truth of the allegation in the counter affidavit that that communication was one by which intimation was imparted to the petitioner about the submission of the report to Government.

We do not accede to the argument advanced before us by Mr. Hegde that there can be no presumption that that communication was delivered to the petitioner unless the communication was sent by registered post or under a certificate of posting. That, it is plain, is not an accurate statement of the law. If it is proved that a letter addressed to the addressee had been handed over to the postal department, the presumption is that it has been delivered to the addressee. It is not necessary that there should be a despatch by registered post or under a certificate of posting before there can be an appeal to that presumption."

In the instant case the records produced prove that the fact of submission of the report u/s 5A of the Act to the State Government has been intimated to each one of the petitioners by post under certificate of posting to the addresses given by them. Hence there is no substance in contention No IV. It is accordingly rejected.

It is also submitted that there is a delay in submitting the report u/s 5A of the Act by the Land Acquisition Officer to the State Government and that delay being more than a year, the State Government had no power to condone it. The records reveal that the State Government by the order dated 29-8-1985 has condoned the delay in submitting the report. As per Sub-section (2) of Section 5A of the Act, the report is required to be submitted by the Land Acquisition Officer to the State Government before the expiry of 6 weeks from the last date fixed for filing objections or before the expiry of two weeks from

the date on which he receives the report under Sub-section (4) of Section 4 of the Act whichever is later. Of course in the instant case it is not brought to my notice that the report under Subsection (4) of Section 4 of the Act was received by the Land Acquisition Officer after a lapse of six weeks from the last date fixed for filing the objections. The case of Respondents-3 and 4 is that the report was submitted within one year from the last date fixed for filing the objections. Therefore, the State Government had the power to condone the delay in submitting the report. The records reveal that the report was submitted by the Land Acquisition Officer on 18-6-1984. Of course, thereafter the State Government has asked the Land Acquisition Officer to intimate the fact of submission of the report, to the State Government, to the objectors, and thereafter it has passed the order on 29-8-1985 condoning the delay. Learned Counsel, Sri N.B. Bhat contends that the order condoning the delay is passed beyond a period of one year, in other words after the expiry of one year from the last date fixed for filing the objections; therefore, the order is invalid, as the State Government has no power to condone the delay after the expiry of one year. It appears to me that the submission proceeds on a wrong assumption. There is no time limit fixed by the Act for passing the order by the State Government condoning the delay in submitting the report. The time limit is prescribed by the Act for submitting the report u/s 5A of the Act. If such report is submitted beyond a period of one year from the last date fixed for filing the objections, the State Government will not have the power to condone. The delay can be condoned if it is an year and a delay which is more than a year cannot be condoned. Therefore, the period within which the report is submitted, is, the deciding factor, and not the date on which the order condoning the delay is passed by the State Government. In the instant case, as it is already pointed out, the report was submitted well within one year from the last date fixed for filing the objections in as much as the last date fixed for filing the objections was on 31-3-1984. The report u/s 5A of the Act was submitted on 18-6-1984. No doubt, it is submitted beyond six weeks from the last date fixed for filing the objections but nevertheless it is submitted within one year. Therefore, the State Government was competent u/s 5A of the Act to condone the delay. Hence the contention in this regard is liable to be rejected and it is rejected.

9. Contention No. V:- It is averred in the petition that the petitioner in W.P.No. 5929/86, on 26-12-1985 sought for a copy of the report by filing an application as per Annexure-G before the 3rd respondent; but a copy of the report was not furnished. Therefore, the case of this petitioner is that his right to invoke the power of the State Government u/s 15A of the Act is infringed, as such, the Notification issued u/s 6 of the Act is illegal and vitiated, Respondents-3 and 4 in their statement of objections have specifically stated thus :

"The contention of the petitioner that the 29th petitioner has credited necessary fees to the treasury for furnishing the report etc., and he was impliedly refused to furnish the copy of the report are all false."

It is submitted on the basis of the records also that no such application was filed in the office of the 3rd respondent. Therefore, there was no question of refusing to issue a copy of the report to the petitioner in W.P. 5929 of 86. Apart from asserting that he has sought

for supply of a copy of the report the petitioners have not produced any record before the Court to show that an application as per Annexure-G was filed in the office of the 3rd respondent and the amount was credited for furnishing a copy of the report. Therefore, the petitioners have failed to prove that the petitioner in W.P.No. 5929/86 has filed an application as per Annexure-G seeking a copy of the report. Hence the facts necessary to establish contention No. V are not proved. Accordingly contention No. V is rejected as not proved.

10. Point No. VI: Lastly, it is contended that there is a vast Government land available; therefore, there is no need to acquire the lands in question. Whether the lands in question are required to be acquired or not, whether they are needed for public purpose or not, are the questions which are within the domain of the decision of the State Government. It is not shown that the decision of the State Government in this regard is vitiated by lack of bona fides. On the basis of the sketch prepared, it is submitted that the lands in question are ideally situated for the purpose of construction of houses for the Karnataka Housing Board as they are surrounded on all the three sides by a road. In the absence of any material to show that the Government land is available and it is better suited for the purpose than the lands in question, there is no reason whatsoever to hold that the decision to acquire the lands in question for public purpose namely, for construction of houses by the Housing Board is vitiated. The petitioners have not proved by adducing requisite evidence that there is a vast and suitable Government land available for the purpose for which the lands in question are acquired, therefore it is not necessary to acquire the lands in question. Hence this contention is not proved. Accordingly contention No. VI is rejected.

11. All the contentions urged by the petitioners fail.

12. For the reasons stated above these petitions are liable to be dismissed. Accordingly, these petitions are dismissed.