

POSHETTY AND ORS.
v.
STATE OF ANDHRA PRADESH

AUGUST 28, 1996

[K. RAMASWAMY AND K. VENKATASWAMI, JJ.]

Land Acquisition Act, 1894 :

Section 11, 12(2), 18(2)—Service of notice of award passed under S.11—Whether a pre-condition under S.12(2)—Full Bench of A.P. High Court holding that service of award with notice is not necessary—On appeal held, communication of the award is not a pre-condition—Hence the Full Bench of the High Court was right in its interpretation of the provisions of S. 18 proviso r/w. sub-section (2) of S.12—Local amendment does not make any material change to the said interpretation.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1754 of 1992.

From the Judgment and Order dated 12.9.90 of the Andhra Pradesh High Court in W.P. No. 13203 of 1985.

D. Parkash Reddy for Mrs. Rani Chhabra for the Appellants.

G. Prakash for the Respondents.

The following Order of the Court was delivered :

This appeal by leave granted by the High Court of Andhra Pradesh under Article 133 of the Constitution arises from its Full Bench judgment dated February 21, 1991 in Writ Petition No. 12604 of 1987. In this appeal, the only controversy is : whether service of notice of award passed under Section 11 of the Land Acquisition Act, 1894 (for short, the "Act") along with its enclosure, is a pre-condition under sub-section (2) of Section 12 of the Act. The Full Bench of the High Court by judgment dated September 12, 1990 in Writ Petition No. 13203 of 1985 and batch held that service of the award with notice is not necessary. The learned Judges relying upon the omission of second clause in proviso to Section 18(2) of the Act held that it is not necessary that copy of the award should be served. It is

A contended by Shri D.P. Reddy, learned counsel for the appellants, that sub-section (2) of Section 12 was interpreted by a Division Bench of Andhra Pradesh High Court in *Special Deputy Commissioner (L.A) Kurnool District v. C. Sai Reddy & Ors.*, AIR (1984) A.P. 24. The Full Bench, therefore, was not right in its construction. The controversy is no longer *res integra*. This Court in *State of Punjab & Anr. v. Satinder Bir Singh*, [1995] 3 SCC 330 has considered the scope of sub-section (2) of Section 12 vis-a-vis proviso to sub-section (2) of Section 18 and held as under :

C "The question then is whether the notice under Section 12(2) is a valid notice. From a conjoint reading of Section 11 and 12, it is clear that notice is only an intimation of making of the award requiring the owner or person interested to receive compensation awarded under Section 11. On receipt of the notice, if the person interested receives compensation without protest, obviously no reference need be made. The determination of compensation becomes final and binds the parties. When he receives the compensation under protest as contemplated under Section 31 of the Act, the need to make the application for reference under Section 18(1) would arise. At that juncture, it will be open to the person interested either to make an inspection of the award which was conclusive between him and the Collector by operation of sub-section (1) of Section 12, or seek a certified copy of the award from the Collector and the contents. Thereon, he could make necessary objection for the determination, inter alia, of compensation for the land. It is not necessary that the notice should contain all the details of the award including his consideration and its manner of determination of the compensation as opined by the learned Judge of the High Court. It is not incumbent that the person interested should immediately make the reference application on his receiving compensation under Section 31. In other other words, receipt of the amount and making the reference application are not simultaneous. The statutory operation of limitation mentioned by Section 18(2) does not depend on the ministerial act of communication of notice in any particular form when the Act or Rules has not prescribed any form. The limitation begins to operate from the moment the notice under Section 12(2) is received or as envisaged by Section 18(2)".

H It is seen that sub-section (1) of Section 12 postulates that award

made under Section 11 shall be filed in the Collector's Office and the same shall be final and conclusive evidence as between the Collector and the persons interested, whether or not they have respectively appeared before the Collector, of the true area of the land acquired, the value of the land acquired and the apportionment of the compensation among the persons interested. The Collector is, therefore, required to issue notice of his award to such of the persons interested who were either not present personally or were present through representatives when the Collector made his award. Sub-section (2), therefore, requires him to give immediate notice of award to such interested persons and not simply the communication of the award as contended for. If such interested person who was present personally or through the representative at the time of making of the award, is not required to be supplied the copy of the award, would it be intended that the award should be served along with notice to a person who was not present. This question was considered in the above case and it was held that the service of notice is a ministerial act and the Act did not intend to supply the copy of the award. The limitation provided under proviso to sub-section (2) of Section 18 prescribes that if an applicant is present or represented, has to make an application when he receives the compensation under protest within six weeks from the date of the Collector's award and where he was not present within six weeks of the receipt of the notice from the Collector under sub-section (2) of Section 12 or within 6 months from the date of the Collector's award, whichever period shall first expire. In other words, the proviso to sub-section (2) of Section 18 prescribes the limitation within which the application for reference under sub-section (1) of Section 18 is required to be made and the failure thereof puts an end of the right to the claimant to seek a reference under Section 18. This Court has already held that communication of the award is not a pre-condition and, therefore, the Full Bench of the High Court was right in its interpretation of the provisions of Section 18, proviso read with sub-section (2) of Section 12. The local amendment does not, therefore, make any material change to the aforestated interpretation.

The appeal is accordingly dismissed but, in the circumstances, without costs.

G.N.

Appeal dismissed.

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