
(2009) 01 CHH CK 0007
In the Chhattisgarh High Court

Krishna Lal Sahu and Others

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 16-01-2009

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4, 48, 6

Citation : (2009) 1 MPHT 109

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—By this petition, the petitioners seek a writ of certiorari to quash the impugned notification/notice dated 10-8-2007 (Annexure P-6), 7-12-2007 (Annexure P-8), 8-2-2008 (Annexure P-11) and 14-3-2008 (Annexure P-12) and further a writ of mandamus to the respondents restraining the respondents from acquiring the agricultural land in question.

2. The indisputable facts, in nutshell, as projected by the petitioners are that the petitioners are the owner of the disputed land situated at Village Bagaud and Village Banjari, District Dhamtari. Admittedly, a notification u/s 4(1) of the Land Acquisition Act, 1894 (for short "the Act, 1894") was issued on 30th July, 2007 and published in the Official Gazette on 17th August, 2007, (Annexure R-1). Thereafter, a notification u/s 6 of the Act, 1894 was published in the Official Gazette on 7-3-2008 (Annexure R-2). The award consequent thereupon was passed on 17-4-2008 (Annexure R-3). The petitioners during this period slept over their rights and filed the present petition on 9-5-2008 after a period of 23 days from passing of the award, questioning the acquisition of the land on the ground that no opportunity of hearing was afforded to the petitioners and no objection of the petitioners were considered.

3. Be that as it may, the law on the issue as to whether a writ petition is maintainable after passing of the land acquisition award, is well settled. The

petitioners slept over their right for a long period, even after passing of the award. A notification u/s 4(1) of the Act, 1894 was issued on 30-7-2007 and objection was raised by the petitioner. After consideration of the objection, a notification u/s 6 of the Act, 1894 was published in the Official Gazette on 7-3-2008 (Annexure R-2). The petitioners did nothing during the acquisition proceedings and even after passing the award. The petitioners failed to challenge notification u/s 6 of the Act, 1894.

4. It is well settled principle of law that a writ petition questioning of the award is not maintainable as after taking over the possession of the land the same vests absolutely in the Government free from all encumbrances. Even u/s 48 of the Act, 1894, the State Authority also cannot withdraw from acquisition after possession has been taken over.

5. In the matter of Municipal Corporation of Greater Bombay Vs. The Industrial Development Investment Co. Pvt Ltd., and others, , the Supreme Court held as under:

29. It is thus well settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court has, no doubt discretionary powers under Article 226 of the Constitution of India to quash the notification u/s 4(1) and declaration u/s 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third party rights were created is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches.

6. In the matter of State of Rajasthan and Others Vs. D.R. Laxmi and Others, , it was held as under:

9. ...When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third party rights were created in the case, is hardly a ground for interference.

7. In the matter of The Municipal Council, Ahmednagar and Another Vs. Shah Hyder Beig and Others, , it was held as under:

17. In any event, after the award is passed no writ petition can be filed challenging the acquisition notice or against any proceedings thereunder. This has been the consistent view taken by this Court and in one of the recent cases (C. Padma v. Dy. Secy. to the Govt. of T.N.)....

8. Recently, in the matter of Swaika Properties Pvt. Ltd. and Another Vs. State of

Rajasthan and Others, , the Supreme Court held that "a writ petition having been filed after taking over the possession and the award having become final, the same deserves to be dismissed on the ground of delay and laches".

9. No exceptional or extra-ordinary grounds exist or raised to invoke extra-ordinary jurisdiction under Article 226 of the Constitution of India, to take a departure from the well settled principles of law.

The petition is accordingly dismissed. No order as to costs.