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KALIYAPPAN

v.

STATE OF KERALA & ORS.

OCTOBER 28, 1988

B [E.S. VENKATARAMIAH AND M.H. KANIA, JJ.]

Land Acquisition Act, 1894: Section 11A—Period during which an award shall be made—Two years from date of section 6 declaration/ two years of commencement of Amendment Act, 1984.

C **The Kerala State Government, after completion of preliminary steps, published a declaration on 18.1.1984 concerning the acquisition of petitioner's land for a public purpose. On 24.9.1984 the Land Acquisition (Amendment) Act, 1984 came into force whereby section 11-A was introduced into the Land Acquisition Act, 1894. Section 11-A provided that the Collector shall make an award under section 11 of the** D **Act within a period of two years from the date of publication of the declaration, and in the case where the said declaration had been published before the commencement of the Land Acquisition (Amendment) Act, 1984 within two years from such commencement.**

The Collector made the award on 23.9.1986. The notice of the E **award was served on the petitioner on 30.9.1986.**

The petitioner challenged the award before the High Court of Kerala on the grounds (1) that the notice of the award having been served on 30.9.1986, the award was not made within the prescribed period of two years, and (ii) that there was inordinate delay in making the F **award.**

Both the writ petition and the writ appeal were dismissed by the High Court.

Dismissing the special leave petition, it was,

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HELD: (1) In section 11-A the words "the Collector shall make an award within a period of two years from the date of the publication of the declaration" mean that the Collector is empowered to make an award till the expiry of the last date of the period of two years irrespective of the date on which the notice of the award is served upon the H **persons interested in the land. 'To make an award' in this section**

means 'sign the award'. That is the ordinary meaning to be ascribed to the words 'to make an award'. [655C-D] A

(2) It is well-known that the meaning to be assigned to the words in a statute depends upon the context in which they are found and the purpose behind them.

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(3) The object of and the reason for prescribing the period of limitation under section 11-A are different from the object of and the reason for prescribing the period of limitation under section 18 of the Act and the consequences that would flow from the violation of the rule of limitation in the two cases are also different. There is no analogy between section 11-A and section 18 of the Act insofar as the above question is concerned. [654C-D; 655E] C

(4) It would be safer in such cases to rely upon the statute for guidance as regards the maximum time that can be taken to make an award, instead of proceeding to strike down acquisition proceedings on the ground of delay in making the award by applying varying standards to different cases even though the maximum time of two years has not been exceeded. The time taken by the Land Acquisition Officer in this case to make the award cannot be considered to be fatal to the acquisition proceeding. [656B-C] D

Raja Harish Chandra Raj Singh **v.** *The Deputy Land Acquisition Officer,* **[1962] 1 S.C.R. 676, distinguished.** E

CIVIL APPELLATE JURISDICTION: Special Leave Petition (Civil) No. 9096 of 1988.

From the Judgment and Order dated 2.12.1987 of the Kerala High Court in W.A. No. 933 of 1987. F

P.S. Potti and E.M. Anam for the Petitioner.

The Judgment of the Court was delivered by

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VENKATARAMIAH, J. A piece of land measuring ten and a half cents situated at Kozhippathi Village of Chittur Taluk, Palghat District, State of Kerala originally belonged to Indrani, wife of the petitioner and it now belongs to the petitioner. Under a preliminary notification issued under section 3(1) of the Kerala Land Acquisition Act on 24.2.1981 the said piece of land along with some other lands H

was proposed to be acquired for a certain public purpose. Both Indrani and the petitioner filed objections to the proposed acquisition. After overruling the objections the State Government published a declaration under section 6 of the Kerala Land Acquisition Act on 19.1.1984. On 24.9.1984 the Land Acquisition (Amendment) Act, 1984 passed by Parliament came into force in the State of Kerala and some other parts of India to which it applies. By section 9 of the Land Acquisition (Amendment) Act, 1984 a new section, i.e. section 11-A was introduced into the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') which reads thus:

> "11-A. *Period within which an award shall be made*—The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:
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> Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.
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> Explanation—In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded."

The Land Acquisition Officer, i.e., the Sub-Collector of Palghat who was exercising the powers of the Collector under the Act made an award in respect of the land of the Petitioner on 23.9.1986 which was filed in the office of the Collector on 24.9.1986. The notice of the award was served on the petitioner on 30.9.1986. The petitioner and his wife challenged the acquisition proceeding in a petition filed under Article 226 of the Constitution of India before the High Court of Kerala in O.P. No. 1536 of 1987. The learned Single Judge, who heard the said petition overruled the objections of the petitioner and his wife and dismissed the petition. Aggrieved by the decision of the learned Single Judge the petitioner and his wife preferred an appeal before the Division Bench of the High Court in W.A. No. 933 of 1987. The said Writ Appeal was dismissed by the Division Bench of the Kerala High

Court. Aggrieved by the decision of the Division Bench the petitioner has filed this petition under Article 136 of the Constitution of India seeking special leave to appeal against the judgments of the Division Bench of the High Court.

The two grounds on which the acquisition proceeding was challenged by the petitioner and his wife before the High Court were: (i) that the award not having been made within a period of two years from the date of the commencement of the Land Acquisition (Amendment) Act, 1984, that is, 24.9.1984, as required by the proviso to section 11-A of the Act, the acquisition proceeding should be deemed to have lapsed; and (ii) that the land acquisition proceeding was liable to be quashed on the ground that there was inordinate delay in making the award.

The contention of the petitioner and his wife before the High Court was that the notice of the award having been served on him on 30th September, 1986 it must be held that the award was actually made on 30th September, 1986 and since more than two years had elapsed from 24.9.1984, from the date on which the Land Acquisition (Amendment) Act, 1984 came into force by the time the notice of award was served on him, the acquisition proceeding should be declared as having lapsed by virtue of the proviso to section 11-A of the Act. In support of his contention the petitioner relied upon a decision of this Court in *Raja Harish Chandra Raj Singh* v. *The Deputy Land Acquisition Officer and Another*, [1962] 1 S.C.R. 676 in which this Court had taken the view that for purposes of calculating the period of limitation prescribed for making an application requesting the Collector to refer the question relating to the valuation of the land acquired under the Act to the Civil Court under section 18 of the Act, the date on which the notice of the award was served on the owner of the land should be treated as the date of the award and that the period of limitation should be counted from the date of the service of the said notice. Both the learned Single Judge and the Division Bench of the High Court have declined to accept the said contention and we think rightly. Before the insertion of the new section i.e., section 11-A of the Act there was no provision corresponding to it in the Act which provided for the period within which an award should be passed by the Land Acquisition Officer, that is, the Collector under the Act. Since in a large number of cases there used to be abnormal delay in making the award, Parliament stepped in and introduced section 11-A to the Act which is set out above. In the Statement of Objects and Reasons attached to the Bill introducing the Land Acquisition (Amendment)

A Act, 1984 by which section 11-A was introduced into the Act it was stated that "the pendency of acquisition proceedings for long periods often causes hardship to the affected parties and renders unrealistic the scale of compensation offered to them". It was further stated in it that "it is proposed to provide for a period of two years from the date of publication of the declaration under section 6 of the Act within B which the Collector should make his award under the Act. If no award is made within that period, the entire proceedings for the acquisition of the land would lapse". Pursuant to the above object section 11-A of the Act was enacted. It provides that the Collector shall make an award under section 11 of the Act within a period of two years from the date of the publication of the declaration and if no award is made within that period the entire proceedings for the acquisition of the land C shall lapse. In the case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 the award shall be made within two years from such commencement. We are not concerned with the rest of the provisions of section 11-A of the Act in this case. The crucial words which require to D be interpreted are "the Collector shall make an award" appearing in section 11-A and the words 'the award shall be made' in the proviso to section 11-A. The statute prescribes the maximum period of two years for making an award from the date of the publication of the declaration under section 6 of the Act and further attaches a condition that if the award is not made within the said period the proceeding for the E acquisition of the land shall lapse. Similarly in the case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 the award shall be made within two years from such commencement and if the award is not so made the proceeding for acquisition shall lapse. Thus it is seen that the consequence of not making an award within the period of two years from the F date of the publication of the declaration or from the date of the commencement of the Act, as the case may be, is that the entire project for which the land is acquired will have to be abandoned or if it is intended to proceed with the project for which the land had been originally notified for acquisition it would become necessary for the Government to restart the proceedings once again with the publication G of a fresh preliminary notification under section 4 of the Act or the corresponding provision in any local statute in force in a State. If the date of the communication of the notice of the award to the person interested in the land is treated as the date of making the award then the maximum period prescribed under section 11-A of the Act for making the award would get reduced by the period for serving the H notice of the award on the owner of the land. Such maximum period

may vary from one case to another. Even in the same land acquisition case if a notice of the award is to be served on two or more persons interested in the land the maximum period for making the award may vary from person to person interested in the property depending upon the date of service of notice of the award on each one of them. If the person interested in the land is an unwilling person who is interested in defeating the land acquisition proceeding it is likely that it may not be possible to serve him with the notice of the award at all within the prescribed time and if he can avoid the service of said notice until the period of two years is over from the date of the publication of the declaration under section 6 of the Act or the date of commencement of the Land Acquisition (Amendment) Act, 1984, as the case may be insofar as his interest in the land is concerned, the proceedings for the acquisition would lapse thus affecting seriously the public interest. It would also lead to absurd and inconvenient results since the acquisition proceeding may be valid against some persons and may become invalid in the case of some others.

It is no doubt true that in *Raja Harish Chandra's* case (supra) while construing section 18 of the Act this Court held by giving an extended meaning that the date of the award for purposes of calculating the period of limitation should be the date on which the notice of the award is served on the owner of the land. The said interpretation was given by this Court on the principle that if a person is given a right to resort to a remedy to get rid of an adverse order within a prescribed time limitation should not be computed from a date earlier than that on which the party aggrieved actually knew of the order or had an opportunity of knowing the order and, therefore, must be presumed to have the knowledge of the order. Under section 18 of the Act the person on whom the notice of the award is served has to make an application before the Land Acquisition Officer within six weeks from the date of the award if such person was present or represented before the Land Acquisition Officer at the time when he made his award and in other cases within six weeks of the receipt of the notice of the Collector under section 12(2) or within six months from the date of the award whichever expires first. In a case where a person interested in the land is not present at the time when the award is made by the Collector he is entitled to make an application under section 18 of the Act seeking a reference of the case to the Civil Court for the determination of the proper compensation within six weeks of the receipt of the notice from the Collector under section 12(2) of the Act or within six months from the date of the Collector's date whichever expires first. Since the process of service of notice issued under section 12(2)

would occupy some time this Court was of the view that it would lead to injustice if the period of limitation prescribed by s. 18 of the Act was computed from the date on which the award was actually made and not from the date on which the notice under section 12(2) of the Act was served on the person interested in the land as it would result in the reduction of the period of six weeks by the time required for serving the notice on the person interested in the land. There is no doubt a difference between the meaning given by this Court in *Raja Harish Chandra's* case (supra) to the words "date of the award" in section 18 of the Act and the interpretation of the High Court of the words 'the Collector shall make an award' or 'the award shall be made' in section 11-A of the Act but such a distinction had to be maintained because the object of and the reason for prescribing the period of limitation under section 11-A of the Act are different from the object of and the reason for prescribing the period of limitation under section 18 of the Act and the consequences that would flow from the violation of the rule of limitation in the two cases are also different. In the former case the period of limitation is prescribed for preventing official delay in making the award and the consequent adverse effect on the person or persons interested in the land but in the latter case the period of limitation is prescribed for providing a remedy to the persons whose lands are acquired to seek a reference to the civil court for the determination of proper and just compensation. Secondly, while in the former case violation of the rule of limitation would result in the acquisition proceeding becoming ineffective, in the latter case such a violation will not have any effect on the validity of acquisition proceeding. Thirdly, while in the former case the period of limitation prescribed represents the outer limit within which an award can be made in the latter case we are concerned with the point of time at which the time to make an application under section 18 of the Act will begin to run against the person interested in the land. The provisions of section 11-A have to be construed bearing in mind these points of difference. It is well-known that the meaning to be assigned to the words in a statute depends upon the context in which they are found and the purpose behind them.

Under section 11-A of the Act the Collector is empowered to make an award before the expiry of the period of two years from the date of the publication of the declaration under section 6 of the Act and in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 before the expiry of the period of two years from the date of its commencement. If an award is not made within the prescribed period of

two years in either case, it is open to the person interested in the land to approach the Collector and tell him that the acquisition proceeding should be dropped unless the Collector is able to produce before him an award made by him within the period of two years. He may also in such a case question the continuance of the acquisition proceeding in court. Thus no prejudice will be caused to the person interested in the land. At the same time it would not be open to a person interested in the land to get rid of the acquisition of proceeding by avoiding service of notice issued by the Collector within the prescribed period. We are of the view that under section 11-A of the Act the words "the Collector shall make an award ..... within a period of two years from the date of the publication of the declaration" mean that the Collector is empowered to make an award till the expiry of the last date of the period of two years irrespective of the date on which the notice of the award is served upon the persons interested in the land. 'To make an award' in this section means 'sign the award'. That is the ordinary meaning to be ascribed to the words 'to make an award'. An extended or a different meaning assigned to the words 'the date of the award' by this court in *Raja Harish Chandra's* case (supra) cannot be applied in this case since such an extended or different meaning is neither warranted by equity nor will it advance the object of the statute. Similarly under the proviso to section 11-A of the Collector, the Collector is empowered to make an award within two years from the date of commencement of the Land Acquisition (Amendment) Act, 1984 irrespective of the date on which the notice of award is served on the person concerned. We do not find any analogy between section 11-A and section 18 of the Act insofar as the above question is concerned. The High Court was, therefore, right in rejecting the above contention of the petitioner.

We find very little substance in the other contention of the petitioner, namely, that the award was liable to be quashed on the ground of inordinate delay since it had been made at the end of two years from the date of commencement of the Land Acquisition (Amendment) Act, 1984. While we expect an award to be passed by the Collector as early as possible without delaying till the close of the period of two years prescribed by section 11-A of the Act, we do not see any good reason to set aside a proceeding for acquisition on the ground of delay by applying our own standard of speed in the matter of making awards even where the period occupied is less than two years from the date of publication of the declaration under section 6 of the Act as such an approach may drive the Collector to make awards without giving adequate time to the claimants to adduce evidence in

A support of the valuation of the property proposed to be acquired and without giving sufficient consideration to the material placed before him. It would be safer in such cases to rely upon the statute for guidance as regards the maximum time that can be taken to make an award, instead of proceeding to strike down acquisition proceedings on the ground of delay in making the awards by applying varying standards to different cases even though the maximum time of two years has not been exceeded. The very fact that section 11-A has prescribed the period of two years from the date of the commencement of the Land Acquisition (Amendment) Act, 1984 as the maximum period within which the award can be made suggests that the time taken by the Land Acquisition Officer in this case to make the award cannot be considered to be fatal to the acquisition proceeding.

We, therefore, affirm the decision of the High Court and reject this Special Leave Petition.

R.S.S. Petition dismissed.