

Writ Petition No.19483/2016

8.12.2016

Shri K.N. Pethia, learned counsel for the petitioner.

Shri A.P. Singh, learned Government Advocate for respondent State of M.P. on advance notice.

Heard on admission.

Petitioner calls in question the Award dated 13.8.2010 passed by the Land Acquisition Officer and the notice of auction dated 14.3.2016.

Undisputedly in furtherance to notice under Section 4 (1) of the Land Acquisition Act, 1894 and the notice under Section 6 (1) of 1894, land of the petitioner along with other land holders was notified for acquisition. The notification under Section 4 (1) was issued on 16.8.2007; whereas under Section 6 (1) the notice was issued on 13.8.2008. The award was passed on 13.8.2010.

The only question raised by the petitioner that the award which was to be passed within two years from the date of notification under Section 6 since was passed after expiry thereof is void ab initio.

Section 11 A of the Land Acquisition Act, 1894 stipulates that

“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 :

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, (68 of 1984), the award shall be made within a period of two years from such commencement.

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.”

Thus, for an award to be valid, it must be made “within a period of two years from the date of publication of the declaration”.

It is well established principle of law that where the expression “within a certain period an act is to be done”, the date from which the period is to be counted should be excluded. This principle of law is engrafted through a statutory provision contained under Section 9 of the General Clauses Act, 1897, which provides for

“9. Commencement and termination of time.- (1) In any Central Act or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word “from”, and, for the purpose of including the last in a series of days or any other period of time, to use the word “to”.

(2) This section applies also to all Central Acts made after the third day of January, 1968, and to all regulations made on or after the fourteenth day of January, 1887.”

In **Haru Das Gupta v. The State of West Bengal** (AIR 1972 SC 1293) it is held:

“5. These decisions show that courts have drawn a distinction between a term created within which an act may be done and a time limited for the doing of an act. The rule is well established that where a particular time is given from a certain date within which an act is to be done, the day on that date is to be excluded. see *Goldsmiths' Company v. The West Metropolitan Railway Company*, (1904) 1 KB 1). This rule was followed in *Cartwright v. Mac Cormack* (1963) 1 All ER 11 at p. 13, where the expression "fifteen days from-the date of commencement of the policy" in a cover note issued by an insurance company was construed as excluding the first date and the cover note to commence at midnight of that day, and also in *Marren v. Dawson Bentley & Co. Ltd.*, (1961) 2 QB 135, a case for compensation for injuries received in the course of employment, where for purposes of computing the period of limitation the date of the accident, being the date of the cause of action, was excluded. [see also *Stewart v. Chapman* (1951) 2 KB792 and *In re North, Ex parte Lasluck* (1895) 2 QB 264]. Thus, as a general rule the effect of defining a period from such a day until such a day within which an act is to be done is to exclude the first day and to include the last day.

(see Halsbury's Laws of England, (3rd ed.) vol. 37, pp. 92 and 95) There is no reason why the aforesaid rule of construction followed consistently and for so long should not also be applied here.”

In **M/s. Saket India Ltd. and others v. M/s. India Securities Ltd** (AIR 1999 SC 1090) it is held:

“5. Aforequoted Section 138 of the Act inter alia provides that where any cheque drawn by a person is returned by the Bank unpaid, such person shall be deemed to have committed an offence, however, it will apply, if conditions mentioned in clauses (a), (b) and (c) are satisfied. Section 142 further provides that Court shall take cognizance of any offence punishable under Section 138 on a written complaint made by the payee or the holder in due course, if such complaint is filed within one month of the date on which the cause of action arises. A month is to be reckoned according to the British Calendar as defined in the General Clauses Act, 1897. The question would be whether for calculating the period of one month which is prescribed under Section 142 (b), the period has to be reckoned by excluding the date on which the cause of action arose?

Applying these principle of law in the given facts of present case that, the declaration under Section 6 was notified on 13.8.2008 and the Award was made on 13.8.2010, the first date, i.e., 13.8.2008 has to be excluded in computing the period. Thus the Award made on 13.8.2010 was “within a period of two years

from the date of the publication of the declaration”, as would warrant any interference.

Consequently, since the petition does not merit consideration, it is dismissed. No costs.

**(SANJAY YADAV
JUDGE**

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