
(1994) 08 RAJ CK 0020

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 319 of 1990

Hira Chand and Another

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 02-08-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (1994) 3 WLC 702 : (1994) 2 WLN 459

Hon'ble Judges : G.C. Mittal, C.J; R.S. Verma, J

Bench : Division Bench

Judgement

Gokal Chand Mital, C.J.—The land in dispute was acquired by notification dated 21st August, 1969 issued u/s 4 of the Land Acquisition Act, 1894 (for short "the Act"). It was followed by notification dated 28th of February, 1973 issued u/s 6 of the Act, which was published in the Gazette on 12th April 1973. This acquisition was challenged by the land owners in this court and finally it was upheld by the Apex Court vide judgment dated 27th of April, 1981. The result was that the acquisition notifications issued u/s 4 and 6 were held to be valid.

2. On 31st of May, 1985, a letter was issued by the State Government proposing the utilization of the land acquired in a particular way by allotting some portions to some private persons and the balance for some other purpose indicated according to procedure mentioned therein.

3. Thereafter, S.B. Civil Writ Petition No. 1432/1988 and S.B. Civil Writ petition No, 1949/1988 were filed in this Court to challenge the aforesaid letter of the State Government as also on the ground that two years have since passed and award having not been rendered within that period by virtue of Section II-A of the Act which came into being by amendment of Land Acquisition Act, 1894, the acquisition stood lapsed.

4. The learned Single Judge, on consideration of the facts of the case, quashed the letter of Government dated 31st May, 1985. As regards the contention raised

u/s II-A of the Act, it was observed that if the period of stay obtained by land owners is excluded, two years period had not come to an end and, therefore, the acquisition had not lapsed.

5. Aggrieved by the order of the learned Single Judge, both the sides came up in appeals. Since common question arises, we are disposing of this special appeal alongwith D.B. Civil special Appeals No.241/90, 318/90, 132/90, 242/90, 243/90, and 244/90 by this common judgment.

6. On behalf of the claimants, it is argued that during the pendency of the appeal, two years lapsed and no stay was obtained by the land owners and, therefore, by virtue of Section II-A of the Act, the acquisition will stand lapsed as no award was given within the period of two years.

7. The learned counsel for the respondents appearing in claimants' appeal concede that there was no stay. They also concede that two years period has lapsed. They also concede that Under law, the acquisition will lapse since the award was not given within the period of two years.

8. The provision of Section II-A of the Act is as follows:

II-A. Period within which an award shall be made. - The Collector shall make an award u/s II within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation. - In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.

9. The aforesaid provision is in mandatory form. It clearly provides that in case no award is made within the period of two years, the entire proceedings for the acquisition of land shall lapse.

10. Accordingly, we allow this special appeal and declare that the acquisition proceedings have lapsed on account of the fact that award was not given within two years of the commencement of the Land Acquisition (Amendment) Act, 1984, after excluding the period during which stay was operative.

11. The remaining appeals are filed either by State Government, Jaipur Development Authority or by the persons who were to get land under the order of the State Government dated 31st of May, 1985. Since acquisition has lapsed, the meaning of letter of Government dated 31st May, 1985 also will lapse as the land will not be available with the Government for making allotment for any purpose whether public or not.

12. Accordingly, special appeals No. 241/90, 318/90, 132/90, 242/90, 243/90, and 244/90 would be infructuous and are dismissed as such. The parties are left to bear their own costs.