

(1974) 09 RAJ CK 0015

In the Rajasthan High Court

Case No : Civil Appeal No's. 943 and 980-989 of 1973

Indrapuri Griha Nirman Sahakari Samiti Ltd.

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 17-09-1974

Acts Referred:

Rajasthan Land Acquisition Act, 1953 — Section 4, 5A, 6

Citation : (1974) WLN 876

Hon'ble Judges : A.N. Ray, C.J.; Y.V. Chandrachud, J.; K.K. Mathew, J.; A.C. Gupta, J.; A. Alagiriswami, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

A.N. Ray, C.J.—These appeals are by special leave from the judgment dated 12th April, 1973 of the Rajasthan High Court.

2. The State of Rajasthan proposed to acquire land for the planned development of the city of Jaipur.

3. On 13th May 1960 a notice was issued u/s 4 of the Rajasthan Land Acquisition Act, 1953 (hereinafter referred to as the Act) which was published in the Rajasthan Gazette on 9th June, 1960. No objection was made u/s 5A of the Act. A notice u/s 6 of the Act was published on 11th May, 1961. On 18th July 1961 notices u/s 9 of the Act were issued to 63 persons including the predecessor in title of the appellant in Civil Appeal No. 943 of 1973 filed claims.

4. An award under the Act was made on 9 January, 1964. On 9th July, 1964 the award was amended because of certain transactions of sale of portions of the land.

5. Writ petitions were filed on 23rd January 1970. The appellants challenged the validity of the notifications dated 13th May 1960 and 3rd May 1961 issued under Sections 4 and 6 of the Act. The appellants also challenged the notices dated 18 July, 1961 u/s 9 of the Act.

6. The High Court held that the appellants were guilty of inordinate delay. The appeals failed on that ground.

7. The High Court also dealt with the challenge to the land acquisition proceedings on the ground of discrimination and the further plea that the land was being acquired at negligible price and the same would be sold at exorbitant price by the Improvement Trust to the public. The High Court did not accept any of the grounds on the merits.

8. The Attorney General said at the there should that if the appellants would fail on the ground of delay it was not¹ necessary to go into the rest of the contentions in the judgment.

9. This Court in the recent unreported decision in Writ Petition No. 362 of 1972 decided on 23rd August, 1974 : Aflatoon and Ors. Governor of Delhi and Ors. (1) held that if persons allowed the Government to complete the acquisition proceedings on the basis that the notification u/s 4 and the declaration u/s 6 were valid and then attacked the notification on grounds which were available to them at the time when the notification was published it would be putting a premium on dilatory tactics,

10. The facts in Aflatoon's case (supra) were these On 13th November 1919 unification u/s 4 of the Land Acquisition Act was issued Between 1959 and 1961 objections were filed u/s 5A of the Act On 18th March. 1966 declaration u/s 6 of the Act was published In 1970 notices u/s 9 of the Act were issued. Writ Petitions were filed in 1972. The petitioners did not move after the declaration u/s 6 of the Act. The petitioners came to the Court after the issue of notices u/s 9 of the Act.

11. In the present case the facts show in bold relief that the appellants came to Court nine years after the declaration u/s 6 of the Act.

12. Land Acquisition proceedings commence with the notification u/s 4 of the Act. Objections are invited u/s 5A of the Act. Thereafter a declaration u/s 6 of the Act is made. Any challenge to a notification u/s 4 and a declaration u/s 6 of the Act should be made within a reasonable time thereafter. The length of the delay is an important circumstance because of the nature of the acts done during the interval on the basis of the notification and the declaration.

13. The High Court rightly dismissed the applications on the ground of delay.

14. The appeals are dismissed with costs, There will be one set of costs.