

A

STATE OF KERALA ETC.

v.

T.R. UDAY SANKARAN AND ORS. ETC.

AUGUST 16, 1995

B

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Land Acquisition Act, 1894 : (as amended by Act 68 of 1984)/The Kerala Land Acquisition Act, 1961—Whether benefit of amendment made in the Central Act available to acquisition under the State Act.

C

Practice and Procedure :

Service of notice—Notice returned with endorsement "not known"—Held, respondents appeared to have managed to have the notice returned with the endorsement—Notice must be deemed to have been served on them.

D

These appeals and the special leave petition by the State Government arose out of the award passed on 22.6.1976 and the order dated 24.6.1980 passed by the reference Court enhancing the compensation for the lands acquired under Section 3 of the Kerala Land Acquisition Act, 1961.

E

Allowing the appeals in part and dismissing the special leave petition, this Court

F

HELD : 1. The claimants are not entitled to the enhanced solatium and interest and the benefit of additional amount as envisaged under Sections 23(1-A), 23(2), and 28 of the Central Act as amended by Amendment Act 68 of 1984. However, they are entitled to solatium @ 15 per cent on the enhanced compensation and interest @ 4 per cent on the enhanced amount. [759-G-H]

G

2. Service on Respondent Nos. 1. and 2 when admittedly sought to be effected postal endorsement shows "not known". It would be obvious that they appeared to have managed to have the notice returned with that endorsement so as to delay the disposal of the case. Therefore, the notice must be deemed to have been served on them. [759-E]

H

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7572 of 1995.

From the Judgment and order dated 17.11.86 of the Kerala High Court in L.P.A. No. 92/81. A

WITH

Civil Appeal No. 7573 Of 1995.

And

S.L.P. (Civil) No. 7156 of 1991.

M.T. George for the Appellant.

T.G.N. Nair for the Respondent.

The following Order of the Court was delivered :

C.A. @ SLP (C) Nos. 7305 & 7288 of 1987.

Leave granted.

Respondent No. 3 has been served and Shri T.G.N. Nair appeared for him. Service on Respondent Nos. 1 and 2 when admittedly sought to be affected postal endorsement shows "not known". It would be obvious that they appeared to have managed to have the notice returned with that endorsement so as to delay the disposal of the case. Therefore, the notice must be deemed to have been served on them.

Notification under Section 3 of the Kerala Land Acquisition Act, 1961, which is equivalent to Section 4 (1) of the Land Acquisition Act, 1894, was published on 22nd June, 1976. The Land Acquisition Officer passed his award in 1977. On reference, the Additional Subordinate Judge enhanced compensation on 24th June, 1980. Under these circumstances, the claimants are not entitled to the enhanced solatium and interest and the benefit of additional amount as envisaged under Section 23 (1-A), 23(2), and 28 of the Central Act as amended by Amendment Act 68 of 1984.

The appeal is accordingly allowed to the above extent. However, the claimant-respondents are entitled to solatium @ 15 per cent on the enhanced compensation and interest @ 4 per cent on the enhanced amount

- A from the date of taking possession till date of payment of deposit whichever is earlier.

S.L.P. (C) No. 7156 of 1991

The special leave petition is dismissed.

R.P.

Appeals allowed in part and
petition dismissed.