

A NEELAGANGABAI AND ANR.
v.
STATE OF KARNATAKA AND ORS.

MAY 3, 1990

B [LALIT MOHAN SHARMA AND M.M. PUNCHHI, JJ.]

Land Acquisition Act, 1894: Sections 18 and 20 (As applicable to State of Karnataka)—Land Acquisition—Compensation—Reference to Court—Determination of reference without notice to authority for whom acquisition was made—Validity of.

C Consequent to the acquisition of the appellant's land for meeting the requirements of the respondent-Corporation, a reference was made to the Civil Court, under section 18 of the Land Acquisition Act, 1894, which was determined without notice to the respondent-Corporation, and by allowing higher compensation to the appellants.

D The State preferred an appeal against the decision of the Civil Court which was dismissed and the respondent-Corporation's intervention in the appeal was not allowed.

E Thereafter the respondent-Corporation filed a writ petition challenging the validity of the Civil Court's judgment. The High Court set aside the award of compensation and directed the Civil Court to re-open the proceedings.

Dismissing the appellant's appeal, this Court,

F HELD: 1. In view of the clear language used in clause (c) of section 20 of the Land Acquisition Act, 1894 there cannot be any doubt that the respondent-Corporation was entitled to be heard before the reference could be determined. [22H]

G *Himalayan Tiles and Marbles (P) Ltd. v. Francis Victor Coutinho*, [1980] 3 SCR 235, referred to.

H 2. The land was acquired for the purpose of the respondent-Corporation, and the burden of payment of compensation is on the Corporation. Therefore, the High Court's view that it was mandatory for the Court of reference to have caused a notice to be served on the respondent-Corporation is correct. Non-service of notice deprived the

Corporation of an opportunity to place its case before the Court, and the judgment so rendered in the reference case was illegal and not binding on the respondent-Corporation. [22D-E]

3. The High Court's direction to the Civil Judge to re-open the proceedings and decide the matter afresh after giving the Corporation a chance to lead its evidence on the question of valuation is confirmed. [23B]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1561 of 1988.

From the Judgment and Order dated 4.3.1987 of the Karnataka High Court in W.P. No. 10292 of 1980.

N.D.B. Raju and N. Ganpathy for the Appellant.

Mohan Katarki, Rajeshwar Thakur, Ms. C.K. Sucharita and P.R. Ramasesh for the Respondents.

The Judgment of the Court was delivered by

SHARMA, J. This appeal by special leave is directed against the judgment of the High Court of Karnataka dated 4.3.1987 in W.P. No. 10292 of 1980 filed by the respondent No. 3, Hubli Dharwar Municipal Corporation, setting aside an award made under the Land Acquisition Act, 1897 in respect of the compensation payable to the present appellants and directing to re-open the proceeding before the civil court on a reference under s. 18 of the Act, for fresh disposal in accordance with law. The appellants were the owners of the land in question. In a proceeding under the Urban Land (Ceiling and Regulation) Act, 1976, the appellants were held to be having surplus land, which by virtue of the provisions of the Act vested in the State Government. However, before the publication of the aforesaid declaration in the official gazette, steps for acquisition were taken for meeting the requirements of the respondent-Corporation. The appellants thus escaped the consequences of the declaration made under the Ceiling Act, and became entitled to the compensation payable in accordance with the provisions of the Land Acquisition Act. Steps were accordingly taken for determination of the compensation, and on an application by the appellants under s. 18 of the Land Acquisition Act, reference was made to the civil court.

2. It is common ground that after the case was received by the

A civil court on reference, no notice was issued to the respondent-Corporation. The court did not, however, proceed to take evidence and record its own finding on the valuation, as it was conceded on behalf of the State Government that the market value of the land could be calculated at the rate of Rs.3,800 per guntha. The court answered the reference on the basis of the consent of the land owners and the State. The State, however, was not satisfied with the award and filed an appeal which was dismissed on ground of being not maintainable as the impugned judgment was held to be a compromise decree. An attempt by the respondent-Corporation to intervene also failed. The Corporation thereafter moved the High Court with a writ petition under Article 226 of the Constitution, *inter alia*, challenging the validity of the civil court's judgment directing higher compensation to be paid.

3. Admittedly the land was acquired for the purpose of the respondent-Corporation and the burden of payment of the compensation is on the Corporation. In this background the High Court has held that it was mandatory for the court of reference to have caused a notice served on the respondent-Corporation before proceeding to determine the compensation claim. Since no notice was given to the respondent-Corporation and it was thus deprived of an opportunity to place its case before the court, the judgment rendered in the reference case was illegal and not binding on the Corporation. We are in agreement with this view. Section 20 of the Land Acquisition Act as applicable to the State of Karnataka reads as follows:

“20. Service of notice.—The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the reference, and directing their appearance before the Court on that day, to be served on the following persons, namely:

- (a) the Deputy Commissioner;
- (b) all persons interested in the reference; and
- (c) if the acquisition is not made for Government, the person or authority for whom it is made.”

In view of the clear language used in clause (c) of s. 20, mentioned above, there cannot be any doubt that the respondent-Corporation was entitled to be heard before the reference could be determined.

The High Court has also relied upon the decision in *Himalayan Tiles and Marbles (P) Ltd. v. Francis Victor Coutinho (dead) by Lrs. and others*, [1980] 3 SCR 235, wherein the expression "person interested" was interpreted liberally so as to include an authority like the Corporation in the present case, but in view of the further provision specifically mentioning in clause (c) the authority for whom the acquisition is made it is not necessary to interpret clause (b) of s. 20 in the present appeal. We accordingly confirm the direction of the High Court as contained in the impugned judgment that the Principal Civil Judge, Hubli, should re-open the proceedings in the L.A. Case No. 64 of 1979 and decide the matter afresh after giving the Corporation a chance to lead its evidence on the question of valuation. Since the matter is an old one, the respondent-Corporation is hereby directed to appear in the said case within 3 weeks from today without waiting for any further notice. The appeal is dismissed with costs.

T.N.A.

Appeal dismissed.