
(2015) 06 P&H CK 0052
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 22727 of 2013

Kulvinder Singh and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 30-06-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 4(1), 5-A, 6, 9

Citation : (2015) 4 RCR(Civil) 993

Hon'ble Judges : Ajay Kumar Mittal and Rekha Mittal, JJ.

Bench : Division Bench

Advocate : Rajiv Joshi, Advocate, for the Appellant; Munisha Gandhi, Addl. A.G. and S.K. Bansal, AAG, for the Respondent

Final Decision : Dismissed

Judgement

Ajay Kumar Mittal, J.—The petitioners seek quashing of notifications dated 3.8.2012 and 3.1.2013 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act") and the award dated 31.5.2013, passed by the Land Acquisition Collector, Annexures P.1 to P.3 respectively. Further prayer has been made for staying the dispossession of the petitioners and operation of impugned award dated 31.5.2013, Annexure P.3 during the pendency of the writ petition.

2. A few facts relevant for the decision of the controversy as narrated in the petition may be noticed. The petitioners are residents of Villages Phulewala, Phul, Dhapali and Sandhukhurd, District Bathinda. Notification under section 4 of the Act was issued on 3.8.2012, Annexure P.1 which was published in the Punjab Government Gazette on 6.8.2012. Thereafter, it was published in Rozana Ajit (Punjabi) and Amar Ujala (Hindi) dated 17.8.2012. According to the petitioners, the Collector did not cause public notice of the substance of such notification at convenient places in the said locality of the four villages wherein the land was subject matter of acquisition by the Government of Punjab. Notification under Section 6 of the Act was published on 13.1.2013, Annexure P.2 in the English

Tribune and Dainik Jagran (Hindi) dated 12.1.2013. There was no compliance of sections 4 , 5-A and 6 of the Act. Notice under Section 9 of the Act had not been served individually and personally on the land owners of the villages. No munadi was effected in these villages. Award dated 31.5.2013, Annexure P.3 was passed by the Land Acquisition Collector vide which paltry amount was awarded to the land owners. The petitioners came to know of the entire acquisition proceedings a few days ago when an announcement was made from the village Gurudwara on behalf of respondent No. 2 that their land had been acquired and that they may collect the compensation amount from the office of respondent No. 2. Hence the instant writ petition by the petitioners.

3. We have heard learned counsel for the parties and perused the record.

4. Learned counsel for the petitioners submitted that no munadi had been done in the local area and, therefore, notification under section 4 of the Act was bad. Notification under Section 6 of the Act was assailed on the ground that the same was not published in regional language newspaper i.e. in Punjabi. Reference was made to judgment of the Apex Court in V.K.M. Kattha Industries Pvt. Ltd. Vs. State of Haryana and Others, .

5. On the basis of the written statement filed, learned counsel for the respondents submitted that the plea regarding munadi was controverted as the same had been done in the concerned locality. Replying to the argument of learned counsel for the petitioners regarding publication of notification under section 6 of the Act in regional language, it was submitted that the same was published in the Hindi newspaper on 12.1.2013 and in English Tribune in Punjabi script on 13.1.2013. On the aforesaid premises, it was argued that legal requirements as envisaged by the Act were fulfilled.

6. After hearing learned counsel for the parties, we do not find any merit in the writ petition.

7. It would be expedient to examine the relevant portion of Sections 4 and 6 of the Act which reads as under:--

"4. Publication of preliminary notification and powers of officers thereupon.--(1) Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose or for a company, a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification).

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,- to enter upon and survey and take levels of any land in such locality;

to dig or bore into the sub soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches; and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days" notice in writing of his intention to do so."

"6 (1) xxxx xx xx

(2). Every declaration shall be published in the Official Gazette, and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the date of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected."

8. The Rajasthan High Court while interpreting provisions of sections 4 and 6 of the Act in Rajmal and Vs. State of Rajasthan and Others, , observed that object of Section 4 of the Act is to give public notice. Neither each and every person whose land is acquired requires to subscribe nor the State is required to prove that newspaper was read by person whose land is acquired. If the newspaper has sufficient number of readers, it is sufficient to establish proper publication under section 4 of the Act. It was held as under:--

"5....The object of the notification under section 4 is to give public notice, that it is proposed to acquire the land mentioned in the notification and that anyone who deals in that land subsequent to the notification would do so at his own risk. Preliminary notification under section 4 is only a proposal to acquire land. A notification under section 4 achieves a two-fold object. First, it is a public announcement by the appropriate Government and a public notice by the Collector in respect of the land being needed or likely to be needed by the Government for a public purpose and secondly, it authorizes the departmental officers, or officers of a local authority or company, as the case may be, to survey and do other acts by entering the land. Thus, the words used "two

newspapers circulating in the locality" has to be read in that context. Newspaper need not be subscribed by each and every person whose land is under acquisition. If a newspaper has a sufficient number of subscribers or readers in the locality, it would be said that it has a circulation within the locality for the purpose of section 4(1) of the Act. It would be a different thing if the number of subscribers or readers is no meager, which can be said to be none, then it could not be taken to be a newspaper having circulation in the locality within the meaning of Section 4(1) of the Act. The circulation of the newspaper for the purpose of section 4(1) does not mean that each and every individual whose land has been acquired, should be the subscriber or that the State has to prove that newspaper publishing notice under section 4 was read by person whose land was sought to be acquired. Had it been the intention of the legislature, then it would have been provided in the Act that notice would be issued, of proposed acquisition under section 4(1) of the Act, to each of the land owner whose land is needed or likely to be needed for public purpose and would be subject to acquisition. Unless positive proof has been brought on record by the petitioners that the newspaper in which the notification has been published, has no circulation, at all in the locality or has meager circulation, which can be said to be no circulation, the newspaper published from the District of tehsil where from lands are sought to be acquired, shall be presumed to have circulation in the locality. There is a letter of the Public Relation Officer that the newspapers in which the notification was published, have sufficient circulation in the locality. That being so, the contention of the petitioners is without any substance and is rejected."

9. Adverting to the factual matrix in the present case, it may be noticed that the land was acquired for the purpose of widening the road from Phul, Dhapali, Bhadaud till the limits of the District length 0.00 km to 12.96 km (T-02 block Phul) under the Pradhan Mantri Gram Sadak Yojana (PMGSY) Scheme in District Bathinda. The notification under section 4 of the Act was issued on 3.8.2012 which was published in Punjab Government Gazette on 6.8.2012(extra ordinary). It was published in the Daily Ajit (Punjabi) and Amar Ujala Daily (Hindi) on 17.8.2012. Copies of the same were sent to the Halqa Patwari through the concerned Tehsildar vide letter dated 12.9.2012 for munadi. Entry was made on 21.9.2012 as per record. Objections were invited from the residents of the concerned villages but none was filed. Even corrigendum was issued by the Department of Public Works Department (B&R) with some amendment in the notification vide letter/notification dated 19.11.2012, Annexure R.2 and the same was published in Daily Ajit (Punjabi) on 1.12.2012 and in Amar Ujala (Daily Hindi) on 30.11.2012. Similarly, declaration under Section 6 of the Act was issued on 3.1.2013 and the same was published in Dainik Jagran dated 12.1.2013 Daily (Hindi) and The Tribune dated 13.1.2013 (in Punjabi script). The publication of this declaration was got effected through the Halqa Patwari in the above said villages.

10. The circulation of the newspaper for the propose of Sections 4(1) and 6 of

the Act does not mean that each and every individual whose land has been acquired should be the subscriber or that the State has to prove that newspaper publishing notice under sections 4 and 6 of the Act was read by person whose land was sought to be acquired. The circulation was made in the local newspapers in Hindi and English Tribune in Punjabi scripts. Although publication of section 6 notification was not made in the Punjabi newspaper but it was made in Punjabi and Hindi scripts in local regional newspapers which were of wide circulation in the concerned locality. Thus, the ingredients of sections 4 and 6 of the Act were duly complied with.

11. The judgment relied upon by the learned counsel for the petitioners relates to essential conditions to be fulfilled for issuance of valid notifications under Sections 4 and 6 of the Act which principles are well recognized. However, the original record has been produced showing publication in the English Tribune in Punjabi script and also in the Dainik Jagran of dated 12.1.2013 (Daily Hindi) which had circulation in the area where the land under acquisition is situated. Thus, no benefit can be derived by the petitioner from the aforesaid pronouncement. Further compensation was paid to the petitioners as per law. Consequently, finding no merit in the petition the same is hereby dismissed.

12. The original record be returned to the learned counsel for the respondents under proper receipt.