

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos. 5248-5274 OF 2017

[Arising out of S.L.P. (C) Nos. 2355-2381 of 2012]

The Special Agricultural Produce Market Committee
For Fruits and Vegetables ... Appellant(s)
Versus
N. Krishnappa and others etc. ... Respondent(s)

WITH

CIVIL APPEAL Nos. 5275-5278 OF 2017

[Arising out of S.L.P. (C) Nos. 39357-39360 of 2012]

N. Krishnappa and others ... Appellant(s)
Versus
The State of Karnataka and others ... Respondent(s)

CIVIL APPEAL Nos. 5279-5287 OF 2017

[Arising out of S.L.P. (C) Nos. 2834-2842 of 2014]

M. Suresh Kumar and another etc. ... Appellant(s)
Versus
The State of Karnataka and others ... Respondent(s)

JUDGMENT

NAVIN SINHA, J.

Leave granted.

2. The controversy in these appeals relates to the acquisition of 42 acres 32 guntas of lands in village Golimangala, Sarjapur Hobli, Anchal Taluk, District Bangalore, for expansion of the Appellant's marketing yard. Noticing infirmities in the acquisition proceedings, but declining

to quash the acquisition adverting to the larger public purpose, the High Court shifted the date of the notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') to the date of its order i.e. 22.11.2010, for determination of compensation. Aggrieved by the order, both the Appellant and the landowners are in appeal before this Court.

3. The statutory notification under Section 4(1) of the Act was published on 20.5.2002 and the Award made on 31.01.2005. On a challenge to the acquisition proceedings by the landowners, the Learned Single Judge, after perusing the original acquisition records, held that the declaration under Section 6(1) of the Act was made within statutory time from the last date of publication under Section 4(1) of the Act. But that the acquisition suffered from statutory non-compliance with regard to publication in two daily newspapers under Section 4(1) of the Act and improper consideration of the objections under Section 5A of the Act. Adverting to the public purpose of the acquisition, the proceedings were, however, declined interference and instead, the relief was moulded relying upon ***Competent Authority vs. Barangore Jute Factory & Ors.***, (2005) 13 SCC 477, by shifting the date of the Section 4(1) Notification.

4. Appeals were preferred both by the Landowners and the Appellant. The Division Bench summoned the original records afresh. It arrived at a finding at variance with the Learned Single Judge for reasons discussed in paragraph 40 of the Order that the declaration under Section 6(1) of the Act was not within statutory time. But, declining interference with the acquisition proceedings, it concurred with the reasoning ascribed by the Learned Single Judge of the larger public importance of the acquisition.

5. Dr. Rajeev Dhawan, Learned Senior Counsel appearing for the Appellant - Market Committee urged that the conclusion of the Learned Single Judge from the original records that the declaration under Section 6(1) of the Act was made within statutory time of one year was correct and warranted no interference by the Division Bench. The last date of publication under Section 4(1) in the Chavdi of the village was 05.08.2002. The declaration made under Section 6(1) on 02.08.2003 was within time. The date of the notification under Section 4(1) of the Act could not have been shifted in the manner done.

6. Learned Counsel for the State of Karnataka submitted that in the facts of the case, the High Court rightly shifted the date of the Section 4(1) notification keeping in mind the larger public interest involved in the acquisition as also the interest of the landowners.

7. Sri V.Lakshmi Narayanna, Learned Senior Counsel appearing for the landowners, submitted that once the Division Bench arrived at a finding that the declaration under Section 6(1) of the Act was beyond the statutory time, the acquisition proceedings could not have been sustained in the manner done. Without prejudice to the same, it was further submitted that neither had possession been taken till date nor had compensation been disbursed to the landowners. The acquisition proceedings, therefore, additionally stood lapsed under Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the 2013 Act').

8. We have considered the submissions on behalf of the parties. The original acquisition records had also been summoned by us. The observations of the Division Bench appear justified. But in the nature of the order passed, moulding the relief keeping in mind the larger

public interest involved in the acquisition, and in view of **Barangore Jute Factory** (*supra*), we are not satisfied that the order of the High Court calls for interference.

9. In **Barangore Jute Factory** (*supra*) the acquisition suffered from statutory non-compliance. In view of the larger public interest involved in the acquisition, declining to set aside the acquisition the relief was moulded in the interest of justice observing:-

"14.....No useful purpose will be served by quashing the impugned notification at this stage. We cannot be unmindful of the legal position that the acquiring authority can always issue a fresh notification for acquisition of the land in the event of the impugned notification being quashed. The consequence of this will only be that keeping in view the rising trend in prices of land, the amount of compensation payable to the landowners may be more. Therefore, the ultimate question will be about the quantum of compensation payable to the landowners. Quashing of the notification at this stage will give rise to several difficulties and practical problems. Balancing the rights of the petitioners as against the problems involved in quashing the impugned notification, we are of the view that a better course will be to compensate the landowners, that is, the writ petitioners appropriately for what they have been deprived of. Interests of justice persuade us to adopt this course of action."

10. Since the contention with regard to the 2013 Act will require examination of facts with due opportunity, we do not consider it necessary to deal with the same in the present proceedings and leave it open for the aggrieved to pursue their remedies in accordance with law before the appropriate forum, if so advised.

11. All the appeals are, therefore, dismissed.

.....J.
(Ranjan Gogoi)

.....J.
(Navin Sinha)

New Delhi,
April 17, 2017

JUDGMENT

SUPREME COURT OF INDIA



JUDGMENT