

(1992) 01 DEL CK 0022

In the Delhi High Court

Case No : Civil Writ Petition No. 1357 of 1980

Madan Lal Mittal

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 13-01-1992

Acts Referred:

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

Citation : (1992) 46 DLT 325

Hon'ble Judges : Chander Mohan Nayar, J

Bench : Single Bench

Advocate : K.L. Rathi and A.P. Aggarwal, for the Appellant;

Judgement

C.M. Nayar, J.

(1) The present petition impugners the validity of notifications u/s 4, Section 6, and Sections 9 and 10 of the Land Acquisition Act. Section 4 notification was issued on January 23, 1965; and Section 6 notification was issued on December 7, 1966, and Sections 9 and 10 notifications on March 16, 1978 respectively. No award was made in respect of proposed acquisition of the said land within the statutory period.

(2) Petitioner filed his claims and objections on April 10, 1978, before the Land Acquisition Collector, reserving his legal rights and without prejudice of notice u/s 55 of the Delhi Development Act. Petitioner submitted that after the issuance of notification u/s 6 he served a notice on the respondents on November 9, 1977 u/s 55 of the Delhi Development Act, 1957, as he was entitled to get the land released from compulsory acquisition under Sub-Section 2 of Section 55. The respondents have received the said notice u/s 55 on November 11, 1977.

(3) The main question for decision in this writ petition is, whether, the petitioner is entitled to get his land released from compulsory acquisition. Section 55 of the Delhi Development Act, 1957, reads as follows :

"55(1) Where any land situated in any area in Delhi is required by the master plan or a zonal development plan to be kept as an open space or unbuilt upon or is designated in any such plan as subject to compulsory acquisition, then, it at the expiration of ten years from the date of operation of the plan u/s 11 or where such land has been so required or designated by any amendment of such plan from the date of operation of such amendment the land is not compulsorily acquired the owner of the land may serve on the Central Government a notice requiring his interest in the land to be so acquired. (2) If the Central Government fails to acquire the land within a period of six months from the receipt of the notice, the master plan or, as the case may be, the zonal development plan shall have effect, after the expiration of the said six months as if the land were not required to be kept as an open space or unbuilt upon or were not designated as subject to compulsory acquisition."

(4) The petitioner further argues that matter is squarely covered by the three judgments of this Hon''ble Court in Shri Sahab Singh & others v Union of India & Others, Civil Writ No. 1283/83, decided on 9.3.1989 by Hon''ble Mr Justice S.B. Wad; Chandagi & Others". Union of India & Others, Civil Writ No 1302/83 decided on 23.4.1990 by Hon''ble Mr. Justice -Mahinder Narain and Smt Kalwati Mittal & Others v- Union of India & Others, Civil Writ No. 1360/80 decided on 8.11.1990 by Hon''ble Mr. Justice M.L Verma.

(5) In the present case also, the Government did not acquire the land after issuance of the notices under Sections 4, 6 of the Land Acquisition Act as well as, after service of notices under Sections 9 and 10 of the said Act. Petitioner has admittedly served the notice u/s 55 of the Delhi Development Act on the respondents, as stated above, which has been received by respondents and the learned Counsel appearing for the respondents has admitted the same. The provision Is If, at the expiration of ten years from the date of the operation of the master plan, or where such land was required or designated for compulsory acquisition and not being so acquired, shall be deemed to have been released from compulsory acquisition six months after the notice to that effect is served on the Central Government. The law is well settled by the judgments of this Court, as referred above, and the petition deserves to be allowed.

(6) The land of the petitioner, which forms subject matter of the present writ petition, stands released from compulsory acquisition by virtue of Section 55(2) of the Delhi Development Act. The subsequent land acquisition proceedings purported to be the proceedings under the Land Acquisition Act, are hereby set aside. There shall be no order as to costs. Petition allowed