

(2007) 02 RAJ CK 0098
In the Rajasthan High Court

Bhuwaneshwar Sharma and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 07-02-2007

Acts Referred:

Land Acquisition Act, 1894 — Section 17(1)

Citation : (2008) 1 RLW 926

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Judgement

Ashok Parihar, J.—Initially 150sq. Acres of land was allotted for establishment of medical college in the city of Kota, which is one of the major industrial town of the State. The land been insufficient, additional land was sought to be acquired as per requisition of the Controller and Principal of Medical College, Kota. The additional land was required for construction of nurses hostel, nurses training center, administrative block, central stores, and residential quarters for paramedical and teaching staffs, proper place for disposal of waste from the hospital as also laboratories, construction of laundry and other certain purposes including electric Sub-station. Initially notification u/s 4 of the Land Acquisition act was issued on 30.11.1995. However, for additional requirement for the purposes referred above, a notification u/s 17(1) of the Land Acquisition Act was issued on 29.11.1996.

2. Both the above notification dated 30.11.1995 as also 29.11.1996 have been challenged by the petitioners mainly on the ground that as per report of the Secretary, Urban Improvement Trust and the District Collector, the additional land was not required for the purpose of expansion of the medical college premises. It has also been alleged that there has been total non-application of mind before issuing notification u/s 17(1) of the Act. Violation of Articles 25 and 26 of the Constitution of India has also been alleged on the ground that there are many temples and chattaries on the land in dispute and the acquisition may disturb religious feelings of the public at large.

3. After hearing learned Counsel for the parties, I have carefully gone through the material on record, the Judgments cites at the bar as also relevant provisions of the Act.

4. Admittedly, the land has been acquired for construction and expansion of medical college at Kota to give proper medical facilities to public at large. It is total discretion of the authorities concerned to acquire particular land for a specific purpose. The details of the expansion plan, as referred above, cannot be disputed when a medical college and connecting hospitals are established in a city. Once a medical college is established, the ancillary requirement has also to be fulfilled and for that purpose, if urgency clause is applied, the same cannot be questioned before a Court. It cannot be said that medical college be established at one place and other departments can be established and expansion be made at some other place. Requirement of a compact complex neither can be denied nor disputed. As has come on record, it was only on the basis of letter received from the Controller and Principal of the Medical College that notification u/s 17(1) was issued applying urgency clause for taking possession of the land in question immediately. Under the circumstances, it cannot be said that the land was not required or there was no proper application of mind. The possession could not be taken in view of interim order passed by this Court on 20.12.1996 in regard to maintaining status quo. Though applications had been submitted on behalf of the respondent State for modifying or vacating the interim order, however, no orders, as such, could be passed only on the ground that the matter will be finally decided after hearing both the sides. It is unfortunate that many a times the very purpose of acquisition is frustrated by long pendency of such litigation.

5. So far as violation of Articles 25 and 26 are concerned, there is nothing on record to established that there are public temples situated on the land in dispute from the immemorial. Even assertion of the petitioners in this regard is absolutely vague. It has also come on record that the petitioners came into possession of the land in dispute only in the year 1988. Further serious disputes have been raised in regard to title of the land in dispute and the litigations are pending before the competent courts. In reply, it has been submitted that there has only been a small temple at the relevant time to save the land from acquisition, the petitioners cannot be allowed to raise the plea of religious sentiments of the public at large in absence of any material placed on record except few photographs of idols. Moreover, in view of serious disputed questions of facts and law in regard to title of the land in question itself; this plea cannot be entertained by this Court under writ jurisdiction. Since public purpose/ requirement as also urgency for acquisition of the land in question cannot be disputed, in my opinion, no interference, as such, is called for by this Court in such matters under writ jurisdiction.

6. Though the notification u/s 17(1) was issued way back on 29.11.1996, however, no action could be taken by the authorities in view of interim order passed by this Court, as referred above. The authorities may now take

possession of the land sought to be acquired immediately and proceed further in accordance with law. The authorities shall also be free to remove all unauthorised encroachments made on the land in dispute after issuing of notification u/s 4 of the Act. In view of serious disputes amongst the parties in regard to title over the land in dispute, the compensation of the land, so acquired, be paid to the concerned parties only after due verification of the title over the land so acquired. It further goes without saying that if the parties are still aggrieved with the amount of compensation, they can always seek reference u/s 18 of the Land Acquisition Act after passing of the award. Since the land is been acquired purely for a public purpose for establishment and expansion of medical college complex, the authorities may take further necessary action expeditiously in accordance with law. With the above observations and directions, the writ petition is disposed of accordingly.