

KANDENKUTTY AND ORS.

A

v.

STATE OF KERALA AND ORS.

MARCH 10, 1997

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

B

*Land Acquisition Act, 1894/Kerala Land Acquisition Act :*

Ss. 4(1) and 48/s. 3—Withdrawal from acquisition of lands—Held, merely because some of the lands which formed part of the same Notification were denotified in exercise of power u/s. 48, the integrality of the Notification for acquisition has not become bad in law.

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*Chandra Bansi Singh v. State of Bihar, AIR (1984) SC 1767 and The Spl. Land Acquisition Officer, Bombay v. M/s. Godrej & Boyce, AIR (1987) SC 2421, relied on.*

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*Acquisition proceedings—Delay in finalisation—Held, claimant himself delayed the matter by agitating his right in judicial proceedings—Pendency of judicial proceedings cannot be made a ground to assail the Notification u/s. 4(1) as bad in law due to escalation in the prices.*

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 6173 of 1997.

From the Judgment and Order dated 9.2.96 of the Kerala High Court in O.P. No. 5382 of 1983.

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K. Sukumaran, Mrs. Baby Krishnan and Ramesh Babu M.R. for the Petitioners.

The following Order of the Court was delivered :

This special leave petition arises from the judgment of the Division Bench of the Kerala High Court, made on February 9, 1996, in O.P. No. 5382/83.

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The admitted position is that Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the "Act"), which is *pari materia* with Section 3 of the Kerala Land Acquisition Act, was published on January

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A 10, 1981. The petitioner had initially challenged the scheme in O.P. No. 2436/82 which was dismissed and was confirmed in Writ Appeal No. 223/82, dated April 23, 1982. The petitioner filed another writ petition in the year 1993 and got the further proceedings stayed. The same has been dismissed by the High Court by the impugned order. Thus this special leave.

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It is contended for the petitioner that when a notification under Section 48 of the Act withdrawing the earlier notification in respect of some of the lands was issued, the integrality of the notification stood disturbed and, therefore, the acquisition has become bad in law. In support thereof, Shri Sukumar, learned senior counsel, sought to place reliance on the judgments of Andhra Pradesh High Court and Kerala High Court which are inconsistent with each other. He states that as there is conflict of opinions the conflict needs to be resolved. We find no force in the contention since the controversy has already been set at naught by this Court in *Chandra Bansi Singh v. State of Bihar*, A.I.R. (1984) SC 1767 and *The Spl. Land Acquisition Officer, Bombay v. M/s. Godrej & Boyce*, A.I.R. (1987) SC 2421. Therefore, merely because some of the land, which formed part of the same notification were denotified in exercise of the power under Section 48 of the Act, the integrality of the notification for acquisition has not become bad in law.

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It is then contended that due to the delay in the disposal of the matters the prices of the land have escalated and as a consequence, the acquisition has become bad in law. We find no force in the contention. In support of this contention, learned counsel relied upon those judgments of this Court where equities have been worked out in directing payment of higher compensation from the date of the publication of the declaration under Section 6. In those cases the State was responsible for the delay. In this case it is not responsible for the delay in finalisation of the acquisition. On the other hand, the petitioner has himself put the spokes at every stage and have the matter delayed by agitating his right in judicial proceedings. The pendency of the judicial proceedings cannot be made a ground to say that in the process, due to escalation in the prices, the notification issued under Section 4(1) of the Act has become bad in law. Under these circumstances, we do not find any illegality in the judgment of the High Court warranting interference.

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The Special Leave Petition is dismissed accordingly.