
(2010) 09 AHC CK 0561
In the Allahabad High Court
Case No : Writ C. No. 58588 of 2010

Manak Vihar Sahkari Awas Samiti Ltd.	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 23-09-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (2010) 09 AHC CK 0561

Hon'ble Judges : Virendra Singh, J; Ashok Bhushan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard Sri K.N. Mishra, learned Counsel for the petitioner and Sri Ramendra Pratap Singh for the respondent.

2. By this writ petition, the petitioner has prayed for quashing the notification dated 16.04.2008 issued u/s 4 of the Land Acquisition Act and notification dated 16.06.2008 issued u/s 6 of the Land Acquisition Act with regard to the plot mentioned in the writ petition.

3. Sri Ramendra Pratap Singh, learned Counsel for the respondent raises a preliminary objection regarding the maintainability of the writ petition. He submits that the writ petition has been filed after more than two years after issuance of the notifications and there being no plausible explanation in the writ petition, the writ petition cannot be entertained. He further submits that the same notification was already subjected to challenge in this Court by means of WP No. 29575/2008 (Satish Chandra v. State of U.P. and Ors.) in which the notifications were upheld.

4. Learned Counsel for the respondent placed reliance on the several judgements of this Court as well as Hon'ble Apex Court in the case of Suraj Bali Sharma Vs. State of U.P. and Others, Municipal Corporation of Greater Bombay Vs. The Industrial Development Investment Co. Pvt Ltd., and others, Municipal Council,

Ahmednagar and Anr. v. Shah Hyder Beig and Ors. 2002 (2) SCC 48 ; Northern Indian Glass Industries Vs. Jaswant Singh and Others, Haryana State Handloom and Handicrafts Corporation Ltd. and Another Vs. Jain School Society, Sawaran Lata etc. Vs. State of Haryana and Others, for the proposition that the writ petition in the land acquisition matter cannot be entertained after considerable delay.

5. Sri K.N. Mishra submitted that the petitioner came to know about the notifications u/s 4 and 6 only in February 2010 when the respondent filed a counter affidavit in the eariler writ petition No. 3036/2010 filed by the petitioner.

6. We have considered the submissions of learned Counsel for the parties and perused the record.

7. The notifications issued u/s 4 and 6 are published in the Gazette and the substance of the notifications were also published in two newspapers. The petitioners cannot be heard in saying that they were not aware of the notifications. The question of delay in filing writ petition challenging the notification u/s 4 and 6 came up for consideration before this Court and the Hon"ble Apex Court on several occasions. In the decisions which have been referred by learned Counsel for the respondent, it has been held that the writ petition challenging the land acquisition matter cannot be entertained after unreasonable delay. The Apex Court Judgment in the case of Sawaran Lata etc. Vs. State of Haryana and Others, the Apex Court laid down following in para 6, 7, 8 and 11:

6. When a person challenges Section 4 notification on any ground, it should be challenged within a reasonable period, and if the acquisition is challenged ini a belated stage, the petition deserves to be dismissed only on this count.

7. A Constitution Bench of this Court in Aflatoon v. Lt. Governor of Delhi while dealing with the issue, observed as under: (SCC p. 291, para 11)

11. ...To have sat on the fence and allowed the Government to complete the acquisition proceedings on the basis that the notification u/s 4 and the declaration u/s 6 were valid and then to attack the notification on grounds which were available to them at the time when the notification was published would be putting a premium on dilatory tactics. The writ petitions are liable to be dismissed on the ground of laches and delay on the part of the petitioners.

8. Same view has been reiterated by this Court observing that acquisition proceedings should be challenged before the same attain finality, in State of Mysore v. V.K. Kangan, Girdharan Prasad Missir v. State of Bihar, Bhoop Singh v. union of India, State of Orissa v. Dhobei Sethi, State of Maharashtra v. Digambar, State of T.N. v. Krishnan and C. Padma v. Govt. of T.N.

11. In the instant case, it is not the case of the petitioners that they had not been aware of the acquisition proceedings as the only ground taken in the writ petition has been that substance of the notification u/s 4 and declaration u/s 6 of

the 1894 Act had been published in the newspapers having no wide circulation. Even if the submission made by the petitioners is accepted, it cannot be presumed that they could not be aware of the acquisition proceedings for the reason that a very huge chunk of land belonging to a large number of tenure-holders had been notified for acquisition. Therefore, it should have been the talk of the town. Thus, it cannot be presumed that the petitioners could not have knowledge of the acquisition proceedings.

8. The submission in Swaran Lata case that the petitioners were not aware of the notification u/s 4 and 6 was not accepted. It cannot be presumed that the petitioners could not have knowledge of the acquisition proceedings. The petitioners in the writ petition have not alleged that substance of the notification was not published in the newspaper having wide circulation. The acquisition proceedings cannot be allowed to be challenged after lapse of more than two years when it is alleged by the respondent that possession has already been taken on 14.07.2008.

9. We do not find the explanation given by the petitioners in the writ petition for not filing the writ petition within reasonable time, neither convincing nor acceptable, more so, the same notifications have already been upheld by Division Bench of this Court as noted above.

10. The writ petition is dismissed with the aforesaid observations.