
(1997) 07 AHC CK 0214
In the Allahabad High Court
Case No : C.M.W.P. No. 24011 of 1996

Manak Tala Chemicals (P.) Ltd.

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 02-07-1997

Acts Referred:

Land Acquisition Act, 1894 — Section 14, 14(1), 14(2), 17, 17(1)

Citation : (1997) AWC 376 Supp : (1998) RD 320

Hon'ble Judges : D.P. Mohapatra, C.J;R.R.K. Trivedi, J

Bench : Division Bench

Advocate : K.M. Sinha, for the Appellant;

Final Decision : Dismissed

Judgement

D.P. Mohapatra, C.J.—In this bunch of writ petitions challenge has been raised against the notifications dated 27.7.1995, 18.4.1996 and 13.6.1996 (Annexures VIII, IX and XI) issued under Sections 4 and 6 of the Land Acquisition Act (for short the Act) on several grounds.

2. The main grounds of challenge are that it was not open to the State Government to issue notifications under Sections 4 and 6 simultaneously and that there was no basis for issue of notification u/s 17(1) of the Act since there was sufficient time lag between the notifications issued under Sections 4 and 6 of the Act, that possession of the land could not be taken over before payment of compensation to the owner etc.

3. All these questions were considered by a Division Bench of this Court in Civil Misc. Writ Petition No. 23997 of 1996 A.P. Sareen and Ors. v. State of U.P., through the Secretary Incharge Greater Noida, Ghaziabad and Ors. decided on 9.12.1996. This Court dismissed the writ petition relying on the decision of the Supreme Court in Ghaziabad Development Authority Vs. Jan Kaluan Samiti, Sheopuri, Ghaziabad and another, . The said judgment was challenged by the Petitioners before the Supreme Court of India in Civil Appeal No. 168 of 1997

arising out of SLP (C) No. 24685 of 1996, decided on 16th January, 1997. The Supreme Court construing the provisions of Sections 4(1), 17(1), 5A and 17(4) of the Act and after noticing the decisions of the Court in two cases viz., Ghaziabad Development Authority (supra) and Mohan Singh and Ors. etc. v. International Airport Authority of India and Ors. JT 1996 (10) SC 311, disposed of the appeal declining to interfere with the notification issued u/s 4(1) and the declaration made u/s 6 of the Act. However, the Court directed the Respondents not to destroy the standing crops and permitted the Appellants to cut and harvest the standing crops within four weeks.

4. On perusing the writ petitions and the counter-affidavit filed in the present bunch of cases, we find that most of the points of challenging stated in the writ petitions are covered by the decision of the Supreme Court in A. P. Sareen's case (supra).

5. Sri M. K. Gupta and some other counsel appearing for the Petitioners have, however, raised a question, which in their submission has not been considered by the Supreme Court in A. P. Sareen's case. The question raised is that since the area sought to be acquired comes within the national capital region to which the National Capital Region Planning Board Act, 1985 (for short N.C.R.P.D., Act) applies and as the land proposed to be acquired is earmarked for agricultural purpose in the regional plan/sub-regional plan framed under the said Act, acquisition of such land for the purpose of planned industrial development is not permissible and, therefore, the notification issued u/s 4(1) and the declaration u/s 6 should be declared to be null and void.

6. Though the point looks attractive on a first look, on closer examination, we find that it has no substance. We further find that in the facts of the case, to which we shall presently refer, the question has become academic. No doubt, the purpose of the acquisition as stated in the notification issue u/s 4(1) of the Act is industrial development of the region. It is not disputed before us that certain portion of the acquired land has been shown in the regional plan/sub-regional plan framed under the N.C.R.P.B. Act. From the provisions of that Act, it is manifest that therein provisions have been made regarding proper utilisation of the land within the national capital region strictly in accordance with the approved plan. Obviously, the question of utilisation of the land is a stage after acquisition of ownership of the land. Therefore, it is our considered view that objection relating to utilisation of the land is not relevant to Judge the validity or otherwise of the acquisition proceeding initiated by notification u/s 4(1) of the Act. It is not the case of the Petitioners that planned industrial development of the area is not a public purpose as contemplated under the Act.

7. Coming to the provisions of the N.C.R.P.B. Act, Section 7 empowers the Board to prepare regional plan and the functional plans, which covers certain portions of the territory of Uttar Pradesh, and arranges for the preparation of sub-regional plans and project plans by each of the participating States and the Union territory.

8. Section 17 makes provision relating to sub-regional plans. Section 20 provides for implementation of sub-regional plans as finalised by the participating States/ Union territory u/s 19(3). Section 27 lays down that the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the Act; or in any decree or order of any court, tribunal or other authority. Section 40, which makes provision for acquisition of land and determination of rights in relation to land to be made by the Government of the participating State or the Union territory, provides that for the removal of doubts, it is hereby declared that the acquisition of land of determination or any right or interest in, or in relating to any land or other property, where necessary to give effect to any regional plan, functional plan, sub-regional plan or project plan, shall be made by the Government of the concerned participating State, or, as the case may be, the Union territory, in accordance with the law for the time being in force in that State or Union territory. On a plain reading of the provisions it is clear that this section enables the participating State/Union territory to acquire land and determine rights in relation to land for the purpose of giving effect to any regional plan, functional plan or sub-regional plan. Section 14, which contain provision for modification of the regional plan, lays down in Sub-section (1) that the Board may, subject to the provisions of Sub-section (2), make such modifications in the regional plan as finally prepared by it, as it may think fit, being modifications which, in its opinion, do not effect important alterations in the character of the regional plan and which do not relate to the extent of land uses or the standards of population density. Sub-section (2) of the said section mandates that before making any modification in the finally prepared regional plan, the Board shall publish a notice in such form and in such manner as may be prescribed, indicating therein the modifications which are proposed to be made in the finally prepared Regional plan, and inviting objections and suggestions from any person with respect to the proposed modifications before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by it on or before the date so specified.

9. From the statutory provisions noticed above, the position that emanates is that the said provisions relate to use or utilisation of the land for which regulatory measures are made under the statute. Such provisions, as noticed earlier, have little relevance at the stage of acquisition of the land under the Act.

10. At this stage, it is relevant to note that the acquisition of the land in the cases was made by the State Government for implementation of the plan formulated under the U.P. Industrial Area Development Act, 1976. In pursuance of a direction of this Court in the order dated 27.2.1996 in Civil Misc. Writ Petition No. 26737 of 1993 Ravindra Singh v. State of U.P. and Ors. the State Government submitted the plan formulated by it under the aforementioned State Act before the Planning Committee under N.C.R.P.B. Act, the Committee approved the plan on 15.7.1996 and the Board approved the said plan on

19.8.1996. A copy of the minutes of the Planning Committee has been annexed as Annexure 4 to the counter-affidavit. Therefore, even assuming that clearance of the Board under the N.C.R.P.B. Act was necessary for acquisition of the land, the same has been obtained. Though Section 4(1) notifications under challenge in the present case are different from those which were challenged in Writ Petition No. 26737 of 1993, but the area under acquisition relates to planned industrial development of Soorajpur and Kansa sub-regional centre of NOIDA. After the plan was approved by the Committee and the Board, Writ Petition No. 26737 of 1993 was dismissed by this Court by judgment rendered on 1st October, 1996. which is reported in 1997 (1) AWC 54.

11. On the analysis made and for the reasons stated in the foregoing paragraphs, we find no merit in the writ petitions which are, accordingly dismissed and the interim order passed on 30.7.1996 in Writ Petition No. 24011 of 1996 is vacated. However, in the circumstances of the case, there shall be no order as to costs in any of the writ petitions.