
(2000) 03 MP CK 0076
In the Madhya Pradesh High Court
Case No : First Appeal No. 412/95

Pashu Chikitsa Vibhagiya Sahkari Nirman Samiti Maryadit and Another APPELLANT

Vs

State of M.P. and Others RESPONDENT

Date of Decision : 14-03-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4, 6

Citation : (2001) ILR (MP) 819 : (2000) 2 MPHT 149 : (2000) 3 MPLJ 245 : (2000) 3 MPLJ 244

Hon'ble Judges : Bhawani Singh, C.J.; A.K. Mishra, J

Bench : Division Bench

Advocate : A.P. Singh, for the Appellant; N. Nagrath, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Bhawani Singh, C.J.

This appeal is directed against the award dated 14-8-1995 passed by the IInd Additional District Judge, Bhopal, in Civil Suit No. 32-A/1987.

Short facts of the case are that the Land Acquisition Officer/Collector, Bhopal, restored to the land acquisition proceeding by Notification u/s 4 of the Land Acquisition Act, 1894, with respect to certain Khasra numbers comprising of survey No. 39 area 140.52 acres of land of village Semra kalan, survey No. 72 area 502.96 acres of village Koluwa kalan and survey No. 72 area 85.61 acres of village Narela Shankari.

The Notification u/s 4 of the Land Acquisition Act, 1894 (for brevity "Act") was followed by another Notification u/s 6 of the Act. Under acquisition proceeding, it may be pointed out that the acquisition are contained in Notification dated November 13, 1962. After going through the requirement envisaged by the Act,

the Collector pronounced the award dated November 20, 1965, in Case No. I/ L.A./63. Thereafter, the payment of compensation was made to the owners of the land, which included Gangaram, father of plaintiff No. 2-Nandram, to the suit filed by Pashu Chikitsa Vibhagiya Sahkari Nirman Samiti Maryadit, Bhopal, through its President Shri B.D. Verma and Nandram son of late Shri Gangaram in the Court of District Judge (II), Bhopal, for quashing the acquisition of land in question and setting aside the award. A look at the plaint discloses that the averments contained in the suit is that the land had been purchased by the plaintiff No. 1 from the plaintiff No. 2 on 11-3-1987. This suit has been dismissed by the District Judge (II), Bhopal, by judgment and decree dated 14-8-1995, hence this appeal.

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

Shri N. Nagrath, learned counsel for the State, contends that the suit for questioning the acquisition proceeding cannot be initiated in the Civil Court, since the Collector under the Act is competent to decide the matter under the Act, which is a complete Code for dealing with the land acquisition matter. This plea is sustained on the reported decision of the Apex Court in *State of Bihar v. Dhirendra Kumar and Ors.* (1995 M.P.L.J. 751). We have perused the decision. We are in agreement with the contention so raised by the learned counsel for the State. The Civil Court has no jurisdiction to go into the question of validity and legality of Notification u/s 4 and the declaration u/s 6 of the Act except by the High Court in a proceeding under Article 226 of the Constitution of India. By a necessary implication, the power of Civil Court to take cognizance u/s 9 of the CPC stands excluded. With this back ground, the suit was not maintainable. Consequently, the view taken by the District Judge is correct and is confirmed.

There is another facet of the case, which we would like to deal with without prejudice to the view taken with respect to the entertainment of the suit by the Civil Court in this case. The land in question had been acquired by the respondents No. 2 and 3 in 1963 and Gangaram had realised the compensation amount for the same, after award was pronounced on November 20, 1963, which is clear from the payment-sheet at page 83 of the paper book. After these proceedings, Nandram had no right to enter into transaction with the plaintiff No. 1 to the suit and any such transaction would, therefore, be nullity in the eye of law.

Learned counsel for the appellants contended that Khasra No. 196 is not covered by Notification u/s 6 of the Act. With a view to verify the contention, the said Notification dated December 13, 1962, published on January 11, 1963 in Part I of M.P. Rajpatra, is perused. We find that Khasra Nos. 196,197 and 201 are included in this Notification. Therefore, there is no omission of any kind of the land in question from acquisition proceedings.

For the reasons stated above, there is no merit in this appeal and the same is dismissed. The parties shall bear their own cost.