
(2002) 07 MP CK 0118
In the Madhya Pradesh High Court
Case No : Writ Petition No. 2986 of 2002

Charan Singh and others

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 01-07-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 48(1), 6

Citation : (2003) 1 MPLJ 454

Hon'ble Judges : A.K. Mishra, J

Bench : Single Bench

Advocate : Ashok Lalwani, for the Appellant; Hemant Shrivastava, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Mishra, J.

Petitioner is challenging the order dated 29-4-2002 passed by the Principal Secretary Annexure-P/18 refusing to denotify the lands which was acquired for industrial purpose way back in the year 1990. Award determining compensation was also passed in the year 1992.

The petitioners initially filed Writ Petition No. 398/1997 which was decided on 10-10-2000. Several submissions were raised for assailing the land acquisition proceedings. Prayer was ultimately confined that a direction may be issued to the State Government to dispose of representation submitted by the petitioner for denotification of land u/s 48(1) of the Land Acquisition Act within the specified time. Time was fixed by this Court to decide the representation by December 2000, which time was extended in M.C.C. No. 72672001. It was directed that representation be decided by end of October 2001, thereafter order Annexure-P/18 has been passed rejecting the representation to denotify the land. Petitioners assails the order on the basis that the award was not passed within two years. Thus, acquisition itself is bad in law, as such denotification should

have been made. The public purpose shown in the notification u/s 4 and in declaration u/s 6 is vague. It is submitted that compensation has not been paid as such denotification should have been made. Next submission raised is that the respondents had denotified the land of Survey No. 42 which was also acquired. Case of the petitioners is similar as such denotification should have been made. Next submission is that in the master plan the area in question has been now reserved for residential purpose, as such denotification be directed to be made.

Shri Hemant Shrivastava, G.A. for the respondents submits that order is proper. Question of validity of acquiring of land cannot be seen at the time of denotification and petitioner cannot now raise any objection with respect to acquisition of land even otherwise possession was taken within requisite period, hence, proceedings did not lapse.

The first submission raised by learned counsel for the petitioner that acquisition itself is bad in law as the award could not be passed within a period of two years. Thus, denotification should have been made. There is finding recorded that the award was passed within two years. Moreover in any view of the matter this question cannot be allowed to be raised by the petitioner at this stage. The notification u/s 4 has attained finality. Award has been passed. The prayer made in the writ petition is only to quash the order refusing to denotify the land. If the petitioner was serious for assailing the acquisition, he should have pressed this question when earlier writ petition was filed i.e. W.P. 398/97. Now after lapse of about 10 years and particularly when the award has been passed in the year 1992. It is not open to challenge the notification u/s 4 and declaration u/s 6 on the ground of non passing the award within two years as well as of ignorance of the notification u/s 4 and declaration u/s 6.

As to the ground that purpose mentioned in the notification u/s 4 is vague hence notification be quashed suffice it to observe that award has been passed in 1992, in writ filed in 2002 this question cannot be allowed to be raised now. The only ground which survives for decision in view of the order passed by this Court in W.P. 398/97 is about the propriety of the order with respect to denotification, a direction was issued to consider the representation made by the petitioner and to decide it by giving reason and that the order P/18 has been passed validity of which can be appreciated. Detailed order has been passed by the Principal Secretary Annexure-P/18 refusing to denotify the land. It has been clearly recorded in the order that the District Industries Centre requires the plot and land in question for making allotment as many as 78 to 80 applications are still pending for allotment of the land along with advance deposit of Rs. 50 lac along with each application. The aspect that Survey No. 42 was denotified, has been taken into consideration by the Principal Secretary. It has been concluded that owing to collusion a wrong report was submitted and land in question Survey No. 42 was denotified. Action has been initiated departmentally against the erring official. Petitioner cannot avail the advantage of such wrong done by an officer. Mala fide cannot be attributed in refusing to denotify the land of the petitioner as

DIC still requires it.

With respect to submission raised by learned counsel for the petitioner that compensation has not been paid, it has been mentioned in the order that Rs. 78,69,934/- has been deposited by the District Industries Centre. Mutation has also been made in the name of District Industries Centre. The Bhumiswamis are free to collect the compensation which is lying with the Land Acquisition officer. Thus, it is not correct that the compensation has not been deposited. Petitioners are themselves responsible for not collecting it as they had challenged the notification earlier and it appears that they had not collected the compensation, so far, it be paid to them at an early date after verification as per entitlement.

Next submission raised by learned counsel for the petitioner is that in the master plan the area in question has been now reserved for residential purpose, it cannot vitiate the notification made in the year 1990. Case of residential colony has come to nearby area cannot be a ground to direct denotification of land. BHEL industry is located in nearby area.

For the aforesaid reasons, I find no merit in the instant writ petition. Same is dismissed in limine.