

(2007) 05 DEL CK 0082

In the Delhi High Court

Case No : Writ Petition (C) 18189-202 and 18305-05 of 2006 and 280 of 2007 and CMs 15125, 15202, 15872, 15873 and 15956 of 2006 and 459 of 2007

Murari Lal and Another

APPELLANT

Vs

Delhi Development Authority and Others
 Late Shri Roshan Lal Jain (Thr Lr''s) Vs Chairman Airport Authority of India and Others
 Kalyan Sahai (thr. Lr''s) and Others Vs Chairman, Delhi Development Authority and Others

RESPONDENT

Date of Decision : 31-05-2007

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (2007) 141 DLT 258

Hon'ble Judges : Dr. S. Muralidhar, J

Bench : Single Bench

Advocate : Kanwar Udai Bhan and R.K. Singh, for the Appellant; Sanjay Poddar and Sachin Nawani for LAC, Anjana Gosain, for AAI, Ravi Varma and Surbhi Sharma for DIAPL, Rajiv Bansal, for DDA and Sanjay Pathak, for GNCTD, for the Respondent

Final Decision : Dismissed

Judgement

S. Muralidhar, J.—These three writ petitions are by residents of Nangal Dairy, Gurgaon Road, Delhi. The lands in their possession have been acquired under the provisions of the Land Acquisition Act, 1894 (LA Act), along with the lands in the adjoining village Nangal Devat, for the public purpose of the expansion of the international airport at Delhi. The grievance in the present petition is that although there is a scheme for rehabilitation of the displaced residents of village Nangal Devat by providing alternative land in village Rangpuri, there is no similar rehabilitation scheme for the residents of village Nangal Dairy, whom the petitioners represent. They claim that the refusal by the state to provide them alternate sites in lieu of the lands acquired is both arbitrary and discriminatory. They seek a mandamus to the respondents not to dispossess the petitioners till

they are "not allotted alternate site/accommodation and are fully resettled."

2. The acquisition of the lands belonging to the petitioners commenced with the issuance of a Section 4 Notification under the LA Act on 23.1.1965. The Section 6 declaration was issued on 26.12.1968. This was followed by an Award No. 30/72-73 dated 7.9.1972. The compensation for the various parcels of land acquired has been determined by the Award. This acquisition was simultaneous with acquisition of the land in village Nangal Devat. The residents of village Nangal Devat challenged the acquisition by filing WP(C) 481/1982 (Daryao Singh v. Union of India) and a batch of writ petitions which came to be disposed of on 3.8.2001. The Airports Authority of India (AAI) made a statement before this Court during the hearing of the said writ petition that a rehabilitation scheme was being prepared in respect of the lands acquired in village Nangal Devat. On this statement, the petitioners there withdrew the challenge to the acquisition and consequently the writ petitions were withdrawn. However, in respect of the lands of the petitioners in the adjoining Nangal Dairy neither was there a challenge to the acquisition proceedings, nor was there any announcement of a scheme for rehabilitation.

3. The petitioners state that a letter was written by Assistant Housing Commissioner, Land Building Department, Delhi Administration to the President, Nangal Dairy Citizens Society on 12.1.1973 stating that "the question regarding the resettlement of the residents of Nangal village and Nangal Dairy is being finalized by the Delhi Development Authority." It appears that thereafter, the residents of Nangal Dairy wrote to the Assistant Housing Commissioner more than six years later on 19.4.1979 requesting for resettlement in the Mehrauli Block. The letter refers to notices received by them from the Land Acquisition Collector (LAC) directing them to hand over possession of the lands. It is claimed that on 8.6.1979, a letter was received from the DDA asking the residents of village Nangal Dairy to pursue the matter with the Land and Buildings Department. Meanwhile for the purposes of resettling the villagers of Nangal Devat, land at village Rangpuri was acquired by an Award No. 28/87-88 dated 23.11.1987. The next request made by these petitioners for allotment of alternative land was on 23.11.2006.

4. It is claimed that the right of the petitioners to be resettled flows from the Award itself and in any event since the acquisition of land of these petitioners as well as those of the residents of village Nangal Devat was for the same purpose, there cannot be a different treatment of the petitioners. It is submitted by the counsel for the petitioners that it was incumbent on the Government to have conducted a survey of the Nangal Dairy as well and framed a rehabilitation scheme for them.

5. On behalf of the respondents, it is submitted that the petition is barred by laches. It is further submitted that in the absence of a scheme for rehabilitation, no enforceable right arises and the petitioners Therefore cannot seek the reliefs prayed for in this petition. It is submitted that the question whether there should

a scheme for rehabilitation in respect of the persons whose lands in Nangal Dairy was acquired is a policy decision within the discretion of the Government. Reliance is also placed on the recent judgment dated 30.3.2007 passed by the Hon"ble Supreme Court in Civil Appeal No. 1704 of 2007 (Ravi Khullar v. Union of India) on the very issue of right of persons to rehabilitation consequent upon the acquisition of land for expansion of international airport at Delhi.

6. This Court finds that the petitioners have not made out a case for grant of the reliefs prayed for in the writ petition. The respondents are right in pointing out that after 1979, the petitioners have not followed up their demand for resettlement with the authorities till 2006. They have indeed waited for an inordinate length of time before approaching this Court. There can be no manner of doubt that these petitions seeking alternative lands in lieu of the lands which stood acquired over three decades ago, are indeed barred by laches.

7. As regards the right to seek resettlement, it is not in dispute that there is no separate scheme for rehabilitation of these petitioners. In any event, the decision of the Hon"ble Supreme Court in Ravi Khullar, in respect of a similar plea made on behalf of rehabilitation of industrial units whose lands were acquired in terms of the very same land acquisition notifications, negatives this plea of the petitioners. The Hon"ble Supreme Court considered the entire scheme of rehabilitation devised for the residents of the abadi (residential areas) of village Nangal Devat and concluded that there was nothing in the land acquisition notification which obliged the state to provide alternative land for the purposes of rehabilitation. The following passages of the judgment in Ravi Khullar make this explicit:

35. The documents relied upon by the respondents do establish that though at different stages the question of rehabilitation of the affected persons as a result of the acquisition was considered, no firm decision was ever taken to rehabilitate the industries affected thereby. The decision taken was only to provide alternative sites for residence of the oustees from village Nangal Dewat in village Rangpuri. The proposal to allot lands for setting up the displaced industrial units was always turned down and it was decided that owners of such industries would only be entitled to compensation under the Land Acquisition Act. Having regard to the material on record we are satisfied that no scheme was ever framed for rehabilitation of industrial units. The scheme was framed only for the affected villagers of village Nangal Dewat and that too for residential purpose alone.

36. Learned Counsel for the appellants strenuously urged before us that the land in village Rangpuri is still available and even if the three industries with which we are concerned in the instant batch of appeals are allotted land to the extent of 25,000 sq. yards each, as recommended in the Joint Survey Report, their purpose will be served. We are afraid we cannot accede to the request because that is a matter of policy and it is for the government to take appropriate decision in that regard. In law we find no justification for the claim that even in the absence of a scheme for rehabilitation of displaced industries alternative sites

should be allotted to them for relocating the industrial units. It is no doubt true that the acquisition of land in village Rangpuri by issuance of Notification u/s 4, of the Act on December 23, 1986 was for the public purpose, namely - for rehabilitation of the persons displaced or affected due to the expansion/development of the Palam airport. Learned Counsel appearing for the State contended that this public purpose has been achieved and the persons who were displaced from page 1925 village Nangal Dewat in view of the acquisition of their lands for the development of Palam airport have been allotted plots in village Rangpuri for their residence. There is nothing in the Notification which obliges the State to provide equal alternative site to the industries for their rehabilitation.

37. We find substance in the stand of respondents.

8. In view of the judgment of the Hon"ble Supreme Court in Ravi Khullar, the question of considering the plea of the petitioners, alternative land in the absence of any scheme for rehabilitation for them, does not arise. An attempt was made by learned Counsel for the petitioners to distinguish the judgment in Ravi Khullar to contend that the issue in that case concerned rehabilitation of industrial units and not residents. This submission is without merit. The judgment in Ravi Khullar is explicit in its conclusion that "The scheme was framed only for the affected villagers of village Nangal Dewat and that too for residential purpose alone."

9. Accordingly, these writ petitions are dismissed. The applications are also dismissed.