
(2003) 03 MP CK 0023
In the Madhya Pradesh High Court
Case No : L.P.A. No. 473 of 2002

Charan Singh and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 26-03-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 11A, 4, 48(1), 6

Citation : (2003) 3 MPLJ 258

Hon'ble Judges : Bhawani Singh, C.J;S.S. Kemkar, J

Bench : Division Bench

Advocate : Ashok Lalwani, for the Appellant;

Final Decision : Dismissed

Judgement

Shantanu Kemkar, J.—The appellant has filed this Letters Patent Appeal under Clause X of the Letters Patent against the order dated 1-7-2002 passed by the learned Single Judge in Charan Singh and others vs. State of Madhya Pradesh and others, W.P. No. 2986/2002 (since reported in 2003 (1) MPLJ 454)

2. The brief resume of facts required to be stated for the disposal of this Letters Patent Appeal may be narrated:

Through Writ Petition No. 398/97 the appellants challenged the land acquisition proceedings on various grounds. But, at the time of hearing of the aforesaid writ petition, the appellants sought direction to the State Government to dispose of representation dated 26-9-2000 submitted by the appellants to the State Government. By said representation, they prayed for withdrawal of acquisition of land and denotification of the same u/s 48(1) of the Land Acquisition Act, 1894. The learned Single Judge, vide order dated Oct, 10, 2000 allowed the prayer and directed the State Government to decide the representation within specified time and extended it vide M.C.C. No. 726/2001. The Principal Secretary Revenue decided the representation and rejected the prayer of the appellants to denotify the land in question vide order dated 29-4-2002(Annexure-P/18).

3. The aforesaid order was challenged by present appellants by Writ Petition No. 2986/2002. Before the learned Single Judge it was submitted that the acquisition itself is bad in law since the award has been passed after a period of two year. Thus, in view of section 11-A, the entire proceeding for the acquisition of land stand lapsed. It was also urged that the notification issued u/s 4 of the Act is vague. The learned Single Judge decided against the appellants holding that the finding of fact, as to award having been passed within two years from the date of publication of the declaration, cannot be interfered with and the purpose mentioned in the notification can not be termed to be vague. It has also been held that the said grounds are not available to the appellants more particularly after lapse of about ten years of passing of the award and it is not open at this stage to challenge the notification u/s 4 and declaration u/s 6 of the Act. It has also been held by the learned Single Judge that both these grounds are not available to the appellants for the simple reason that in the earlier petition the appellants confined their prayer to representation being decided. The learned Single Judge accordingly, dismissed the petition.

4. Heard Shri Ashok Lalwani, learned counsel for the appellants. We have also gone through the record. The only point, which could have been raised before writ Court was regarding the validity of the order dated 29-4-2002 (Annexure-P/18) passed by the Principal Secretary, whereby the prayer of denotification of the land acquired has been rejected. In our opinion, the order passed by the Principal Secretary, which was under challenge in writ petition, has been passed after thorough and detailed consideration of each and every objection raised on behalf of the appellants in their representation. This order is well reasoned. In the said order, there is mention that the District Industries Centre requires the land for allotment to industries.

5. The main thrust of the argument which was raised before Writ Court and also urged strenuously before us by Shri Ashok Lalwani, learned counsel for the appellants was about the denotification of other land situated at Survey No. 42 by the State Government claiming parity, prayed that appellants land also deserve to be denotified. This aspect of the matter, was considered by the Principal Secretary and it has been rightly concluded that since the said denotification of other land was illegally made, because of collusion and wrong report of some Government Official. Action has been initiated departmentally against the erring official, therefore, the appellants cannot take advantage of such wrong done by officer and claim benefit. Looking to the circumstances under which the said land was denotified, mala fide cannot be attributed. We are in complete agreement with the reasons assigned by the Principal Secretary and accepted by the learned Single Judge.

6. With regards to the submission that the appellants have not received any compensation, it is pertinent to mention that the compensation amount of Rs. 78,69,934/- has already been deposited by District Industries Centre and mutation of land has been made in the name of District Industries Centre,

therefore, since the appellants themselves have not collected the amount of compensation deposited they cannot be allowed to raise any issue on this contention that in the master plan, the land in question has now been reserved for residential purpose, suffice it to say that the same cannot be made a ground to vitiate the acquisition notification issued in the year 1990.

7. Thus, we do not find any illegality or infirmity in the order passed by the learned Single Judge warranting interference in the same. Accordingly, the Letters Patent Appeal is dismissed.