
(2016) 03 SC CK 0019
In the Supreme Court Of India
Case No : Civil Appeal No. 3794 of 2012

Abdul Aziz and Ors.

APPELLANT

Vs

State of U.P. and Ors.

RESPONDENT

Date of Decision : 29-03-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 17(1), 17(4), 4

Citation : (2016) 3 Scale 596 : (2016) 12 SCC 460

Hon'ble Judges : Ranjan Gogoi; Prafulla C. Pant, JJ.

Bench : Division Bench

Advocate : Dr. J.N. Dubey, Sr. Adv, Anurag Dubey, Anu Sawhney, Meenesh Dubey, Meenakshi Parihar and S.R. Setia, Advocates, for the Appellant; Ameet Singh, Alka Sinha, Anuvrat Sharma and Rakesh Uttamchandra Upadhyay, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

1. The challenge in this appeal is against the order dated 21st December, 2010 passed by the Allahabad High Court by which the writ petition filed by the appellants contesting the notifications issued under Sections 4 read with Section 17(1) and 17(4) of the Land Acquisition Act, 1894 (for short, "the Act") as well as the declaration issued under Section 6 of the Act has been dismissed.
2. We have heard the learned counsels for the contesting parties and perused the relevant material.
3. The date of publication of the notification under Section 4 of the Act by Munadi was 29.09.2007; the declaration under Section 6 was dated 22.07.2008 while the notice under Section 9(1) of the Act was dated 10.10.2008. The compensation on an estimated basis was deposited on 09.09.2008. The award was made on 12th June, 2009 and possession of the land was taken over in the month of July, 2009. Construction of the electricity sub-station for which purpose the land was acquired commenced in the year 2010. It is on the said facts that the writ petition was structured contending that there was no urgency to invoke

Section 17 and dispense with the inquiry under Section 5A of the Act.

4. The High Court appears to have perused the entire file in original to arrive at the conclusion that the delay in taking over the possession has been adequately explained. Furthermore, the High Court also took the view that the present would not be a fit case for interference inasmuch as co-owners have already accepted the compensation under the award and the construction of the electricity sub-station was in full progress. The High Court in considering the question of delay also took into account the fact that the land in question was covered by crops. Hence, the order of dismissal of the writ petition.

5. On the basis of the dates mentioned by us in the preceding paragraph even if we are to hold that the High Court was not justified in coming to its impugned conclusion and the dispensation of inquiry under Section 5A of the Act in the present case cannot be justified the further question that we have to answer is whether in the exercise of the appellate jurisdiction of this Court under Article 136 we ought to interfere with the impugned notifications at a stage when admittedly the electricity sub-station has been completed and is functional.

6. In a somewhat similar situation this Court in "Anand Singh And Another v. State of Uttar Pradesh And Others", (2010) 11 SCC 242, has taken up the view that though dispensation of enquiry under Section 5A was not justified, interference would not be called for. Paragraph 56 of the report in Anand Singh's case (supra) wherein the aforesaid view was taken may be conveniently extracted below.

"In the written submissions of the GDA, it is stated that subsequent to the declaration made under Section 6 of the Act in the month of December 2004, award has been made and out of the 400 landowners more than 370 have already received compensation. It is also stated that out of the total cost of RS. 8,85,14,000 for development of the acquired land, an amount of RS. 5,28,00,000 has already been spent by the GDA and more than 60% of the work has been completed. It, thus, seems that barring the appellants and few others all other tenure-holders/landowners have accepted the "takings" of their land. It is too late in the day to undo what has already been done. We are of the opinion, therefore, that in the peculiar facts and circumstances of the case, the appellants are not entitled to any relief although dispensation of enquiry under Section 5A was not justified."

7. In light of the view taken by this court in Anand Singh's case (supra) and as the facts of the present case are largely similar, we are of the view that we ought not to interfere with the order of the High Court under challenge. The appeal, therefore, is dismissed and the order of the High Court is affirmed.

8. Before parting, we would like to observe that by an interim order dated 17th February, 2012, this Court had observed that as the construction of electricity sub-station has been completed, the compensation payable should be on the basis of market value as on the date of taking over of possession and not on the

date of the Section 4 notification.

9. Pursuant to the aforesaid order of the Court, an affidavit by the learned Additional District Magistrate (Land Acquisition), Agra (U.P.) has been filed on 17th April, 2012 before this Court wherein it has been indicated that instead of the rate of RS. 42,36,540/- (Rupees forty two lakh's thirty six thousand five hundred forty only) per hectare the appellants would be entitled to compensation at the rate of RS. 49,84,165/- (Rupees forty nine lakh's eighty four thousand one hundred sixty five only) per hectare. Notwithstanding the dismissal of the appeal, we leave it open for the appellants to receive the aforesaid compensation at the rate of RS. 49,84,165/- (Rupees forty nine lakh's eighty four thousand one hundred sixty five only) per hectare, if they so desire.