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Mohan and Another Vs State of Maharashtra and Others

Civil Appeal No. 1321 of 2007 (Arising out of Special Leave Petition (Civil) No. 16991 of 2005)

Court: Supreme Court of India

Date of Decision: March 13, 2007

Acts Referred:
Land Acquisition Act, 1894 â€" Section 11, 11A, 4, 6

Citation: AIR 2007 SC 2625 : (2007) AIRSCW 4714 : (2007) 3 ALLMR 326 : (2008) 1 ALT 24 : (2007) 6 BomCR 879 : (2007) 3 CTC 209 : (2007) 4 KLT 773 : (2007) 4 LW 42 : (2007) 3 MLJ 383 : (2007) 2 PLJR 163 : (2007) 4 SCALE 335 : (2007) 9 SCC 431 : (2007) 3 SCR 936 : (2

Hon'ble Judges: S. B. Sinha, J; Markandey Katju, J

Bench: Division Bench

Advocate: Uday B. Dube, for Kuldip Singh, for the Appellant; Sudhanshu Choudhari, Naresh Kumar, S.S. Shinde and V.N. Raghupathy, for the Respondent

Final Decision: Disposed Of

Judgement

Markandey Katju, J.
Leave granted.

2. This appeal has been filed against the impugned judgment of the Bombay High Court (Aurangabad Bench) dated 12.4.2005 in Writ Petition

No. 455 of 2004.

3. Heard learned Counsel for the parties and perused the record.

The petitioner has prayed for quashing the award dated 4.2.2003 published by the Special Land Acquisition Officer in respect of Renapur

Medium Project at village Talegaon (Ghat). The High Court had dismissed the writ petition and hence this appeal. The short point before us is

whether the award was illegal in view of Section 11A of the Land Acquisition Act (hereinafter referred to as ""the Act""). The date of last publication

of the notification u/s 4 of the Act was 18.2.1999 (in Gazette). The last publication of the declaration u/s 6 of the Act was 28.2.2000 whereas the

award was published on 4.2.2003. According to the learned Counsel for the appellant the award ought to have been published on or before

28.2.2000 which was the date of the last declaration u/s 6 of the Act. Learned Counsel has invited our attention to Section 11A of the Act which

states:

11A. The collector shall make an award u/s 11 within a period of two years from the publication of the declaration and if no award is made within

that period, the entire proceedings for the acquisition of the land shall lapse.

4. In our opinion the submission of learned Counsel for the appellant is clearly correct in view of the clear provision of Section 11A of the Act. In

view of Section 11A an award has to be made within two years from the date of publication of the declaration u/s 6. Failure to adhere to this time

frame is fatal to the award, as the provision is mandatory.

5. Learned Counsel for the respondent submitted that after the declaration u/s 6 of the Act dated 28.2.2000 the acquiring body had intimated to

the Land Acquisition Officer vide its communication dated 2.1.2001 proposing deletion of some of the area which was proposed to be acquired.

The original declaration u/s 6 was regarding acquisition of 155.26 hectares, but thereafter 107.99 hectares was proposed to be deleted. Hence the

final area which was proposed to be acquired was to the extent of 36.8 hectares. Accordingly, a corrigendum to that effect was issued on

25.1.2003, and hence, it is submitted that the award dated 4.1.2003 was well within time. We do not agree.

6. In our opinion u/s 11A what has to be seen is the date of last publication of the declaration u/s 6, and not any subsequent corrigendum to the

said declaration. The only circumstance under which the period between the declaration u/s 6 and the award can be extended is mentioned in the

explanation to Section 11A which states: In computing the period of two years referred to in Section 11A, the period during which any action or

proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court is excluded. There is no mention in Section 11A that

the period after the publication of the declaration u/s 6 and the publication of any corrigendum to the said declaration has also to be excluded. We

will be adding words to the statute if we put such interpretation to Section 11A, and it is well settled the Court should not add or delete words in a

statute.

7. In view of the above reasons this appeal is allowed. The impugned award is quashed. The impugned judgment is set aside. There shall be no

order as to costs.