

(2006) 07 DEL CK 0098

In the Delhi High Court

Case No : Writ Petition (C) 2190 of 1990 and W.P. No"s. 2444, 2499, 2651, 3936/90, 4, 234, 913/91 and 329/93

All India Minorities Welfare Trust and Others

APPELLANT

Vs

Delhi Administration and Others

RESPONDENT

Date of Decision : 13-07-2006

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1), 5A, 6

Citation : (2006) 90 DRJ 635

Hon'ble Judges : Swatanter Kumar, J;S.L. Bhayana, J

Bench : Division Bench

Advocate : N.A. Siddiqi, for the Appellant; Sanjay Poddar, for the Respondent

Final Decision : Dismissed

Judgement

Swatanter Kumar, J.—By this order we would dispose of all the above nine writ petitions though they relate to different villages but give rise to common question of law and fact.

2. In particular facts of civil writ petition No. 2190/90 can be referred. The petitioner All India Minorities Welfare Trust claims to be looking after the weaker sections. The proper Government issued a notification u/s 4(1) of the Land Acquisition Act on 22.7.89 acquiring land measuring about 3500 hectares. The petitioner filed objections u/s 5(A). Whereafter declaration u/s 6 of the Act was issued on 29.6.90. This declaration included the land of the petitioners as well as some constructed houses. The respondents issued another notification for taking possession of land. The petitioner and other persons whose interest they are looking after is stated to be carrying on small businesses in different areas. The validity of the notification was challenged on the ground that the petitioner would be rendered homeless and demolishing the property of the petitioner would be no way in public interest. On the contrary it would be the wastage of public money. It was also the case of the petitioner that the land was being acquired without following the procedure prescribed under the Land Acquisition Act.

Mandatory requirements of Section 4(1) were not carried out and in terms of the judgment of the Supreme Court in the case of Jugraj Singh and Another Vs. Jaswant Singh and Others, the notification was liable to be quashed.

3. The land of the petitioners was acquired for a public purpose namely "Channelisation of River "Yamuna". The land was from the Revenue estate of Village Jasola and according to the petitioners, it was called as Abdul Fazal Enclave, Part-II. Like the petitioners' case, the lands in the other eight villages were also acquired vide same notification. In other words, the notification dated 23.6.89 and declaration under Section 6 dated 22.6.90 relates to the following nine villages:

(1) Madanpur Khadar; (2) Khizrabad; (3) Behlolpur Khadar; (4) Chak Chilla; (5) Kilokri; (6) Nangli Rajapur; (7) Okhla; (8) Joga Bai and (9) Jasola

4. It may also be noticed that large number of writ petitions were filed challenging this notification. The writ petitions came up for hearing before a Division Bench of this Court consisting of Mahinder Narain and J.B. Goel J.J. There was a difference of opinion between the Hon'ble Judges in regard to the merits of the writ petition as well as the relief to which they were entitled to. Keeping in view the divergent views, the matters were referred to Third Judge. A.K.Sikri, J vide his detailed judgment in the case of Baldev Singh Dhillon and Others Vs. Union of India (UOI) and Others, agreed with the view taken by J.B. Goel, J and differed from the view taken by Mahinder Narain, J. The relevant part of the judgment reads as under:

It may be noted at this stage that in the affidavits filed by the DDA as well as L&B Department as recent as in 2001-2002 it is reiterated that the development plans are not abandoned and are still very much in contemplation. It may be that due to the passage of time there is further thinking on the project and some more alternatives are also mooted for development of the river as well as "Channelisation of River Yamuna". Importance of such a project hardly needs to be emphasised. It may achieve the cherished goal of beautification of the area, purification of water of River Yamuna, stoppage of pollutants being discharged into the river, availability of more water, including raising of ground water level and even "Channelisation" of the river. It is only hoped that the authorities, after they take possession of land in question, act with all sincerity and seriousness in seeking through the project.

It may, however, be observed that since two alternatives land use models are suggested and are in contemplation as per which, either entire area to be developed as green for recreational use or 85% of the area is to be used for recreational purpose and balance for gainful purposes. If second alternative is ultimately adopted as per which, 15% of the area is to be used for gainful purposes, such as residential, commercial, public and semi-public uses, the Government should consider allotting land that would be earmarked for residential and commercial purposes, etc. to the petitioners and other land

owners who are going to be affected by this acquisition, on such terms as the respondents may deem fit. The respondents may consider preparing a suitable scheme in this behalf for the benefit of these persons.

The upshot of the aforesaid discussion is that I agree with the conclusions contained in the judgment of J.B.Goel, J. and differ from the view taken by Mahinder Narain J. Therefore, in my view the petitions challenging the notifications are without merit and deserve to be dismissed.

These petitions are accordingly dismissed but with no orders as to costs.

5. In terms of the view taken by A.K. Sikri, J, all these writ petitions are liable to be dismissed. While dismissing the writ petition, the Court specifically upheld the validity of the notification issued u/s 4 and the Acquisition taken in furtherance thereto. The view of the larger Bench is binding on this Court and in any case, we have no reason to take a different view.

6. Learned Counsel appearing for the petitioner while relying upon Para 73 of the judgment contended that this Court should issue a direction to the respondents to provide residential and/or commercial accommodation to the petitioners. We see no reason to issue any such mandamus in favour of the petitioners and against the respondents. Whatever has been said in the judgment of Baldev Singh Dhillion's case (supra) would operate in accordance with law and we intend to make no further additions or subtractions in the judgment.

7. Consequently, all these writ petitions are dismissed for the reasons stated in the Baldev Singh Dhillion's case supra. The said judgment would hold the view for all intent and purposes and we would not make any further directions either way in the above cases.

8. The writ petitions are accordingly dismissed, while leaving the parties to bear their own costs.