
(2003) 09 SC CK 0044

In the Supreme Court Of India

Case No : Special Leave Petition (Civil) 12460 of 1997

Delhi Development Authority

APPELLANT

Vs

Shyam Sundar Khanna and Others

RESPONDENT

Date of Decision : 18-09-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 10, 4, 6, 9

Citation : (2004) 72 DRJ 356

Hon'ble Judges : S. N. Variava, J;H. K. Sema, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Leave granted.
2. Heard parties.
3. This appeal is filed against the judgment of the High Court of Delhi dated 31st March, 1997 in LPA No. 50 of 1997.
4. Briefly stated the facts are:

That the concerned property was evacuee property which was auctioned on 22nd June, 1959. In that auction the respondents were declared as the successful bidder. Instead of paying the price, they asked for adjustment of the price against the compensation claims they had as evacuees.

Notification u/s 4 of the Land Acquisition Act was published on 13th November, 1959. That Notification excluded the Government lands and evacuee properties. A sale certificate came to be issued in favour of the respondents on 31st January, 1961 wherein it has been declared that they were the purchasers with effect from 1st October, 1960. Thereafter Notification u/s 6 was issued on 2nd January, 1969. An award came to be passed on 17th February, 1982. Possession of one of the pieces of land, namely, Khasra No. 2140/202 was taken on 4th March, 1982. This land was then placed at disposal of Delhi Development Authority on 23rd

March, 1982. On 19th September, 1986 a supplementary award was passed and on 22nd September, 1986 possession of the other piece of land i.e. Khasra No. 4147/210 was also taken over and handed over to the Delhi Development Authority.

The Writ Petition challenging the acquisition proceedings was filed on 30th April, 1987. By the impugned judgment, the High Court has allowed the writ petition and set aside the acquisition proceedings on the ground that on the date of Section 4 Notification, this land was evacuee property and therefore not covered by that Notification. The High Court notes that the sale certificate was issued on 31st January, 1961 and holds till that date the land continued to be evacuee property. On the question of delay and laches on the part of the respondents, the High Court holds that as the Notification u/s 4 excluded evacuee property, all subsequent proceedings were void and therefore the petitioner would not be debarred from challenging the acquisition proceedings even belatedly.

This Court has in the case of Vishwas Nagar Evacuee Plot Purchasers Association and another Vs. Under Secretary, Delhi Admn. and others, , held that delay and laches in challenging the land acquisition would debar a person from filing a writ petition. In that case also the acquisition, which was challenged, was pursuant to the same Notification u/s 4. In that case also, the property was evacuee property. The Court still held that due to delay and laches the writ petition could not be entertained.

Thereafter in the case of The Ramjas Foundation and Others Vs. Union of India and Others, a three Judge Bench of this Court also considered the question of delay and laches in respect of this very same Notification. In this case also the contention was that the concerned property was not covered by Section 4 Notification as it was a wakf property. Yet this Court held that the delay and laches barred the petitioners from maintaining their writ petition.

In the present case, we have gone through the averments in the writ petition and the counter affidavit. In the writ petition there is no averment that the respondents were not aware of the Section 6 Notification dated 2nd January, 1969. There is no averment that they were not aware of the Award dated 17th February, 1982. In the writ petition it is admitted that possession of one of the lands was taken on 4th March, 1982. In the writ petition there is no averment that the respondents were not aware of the supplemental Award passed on 19th September, 1986. In the writ petition, it is admitted that possession of the other piece of land was also taken on 22nd September, 1986, The respondents have filed counter affidavit in the writ petition wherein all these facts have been set out and it is averred that there is gross delay and laches. No rejoinder was filed. Thus, facts of this case clearly indicate that the respondents were aware of the acquisition proceedings from as far back as 1969. They only chose to challenge acquisition in 1987. There is no explanation as to why even after 23rd March, 1982, when possession was actually taken of one of the lands, respondents did nothing till 1987. It is clear that there has been gross delay and laches on the

part of the respondents. The High Court was clearly in error in entertaining such a writ petition. On this ground itself, the writ petition deserved to be dismissed.

We accordingly set aside the impugned order and dismiss the writ petition.

It is clarified that we have not gone into the disputed contention as to whether or not, on the date of Section 4 Notification this was evacuee property. It is further clarified that the respondents will be entitled to receive the compensation under the Award. They will also be entitled to additional statutory benefits, if available to them under law.

5. Before we part with this order it must be mentioned that in the case of Murari and Others Vs. Union of India (UOI) and Others, , in respect of this very acquisition this Court has held as follows:-

"7. . . In the present case as stated earlier after issuance of the notifications and notices under Sections 9 and 10 of the Act not only a large number of objections were filed by the landowners whose land was sought to be acquired but a number of writ petitions were filed in the Delhi High Court challenging the validity of the notification u/s 4 as well as the declaration u/s 6 in which interim orders of stay were passed by the High Court which resulted in considerable delay. Thus, the authorities alone were not responsible for the delay but the landowners were equally responsible for the same. In such circumstances and on consideration of several decisions of this Court including those rendered in the case of Bihar State Housing Board v. Ban Bihari Mahato and Ujjan Vikas Pradhikaran v. Raj Kumar Johri this Court in the case of Ram Chand v. Union of India took the view that in any case there was no justification for the authorities to make the award in 1980/1981/1983 when the declaration u/s 6 was made in 1966-1969, but at the same time, in view of the facts of delay caused by the landowners themselves in approaching the courts and the developments already made on the lands for public use, quashing of acquisition proceedings would not be appropriate. But at the same time in the said decision this Court also took the view that the landowners alone were not responsible for the entire delay that was caused in completing the acquisition proceedings. This court in the said decision pointed out that all these writ petitions were dismissed by this Court on 23.8.1974 in the case of Aflatoon v. Lt. Governor of Delhi yet no effective steps were taken by the respondents till 1980-81 and in some cases even till 1983 for which the respondents could give no justification for that delay on their part in completing the acquisition proceedings even after the judgment of this Court in Aflatoon case. This Court having regard to the fact that the Delhi Administration and Delhi Development Authority after taking possession of the lands various developments have been made and third party interest have also been created and, therefore, having regard to the larger public interest declined to quash the acquisition proceedings on the ground of delay but at the same time having regard to the interest of the landowners who were likely to suffer loss in rating the price of the land with reference to the date of notification u/s 4, directed payment of an additional amount of compensation to be calculated at the rate of

22 per cent per annum after expiry of two years from 23.8.1974, the date of judgment of this Court in Aflatoon case till the date of the making of the awards by the Collector to be calculated with reference to the market value of the lands in question on the date of notification u/s 4(1) of the Act. We do not find any inconsistency in the said decision (Ram Chand case), and find ourselves in respectful agreement to the view taken by this Court in the case of Ram Chand. The same principle has to be applied in those cases in which the possession is not taken and there is no reason to distinguish such cases from the application of the principles laid down in Ram Chand case merely on the ground that possession is not taken from some of the landowners. In this connection the fact could not be lost sight of that the landowners have enjoyed possession all these years and have taken the benefit of the usufruct and other advantages out of the said land and, therefore, they stand even in an advantageous position than those landowners from whom the possession was taken earlier.

22. After overall consideration of the issues involved in these transfer cases and the appeals we find no ground to take a different view than the one taken by the High Court in the impugned judgment. Consequently, the acquisition proceedings could not be quashed on any grounds. We also find ourselves in respectful agreement with the view taken by this Court in the case of Ram Chand. Consequently, the appeals fail and are hereby dismissed. The transfer cases are allowed in terms of the order made in the case of Ram Chand directing that the transfer petitioners and the appellants shall be paid an additional amount of compensation to be calculated at the rate of 12 per cent per annum, after the expiry of two years from the date of decision of Aflatoon case i.e. 23.8.1974 till the date of making of the awards by the Collector, to be calculated with reference to the market value of the land in question on the date of notification u/s 4(1) of the Act."

6. As this additional amount has been awarded by this Court in respect of this very acquisition, we see no reason why the respondents in this case should not get the same. We accordingly direct that the respondents will also be paid an additional amount of compensation to be calculated at the rate of 12% per annum, after the expiry of two years from the date of decision of Aflatoon's case i.e. 23.8.1974 till the date of making of the Award on 17th February, 1982, to be calculated with reference to the market value, of the land in question on the date of Notification u/s 4(1) of the Act.

7. The appeal stands disposed of accordingly with no order as to costs.