
(1983) 07 P&H CK 0042
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2503 of 1977

Om Parkash Mittal

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 20-07-1983

Acts Referred:

Citation : (1985) PLJ 35 : (1985) RRR 604

Hon'ble Judges : I.S.Tiwana, J

Advocate : S.P. Jain, Advocate., Advocates for appearing Parties

Judgement

I.S. Tiwana, J. (Oral)

1. The petitioner whose property, commonly known as "Jubilee Hotel" (Survey No. 257 measuring 8.09 standard acres at Jullundur Cantt.) was initially requisitioned on 10th May, 1983 by the competent authority (District Magistrate, Jullundur) under the Defence of India Act, 1962, for accommodating married military officers, vide order Annexure P1, impugns the initiation of proceedings for the acquisition of this property with the issuance of a notification under section 4 of the Land Acquisition Act, 1894 (for short, the Act) on 12th November, 1976, on various grounds. A copy of this notification under section 6 of the Act (Annexure P4) published on 3rd June, 1977.

2. The primary challenge to the first notification under section 4 is on the ground that it does not contain the purpose for which the property in question is sought to be acquired or in other words, the purpose has been stated so vaguely that it cannot be held to be any compliance of section 4 of the Act. The operative part of this notification read as follows :

"Whereas it appears to the Governor of Punjab that property specified below is required to be taken by the Central Government, at public expense, for a public purpose, namely for the purpose of Union of India at Estate Jullundur Cantt., Tehsil and District Jullundur, it is hereby notified that property in the localities as described below is required for the aforesaid purposes."

In support of his abovenoted contention, the learned counsel for the petitioner places firm reliance on two judgments of the final Court i.e. *Munshi Singh v. Union of India*, AIR 1973 SC 1150 and *Aflatoon v. Lt. Governor, Delhi*, AIR 1974 SC 2077.

3. A bare reading of the relevant part of the impugned notification already reproduced above makes it abundantly clear that instead of stating the purpose for which the land is sought to be acquired, what has been stated is by whom the land is required. No purpose whatsoever has been stated in this notification. In the abovenoted Supreme Court judgments where similar notifications under section 4 of the Act had been quashed what had been stated in the impugned notifications was that the land was needed for "planned development of the area" and it was held that this did not amount to any compliance with the requirements of section 4 of the Act. The case in hand is much worse than what was before their Lordships of the Supreme Court in the abovenoted judgments. As already pointed out, the present impugned notification is totally silent about the purpose for which the land is needed, The Government of India may need a particular land for a variety of the reasons or purposes. Simply to mention that land is needed by the Union of India or for purposes of the Union of India does not disclose any purpose for which it is needed. In the light of this, the impugned notification apparently cannot be sustained. It has repeatedly been held that the issuance of a valid notification under section 4 is the bedrock of all acquisition proceedings and in the face of any infirmity in such a notification, the entire acquisition proceedings are non est or void. In the light of this legal position, the subsequent notification (Annexure P6) has automatically to fall.

4. For the reasons recorded above, I quash the impugned notifications Annexures P3 and P4. For clarity's sake it is mentioned that the various contentions raised by the petitioner either impugning these notifications or the earlier requisition proceedings have not been gone into or examined by me in view of the abovenoted conclusion of mine. The said grounds of attack will be available to the petitioner as and when he feels the necessity of filing a petition in future. He is also held entitled to the costs of this litigation which I determine at Rs. 300/.