

(1996) 12 AHC CK 0070

In the Allahabad High Court

Case No : Civil Miscellaneous Wrti Petiton Mo. 7032 of 1982

Champa Devi and Ors.

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 05-12-1996

Acts Referred:

Land Acquisition Act, 1894 — Section 17, 4, 5A, 6

Citation : (1996) 12 AHC CK 0070

Hon'ble Judges : R.S.Dhavan, J and V.P.Goel, J

Final Decision : Dismissed

Judgement

R.S. Dhavan and V.P. Goel, JJ.—This case relates to the City of Varanasi. The action impugned by the petitioners is land acquisition proceedings under the Land Acquisition Act, 1894. The purpose of land acquisition was that certain roads in Varanasi had been earmarked for roadwidening. The petitioner itself records that whereas the widening of the road so earmarked, the width of the road has been fixed as 60 feet, but it was proposed to widen them with a width of 100 feet. To carry out this purpose, land acquisition proceedings were set in motion with the issue of notifications under Section 4, 6 and 17 but by excluding Section 5A.

2. The main submissions of the petitioners is of two fold. Firstly, there was no private negotiations before going into the question of acquiring the land of the petitioners for the purpose of widening the public roads. Secondly, the road widening could have been diverted to the opposite direction, but this was not done as one Sri Y.P. Dubey was closely related to respondent No.3, the Secretary, Varanasi Development Authority. The second aspect, the Court will not go into for the simple reason that for alleging mala fides, Sri Y.P. Dubey, referred to in the writ petition, should have been arrayed as a party respondent together with the person whom he was related to and posted as an officer with the Varanasi Development Authority.

3. In so far as the first aspect is concerned, the petitioners contend that the

Varanasi Development Authority ought to have had private negotiations first and then arranged to acquiring the land. The use of the land for public purpose, is not disputed. In the counter affidavit of the Varanasi Development Authority, it is contended that initiation of private negotiations with the petitioners could not be had simply because the petitioners are not the owners of the property.

4. The balance of the issues which remain as a controversy in the writ petition, is the resistance to the land acquisition proceedings for widening the road from 60 feet to 100 Feet. Beyond this issue, there is no plausible ground for the Court to quash the notification under Sections 4, 6 and 17 of the Act, aforesaid.

5. The contention of the petitioners to stall this public plan of road widening in a city like Varanasi, cannot be accepted. Any road which may not have been found wide enough for Varanasi in 1982, 14 years later, would need to be even wider today. Varanasi is in any case, is a city which during the day chokes with traffic. Every one likes to see easy flowing, for traffic moving on roads. But when the planning is actually put into execution, impediments like the present one are put before the planners. This writ petition alone has been responsible for keeping in abeyance the widening of roads in Varanasi for 14 years.

6. Roads and public streets are the arteries and veins of the city. The traffic is the life and must move freely without obstruction. When citizens obstruct public roads, they lay the foundations of a choking city. Violating prescribed set backs to keep buildings away from the road, also hinders with plans for road widening. Like it has happened in the present case.

7. Planning a road or planning its widening is a public plan for a public purpose. No person has been singled out. There is no class bias and the sooner the planning for widening of the roads in Varanasi is put into execution the better it would be for the city itself.

8. The last submission made was that the State has not answered the writ petition by a counter affidavit, but only the Varanasi Development Authority. This would make no difference to the issues raised in the writ petition as the submissions made by the petitioners themselves are enough to dismiss the petition.

9. The petition is dismissed with costs to respondent No.3, the Secretary, Development Authority, Varanasi (Correctly to be described as Varanasi Development, Authority).

10. The interim order dated 18/6/1982 is discharged. Petition dismissed.