
(1994) 08 DEL CK 0052

In the Delhi High Court

Case No : Civil Writ Petition No. 906 of 1990

Jeet Singh and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 10-08-1994

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4

Citation : (1994) 3 AD 76 : AIR 1995 Delhi 232 : (1994) 30 DRJ 531

Hon'ble Judges : K. Shivshankar Bhat, J

Bench : Single Bench

Advocate : V.P. Singh, R.K. Khatri, Ravinder Sethi and V.K. Seth, for the Appellant;

Judgement

K. Shivashankar Bhat, J.

(1) The petitioners seek quashing of the notification issued u/s 4 of the Land Acquisition Act which is dated 30.10.1963 as also a declaration made u/s dated 16.1.1969 as well as all subsequent proceedings in respect of the petitioner's lands referred in the writ petition. There are quite a large number of lands, if khasra Numbers is an indication. According to the petitioners they are still in possession of the lands and are residing therein. Admittedly, the lands were notified for acquisition for the development of Narela Township. The petitioners nowhere plead ignorance of the proceedings. According to the petitioners the preliminary notification u/s 4 was issued on 30.6.1963 and a declaration u/s 6 was made on 16.06.1969. However, award came to be made only on 22.09.1986. Petitioners further asserted that inspire of the award they continued to be in possession. They question the validity of the acquisition proceedings in view of the delay involved. There has been a delay of 23 years between the date of Section 6 declaration and the award made in the year 1986. They also contend that the purpose of the acquisition has been lost and the lands in question are not required for the development because the period fixed for the Master Plan for

Narela is over since long.

(2) The first respondent Dda on the other hand contends that the possession was taken immediately after the passing of the award and the lands are being used for the developmental purposes. The vast development that has taken place in the locality is explained in the counter affidavit filed on behalf of the DDA. This is referred as reply on behalf of the Dda to the application under Order 39 Rule 1 (in C.M.No. 1335/90).

(3) I am of the view that the statement of the first respondent in this regard shall have to be accepted and that the developmental scheme is being implemented as stated in the said affidavit. There are several co-owners who have filed an application under Order 1 Rule 10 CPC who oppose the prayer made in the writ petition. However, the fact remains that the title of the petitioners as co-owners has been recognised by the Civil Court in the apportionment proceedings under the provisions of the Land Acquisition Act. Therefore, the locus standi of the petitioners to question the proceedings cannot be questioned.

(4) However, it has to be considered whether the petitioners are entitled to the reliefs sought for by them. The writ petition was filed on 16.3.1990. Admittedly, the award was made on 29.6.1986. The other notifications were far earlier, one in the year 1963 and the other in the year 1969. In the circumstances I do not think that the petitioners are entitled to invoke the writ jurisdiction of this court. It is too late in the day for them to challenge the acquisition proceedings. This apart they have invoked the provisions of the Land Acquisition Act claiming compensation and their title has been substantially recognised by the Civil Court. Only because the Civil Court upheld their title it does not mean that the petitioners could file the writ petition thereafter in the year 1990. In Ramjas Foundation and others Vs. Union of India and others; (50) 1993 Dlt 23, the Supreme Court rejected similar challenges to the acquisition proceedings filed after several years. In fact at para 13 of the decision the Supreme Court notices that the attack was mainly to the 2 notifications issued u/s 4 and 6 of the Act; they were issued far curlier to the date of filing of the writ petition and there was no challenge to the proceedings u/s 9 and 10 of the Act.

(5) In Bharat Singh and others Vs. Union of India and others: C.W.P. 1106 to 1108/1981 decided on 20.7.1993, again the Supreme Court rejected the writ petition on the ground that the purpose of the acquisition viz. "Planned development of Delhi was a public purpose and, Therefore, the proceedings cannot be challenged". The Supreme Court also pointed out that there was delay in challenging the notification and the writ petitions were filed after the award was made.

(6) Similar view was again taken by the Supreme Court in fatten Singh and Others Vs. Union of India and others; C.W.P. 13647-63/1984 decided on 27.1.1993.

(7) Mandir Sita Ramji & Shri Sita Ram Bhandar Vs. Lt. Governor of Union Territory of Delhi and others; Civil Appeal No. 1738/1981 decided on 20.7.1993 is another decision relied upon by Mr. Sethi in this regard.

(8) I do not think, I should refer to all these decisions in greater detail because the principles involved are considered by the Division Bench of this court recently in Sarbati Devi Vs. Union of India; 1994 II Apex Decisions (Dellli) 345, this Court pointed out that the petitioner having participated in the award proceedings and having not challenged the legality of the two notifications before making the award, cannot later on be permitted to question the validity of the two notifications belatedly.

(9) In the instant case also the petitioner has filed objections and participated in the proceedings.

(10) However, in the aforesaid Sarbati Devi's case the Bench thought it fit to grant certain marginal relief. Having regard to the two decisions of the Supreme Court, the Division Bench observed at para 7 thus -

" HOWEVER, a marginal relief deserves to be allowed to the petitioner in terms of what was allowed to the petitioner before their Lordships of the Supreme Court in Ram Chand and Others case (supra). It cannot be denied that there was a long lapse of time between the date of notification u/s 4 and the award. In between the decision of their Lordships in Aflatoon's case 1975 (4) Sc 285 had come. It appears that the land acquisition authority was not alive to the decision which it should have been. Keeping in view para 27 of the decision of their Lordships in Ram Chand's case (supra), it is directed that for the period between 23.8.1976 (the date on which a period of two years elapsed from the date of decision of their Lordships in Afflation's case), and 10.9.1986, (the date of the award) the petitioner shall be paid an additional amount of compensation to be calculated @ 12% p.a. on the market value of the land in question ,as on the date of the notification u/s 4(1) of the Act."

(11) In the instant case also there has been considerable delay in the proceedings commencing with .Section 6 declaration and the subsequent award in the year 1986. Following the aforesaid observations of the Division Bench it is declared that the petitioners are entitled to an additional amount of compensation calculated at 12% per annum on the market value of the land in question between 23.08.1976 and 22.09.1986. It is ordered accordingly. The petitioners shall be paid the amount as stated above within 3 months from the receipt of this order. The writ petition is disposed of accordingly.