
(1999) 09 MP CK 0068

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 1672/87

Isarul Haque

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 01-09-1999

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2000) 2 MPHT 23

Hon'ble Judges : C.K. Prasad, J

Bench : Single Bench

Advocate : Ravindra Shrivastava, for the Appellant; Rajendra Menon, for the Respondent

Final Decision : Dismissed

Judgement

C.K. Prasad, J.—By this writ petition, filed under Articles 226 and 227 of the Constitution of India, petitioner is aggrieved by acquisition of his land under the Land Acquisition Act.

2. The view which I am inclined to take in this writ petition makes it unnecessary to give in detail the facts of the case. Suffice it to say that a small piece of land of the petitioner as also lands of other persons were acquired for the construction of rope-way of respondent No. 5 M/s. Mysore Cement Limited. It is not in controversy that possession of the land of the petitioner as also other persons has been taken and the rope-way of the Diamond Cement Company of respondent No. 5 has become operational since more than a decade. It is further not in controversy that a large number of persons are employed in the Company and in case the acquisition of the land of the petitioner under the provisions of Land Acquisition Act is held to be bad, the entire activity of the Cement Company shall be put to jeopardy and large number of persons shall be rendered jobless. In such a situation, whether it is fit case for interference under Articles 226 and 227 of the Constitution is the question which I shall endeavour to answer first.

3. Mr. Ravindra Shrivastava, appearing on behalf of the petitioner submits that when the land has been acquired for the Company i.e. respondent No. 5 such procedure as applicable for acquisition of land for the Company under the Land Acquisition Act ought to have been followed, which has not been done and hence entire acquisition has become illegal. Mr. Rajendra Menon, however, appearing on behalf of respondents No. 4 and 5 submits that in fact the land was acquired for public purpose and then handed over to respondent No. 5 and there is no illegality in the same.

4. To put the record straight, it is relevant to mention here that Mr. Menon appearing on behalf of respondents No. 4 and 5 has times without number offered to the petitioner to suggest any reasonable amount as compensation which in his opinion would meet the ends of justice with an undertaking that the said amount shall be paid without any reservation, but in spite of several opportunities Mr. Shrivastava, counsel for the petitioner did not make any offer.

5. Be that as it may, I am of the opinion that the exercise of power under Article 226 of the Constitution of India is for furtherance of interest of justice and not making out a legal point. Here in the present case after the acquisition of the land of the petitioner and various other persons, respondent No. 5 has started its activity more than a decade ago. Any interference at this stage would throw the production of the Company out of gear and the same shall render a large number of people jobless. I am of the opinion that in such a circumstance, acquisition does not call for interference by this Court. The view which I have taken finds support from the Judgment of the Supreme Court in the case of Ramniklal N. Bhutta and another Vs. State of Maharashtra and others, . In the said case it has been held as follows :--

"10. The means of transportation, power and communication are in dire need of substantial improvement, expansion and modernisation. These things very often call acquisition of land and that too without delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in Courts. These challenges are generally in the shape of writ petitions filed in High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the Courts should keep the larger public interest in mind while exercising their power of granting stay/injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interest of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interest of justice and the public interest coalesce. They are very often one and the same. Even in a civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The Courts have to weigh the public interest vis-a-vis the private interest while exercising the power under Article 226 indeed any of their discretionary powers. It may even be open to the High Courts to direct, in case it finds finally that the acquisition was

vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the Courts while dealing with challenges to acquisition proceedings."

On this ground alone, I am not inclined to interfere in the matter.

6. Writ petition stands dismissed as such. In the facts and circumstances of the case, there shall be no Order as to cost. Security amount, if deposited, be refunded to the petitioner.