

PETITIONER:
EXECUTIVE ENGINEER, JAL NIGAM CENTRAL STORES DIVISION, U.P.

Vs.

RESPONDENT:
SURESHA NAND JUYAL @ MUSA RAM (DECEASED) BY L.RS. ORS.

DATE OF JUDGMENT: 14/03/1997

BENCH:
K. RAMASWAMY, G.T. NANAVATI

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Delay condoned.

Leave granted

We have learned counsel on both sides

Notifications under section 4(1) Land Acquisition Act (for short, the 'Act') was published on May 7, 1986. The Notice under Section 5-A was issued and the objection filed on December 17, 1986 were over-ruled after due consideration. Declaration under Section 6 was published on August 25, 1987. After conducting of enquiry, the award came to be made on December 17, 1988. The symbolic possession was taken on the said date. The respondents filed the writ petition on August 19, 1989. The High Court allowed the writ petition by the impugned judgment dated August 31, 1992 in W.P. No. 3354/1988. The question is whether the procedure followed by the Land Acquisition officer was vitiated by any error manifest on the face of the record warranting interference by the High Court? Shri Naresh Kumar Shirma, learned counsel for the respondents, contends that the respondent/tenant has not been given any opportunity at the enquiry under Section 5-A. The land is the only source of livelihood and scheme was temporary. In view of the long lapse of time the purpose of the acquisition under Section 4(1) of the Act no longer survived. Therefore, it does not serve and purpose. Counter affidavit filled in the High Court by respondents shows that pursuant to the notice under Rule 30 of the Land Acquisition Rules, the respondents had filed the objections and it is stated therein as under:

"The concerned farmers were issued notices under Section 5-A under the Land Acquisition Act and Rule 30 giving 30 days time for raising objection on 2.9.1986, concerned farmer Shri Mussa alias Swesha Nanda Objected which was taken on record."

Obviously, after consideration of all the objection and rejection thereof, declaration under Section 6 was published. As stated earlier, the award was made and symbolic possession was taken on December 17, 1988. Under

the circumstances, the land stood vested in the State free from all encumbrances. After the proceedings had become final, the writ petition came to be filed on May 19, 1989. The mere fact that due to lapse of time no action was taken after the filing of the writ petition, does not give ground for interference. The further fact that public purpose must have been served by constructing the quarters for the officers elsewhere, is without any substance. The mere fact that on account of the pending litigation, no construction was made, is no ground to say that notification under section 4(1) was vitiated by any error of law; equally, increase in the prices of the lands is no ground.

The appeal is accordingly allowed. The judgment of the High Court stands set aside. The notification under Section 4(1) and declaration under Section 6 of the Act stand restored. No costs.

JUDIS