

(1993) 07 DEL CK 0052

In the Delhi High Court

Case No : Civil Writ Appeal No. 2319 of 1983

Jaswant Singh

APPELLANT

Vs

The Land Acquisition Collector and Others

RESPONDENT

Date of Decision : 08-07-1993

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1993) 3 AD 260 : (1994) 53 DLT 338 : (1994) 1 ILR Delhi 365 : (1994) 107 PLR 35

Hon'ble Judges : Jaspal Singh, J

Bench : Single Bench

Advocate : Ramesh Chandra, Anand Yadav, D.K. Aggarwal, S.K. Singla, K.K. Malviya and Gulab Chandra, for the Appellant;

Judgement

Jaspal Singh, J.

(1) The facts fall into a short compass, and to my pleasant surprise, even the arguments were brief though, predictably, incisive.

(2) First the facts. By a Notification dated October 30, 1963 issued u/s 4 of the Land Acquisition Act (hereinafter called the Act) the Delhi Administration notified that the land measuring approximately. 9,500 acres, the description of which was given in the Notification itself, was required by the Government "for a public purpose, namely, the development of Narela Township". Objections were filed by the present petitioner also u/s 5A of the Act since his land too was covered under the said Notification. Consequent upon the disposal of the said objections, a Notification was issued under section 6 of the "Act. This was -in the month of January 1969. The same was followed by Notifications in March 1973 u/s 9 and 10 of the Act. This Award was made on September 19, 1986. However, much before the Award, that is, on September 28, 1983 Jaswant Singh Vs. The Land Acquisition Collector and others 367 the present writ petition was filed. I need not go deep into what is mentioned in the writ petition, for, the relief sought has been based now only on two contentions.

(3) The first contention is that though the acquisition was sought to be, as already noticed above, for a public purpose, namely, the development of Narela Township, the said purpose, it is claimed, exists no more since it is alleged to have been superseded by another purpose. That purpose being the requirement of the land belonging to the petitioner for providing a new grain market to be set up, managed and run by (he Agricultural Produce Marketing Committee. Narela thereafter to be referred as Committee).

(4) The second contention is that no import was submitted, as required u/s 5-A of the Act, with regard to the objections filed by the petitioner.

(5) Needless to say respondent No. 4 Committee. has found the writ petition unpalatable. It has asserted that there has not been any change in the public purpose and that the report as envisaged u/s 5A of the Act was actually submitted".

(6) Time now to come into grip with the arguments advanced.

(7) Coming to the first contention Mr. Ramesh Chandra, Senior Advocate, leaned heavily on certain observations made by a Division Bench of this Court in Union of India and Others Vs. Nand Kishore, . (1) Those observations form part of paragraph 9 of the report. I may profitably reproduce the same. They run as follows

"IT appears to me that the Government has no right to change the public purposes in midstream. The acquisition proceedings are in progress. They have not been completed. Before the land vests in. the Government, the Government at the time of issuing notice under Sections 9 and 10 has changed the public purpose from first station to the construction of staff quarters. This is not sanctioned by the Act. The Government must adhere to the original purpose. If they want to depart from the original purpose the only course is to start fresh acquisition proceedings."

(8) I shall be coming back to this judgment but before I temporarily part with it's company, I may mention that the original purpose of acquisition in the said case was to build fire station and, as would be obvious from what has been reproduced by me above, that purpose ceased to exist and the Government sought to acquire the land for the construction of staff quarters for Delhi Administration. The question was as to whether that change of purpose would invalidate the acquisition proceedings or not.

(9) Section 4 of the Act has no ambiguity within "its embryo. It says that whenever it appears "to the appropriate Government that land in some locality is needed or is likely to be needed for any public purpose, a Notification to that effect shall be published, in the Official Gazette and the collateral show cause show cause public notice of the substance of such Notification would be given at convenient places in the said locality. Clearly, thus. what is only necessary to state in the Notification is that the land is needed for a public purpose. This is

further borne out from what is stated in Section 5A of the Act. Why should a particular public purpose be mentioned in the Notification ? Obviously it is to enable the person whose land is sought to be acquired to file objections u/s 5A of the Act. The Supreme Court has made it clear not once but repeatedly that it is necessary to specify the particular public purpose in the Notification in which the land is needed or is likely to be needed as, otherwise, the matters specified in sub section 2 of section 4 cannot be carried out. In this connection reference may be made to *Munshi Singh and Others Vs. Union of India (UOI)*, and *Aflatoon and others vs. Lt. Governor of Delhi and others* Atr 1074 Sc 2077.(3) Of course, whether the purpose so specified in the Notification u/s 4 of the Act is sufficient to enable an objection to be filed u/s 5A would depend upon the facts and circumstances of each case. This, too I say on the authority of the Supreme Court and more particularly with reference to its judgment in *Aflatoon's* case. That a public purpose was specified in the Notification issued under section. 4 on October 30. 1963 is not challenged nor disputed. Even otherwise to say that the land is sought to be; acquired "for a public purpose namely, the development of Narela Township" fulfills the requirement of section 4 as well as section 5A of the Act and so also the requirement laid down by the apex court. As already noticed, this is not the challenge. The challenge is, and it may be repeated even at the risk of repetition, that that purpose has been changed. It is argued that if the land was to be acquired for the Committee and for purpose of setting up a new grain market it ought to have been so mentioned and that, in any case, such purpose cannot be spelled out from what had been said in the Notification issued u/s 4.

(10) The land which is subject matter of this writ petition is only* a fraction of what is sought to be acquired. Let us refresh our memory. The Notification is with regard to 9,500 acres. The land in dispute "measure 9 bighas and 12 biswas. The Supreme Court tells us, and in no ambiguous terms, that in the case of an acquisition" of a large area of land comprising several plots belonging to different persons, the specification of this purpose can only be with reference to the acquisition of the whole area. Unlike in the case of acquisition of a small area, it might be practically difficult to specify the particular public purpose for which each and every item of land comprised in the area is needed. (See *Aflatoon vs. Lt. Governor, Delhi : supra*). These very observations inspired a division bench of this court in *Delhi Administration vs. Friends Housing Society* to hold that purpose of planned development of Delhi was neither bad nor vague. I do feel the what has been observed, and noticed by me above, in the judgment of the Supreme Court in the case of *Aflatoon*, squarely meets the objection. Anyhow, it may be noticed that objections were filed by the petitioner u/s 5A of the Act and it is not shown nor alleged that any prejudice was caused on account of the public purpose so mentioned in the Notification u/s 4 of the Act.

(11) Even otherwise, this Notification, as already mentioned, referred to a public purpose, and that was the development of Narela Township. A "Township" is not mere bricks and walls. It is not a mere cluster of huts and houses. It is the

populace which matters. Man in a social state is Utopia. He is a social animal. He does not live in isolation. He interacts and clamors "for fulfillment of his needs both spiritual and temporal. The days of Harrappa and Mohanjodaro are gone but even the ruins of that civilization show the provision to the populace of such amenities and facilities which could make life comfortable and meaningful. In modern days with needs and aspirations soaring high, what is least required for a township is to have educational facilities, hospitals, market places and all those facilities and amenities which make life worth living. It is in this context that we have to look at the Notification and the specific purpose now put forth.

(12) Narela, it is common knowledge, is no more in slumbers. It is living and vibrating. It has one of the most prosperous grain markets in Northern India. With all round expansion and development, the old grain market obviously cannot meet the present day requirements. Hence the need for a new grain market with new management, new building and new facilities. It is the need of Narela Township and its development. It is this need which is sought to be fulfilled and, as and it is neither repugnant to nor different from the purpose mentioned in the Notification in question. Anyhow, it is for the authorities concerned to determine and demarcate the site to be developed and used for the particular purpose to secure planned development of the township. It is this what they have done. That the authorities had such power can no more be challenged for, such an act won the approval of the Supreme Court in *Kendriya Karamchari Sahkari Grih Nirman Samiti Ltd. and Another Vs. New Okhla Industrial Development Authority and Others*,

(13) For what has been recorded by me above I find no force in the first contention. However, before I tread on to the next contention, a order two on *Union of India v. Nand Kishore* (supra) for I had promised to return, to it. It found favor with Mr. Ramesh Chandra, Senior Advocate. I find it clearly distinguishable. It related to acquisition of only a small parcel of land. The specific purpose given for acquisition was construction of a fire station but the subsequent proposal was to construct staff quarters for Delhi Administration. Everything was thus so different, so distinguishable. That is why I am holding it to be of no help to the petitioner and his cause.

(14) The second contention need not detain me for long. The petitioner himself is not sure of his stand. The contention figures in paragraph 4 of the writ petition. Let it reproduce the same, it says : "4. That the petitioner understands that no report was submitted by the Land Acquisition Collector to the Government on the objections of the petitioner." It is not an assertion. In any case it is an assertion with regard which even the petitioner is not certain. What is his source ? What makes him "understand" that no report was submitted ? It is a bald assertion and since it has been categorically denied I have no reason to accept it. I say no more.

(15) The result is that the writ petition is dismissed but with no order as to costs.