
(1999) 05 P&H CK 0124
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 803 of 1999

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

Date of Decision : 06-05-1999

Acts Referred:

Land Acquisition Act, 1894 — Section 17

Citation : (1999) 123 PLR 196 : (1999) 3 RCR(Civil) 300

Hon'ble Judges : N.K. Agrawal, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : M.L. Sharma, for the Appellant; M.C. Berry, D.A.G. and Balwinder Singh, for P.K. Mutneja, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The petitioners in this case pray that notifications dated November 13, 1998 and November 27, 1998, issued under Sections 4 and 6 read with Section 17 of the Land Acquisition Act, be quashed.

2. Even though the paper-book of the case is voluminous, the solitary contention raised on behalf of the petitioners by Mr. M.L. Sharma is that these two notifications are vitiated as these were published in the newspaper on the same day, viz. December 25, 1998. It is contended that the publication of the notifications under Sections 4 and 6 read with Section 17 of the Act on the same day in a newspaper would vitiate the proceedings for acquisition of the land.

3. The claim made on behalf of the petitioners has been controverted by the learned counsel for the respondents. Mr. M.C. Berry has squarely relied upon the decision of their Lordships of the Supreme Court in Mohan Singh and Ors. v. International Airport Authority of India and Ors. (II) 1997.A.C.C. 568.

4. The admitted position is that the notification u/s 4 read with Section 17 was published in the official gazette on November 13, 1998. The notification u/s 6 read with Section 17 was published a fortnight later on November 27, 1998.

Thereafter the notifications were published in daily Ajit (Punjabi) and daily Tribune (English). In the English newspaper both the notifications were published on the same day. Thus, the short question that arises for consideration is : Are the notifications as also the acquisition proceedings vitiated merely because the notifications were published in the press on the same day ?

5. After consideration of the matter, we find that this question stands fully answered by the decision of their Lordships of the Supreme Court in Mohan Singh's case. In the said case the notification u/s 4(1) of the Act was published on December 23, 1986 in the official gazette. The notification u/s 6, was published on December 24, 1986. The notification u/s 4 was published in two newspapers on January 3, 1987. The possession of the land was taken on January 29, 1987. The validity of these notifications was challenged. The learned Single Judge had sustained the challenge and held that "the exercise of power by the Government dispensing with the enquiry u/s 5A and publication of the declaration u/s 6 was illegal." On appeal, the judgment of the learned Single Judge was reversed. Thereafter the matter was taken to the Apex Court. It was, inter alia, contended that the appropriate Government can publish the declaration u/s 6 only "after the publication of the notification u/s 4(1)." It is only after the last publication u/s 4(1) that the declaration u/s 6 can be issued. After detailed examination of the provisions and the various decisions, their Lordships were pleased to observe as under :-

"27. In the light of the above law, we have no hesitation to hold that though compliance with publication of the three steps required u/s 4(1) is mandatory while exercising the power of eminent domain u/s 4(1), when the appropriate Government exercises the power under Sub-section (4) of Section 17 dispensing with the enquiry u/s 5-A and directs the Collector to take possession of the land before making the award as the lands are needed urgently either under Sub-section (I) or (2) thereof, it is not mandatory to publish the notification u/s 4(1) in the newspaper and giving of notice of the substance thereof in the locality; the last of the dates of publication should not be date for the purpose of exercising the power u/s 17(4). This interpretation of ours would subserve the public purpose and suppress mischief of noncompliance and seeks to elongate the public purpose, namely, taking immediate possession of the land needed for the public purpose, envisaged in the notification."

In view of the above observations, it cannot be said that the acquisition proceedings shall be vitiated merely because the publication of the notifications under Sections 4 and 6 was made in the newspaper on the same day.

6. It may only be observed that in a case where urgency provisions have been invoked, a citizen does not have a right to raise objection u/s 5-A. The State has to take possession of the land at the earliest. The delay, which is likely to be occasioned by waiting for the last publication in the newspaper, may sometimes defeat the very object for which the urgency provisions have been invoked. Still further, the right of the citizen would not be adversely affected by simultaneous

publication of the two notifications in the newspaper, there would be compliance with the provisions of law by publication in the newspaper as well as in the locality. Unless a clear case of prejudice is made out, it would not be fair to quash the acquisition proceedings. In "the present case the notifications were published in the official gazette with a gap of 14 days. Thereafter the mere fact that these were simultaneously published in the newspaper, would be of no consequence.

7. Mr. Berry, appearing for the respondents, has produced before us an album to show that huge area is flooded with water. The land is being acquired to construct a drain so as to remove the water from the fields. The delay was intended to be avoided. It was with this object that the provisions of Section 17 of the Act were invoked. No prejudice has been caused to the petitioner by the simultaneous publication of the two notifications in the newspaper. In view of the position as emerging from the photographs, the contention raised by the learned counsel appears to be reasonable.

8. Mr. Sharma has placed reliance on a decision of the Supreme Court in *Eugenio Misquita and Others Vs. State of Goa and Others*, . In this case the provisions of Section 17 of the Act admittedly had not been invoked. Thus, the position was not parallel. The case is clearly distinguishable.

9. No other point has been raised by the counsel for the petitioner.

10. No ground for interference is made out. Resultantly, the writ petition is dismissed. No costs.

In view of the above order, Civil Misc. application is rendered infructuous. It is ordered accordingly.