
P.S. Venkatanarayana Vs State of Karnataka

Writ Petition No. 6951 of 1978

Court: Karnataka High Court

Date of Decision: April 4, 1985

Acts Referred:

Land Acquisition Act, 1894 " Section 4 (1), 5 A

Citation: (1985) ILR (Kar) 2771

Hon'ble Judges: Chandrakantaraj Urs, J

Bench: Single Bench

Advocate: S.M. Babu, for the Appellant; Lakshminarayana, H.C.G.P., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Chandrakantaraj Urs, J.

1. Petitioner is aggrieved by the notification issued by the Respondent-State, dated 3-4-1978 by which 1 acre 16 guntas of land in Survey No.

105/1 of Periyapatna Town was acquired pursuant to the earlier notification dated May 4th, 1977 issued u/s 4(1) of the Land Acquisition Act,

1894 (Exhibit-B).

2. Aggrieved by the final notification, dated 3-4-1978, Exhibit-E, Petitioner challenges the same in this Court inter alia contending that the

acquisition was politically motivated on account of the petitioner not belonging to the Congress-I party and that in any event there was no proper

hearing as contemplated u/s 5A of Act. He has also further contended that there was no intimation sent to him of the report to the Government

having been made as contemplated u/s 5A of the Act.

3. Learned Government Pleader appearing for Respondents has produced the records pertaining to the case. From the records, it is seen that

petitioner had filed his objections to the proposed acquisition from which, it must be necessarily be inferred that he had personal notice of the

acquisition proceedings. Petitioner was served with a notice on 26-8-1977 by which he was informed that the Assistant Commissioner, Hunsur

Sub-Division, Hunsur and the L.A.O., would be visiting the spot on 26-8-77 and that enquiry in that behalf would take place on 28-8-1977. An

order came to be made on 2-9-1977 by which the objections of the petitioner were overruled in the light of the reply filed by the Town Municipal

Council and the result of the spot inspection. It is thereafter that the L.A.O., submitted his report to the Government recommending the acquisition.

That intimation has been sent to the petitioner on or about 30-9-1979 as seen from the records.

In the light of the contentions urged for the petitioner, this Court must confess its inability to examine the allegations of mala fide having regard to

the general and vague allegations made against the so-called political opponents of the petitioner. Undoubtedly, any governmental act, if it resulted

by mala fide intention of some person would be illegal. But petitioner must point out as to who has acted mala fide. The notification specifies the

purpose for which the land is being acquired for the use of the Town Municipality which is to put up the Town Hall. Periyapatna is known to be a

very ancient town situated on the High-way between Mysore City and Madikere, Whichever party is in power must necessarily have a Town Hall

in the town of Periyapatna. Petitioner cannot say that his land is chosen because he did not belong to the Congress party. Such allegations, apart

from their vagueness are themselves in ray opinion motivated and no relief can be granted on such vague and motivated allegations.

4. From the records it is clear that the order was pronounced in the open Court on 2-9-1977. So also from the perusal of the order it is seen that

nobody was present when the order was pronounced. Notice served on 26-8-1977 indicated, date of spot inspection as well as the date of

hearing. No doubt there is a separate order sheet maintain-ed for 30th which could be found in the records. But the reply filed by the Town

Municipal Council is to be found in the records. Petitioner does not deny that he was present at the spot inspection. His only assertion is that there

was no proper hearing given to him. By that one does not know exactly what the petitioner means. There is no assertion made or hinted, even

though he was present in the office of the L.A.O. on 30-8-1977 he was not heard. Nor does he say that no further date was given to him for his

appearance. He is totally silent as to where he was and what he did on 30-8-1977. A feeble attempt was made by Sri Babu, learned Counsel for

the petitioner to suggest that nothing was done on 30th by the Sub-Divisional Officer. Having regard to the totality of circumstances, it would not

be reasonable to accede to such a contention when petitioner does not know what he did on 30th, he certainly cannot say what the Assistant

Commissioner did on the same day. If there was an assertion by the petitioner that he had appeared on the 30th and no further date was given and

no hearing was given on that day I would easily hold that no hearing was given to him. In the absence of such an assertion, the Court must presume

that the L.A.O., seeing that none appeared, on 30th reserved the matter and pronounced the order in the open Court on 2-9-1977 and even on 2-

9-1977 nobody was present much less the petitioner.

In these peculiar circumstances, it is difficult to say that the petitioner did not have proper hearing. On the other hand what is evident is that due to

some inadvertance petitioner did not appear for a personal hearing on 30th of which he had notice.

The other contention that there had not been compliance with the requirement of intimation of the report, records bear out otherwise.

In the result, there is no merit in the Writ Petition and the same is rejected.