
(1993) 01 P&H CK 0110
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2086 of 1992

Amar Singh and Others

APPELLANT

Vs

Union Territory of Chandigarh and Another

RESPONDENT

Date of Decision : 07-01-1993

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Land Acquisition Act, 1894 — Section 4, 6

Citation : (1994) 108 PLR 425

Hon'ble Judges : N.K. Sodhi, J

Bench : Single Bench

Advocate : V. Ram Swaroop and Anil Sharma, for the Appellant; Ashok Aggarwal Subhash Goyal and Jai Shree Thakur, for the Respondent

Final Decision : Allowed

Judgement

N.K. Sodhi, J.—By a preliminary notification dated October 11, 1991 issued u/s 4 of the Land Acquisition Act, 1894 (as amended upto date the hereinafter called "the Act") land measuring 213.65 acres was sought to be acquired in village Jhumbru and by a similar notification dated October 15, 1991 issued u/s 4 of the Act another area of 83 acres in Village Burail was required for a public purpose, namely, the Development of third phase of Chandigarh, city by the Chandigarh Administration, Chandigarh. The land covered by the two notifications included the land of the petitioners who belong to these two villages which fall in the Union Territory of Chandigarh. Details of the land required for the said public purpose are mentioned in the notifications. The declaration u/s 6 of the Act was made by a notification dated January 13, 1992 in regard to the land in village Burail and a similar declaration was also made in regard to the land in the other village. The Collector, Chandigarh was directed to take further action for the acquisition of the lands mentioned in the two notifications. These acquisition proceedings have been impugned by the petitioners in the present petition filed under Article 226 of the Constitution.

2. The notifications u/s 4 of the Act have been challenged primarily on the ground that the respondents have not complied with the mandatory provisions of Section 4 of the Act inasmuch as the notifications had not been published in two daily news papers circulating in the locality nor was public notice of the substances of the notifications given at convenient places in the locality. For this reason, according to the petitioners, they could not file their objections u/s 5A of the Act. Averments in this regard have been made in paragraphs 6 and 7 of the petition but these have been denied and the corresponding reply of the respondents is in paragraph 6 of the written statement which reads as under :-

"In reply to para 6 of the writ petition, it is submitted that the impugned notification was published in the official gazette. The substance of the notification u/s 4 of the Act was published in accordance with the provisions of the Act. It is denied that the provisions of the Act were not complied with. The substance of the notification in respect of Burail was published in the Tribune and "Jan Satta" on 27.10.1991 and in respect of Jhumbru, the substance of Section 4 notification was published in the Tribune" dated 24.10.1991 and in Tanjabi Tribune and Jan Satta" on 20.10.1991. The substance of the notification was also given wide publicity in the locality and a report thereto was entered in the Roznamcha in respect of the Munadi conducted in Burail as well as Jhumbru villages. The substance of the Notification u/s 4 of the Act pertaining to acquisition of land for villages Burail and Jhumbru was given wide publicity in the respective locality by way of conduct of Munadi in the area of the two villages and the revenue record/Rapat Roznamcha with respect thereto is in possession of the Answering respondents and can be produced in Court as and when directed."

The original records were produced in Court and the learned counsel appearing for the respondents pointed out that the notifications had been published in two daily newspapers having circulation in the locality one of which was in Hindi and another in Panjabi. In addition, the notifications were published in the daily Tribune as well. Learned counsel also pointed out that public notice of the substance of the notifications u/s 4 of the Act was given at convenient places in the locality by beat of drum and an entry to this effect had been made in the daily diary maintained for the purpose. In view of the categoric stand taken by the respondents and fully supported by the record, I find no substance in the contentions advanced on behalf of the petitioners. *Ghansham Dass Goyal v. State of Haryana and Anr.*, 1 1982 PLJ 146 and *Jati v. State of Haryana and Ors.*, 2 1986(1) LLR 537 do not support the case of the petitioners inasmuch as in these cases Court found as a fact that the substance of the notification u/s 4 of the Act had not been published in the locality and, therefore, mandatory provisions of the Act stood violated and consequently, acquisition proceedings were held to be illegal. In *Jati's* case (*supra*) learned Judge found that the report in the daily diary was vague and its contents did not make it dear as to what was announced by the chowkidar who was stated to have made the proclamation. In the present case the notifications have been published in the newspapers as required by Section 4 of the Act and public notice of the substance of the notifications has

also been given at convenient places in the locality as per the report in the daily diary and it has not been averred in the petition that the said report is in any respect vague. It is also not the case of the petitioners that the two villages in which the acquired land is situate are not small villages or that their population is very large and spread over a big area so as to make it incumbent upon the respondents to give detailed particulars in regard to the places where the Munadi was done. It may be men turned that if the two villages are small and compact not spread over a large area and have small population, it would be enough for the respondents to state in the report that Munadi was done in the locality where the land is sought to be acquired. However, if the villages are big enough with large population, the requirement in the report may be different. These are all facts in regard to which the petitioners ought to have made specific averments so that the respondents could have given detailed reply. In the absence of necessary averments, it cannot be held that the acquisition proceedings are invalid, particularly when most of the other land-owners whose land has also been acquired through the same notifications filed their objections u/s 5A of the Act and have not challenged the acquisition proceedings. This contention of the petitioners has, thus, no merit and must be repelled.

3. It was next urged by learned counsel for the petitioners that the purpose for which the land has been acquired is not a "public purpose" within the meaning of the Act and that it is vague as a result whereof the petitioners were handicapped in filing their objections u/s 5A of the Act Reliance was sought to be placed on the judgments of the Apex Court in Madhya Pradesh Housing Board Vs. Mohd. Shafi and Others, , Munshi Singh and Others Vs. Union of India (UOI), and Aflatoon and Others Vs. Lt. Governor of Delhi and Others, . A bare look at the notifications issued u/s 4 of the Act, as also the declarations u/s 6 makes it dear that the purpose for the land in question is sought to be acquired is "Development of 3rd phase of Chandigarh City by the Chandigarh Admimstration Chandigarh. This purpose to my mind is clearly a public purpose as defined in Clause (f) of Section 3 of the Act, the relevant clauses of which read as under :-

"(f) the expression "public purpose" includes :-

(i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites;

(ii) the provision of land for town or rural planning :-

(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;

(iv) x x x x x (v) to (viii) x x x

If the land is required by the Chandigarh Administration for the development of the 3rd phase of Chandigarh City, then, in my opinion, not much argument is

required to say that the same is required for town planning or for planned development in pursuance of the scheme or policy of the Administration and would be covered by aforesaid Clauses (ii) or (iii). It is a matter of common knowledge that the city of Chandigarh has been developed in phases) the first two phases having already been completed. The notifications not only mentioned the public purpose clearly but also mentioned as to who required the land and who would develop the same. The detailed particulars of the land as well as the locality where it was situate are also mentioned in the notifications. The public purpose; as also the other particulars mentioned in the notifications are sufficiently clear and the petitioners could, if they so liked, file their objections u/s 5A of the Act as was done by other land owners. The contention that the purpose for which the land was acquired was not a public purpose or that it was vague is, thus, clearly devoid of force. In Madhya Pradesh Housing Boards's case (supra), the writ petitioner who was a respondent before their Lordships of the Supreme Court challenged the notification issued u/s 4(1) of the Act on the ground that the same was vague and invalid for non-compliance with the mandatory requirements of the Act. It was found that the "public purpose" for which the land was required was stated to be "residential" and the only description given about particulars of the land proposed to be acquired was that the same was situate in District Mandsaur, Tehsil Mandsaur village Mandsaur. The High Court found that Mandsaur was not mere a village but a big city having a population of more than 80 thousand and was spread over an area of 25 Sq. Kms. and in the absence of the details of the land or locality where the same was situate vitiated the proceedings for non-compliance of the provisions of the Act. Even though particulars of the land and the public purpose were mentioned in the declaration issued u/s 6 of the Act, no explanation was furnished as to why those particulars were not given in the notification issued u/s 4 of the Act. Their Lordships also found that the public purpose mentioned in the notification as "residential" was hope lessly vague as it gave no indication as to what type of residential accommodation was proposed or for whom nor was any detail mentioned. It was in these circumstances that their Lordships upheld the judgment of Madhya Pradesh High Court, quashing the notification issued u/s 4 of the Act. In the present case, the notification issued u/s 4(1) of the Act gives all the detailed particulars of the land sought to be acquired including the locality where the same is situate and also mentions with sufficient clarity the public purpose. In Munshi Singh's case (Supra), their Lordships found that the public purpose "for planned development of the area" was vague because it was not possible for any one interested in the land to know what kind of planned development was under contemplation, i.e., whether the land would be acquired and the development would be made by the Government or the owners of properties would be required to develop a particular area in a specified way. This case is again of no help to the petitioners because in the case me it has been clearly stated in the notifications issued u/s 4(1) of the Act that the land is required by the Chandigarh Administration for the development of the third phase of Chandigarh City. The kind of vagueness found in Munshi Singh's case

(Supra) is not there in the instant case. Aflatoons"s case (Supra) is also of no help to the petitioners.

Lastly, it was submitted on behalf of the petitioners that the Collector did not cause any public notice to be given at convenient places or near the land sought to be acquired, which was a mandatory requirement of Section 4(1) of the Act. From the record produced before me, I find that no such public notice was given. It is true that individual notices were not given to all the land owners including the petitioners but this is no substitute for the public notice which was required to be given under sub Section (1) of Section 9 of the Act. Even the individual notices sent to some of the petitioners do not give them 15 days clear notice to file their claims to compensation or to state the nature of their respective interests in the land under acquisition and to file objections, if any, to the measurements made u/s 8 of the Act. The mandatory provisions of Section (1) of the Act, have therefore, not been complied with. This renders the acquisition proceedings subsequent to the steps envisaged in Section 9 of the Act illegal qua the petitioner it is, however, made clear that all proceedings taken prior to the issuance of notice u/s 9(1) of the Act are valid and any step taken in the wake of the notifications issued under Sections 4 and 6 of the Act would also be valid.

4. No other point has been urged.

5. For the reasons recorded above, the writ petition is allowed and all the acquisition proceedings from the stage of notice required to be issued under Sub-section (1) of Section 9 of the Act are declared invalid qua the petitioners alone. Parties are left to bear their own costs.