

(2011) 12 AHC CK 0021

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No"s. 52594, 52569, 52572 and 52575 of 2011

M/s. Ram Prastha Ispat Udyog Pvt. Ltd.

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 19-12-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Land Acquisition Act, 1894 — Section 11, 17, 4, 4(1), 6

Citation : (2012) 1 ADJ 341

Hon'ble Judges : Sunita Agarwal, J;Ashok Bhushan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hon"ble Mrs. Sunita Agarwal, J.—Heard learned counsel for the petitioner Shri Ranjit Saxena, learned Standing Counsel appearing for respondent No. 1 to 3 and Shri Vivek Birla, learned counsel for the respondent No. 4. All the writ petitions are heard and decided together.

2. By means of these petitions, petitioner has prayed for quashing of the Notifications dated 30.12.1998 u/s 4 of the Land Acquisition Act 1894 (hereinafter referred to as the "Act") and dated 31.3.1999 under Sections 6 of the Act. The other relief sought for is in the nature of mandamus directing the respondents to release the land in favour of the petitioner"s company and to permit the petitioner to deposit the entire amount of compensation alongwith simple interest to the respondents.

3. Brief facts of the case are that the petitioner purchased the land in question vide sale-deed dated 15.12.1986 annexed as Annexure (S.A.- 1) to the supplementary affidavit-1 dated 11.12.2011 filed by the petitioner. The land has been acquired taking recourse of the provisions under Sections 4/17 of the Act vide notification dated 30.12.1998. The declaration u/s 6 of the Act was issued on 31.3.1999 in official Gazette. The total area of the land acquired under

notifications in village Junedpur, Tehsil Sikandrabad District Bulandshahar was 9.721 hectare. The award was declared by the Special Land Acquisition Officer on 30.6.2003. The petitioner received compensation under the award dated 30.6.2003 and photocopy of the receipt of payment made to the petitioner in the year 2003 has been annexed as Annexure 3 to the petition. Only ground on which petitioner is challenging the acquisition under the Act is that the land in question remains unutilized by the respondents and it has been stated that it is ready to repay the amount of compensation paid by the respondent under the award after adding interest on compensation. A further averment has been made that the petitioner has approached the State Government for the release of the land and representation dated 3.1.2011 addressed to the State Government has been filed by it alongwith the writ petitions.

4. Shri V.K. Birla, learned counsel for respondent No. 4 raised a preliminary objection with regard to maintainability of the petition on the ground that the petitions are highly belated, suffer from severe laches and there is inordinate delay in approaching the court as same have been filed after almost 12 years from the date of Notification issued for the purpose. Moreover, award has been declared and petitioner has received compensation in the year 2003. Since the petitioner had accepted the compensation with full knowledge regarding acquisition proceeding, now it is not open for it to challenge the acquisition proceedings at such a belated stage.

5. The factum of taking possession of the land by respondents has not been denied by the petitioner. On the other hand petitioner has stated that he is ready to take back land and will repay the entire money with interest to the State Government, in case its land is returned back.

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

7. There is no dispute about the fact that petitioner has approached the court for the first time by filing present writ petition on 17.8.2011. It is also not disputed that possession of the land has been taken by the State Government. The award has been declared in the year 2003 and petitioner has received compensation under the said award dated 30.6.2003. As per the allegation of the petitioner he approached the State Government by filing representation dated 3.1.2011 that too after the period more than eight years from the date of receipt of award.

8. The issue raised in these petitions has engaged attention of the Apex Court time and again and by the judgment in Sawaran Lata etc. Vs. State of Haryana and Others, , the Supreme Court refused to grant relief on the ground that petitioner having knowledge of the acquisition could not be allowed to challenge the acquisition at a belated stage. Relevant paragraph 6 is as under:

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 at a belated stage, the petition deserves to be dismissed only on this count.

9. Similarly, in the case of Northern Indian Glass Industries Vs. Jaswant Singh and Others, , where all the petitions were filed almost after 17 years from the date of passing of the award and after taking compensation of land. Relevant paragraphs No. 8 and 9 of this judgement are as under :

8. In Municipal Corporation of Greater Bombay v. Industrial Development Investment Co. Put. Ltd., after reviewing the entire case law, this Court held that a person who approaches the court belatedly to question the legality of the notification u/s 4(1), declaration u/s 6 and the award of the Collector u/s 11, shall not be granted relief. Touching the question of delay and laches, in para 29, it is stated that:

29. It is thus well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification u/s 4(1) and declaration u/s 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226.

9. Looking to the facts of the present case and conduct of the respondents 1-5, the High Court was not at all justified in ignoring the delay and laches and granting relief to them. As already noticed, the respondent 1-5 approached the High Court by filing writ petition almost after a period of 17 years finalization of the acquisition proceedings. They accepted the compensation amount as per the award and sought for enhancement of the compensation amount without challenging the notification issued u/s 4 and 6. Having sought for enhancement of compensation only, they filed writ petition even three years after the appeals were disposed of by the High Court in the matter of enhancement of compensation. There is no explanation whatsoever for the inordinate delay in filing the writ petitions....

10. The same view was expressed by the Apex Court in State of Rajasthan and Others Vs. D.R. Laxmi and Others, , in which judgment of Municipal Corporation Greater Bombay (supra) was followed. Relevant paragraph-9 is as under:

...When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third party rights were created in the case, is hardly a ground for interference. The Division Bench of High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches....

11. Learned counsel for the petitioner Shri Ranjit Saxena has placed reliance on the judgements of Apex Court in Anand Singh and Another Vs. State of Uttar

Pradesh and Others, ; Shanti Sports Club and Another Vs. Union of India (UOI) and Others, ; The Commissioner, Corporation of Chennai v. R. Sivasankara Mehta and another, JT 2011 (5) SC 453; Tamil Nadu Housing Board Vs. L. Chandrasekaran and Others, ; Babu Ram and Another Vs. State of Haryana and Another, ; Sugana Saraswathi and another v. Government of T.N. and another, (2004) 13 SCC 660; Greater Noida Industrial Development Authority v. Devendra Kumar and others, 2011 (6) ADJ 480 (SC) and Division Bench judgment of this Court in Devendra Kumar and Others Vs. State of U.P. and Others, .

12. In none of the cases, the issue of delay and laches on the part of the petitioner was under consideration.

13. In The Commissioner, Corporation of Chennai v. R. Sivasankara Mehta and another (supra) the Supreme Court has refused to grant any relief to the land owner and held that land owners have no right to apply for re-conveyance in respect of land, which had vested in the Government long ago.

14. Another judgment in the case of Tamil Nadu Housing Board v. L. Chandrasekaran (supra) relied by the petitioner, the Apex Court held that before an order of release can be made u/s 48-B (inserted by Tamil Nadu Amendment Act 16 of 1997) regarding transfer of land to original owner, the government can release the acquired land only till the same continues to vest in it and the same has not been transferred to the agency and that too if it is satisfied that acquired land is not needed for the purpose for which it was acquired or for any other public purpose.

15. In the case of Babu Ram and another v. State of Haryana and another (supra) it was held that there was no negligence or lapse or delay on the part of the appellants. In view of the facts of the case that the appellants had filed suit and got the interim order and later on withdrew the same and filed writ petitions. The law laid down in Anand Singh and another v. State of U.P. and others (supra) and Shanti Sports Club and another v. Union of India, and others (supra), Greater Noida Industrial Development Authority v. Devendra Kumar and others (supra) by the Apex Court and Division Bench Judgment of this Court in Devendra Kumar and others v. State of U.P. and others (supra) are of no help to the petitioner, in view of the fact that the present writ petitions have been filed with inordinate and unexplained delay on the part of the petitioner.

16. The petitioner sought to challenge notification issued under Sections 4 and 6 of the Act but has failed to make out any good ground for the same. The inordinate delay on the part of the petitioner in challenging the notification has not been explained at all in the entire petitions.

17. In view of the facts and circumstances of the case, we are of the view that writ petitions cannot be entertained at this belated stage. The petitioner has received compensation and the land having been vested with the State Government as early in the year 2003, there is no reason to entertain these petitions praying for quashing of the Notifications issued in the year 1998 and

1999 under Sections 4 and 6 of the Act; respectively. The writ petitions are highly belated and suffer from severe laches on the part of the petitioner.

18. In the result, all the aforesaid writ petitions are dismissed.