

THE SPECIAL AGRICULTURAL PRODUCE MARKET
COMMITTEE FOR FRUITS AND VEGETABLES

A

v.

N. KRISHNAPPA AND OTHERS ETC.

(Civil Appeal Nos. 5248-5274 of 2017)

B

APRIL 17, 2017

[**RANJAN GOGOI AND NAVIN SINHA, JJ.**]

Land Acquisition Act, 1894 – ss. 4(1), 6(1) – Notifications under, for acquisition of lands for expansion of appellant’s marketing yard – Challenged by landowners – Single Judge of High Court held that the acquisition suffered from statutory non-compliance, however, keeping in view the public interest involved, instead of setting aside the proceedings it shifted the date of notification u/s.4(1) for determination of compensation – In appeals by landowners and the appellant, Division Bench concurring with the Single Judge declined interference with the acquisition proceedings in view of the larger public importance of the acquisition – On appeal, held: Keeping in mind the larger public interest involved in the acquisition, order of the High Court calls for no interference – The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 – s.24(2).

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Competent Authority v. Barangore Jute Factory & Ors.
(2005) 13 SCC 477 : [2005] 5 Suppl. SCR 421 – relied on.

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Case Law Reference

[2005] 5 Suppl. SCR 421 **relied on** **Para 9**

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 5248-5274 of 2017.

From the Judgment and Order dated 05.09.2011 of the High Court of Karnataka at Bangalore in W. A. Nos. 5-8, 33-34, 35-40, 41, 45, 5247-51, 47, 48, 5214-16, 49 & 5261 of 2011 and R. P. No. 302 of 2011

G

WITH

C. A. Nos. 5275-5278, 5279-5287 of 2017.

H

A Dr. Rajeev Dhawan, V. Lakshmi Narayanna, Sr. Advs., Dr. Nanda Kishore, Nishanth Patil, Abinash Kumar Mishra, Shantha Kumar Mahale, G. D. Ashwaitha Narayana, Amith J., V. N. Raghupathy, Anup Jain, Advs. for the appearing parties.

The Judgment of the Court was delivered by

B **NAVIN SINHA, J.** 1. Leave granted.

C 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.

D 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, E 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.

F 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 G 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 H 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

A 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
B 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
C 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.”

D 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.

E

Divya Pandey

Appeals dismissed.