

## MISCELLANEOUS CIVIL

Before D. S. Tewatia, J.

RAM SINGH and others,—Petitioners.

versus

STATE OF HARYANA,—Respondent.

Civil Writ Petition No. 3248 of 1977

December 16, 1977.

*Haryana Municipal Act (24 of 1973)—Section 4(1) and (2)—Area sought to be brought within the municipal limits of a Committee—Provisions of section 4(1) regarding 'such other manner' of notifying the State's intention to include the area—Whether mandatory.*

*Held*, that sub-section 2 of Section 4 of the Haryana Municipal Act 1973 requires the persons affected from the inclusion of their area within the Municipal limits to file their objections in writing. The affected persons can file their objections within time only if they were made aware of the notification in time. As every one knows that even literate people do not come to know of the existence of a notification, illiterate villagers cannot be expected to know these facts which affect them without such publicity as may be considered sufficient to inform of its existence to a man in the street. Where ignorance of law is no excuse, any provision requiring publication in a given manner to achieve the aforesaid object of giving information to the affected persons, has to be considered as mandatory one. The provisions of section 4(1) regarding the other manner of notifying the State's intention are, therefore, mandatory. (Para 4).

*Petition under Articles 226 and 227 of the Constitution of India praying that the notifications Annexure "P-1" and Annexure "P-2" may be quashed.*

*Further praying that the operation of the Annexure "P-1" and Annexure "P-2" may be stayed till the final decision of the writ petition and Rule 20(2) of the writ jurisdiction rules may be dispensed with.*

G. S. Sandhu, Advocate, for the Petitioner.

H. S. Gill, D. A. Haryana, for the Respondents.

Ram Singh, etc. v. State of Haryana (D. S. Tewatia, J.)

ORDER

D. S. Tewatia, J.—(Oral)

(1) The petitioners, residents of village Sasoli Tehsil Jagadhri, District Ambala, have impugned in this writ petition notifications Annexures 'P-1' and 'P-2'. Notifications Annexures 'P-1' and 'P-2' have been issued under sub-section (1) and (3) respectively of Section 4 of the Haryana Municipal Act, 1973 (hereinafter referred to as 'the Act'), whereby their land and the village inhabited by them were sought to be brought within the municipal limits of Yamunagar Municipal Committee. The notification under sub-section (1) of Section 4 of the Act (Annexure 'P-1') has been impugned on the ground that it did not satisfy the requirement of sub-Section (1) of Section 4 of the Act in regard to its publication. Provisions of sub-Section (1) of Section 4 are in the following terms:

*"4. Notification of intention to alter limits of municipality.*

*"(1) The State Government may, by notification and in such other manner as it may determine, declare its intention to include within a municipality any local area in the vicinity of the same and defined in the notification."*

Even a casual perusal of the aforesaid provision would leave no scope for any doubt that the intention to include within the municipality any local area in the vicinity of the same had not only to be notified through a Government notification, but has also to be notified in such other manner as may be determined by the State Government. It is denied that the said intention, besides being declared through the impugned notification, had been notified in any other manner.

(2) Mr. H. S. Gill, Advocate, appearing for the State has taken the stand that the requirement of sub-Section (1) of Section 4 of the Act regarding the other manner of notifying the State's intention is merely directory and not mandatory.

(3) I am afraid, there is no merit in the contention advanced by the learned counsel for the State.

(4) Sub-Section (2) of Section 4 of the Act requires the persons affected from the inclusion of their area within the municipal limits

to file their objections in writing to the State Government through the Deputy Commissioner within six weeks from the publication of the notification under sub-section (1) of section 4 of the Act. The affected persons can file their objections within time only if they were made aware of the notification in time. As every one knows that even literate people do not come to know of the existence of a notification, what to talk of the illiterate villagers, so it hardly requires stressing that where ignorance of law is no excuse, the law that effects the citizens requires such publicity as may be considered sufficient to inform of its existence to a man in the street, and any provision requiring publication, of a fact which affects the citizens, in a given manner to achieve the aforesaid object of giving information to the affected persons, has to be considered mandatory one.

5) Since in the present case the intention to include the area of the petitioners' village within the municipal limits of the Municipal Committee had been only notified through a notification and not additionally through other manners envisaged by sub-section (1) of Section 4 of the Act, the notification Annexure P-1 is clearly vitiated and so is any final action taken thereon and for that reason Notification Annexure P-2 also stands vitiated. Both the notifications are, therefore, illegal and hence quashed.

(6) Before parting with the judgment it may be observed that it would be open to the State Government to issue fresh notifications in accordance with law, if it is so advised. The petitioners shall have their costs.

K. T. S.

REVISIONAL CIVIL

*Before Prem Chand Jain and Gurnam Singh, JJ.*

BARA HANUMAN TEMPLE DURGAIN,—*Petitioners.*

*versus*

GURBUX LAL MALHOTRA and others,—*Respondents.*

*Civil Revision No. 854 of 1976*

*December 16, 1977.*

*Code of Civil Procedure (V of 1908)—Section 92 and Order 1 Rule 10(2)—Suit filed under Section 92—A new defendant in such*