
(2003) 12 AHC CK 0146
In the Allahabad High Court
Case No : C.M.W.P. No. 22875 of 2003

Om Pal Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 08-12-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 3, 4(1)

Citation : (2004) 1 AWC 233

Hon'ble Judges : Umeshwar Pandey, J;M. Katju, J

Bench : Division Bench

Advocate : B.D. Mandhyan, Satish Mandhyan and Pankaj Mithal, for the Appellant; Pradeep Kumar and S.C., for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—By means of this petition the petitioner has challenged the impugned Notification dated 2.5.2003 u/s 4(1) of the Land Acquisition Act so far as it relates to acquiring plot No. 104 situate in village Malakpur, pargana Dadri, Tahsil and district Gautam Budh Nagar. A true copy of the said Notification is Annexure-4 to the writ petition. A perusal of the said Notification shows that the land is sought to be acquired for a public purpose, namely, for the planned Industrial Development in district Gautam Budh Nagar through Greater Noida. The provisions of Section 17(1) of the Land Acquisition Act have also been applied.

2. A Division Bench of this Court in Manveer Singh and Another Vs. State of U.P. and Others, has dismissed a similar petition. Following several Supreme Court decisions, it was held therein that acquisition for planned development is a public purpose.

3. Learned counsel for the petitioner submitted that the plot in question is a abadi plot of the petitioner and that he had constructions on the plot. This point has also been dealt with in Manveer Singh's case (supra). It was held therein

that the definition of the word "land" in Section 3(a) of the Land Acquisition Act includes buildings by a legal fiction vide *Chaturbhuj Pande and Others Vs. Collector, Raigarh*, ; *S.P. Gupta v. State of U. P.* 1980 ACJ 583 , etc. No doubt compensation has to be given for the building also but that does not mean that the acquisition will be illegal. If a contrary view is taken, it can disrupt the entire scheme for which the acquisition is being done. Abadi land is also land within the meaning of the definition in Section 3(a) of the Land Acquisition Act, and hence it can be acquired.

4. The petitioner has filed a supplementary affidavit. Annexure-SA-2 is the letter of the Under Secretary of the State Government dated 8.8.1997. We have carefully perused the said letter in which it is stated that ordinarily abadi land should not be acquired, but if it is acquired then the displaced person should be given land of similar area in the scheme. This itself shows that there is no absolute prohibition for acquiring abadi land. In our opinion, it all depends on the nature of the scheme and the facts of the case, and there cannot be any universal rule that abadi land cannot be acquired. Certain schemes of acquisition requires that the entire area must be acquired otherwise the scheme may be disrupted. Planned development requires levelling of the land, construction of roads, lanes etc., providing for water supply, sewerage etc. and it may not be practically possible to leave any land in the area outside the scheme of acquisition. If the petitioner's land is acquired he will be given compensation in accordance with the provisions of Land Acquisition Act, which means full market value with solatium at 30% and interest.

5. Thus, there is no force in this petition and it is dismissed.