

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 7589 OF 1999

I.I.S. Employees' House Building Coop.  
llant (s)  
Society Ltd.

Appe

Versus

State of Karnataka & Ors.  
ndent (s)

Respo

(With office report)

Date: 04/08/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN  
HON'BLE MR. JUSTICE S.B. SINHA

For Appellant(s) Mr. K.N. Chendra Shekher, Adv.  
Mr. K.C. Sudarshan, Adv.  
Mr. M.A. Chinnasamy, Adv.  
Mr. K. Maruti Rao, Adv.

For Respondent(s) Mr. Anil Kr. Mishra, Adv.  
State of Karnataka Mr. A. Rohen Singh, Adv. for  
Mr. Sanjay R. Hegde, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeal is dismissed with no order as to costs.

(J.S. Rawat)  
ngh)  
Court Master  
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Cour

(Signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.I.S. Employees' House Building Coop.  
Society Ltd.

Appellant (s)

Versus

State of Karnataka & Ors.

Respondent (s)

O R D E R

This appeal is directed against the judgment and order dated 6th January, 1999 passed by the Division Bench of the High Court of Karnataka at Bangalore in W.A. No. 7267/96 wherein and whereunder the Division Bench has upheld the judgment and order passed by the Single Judge of the same High Court in W.P. No. 11608/87 quashing the Notifications issued under Section 4 of the Land Acquisition Act, 1894 (for short "the Act") issued on 31st of July, 1986 and declaration issued under Section 6 of the Act dated 2nd of April, 1987.

Briefly stated the facts giving rise to the present appeal are as under:

The State of Karnataka issued a Notification dted 31st July, 1986 proposing to acquire 48 acres of land including the land in Survey No. 90/3 for the purpose of formation of sites for the benefit of the Indian Institute of Science Employees' House Building Cooperative Society Limited, Bangalore, the appellant herein under Section 4 of the Act. In the said Notification name of Thammanna is shown as the owner of the land in question, who had died in the year 1978. In the Notification issued under

Section 6(1) of the Act, the Survey No. is mentioned as 91/3.

Respondent No.2, namely, T. Muniraju son of Thammanna

(deceased), filed a Writ Petition in the High Court seeking quashing of the Notifications issued under Sections 4 and 6 of the Act. The learned Single Judge, after appreciating the facts stated before him, came to the conclusion that there was non-compliance of Section 5(A) of the Act, inasmuch as no notice had been issued to Respondent No.2. Notice had been issued to Thammanna only who had already died. In the Notification issued under Section 6 of the Act the land which belonged to Respondent No.2 had not been mentioned. The contention raised by the counsel for the appellant that Survey No. 91/3 instead of 90/3 has been mentioned due to a typographical error or printing mistake, was not accepted by the learned Single Judge. The learned Single Judge accepted the Writ Petition and quashed the Notifications issued under Sections 4 and 6 of the Act insofar as it related to the land measuring 1 acre, 32 guntas in Survey No. 90/3 belonging to Respondent No.2. The Division Bench in Writ Appeal has upheld the order passed by the learned Single Judge.

Counsel for the parties have been heard.

We do not find any infirmity in the order passed by the High Court, inasmuch as, admittedly, notice had been issued to Thammanna, who had already died, inviting objections under Section 5-A of the Act. After the death of Thammanna, land had been mutated in the name of his son, i.e., Respondent No.2 whose name was reflected in the revenue record

as owner of the land. Since the name of Respondent No.2 had already been reflected in the revenue record, notice of acquisition should have been issued to him. As notice was not issued to him, Respondent No.2 has been deprived of his valuable right to file objections under Section 5-A of the Act.

It is well established that a Notification under Section 4 of the Act is a preliminary notification making it known to the land owners of the intention of the Government to compulsorily acquire the land notified therein. The land owners can file objections under Section 5-A of the Act (unless dispensed with by invoking the provisions of Section 17 of the Act) to the proposed acquisition. The land-owners are required to be given a personal hearing as well. After hearing the land-owners and considering the objections filed to the proposed acquisition, final notification under Section 6 of the Act is issued by the Government. While issuing the final notification, Government can leave a part of the land from the proposed acquisition or acquire the entire land notified in the Notification issued under Section 4. The land notified under Section 6 of the Act would be the acquired land. In the Notification issued under Section 4, the land sought to be acquired was in Survey No. 90/3 belonging to Respondent No.2, whereas same does not find mention in the Notification issued under Section 6 of the Act. Contention of the appellant is that Survey No. 91/3 instead of 90/3 has been mentioned due to a typographical error or printing mistake. No corrigendum had been issued by the State of Karnataka

correcting the error or mistake, as alleged. This contention was raised before the High Court as well which has been rejected by the High Court by giving cogent reasons. We agree with the same.

For the reasons stated above, we do not find any merit in this appeal and dismiss the same with no order as to costs.

.J.

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(ASHOK BHAN)

New Delhi;  
..J.  
August 04, 2005.

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(S.B. SINHA)