

(89) It is an accepted principle that law is mutable. It must advance by the lapse of time in consonance with the statutory provisions and keeping the need of the society in mind. Equality, uniformity and avoidance of unintelligible differentia even in regard to interpretation of provisions more particularly social and beneficial provisions are the basic guiding factors. The interpretation given by the Courts has to be in conformity with the statutory provisions and legislative intent, but at the same time, must not appear to be a view which at the face of it is an utopian one.

(90) The constructive and harmonious approach for evolution of law which takes in its cover the personal or the customary law as well must lead to improvisation for difficult and need oriented situations.

(91) For the reasons afore-stated we dismiss the revision petition preferred by the husband against the order dated 21st December, 1991. We further direct the petitioner to pay the arrears of maintenance to his divorced wife and child, up-to-date within a period of three months from today. Keeping in view the peculiar facts and circumstances of the case, the respondents shall be entitled to the costs, which are assessed at Rs. 2,500/-.

R.N.R.

Before Ashok Bhan & K.S. Kumaran, JJ.

MANMOHAN LAL GUPTA,—*Petitioner*

versus

STATE OF PUNJAB & ANOTHER,—*Respondents*

CWP No. 12283 of 1996

22nd January, 1997

Constitution of India, 1950—Arts. 226/227—Land Acquisition Act, 1894—S. 11—A—Award—Proceedings initiated to quash notifications under sections 4 & 6 of the Act on the ground that award given was beyond statutory period of two years from publication of declaration—Last date of publication in locality is to be taken into account for computing period of limitation u/s 11-A.

Held, that S. 11 mandates the Collector to make the award under Section 11 within the period of two years from the date of

publication of the declaration and in case no award is made within that period, the entire acquisition proceedings of land shall lapse. Sub-Section (2) of Section 6 stipulates that the last of the dates of such publication and the giving of such public notice would be the date of publication of the declaration. Taking the date of last of the publication in the locality as the date of publication of the declaration, the award made by the Collector under Section 11-A was within two years.

(Para 8)

S.P. Gupta, Sr. Advocate with Rajesh Bindal,
Advocate, *for the Petitioner*

Tarunvir Vashisht, AAG(P), *for the Respondents*

JUDGMENT

Ashok Bhaj, J.

(1) Prayer made in this petition is for quashing the acquisition proceedings initiated by issuing notifications under Section 4 dated 30th November, 1992. (Annexure P-2) and under section 6 dated 25th November, 1993 (Annexure P-4), issued under the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'), on the ground that the award, Annexure P-7, given under section 11-A of the Act was beyond the statutory period of two years after the publication of the notification under section 6 of the Act and, therefore, the proceedings for acquisition of the land would be deemed to have lapsed.

(2) State of Punjab issued a notification for acquisition of the land, including that of the petitioner, for setting up a New Mandi Town at Bhikhi, Tehsil and District Mansa, under section 4 of the Act on 30th November, 1992, which was duly published in the Punjab Government Gazette on 30th November, 1992, in response to which, petitioner filed his objections under section 5-A of the Act. Objections filed under section 5-A were rejected and a notification under section 6 of the Act was published in the official gazette on 25th November, 1993. It was published in two newspapers dated 21st December, 1993 (Punjabi Tribune) and 24th December 1993 (English Tribune). The same was also published in the locality on 24th January, 1994. Award was announced on 15th January, 1996.

In the petition, the dates of publication of section 6 of notification in the newspapers and in the locality have not been mentioned. These facts have been brought out in the written statement filed by the respondents.

(3) Section 6 of the Act provides that when the appropriate Government is satisfied, after considering the report, if any, made under section 5-A sub section (2) that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of the Secretary to such Government or of some officer duly authorised to certify its orders within three years of the publication of the notification under section 4. Under section 6(2), such declaration shall be published in the official gazette, two daily newspapers circulated in the locality in which the land is situate of which at least one shall be in the regional language and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality. It further provides that "the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration."

(4) Under the statute, three modes of publication have been provided i.e. the Official Gazette, two daily newspapers and in the locality. The last of such publication is to be taken as the publication of the declaration. Section 11-A provides that 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 acqisiton of the land shall lapse.

(5) Under proviso (i) to section 6(1), declaration under section 6(1) cannot be made after the expiry of three years of the publication of the notification under section 4 of of the Act. In this case, the notification under section 6(1) was published within the period of three years. Taking the date of publication of the notification under section 6 in the official gazette (25-11-1993) to be the final publication, present petition has been filed for quashing the acquisition proceedings on the ground that the award was not made within two years from the date of publication of the declaration rendering the entire proceedings for the acquisition of the land infructuous.

(6) We do not find any merit in this petition. Last publication was on 24th January, 1994 in the locality and taking that to be the last date of publication of the declaration, the award made on 15th January, 1996 is within the statutory period of two years provided under section 11-A of the Act.

(7) For the view taken we find support from the judgment of their Lordships of the Supreme Court in *Krishi Utpadan Mandi Samiti and another v. Makrand Singh and others* (1). In this case, their Lordships were considering the question as to whether the declaration under section 6(1) was published within/after three years of the last of the publication under section 4(1). While dealing with that proposition their Lordships observed as under :—

- “5. Clause (i) of the proviso to Section 6(1) mandates the publication of the declaration in the official gazette and it should be within three years from the date of the publication of the notification under section 4(1) i.e. the last of the dates referred to in Section 4(1). The word ‘publish’ emphasises the act accomplished i.e. declaration under Section 6(1) being published in the Official Gazette. The last date under Section 6(2) shall be the date for the purposes “hereinafter referred to” would be not for computing the period of three years prescribed in clause (i) of proviso to Section 6(1) of the Act it was already done, but purposes to be followed hereinafter. Otherwise language would have been “hereinbefore done”. Sub-section (2) as such did not prescribe any limitation within which the declaration under Section 6(1) or other steps hereinafter to be taken, in other words, the steps to be taken thereafter in making the award under Section 11 or in computation of the period prescribed in Section 11-A. The publication of the declaration in two daily newspapers having circulation in the locality one of which is in the regional language and the publication of the substance of the declaration in the locality are ministerial acts and is a procedural part. It appears that these publications are required to be done to make the declaration published in the manner, to be conclusive evidence of the public purpose under section 6(1) and also to provide limitation to make the award under Section 11 by the Collector. In other

words, the limitation prescribed under Section 11-A is for the purpose of making the award and if the Collector fails to do so, the entire proceeds under Sections 4(1) and 6(1) shall stand lapsed. If this consistent policy of the Act is understood giving teeth to the operational efficacy to the scheme of the Act and public purpose the Act seeks to serve, we are of the considered view that publication in the Official Gazette already made under clause (i) of proviso to sub-section (1) of Section 6 is complete, as soon as the declaration under Section 6(1) was published in the Official Gazette. That will be the date for the purpose of computation of three years' period from the last of the dates of the publication of the notification under Section 4(1). *The procedural ministerial acts prescribed under sub-section (2) are only for the purpose of the procedure to be followed 'hereinafter'*, in other words, the steps to be taken subsequent to the publication of the declaration under Section 6(1) of the Act. We cannot agree with Shri Rana, the learned Senior Counsel, that the date of making the declaration by the Secretary to the Government or the authorised officer is the date for computing period of three years. Equally, we cannot agree with the learned counsel for the respondents, Shri Upadhyay, that publication of the substance being the last date from which the period of three years needs to be computed. Acceptance of either contention would easily defeat the public policy under the Act by skillful manner of management with the lower level officials. The High Court, therefore, was not right in its conclusion that since declaration was published in the newspapers on 4th June, 1987, after the expiry of three years, the declaration under Section 6(1) and the notification under Section 4(1) stood lapsed. It is clearly illegal. The further contention of the learned counsel for the respondent that other contention raised in the writ petitions needs to be dealt with and so the cases need to be remanded, has no force for the reason that though they were pleaded but the parties have chosen to argue only the above contention. So it is not a fit case for remand. The writ petitions would stand dismissed. The appeals are accordingly allowed but in the circumstances without costs."

(8) The word 'hereinafter' in sub-section (2) indicates the steps which are to be taken subsequent to the publication of the declaration under section 6(1) of the Act. Section 11 mandates the Collector to make the award under Section 11 within the period of two years from the date of publication of the declaration and in case no award is made within that period, the entire acquisition proceedings of land shall lapse. Sub-section (2) of section 6 stipulates that the last of the dates of such publication and the giving of such public notice would be the date of publication of the declaration. Taking the date of last of the publication in the locality as the date of publication of the declaration, the award made by the Collector under section 11-A was within two years.

(9) For the reasons recorded above, we find no merit in this petition and dismiss the same with no order as to costs.

J.S.T.

Before Ashok Bhan & N.K. Agrawal, JJ

THE MANAGING COMMITTEE OF THE PREM CHAND
MARKANDA S.D. COLLEGE FOR WOMEN,
JALANDHAR CITY,—*Petitioner*

versus

AMARJIT SINGH & ANOTHER,—*Respondents*

CWP No. 6715 of 1996

1st August, 1997

Constitution of India, 1950—Arts. 226/227—Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974—Punjab Affiliated Colleges (Security of Service) Rules, 1978—Penalty of dismissal or removal from service cannot be imposed unless approved of by D.P.I.—Against orders of D.P.I. aggrieved party to approach Tribunal—Petitioner filed appeal before District Judge under ordinance issued by Guru Nanak Dev University governing services of non-leading employees against Tabla teacher—Appeal before District Judge not maintainable.

Held, that Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974 was enacted by the Legislature of State of Punjab for governing the service regarding dismissal, removal or reduction in rank of employees of affiliated colleges. As per Section