
(2007) 01 RAJ CK 0005
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1932 of 1990

Nathu Lal

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 02-01-2007

Acts Referred:

Land Acquisition Act, 1894 — Section 17, 4, 6

Citation : (2007) 2 WLN 22

Hon'ble Judges : Bhagwati Prasad, J

Bench : Single Bench

Judgement

Bhagwati Prasad, J.—The present writ petition is filed against the acquisition proceedings initiated by the respondents. The case of the petitioner in the present writ petition is that Agricultural Marketing Board has issued instructions vide Annx.1. Before any requirement of land is made out the guidelines as provided in Annx. 1 have to be adhered to. The petitioners have expressed doubts if the Secretary concerned has adhered to Annx. 1. This defect notwithstanding, the acquisition proceedings has been challenged on merit. It has been stated that earlier an acquisition proceeding was initiated which was challenged by the petitioner in this Court by Writ Petition No. 100/1982. In this writ petition, an agreement was filed in between the petitioner and the respondent and on the basis of that agreement the writ petition was disposed off as withdrawn.

2. In terms of the agreement, possession of certain lands were given to the petitioner and his land, which was part of the acquisition proceedings, was released. The petitioner has filed a lay out plan detailing the various constructions raised by the Krishi Upaj Mandi Samiti and have stated that all those constructions which were necessary, have not been made by the respondents and, therefore, no further land is required. This fact is further established by the fact that the land was returned to the petitioner after compromising.

3. The respondents have once again issued a Notification u/s 4 of the Land Acquisition Act, 1894, (hereinafter referred to as "the Act of 1894"). The petitioner filed its objections but since the declaration under Sections 6 and 17 of the Act of 1894 has been issued by the respondents the objections filed by the petitioners have not been dealt with in right perspective by the respondents. A suit was also filed by the petitioner in the Court of civil proceedings. In that suit it was stated on behalf of the defendants that they have decided to drop the proceedings and thus decree was accordingly prepared.

4. All these proceedings took place on or before 22.12.1988. In the meanwhile, before these proceedings could be concluded, on 06.10.1988 another Notification u/s 4 of the Act of 1894 was issued. This Notification of 06.10.1988 was further withdrawn. On 01.04.1989 the further Notification u/s 4 of the Act of 1894 has been issued. In relation to this, objections were invited. Objections were filed by the petitioner. The petitioner in his writ petition has also raised objections about the publication of the Notification u/s 4 of the Act of 1894. A declaration u/s 6 of the Act of 1894 was issued on 09.04.1990. On 16.03.1990 a composite Notification was issued under Sections 17(1) and 17(4) of the Act of 1894 dispensing with the requirement of holding enquiry u/s 57 of the Act of 1894.

5. The respondents, in the reply, has stated that the land in question is acquired as the same is situated within the boundaries of the Krishi Upaj Mandi which has been established on the land earlier acquired. The present land which is the subject matter of Notification u/s 4 of the Act of 1894 was issued on 21.12.1988 regarding which on 16.03.1990 a composite Notification was issued. The respondents have stated that the compromise earlier filed was signed by the Secretary of the Krishi Upaj Mandi who was not authorised to sign any such compromise as the land was sought to be acquired by the State Government and the Secretary had no authority to compound the matter.

6. While hearing of the petition was undertaken, an order was passed by this Court on 03.03.2006 whereby it was proposed to look into the records. The records were called and have been looked into. From the record it is evident that the State Government has come to the conclusion that the land which are now sought to be acquired are situated within the area which earlier had been acquired and it was stated by the State Government that if the area is not acquired then the owners of the area will pass through the Mandi Yard and this will encourage trespassing and unnecessarily create hindering in the working of the Krishi Upaj Mandi. The grounds of the publication etc. were not seriously pressed.

7. It was seriously contended by the learned Counsel for the petitioner that once the compromise was there no proceedings were required to be initiated and he placed reliance on Union of India (UOI) and Others Vs. Krishan Lal Arneja and Others, and Union of India (UOI) and Others Vs. Mukesh Hans etc., . His main contention is that there is no reason as to why Section 17 declaration was made as there was no urgency. There has to be a definite reason for the urgency and

dispensing with the enquiry u/s 5A of the Act of 1984. It cannot be done merely for arguing.

8. The learned Counsel for the respondents per-contra urged that the case relied on by the learned Counsel for the petitioner are distinguishable on facts. In one case the Hon"ble Supreme Court has held that in earlier proceedings the Supreme Court itself has questioned the validity of the declaration of Section 17 of the Act of 1894 and, therefore, the urgency clause was not maintained and in another case the proceedings for possession of the land was required for a festival known as "phoolvalon ki sair", which according to the Court was being celebrated without hindrance even without acquiring the land and, therefore, even without acquiring the land purpose was accomplished and thus the urgency clause was not held appropriate and, therefore, the land acquisition proceedings were quashed.

9. The learned Counsel for the respondent further urged that the land which are now sought to be acquired are situated within the Mandi Yard and it cannot be permitted to a private owner to pass through this Yard. The Mandi Yard has started functioning and the land is required for maintaining the Mandi Yard.

10. I have heard the learned Counsel for the parties and have given my thoughtful consideration.

11. As regards the question of Section 17 of the Act of 1984 is concerned the two cases relied on by the learned Counsel for the petitioner are distinguishable. They do not hold as a rule of thumb that the satisfaction can be questioned in writ jurisdiction. Rather the law laid down by the Supreme Court in Krishan Lal's case (supra) was for the subjective satisfaction of the State Government. The two cases relied on by the learned Counsel for the petitioner are distinguishable on facts. The urgency clause being based on the subjective satisfaction of the State Government, could not be interfered in the given circumstances. If in the given circumstances the State has held that it needs it then it cannot be said that there is something wrong in it.

12. In that view of the matter, acquisition proceedings are not liable to be quashed. In that view of the matter, the petition has no force, the same is dismissed.