
(1989) 03 DEL CK 0014

In the Delhi High Court

Case No : Civil Writ Appeal No. 3356 of 1987

Dhani Ram and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 10-03-1989

Acts Referred:

Citation : (1989) 39 DLT 208

Hon'ble Judges : N.N. Goswamy, J;M.K. Chawla, J

Bench : Division Bench

Advocate : S.S. Shukla, Kadambini Sharma and Mukul Rohatagi, for the Appellant;

Judgement

N.N. Goswamy, J.

(1) The challenges in this petition is to the notification issued u/s 4 of the Land Acquisition Act, dated 28.9. 1987 whereby the land of the petitioner bearing Khasla No. 80/2, measuring 3bighas situated in village Khichripur has been acquired. The contention of the learned counsel for the petitioners is that the notification includes the application of Section 17 without narrating the urgency. The notification is in the following language :

"NO.F.8(35)/78-L&B(I):Whereas it appears to the Lt. Governor Delhi that the Land is likely to be required to be taken by Government at the public expense for a public purpose, namely, for "planned Development of Delhi", it is hereby notified that the land in the locality described below is likely to be required for the above purpose. This notification is made under the provisions of Section 4 of the Land Acquisition Act, to all whom it may concern. In exercise of the power conferred by the aforesaid section, the Lt. Governor, is pleased to authorise the officer for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that Section. The Lt. Governor being of the opinion that provisions of Sub-Section (i) of Section 17 of the Dora Phalauli Vs. State of

Punjab and Others, aid act are applicable to this land ,is further pleaded under Sub-Section 4 of the said Section to direct that the provisions of Section ? shall not apply".

(2) It is time that the notification does not give any reason invoking the provisions of Section 17 and this case is clearly covered by the decision of their Lordships of the Supreme Court in the. case of Dora Phalauli Vs. State of Punjab and Others, . In the said case, it has been laid down that the right of a person having any interest in the property to file an objection U/s 5-A of the Act should not be interfered within such a casual of cavalier manner. It has further been held that the notification must mention that there is urgency and only then the provisions can be invoked. In the present case, as we have already indicated there is no such mention and as such following the decision of their Lordships, we have no hesitation in coming to the conclusion that the notification cannot be sustained. Consequently, the rule is made absolute and the impugned notification dated 28.9.1987 is hereby quashed. No order as to costs.