

(1995) 04 SC CK 0087

In the Supreme Court Of India

Case No : Civil Appeal No. 6501 Of 1994

Hari Nath Sharma (Ras)

APPELLANT

Vs

Jaipur Development Authority

RESPONDENT

Date of Decision : 25-04-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1996) 2 SCC 70 : (1995) 6 SCR 795 Supp

Hon'ble Judges : A. M. Ahmadii, C.J;S. P. Bharucha, J;K. S. Paripoornan, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. The appellant, who was serving as a Land Acquisition Officer, has been convicted and sentenced by the High court of Rajasthan for contempt by directing that he suffer imprisonment for fifteen days. Even his prayer for suspension of the sentence to enable him to move this court was rejected and he was directly sent to jail from the court premises itself. It is against that order that the said officer has filed this appeal. The abridged facts are as under.

2. In exercise of powers conferred by Section 4 of the Rajasthan Land Acquisition Act, 1953 (hereinafter referred to as "the Act"), a notification was issued on 13/5/1960 for acquiring land belonging to a single Khatedar Chhotey Lal bearing Khasra Nos. 34 to 37 and 277 situate in Village Bhojpura, Tehsil Jaipur. So far as Khasra No. 35 is concerned, it admeasured 3 bighas and 16 biswas but the acquisition was restricted to 6 biswas only. Thereafter, on 3/5/1961 a notification under Section 6 of the Act was issued in respect of the same area. This was followed by an award dated 9/1/1964. It appears that there was an agreement with Chhotey Lal for the acquisition of Khasra No. 35 and the possession of that land was subsequently taken on 29/6/1960. The compensation in respect of the entire Khasra No. 35 was, however, paid to Chhotey Lal. This is what the Zonal In-charge Commissioner, Jaipur Development Authority, Jaipur states in his counter- affidavit:

"The awardee Shri Chhotey Lal was Khatedar in respect of Khasra No. 277 Min and Khasra Nos. 34 to 38. It appears that inadvertently the entire area of Khasra No. 35 measuring 3 bighas and 16 biswas was not included in the notification under Section 4 dated 13/5/1960 and instead 6 biswas was only included. However, the award was published in respect of 3 bighas and 16 biswas of land of Khasra No. 35 on 9/1/1964. Shri Chhotey Lal neither objected to the land being acquired nor preferred any reference or appeal against the award dated 9/1/1964. In fact he accepted the entire amount of compensation in respect of Khasra No. 35 on 1/7/1970. The possession of the land was taken on 21/7/1971. The land thus vested in the State and the land acquisition proceedings stood completed."

It will, thus, be seen that the compensation in respect of the entire land bearing Khasra No. 35 was received by Chhotey Lal pursuant to the award.

3. Thereafter, on 7/1/1971 a separate notification was issued under Section 4 of the Act in respect of the remaining area of Khasra No. 35, namely, 3 bighas and 10 biswas, presumably because the omission of that area in the earlier two notifications came to light. Chhotey Lal was served with a notice in respect thereof on or about 29/5/1971. Nothing further transpired thereafter in pursuance of that notification except a report under Section 5-A of the Act. Thereafter, on 3/1/1989, pursuant to Section 11-A of the Land Acquisition Act, 1894, the State Act was amended and the same provision was added with effect from 3/1/1987. Chhotey Lal then filed a writ petition before the High court complaining about forcible dispossession on 6/4/1992 and questioned the legality and validity of the notification by which 3 bighas and 10 biswas of Khasra No. 35 came to be acquired. The learned Single Judge of the High court, by his order dated 15/3/1993, dismissed the petition against which Chhotey Lal preferred a letters patent appeal to the division bench of the High court. The division bench of the High court, by its order dated 12/5/1994, dismissed the appeal. Thereafter, the file in respect of the acquisition proceedings was put up before the appellant with an application submitted by one Babu Lal, stated to be the legal representative of Chhotey Lal, for cancellation of the acquisition proceedings initiated pursuant to the notification dated 7/1/1971. That application was heard by the appellant on 25/5/1994 and the appellant, after perusing the record and weighing the submissions made before him with reference to Section 11-A of the Land Acquisition Act, 1894, ordered as under:

"I have perused the file. It is legally pertinent that without the compliance of provisions of Land Acquisition Act neither any land can be acquired nor the possession thereof can be taken. Therefore, under Section 11-A of central Land Acquisition Act, 1894, which came into force in Rajasthan from 3/1/1987 the land acquisition proceedings have been rendered void and the acquisition proceedings have automatically lapsed. Hence the acquisition proceedings are dropped." (English translation from Hindi.)

After the above order was made, contempt proceedings were initiated on the

application of the respondent herein dated 22/9/1994 wherein the impugned order came to be passed.

4. The main thrust of the submission made on behalf of the respondent before the High court in the contempt proceedings was that even though the acquisition in respect of the entire Khasra No. 35 was concluded by the High Court's order in the writ petition in appeal before the division bench which had taken the view that the entire Khasra No. 35 was acquired and the acquisition was complete in respect thereof under the award made on 9-1-1964. The appellant herein has, by the impugned order, sought to nullify the effect of the High court's order. We have carefully gone through the order of the High court as well as the order passed by the appellant, which we have extracted above. While it may be true that the High court while deciding the appeal made a reference to the subsequent notification dated 7/1/1971 and made observations to the effect that that notification is of no consequence in view of the compensation having been received by Chhotey Lal in respect of the entire Khasra No. 35 (though the notifications under Sections 4 and 6 only referred to a part of the said khasra number) the order passed by the appellant in no way attempts to interfere with that order because all that the officer has stated is that the subsequent notification issued under Section 4 of the Act for the remainder of the land, admeasuring 3 bighas and 10 biswas, has been rendered void on account of no notification having been issued under Section 6 within the period permitted by Section 11-A of the Land Acquisition Act, 1894 and adopted by the State Act. In other words, the officer has merely stated that the said notification under Section 4 dated 7/1/1971 has become otiose and no further action can be taken thereunder nor any action in pursuance thereof can survive. Therefore, *stricto sensu*, the officer has not passed any order which can be said to be inconsistent with the order passed by the High court in the letters patent appeal.

5. Even if it was a case where two views were possible, we do not think that the officer acted in wilful disobedience of the court's order to be hauled up for contempt. In such a situation, the court should have accepted his apology and put an end to the matter rather than not only punish him but also see to it that he goes straight to jail from the court.

6. In the result, we allow this appeal, set aside the impugned order of the High court and the sentence awarded to the appellant and state that no follow-up action shall be initiated on the basis of the conviction and sentence and if initiated shall not be pursued solely on that basis.