
(1975) 08 MP CK 0001
In the Madhya Pradesh High Court
Case No : M.P. No. 1123 of 1974

Prem Bai

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 15-08-1975

Acts Referred:

Land Acquisition Act, 1894 — Section 17(1), 4, 5A, 6

Citation : (1975) J LJ 699

Hon'ble Judges : R.J. Bhawe, J; J.P. Bajpai, J

Bench : Division Bench

Advocate : S.L. Jain and A.K. Jain, for the Appellant; S.K. Dikshit, Deputy Government Advocate for respondents, for the Respondent

Judgement

Bajpai, J.—This petition has been heard along with M. P. No. 1169 of 1974 (Sardar Bahu and another v. The State of Madhya Pradesh and 2 others), since both the petitions are based on similar facts and common grounds and are against the common notifications under sections 4 and 6 of the Land Acquisition Act. Shri S. L. Jain, learned counsel appearing for the petitioners, in both the cases, had also made the statement that the arguments put forth in this petition will also be adopted for the other petition, i.e. M. P. No. 1169/74, Under these circumstances, the order passed in this case will also govern the disposal of M. P. No. 1169/74.

2. Certain agricultural lands belonging to the petitioners in both the cases have been acquired in accordance with the provisions of the Land Acquisition Act for the purposes of establishing industry in Sagar district and the said purpose has been relied for as public purpose for which acquisition has been made by the State Government. Notifications under sections 4 and 6 have been issued on 7-9-1974 and 17-9-1974 respectively and they were published in the Madhya Pradesh Gazette dated 13-9-74 and 27-9-1974 accordingly.

3. The petitioners have challenged the aforesaid notifications on the ground that the proceedings taken for acquiring their lands are mala fide and have been

taken in colourable exercise of powers under the Land Acquisition Act. According to the petitioners, the acquisition of lands is for the purpose of a company, i.e. M/s Central India Paper and Board Mills (Pvt.) Limited, in which one Rajkumar Jain is interested. According to them, the purpose of establishing the industry is not a public purpose. The petitioners urged that since the acquisition is for the company, the proceedings are vitiated for want of non-compliance of the provisions of Chapter VII of the Land Acquisition Act. which is mandatory in cases of acquisition for companies. The learned counsel for the petitioners has also urged that the course of holding enquiry u/s 5-A and the opportunity of hearing objections has been avoided mala fide. There was no material before the State Government for forming an opinion that the provisions of section 17(1) of the Land Acquisition Act were applicable and as such, due to emergent requirements, there was no necessity for applying the provisions of section 5-A of the Land Acquisition Act regarding enquiry before issuing the notification u/s 6 of the Act. The learned counsel for the petitioners also stated that since the lands, already under cultivation, cannot be treated as arable lands, section 17(1) of the Act could not be applied to the present case concerning agricultural lands already under cultivation. It was also urged that since the notification u/s 4 of the Act has not been published in the locality by affixing a copy of the same and promulgating in the neighbouring area, subsequent proceedings in pursuance of the said notification u/s 4 of the Act are illegal and vitiated.

4. The respondents, State of Madhya Pradesh and the Land Acquisition Officer filed a return It has been stated that after formation of the new State of Madhya Pradesh on 1-11-1956, several backward areas in the State were to be given proper opportunity for economic development and it was necessary to solve the burning problem of unemployment in such areas. It has been shown that the area comprised in tahsil Sagar in the central region has been declared as backward area by the Government of India. The State Government took a decision to see that industries and other projects are established in such area so that there may be industrial development resulting in opportunities of employment and financial Improvements of the inhabitants in that area. The State Government, for this purpose, decided to provide facilities regarding land, electricity and other issues so as to attract the industrialists for establishing the requisite industries in particular areas. A survey was carried out to ascertain the type of industries which could be established and developed in particular areas according to the availability of raw materials and other facilities. According to the survey report, it was found that there was sufficient scope for establishing a mill for manufacture of strawboard in Sagar tahsil and accordingly the State Government proposed to acquire about 20 acres of land in village Kishanpura, tahsil and district Sagar The lands belonging to the petitioners, in both the cases, are included in the proposed acquisition. Under these circumstances and in the absence of any specific allegation or material, either pleaded in the petition or substantiated before this Court, it is not possible to hold that the proposed acquisition was mala fide in any manner. The selection of the suitable area is

within the discretion of the State Government. The area in question is adjacent to railway station Ishrawara on Bina-Katni main line and Sagar-Bina main road. There is adequate supply of water and power in the vicinity of the area. Under these circumstances, there is no reason to hold that the proposal for acquiring the lands was in any manner motivated with any ulterior purpose.

5. The contention of the petitioners that the acquisition was for the company and, therefore, compliance of Chapter VII of the Land Acquisition Act was necessary is also without any basis. It has been stated in the return filed by the State that the area was acquired for the purposes of establishing industries. The State Government was free to establish industries by developing the area and allowing even a private industrialist to use and occupy the same on lease. In view of the specific averment made in the return in paragraphs 1 and 6, that the responsibility of making payment of compensation is on the State Government out of the consolidated funds of the State, it is clear that the ownership of lands so acquired rests with the Government and the industrialist-company, i.e. M/s Central India Paper and Board Mills (Pvt) Limited, has been allowed to occupy the said land only as a lessee for the purposes of establishing the industry for manufacture of straw-board etc. Now, there is no doubt regarding the legal position in this respect. Their Lordships of the Supreme Court have clearly held in *Jage Ram and Others Vs. State of Haryana and Others*, that if the responsibility for payment of compensation is shown to be on the State Government, the acquisition cannot be treated as one governed by Chapter VII of the Land Acquisition Act concerning the acquisition for the companies. It has been also held that in such cases, it is not necessary to comply with the provisions of the said part. Similar observations have been made in *Ratilal Shakarabhai and Others Vs. The State of Gujarat and Others*, and *Kanaiyalal Maneklal Chinai and Another Vs. State of Gujarat and Others*. Recently, in *Indrajit C. Parekh v. State of Gujarat* AIR 1975 SC 1181, the same view has been adopted.

6. In view of the aforesaid decisions of the Supreme Court, it is not possible for the petitioner to challenge the notifications on the ground that the procedure prescribed for being followed in cases of acquisition of lands for companies was not complied with under the circumstances, it is also not necessary to refer in details to various cases cited by the learned counsel for the petitioners during the course of arguments. The other case of the Supreme Court referred to by the petitioner, i.e. *Raja Anand Brahma Shah Vs. State of Uttar Pradesh and Others*, has already been considered in *Jage Ram v. State of Haryana* (supra).

7. The petitioners have relied on *Narindrajit Singh and Ranjit Singh and Others Vs. The State of U.P. and Others*, for contending that because the notification was not published in the locality, all further proceedings in pursuance of the said notification were vitiated. However, in the present case, we are satisfied that the notification was duly published in the locality by affixing the copies of the same on important conspicuous places including the Gram Panchayat and notice board

of the tahsil building etc. Necessary directions were issued for making the proper publication and the official acts are presumed to have been carried out according to the rules. The petitioners have not been able to substantiate and place cogent materials to rebut the aforesaid presumption or the truth of the contention of the respondents that such publication was done. On the contrary, it is found from Annexure R-IV and R-V, that specific objection in this respect was also dealt with and disposed of by the Land Acquisition Officer and there is a specific(sic)ment on that sufficient compliance regarding the publication of the notices was done. The aforesaid order sheet is also signed by the counsel appearing for the petitioners. We have perused the certificates of publication endorsed by the process server on the notifications, from the office-file of the Collectorate. The notification u/s 4 was duly published at conspicuous places in the neighbourhood of the fields in question apart from the village and railway station. The endorsement reads as below :

Under these circumstances, no case is made out for interference on this count.

8. The learned counsel for the petitioners then contended that in view of the fact that more than 30 days time had elapsed between the date of notification u/s 4 of the Act and taking possession, it should be held that there was no urgency for applying the provisions of section 17(1) of the Land Acquisition Act. The petitioners contended that they were given time to cut and remove the standing crops and this fact shows that it was not a case of urgency. The learned counsel, Shri Dixit, Dy Govt. Advocate appearing for the State made a statement that possession had already been taken and on humanitarian grounds, the petitioners were permitted to cut and remove their standing crops. This was done for convenience of the petitioners and to avoid complications regarding unnecessary claims for damages etc. The observations of their Lordships of the Supreme Court in *Jagram v. State of Haryana* (supra) are complete answer to such contentions as raised by the petitioners. Even if there might have been some delay or the authorities had been lethargic, it cannot be said that on the date of the notification, there was no urgency and that the notification is mala fide.

9. Lastly, it was urged on behalf of the petitioners that section 17(1) of the Land Acquisition Act cannot be applied to agricultural lands already under cultivation. According to the petitioners, the term "waste and arable lands" could include either waste lands or lands only fits for cultivation, but not lands already under cultivation. Reliance was placed on *Sadrudin Suleman Jhaveri Vs. J.H. Patwardhan and Others*, In view of the decision of their Lordships in *Ishwarlal Girdharlal Joshi etc. Vs. State of Gujarat and Another*, , the earlier decisions of all other High Courts in this respect have been impliedly over-ruled. It has been held by the Supreme Court that arable lands also include such land which is already under cultivation. Thus, this ground also fails.

10. Under these circumstances, it is apparent that the petitions are absolutely misconceived and no case is made out for interference. There was no vagueness in the notifications. We have seen the original notifications. The public purpose

has been specifically stated as "for establishing industries". The name of the village and the acreage have also been stated with the remark that further details in respect of the map showing actual location of the Khasra numbers were available in the office of the Assistant Director of Industries, Sagar, for inspection, The challenge regarding vagueness was, however, only confined to the absence of the details of the name of the industry and purpose. We think that further details of the industry are not necessary for showing the public purpose in the notifications, under sections 4 and 6 of the Land Acquisition Act. The public purpose has been sufficiently indicated and there is no case of prejudice to the petitioners on this count.

11. The petitioners have already made a claim for compensation at the rate of Rs. 1/- per square foot. However, this will be dealt with and disposed of according law and procedure prescribed by the Land Acquisition Act.

12. The petitions (No. 1123/74 and No 1169/74) therefore, fail and are dismissed with costs. Counsels fee in this case at Rs. 100/-. The amount of security, if any due, after necessary deductions of the costs and expenses, may be refunded to the petitioner.