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BALRAM CHANDRA

v.

STATE OF U.P.

APRIL 24, 1995

B

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

C

*Land Acquisition Act, 1894 : Section 4(1), 6 11, 18, 20, 23 and 26. Land Acquisition—Notification under section 4(1)—Declaration under section 6—Power to declare null and void, held Reference Court has no such power.*

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In land acquisition proceedings of this case the reference court declared that the notification issued under Section 4(1) and the declaration issued under section 6 of the Land Acquisition Act, 1894 were *null and void*. On appeal, the High Court set aside the order of the reference Court holding that the District Judge had no jurisdiction to declare the notification and the declaration *null and void*.

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In this Court it was contended for the petitioner that as the notification under s.4(1) did not contain the particulars required thereunder the District Judge was unable to proceed with the determination of the compensation and consequently he was within his power to declare the notification and declaration as not valid in law though it may be wrong to say that they are *null and void*.

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Dismissing the petition, this Court

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HELD : 1.1. The reference Court cannot go behind the reference and give a declaration that the notification under section 4(1) and declaration under section 6 are *null and void* or illegal. The duty and power of the Reference Court is confined *vis-a-vis* the provisions contained under sections 11, 18 and 20 to 23 and it can not traverse beyond its power. The High Court was, therefore, right in its conclusion that the District Court has committed grievous error of law in declaring the notification under section 4(1) and declaration under section 6 to be *null and void* and

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inoperative. [728-D, E]

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) A  
No. 9056 of 1995.

From the Judgment and Order dated 31.10.94 of the Allahabad High  
Court in F.A. No. 211 of 1989.

Sunil Gupta, Pratap Venugopal and K.J. John for the Petitioner. B

The following Order of the Court was delivered :

Notification under s.4(1) of the Land Acquisition Act was published  
in the State Gazette on October 19, 1957 followed by a declaration under  
s.6 published on November 6, 1957. The possession was taken on Decem- C  
ber 7, 1957. The Collector made his award on September 29, 1958. The  
petitioner sought for reference under s.18 and the Collector referred the  
matter on November 8, 1986. The District Judge in his award dated  
December 16, 1985 declared the notification under s.4(1) and the declara- D  
tion under s.6 to be *null and void*. Against that, an appeal was filed before  
the High Court under s.54. By the judgment and order dated October 31,  
1994, the Division Bench has set aside the order holding that the District  
Judge had no jurisdiction to declare the notification under s.4(1) to be void.  
Thus, this SLP.

Mr. Sunil Gupta, learned counsel appearing for the petitioner, in his  
usual vehemence, contended that the notification under s.4(1) did not  
contain the particulars required thereunder and the District Judge was  
unable to proceed with the determination of the compensation pursuant to  
the reference under s.18. Therefore, the District Judge was within his  
power to declare the notification and declaration as not valid in law though F  
it may be wrong to say that they are *null and void*. We find no force in the  
contention.

The Collector after making enquiry and passing the award, is re-  
quired under s.11 to consider the questions of : (i) the true area of the land  
required for determination of the compensation; (ii) the compensation  
which in his opinion should be allowed for the land; and (iii) the appor- G  
tionment of the compensation among all the persons known or believed to  
be interested in the land, of whom, or of whose claims, he has information,  
whether or not they have respectively interested in receiving the compen-  
sation. On determination of such of these questions and making the award H

A under s.11, the claimants, on receipt of notice, are entitled to receive it on protest and to make an application under s.18 of the Act with objections to the extent of the nature of the land, or the amount awarded or the persons entitled to receive compensation. When such an application within the limit prescribed under the proviso to s.18 is made, the Collector is required, under s.19 of the Act, to refer the objections with a statement with regard to the objections raised, to the Civil Court. Thereon, under s.20 of the Act, the reference Court is enjoined to give notice not only to the claimants but also to the Collector and persons interested in the land and the Court is required to go into the objections raised.

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C Thus, it could be seen that the District Judge is enjoined to go into the objections raised by the claimants in making enquiry under s.20 and to pass award under s.26 of the Act with reference to the objections raised by the claimants in respect of the area of the land or the amount of compensation. It is, therefore, be clear that the reference Court cannot go behind the reference and give a declaration that the notification under s.4(1) and declaration under s.6 are *null and void* or illegal. His duty and power are confined *vis-a-vis* the provisions contained under ss.11, 18 and 20 to 23 and he would not traverse beyond his power.

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E The High Court was, therefore, right in its conclusion that the District Court has committed grievous error of law in declaring the notification under s.4(1) and declaration unders 6 to be null and void and inoperative. We do not find any ground warranting interference. The SLP is dismissed accordingly.

T.N.A.

Petition dismissed.