A STATE OF KARNATAKA AND ORS.

v.

D.C. NANJUDAIAH AND ORS.

AUGUST 26, 1996

B [K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Land Acquisition Act, 1894 :

Sections 4(1), 5A.6—High Court holding that enquiry under S.5A not properly conducted—Quashing notification under S.4(1)—On appeal held, inquiry under S.5A was found fault with and it required to be quashed—Fresh enquiry under S.5-A to be conducted—Limitation of conducting the enquiry and publication of the declaration within three years would start from date of receipt of High Court's order and not from the date on which the original publication under S.4(1) came to be made—State permitted to conduct enquiry within four months and declaration to be published one month thereafter.

N. Narasimhaiah v. *State of Karnataka*, **[1996] 3 SCC 88, relied on.**

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 11874-75 of 1996.

From the Judgment and Order dated 26.2.91 of the Karnataka High Court in W.P. Nos. 19348-49 of 1981.

M. Veerappa for the Appellants.

The following Order of the Court was delivered :

Though the respondents have been served, no one is appearing either in person or through counsel.

Leave granted.

We have heard learned counsel for the appellant.

The controversy raised in this case is covered by the judgment of this Court in *N. Narasimhaiah* v. *State of Karnataka*, [1996] 3 SCC 88. The admitted facts are that notification under Section 4(1) of the Land Acquisi-

tion Act, 1894 was published on August 26, 1982 and enquiry under Section 5-A was conducted thereafter. But before the receipt of the report from the Land Acquisition Officer, the declaration under Section 6 was published on June 24, 1985 within three years. Two writ petitions were filed on December 10, 1985 challenging the notification under Section 4(1) and the declaration under Section 6. The High Court allowed the writ petitions and quashed the notification under Section 4(1) and declaration under Section 6 by the impugned judgment dated February 26, 1991 made in Writ Petition Nos. 19348 and 19349 of 1985. Thus, these appeals by special leave.

It is seen that the declaration under Section 6 was published within three years from the date of the notification under Section 4(1) as upheld by the High Court. But the High Court noted that the enquiry under Section 5-A was not properly conducted. The declaration under Section 6 dated June 24, 1985 quashed since the notification under Section 4(1) was dated August 26, 1982 and the declaration could not be published within three years even after excluding the period of pendency of the writ petitions under proviso to Section 6 of the Act. Thus, the notification under Section 4(1) was quashed. We find no justification for the view taken by the High Court. It is seen that declaration under Section 6 was published, as held by the High Court, within three years, but the conduct of the enquiry under Section 5-A was found fault with and it requires to be quashed. If it is quashed necessarily an enquiry under Section 5-A has to be conducted. The limitation, therefore, of conducting the enquiry and publication of the declaration within three years would start running from the date of the receipt of the order of the High Court and not from the date on which the original publication under Section 4(1) came to be made. This view was laid by this Court in *Narasimiah's* case (supra). For the same ratio, the appeals are to be allowed and the declaration has to be quashed. Accordingly the declaration is quashed. The appellant is permitted to conduct an enquiry within a period of four months from the date of the receipt of this order and have the declaration published within one month thereafter.

The appeals are accordingly allowed. No costs.

G.N. Appeals allowed.