

(2015) 03 MP CK 0006

In the Madhya Pradesh High Court

Case No : Writ Appeal Nos. 885 and 886 of 2012

Pushpa Mayur Grih Nirman and Others

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 19-03-2015

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 17(1), 4(1), 6

Citation : (2015) 03 MP CK 0006

Hon'ble Judges : S.K. Gangele, J.;Rajendra Menon, J.

Bench : Division Bench

Advocate : R.P. Agrawal, Learned Senior Advocate, Anuj Agrawal, Counsel, for the Appellant; K.S. Wadhwa, Learned Additional Advocate General, Advocates for the Respondent

Final Decision : Dismissed

Judgement

1. Challenging the order dated 21.6.2014 passed by a Writ Court in W.P. No. 344/2004 and W.P. No. 345/2004, appellants have filed these writ appeals.

2. The petitioners filed the writ petitions seeking quashment of notification dated 4.12.1992 issued under Section 4(1) of the Land Acquisition Act, 1894, so also, an award passed on 9.2.1995. The petitions were filed in the year 2004. It is seen that some of the land owners whose lands were covered under the aforesaid notifications filed writ petitions in the year 1994-1995 before this Court and this Court allowed their writ petitions on 20.8.1999 and it was held in those cases that as the award was not passed within a period of two years from the date of publication of declaration under Section 6 of the Land Acquisition Act, the land acquisition proceeding in relation to those land have lapsed and accordingly in those cases the award was held to be invalid. After this order was passed in the earlier round of litigation in the case of some of the land owners, respondents again initiated proceedings from the stage of Section 6 of the Act and eventually the award was passed on 8.3.2004 in respect of the land in

question. The petitioners before the writ court claimed the same benefit that was granted to other land owners by virtue of order passed on 20.8.1999 in W.P. No. 3150/1995.

3. However, State Government objected to the same and came out with the contention that since the powers under Section 17(1) of the Act was invoked after obtaining permission of the competent authority, therefore, it was not necessary to pass an award within a period of two years.

4. Rival contentions were considered by the writ court and in para 6 and 7 the matter has been so dealt with :

"6. I have considered the submissions made on both sides. In *The Municipal Council, Ahmednagar and Another Vs. Shah Hyder Beig and Others*, the Supreme Court after taking note of the decisions in *Municipal Corporation of Greater Bombay Vs. The Industrial Development Investment Co. Pvt Ltd.*, and others, held that if there is inordinate delay in filing the writ petition and all steps were taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. It has further been held that when the award has been passed and the possession has been taken, the Court should not exercise its power under Article 226. Similar view has been taken in *Swaika Properties Pvt. Ltd. and Another Vs. State of Rajasthan and Others*, . In *Delhi Administration Vs. Gurdip Singh Uban And Others*, (1997) 7 SCC 44, the Supreme Court after taking note of decision rendered in *Abhey Ram (dead) by LRs. and others Vs. Union of India and others*, , held that quashing of the notification in case of individual writ petitions cannot be treated as quashing the whole of it. Similar view has been taken in *Tamil Nadu Housing Board Vs. L. Chandrasekaran and Others*, ."

7. In the backdrop of the aforesaid well settled legal position, the facts of the case may be seen. The petitioner No. 2 who is the owner of the land in question had knowledge of acquisition proceeding. The petitioner No. 2 had participated in the proceedings which were initiated under the Act. The notification under Section 4(1) of the Act was issued on 7.8.1992. The possession from the petitioners was taken on 14.10.1993 and the award was passed on 30.11.1994 which was approved by the competent authority on 9.2.1995. The said award was challenged by some of the land owners in W.P. No. 3150/1995. This Court vide order dated 20.8.1999 held that the acquisition proceeding in respect of land bearing Khasra Numbers 110/1 to 110/11 had lapsed of which the petitioners in the said writ petition were owners. The petitioners have filed the instant writ petition after inordinate delay of nine years after the award was passed. Instead of explaining the delay in paragraph 4 of the writ petition, the petitioners have stated that there is no delay in filing the writ petition. The writ petition suffers from unexplained delay and latches. The respondent No. 4 has already taken the possession of the land. The benefit of the order passed by this Court in W.P. NO.3150/1995 cannot be extended to the petitioners as in the said writ petition this Court confined the benefit to the petitioners of the said case

only. Apart from this the Supreme Court in Gurdip Singh Uban (supra), Abhey Ram (supra) and L. Chandrasekaran (supra) has held that quashing of the notification in case of individual petitioners cannot be treated as quashing the whole of it.

For the aforementioned reasons, I do not find any merit in the writ petition. The same fails and is hereby dismissed."

5. From the facts that has come on record, it is clear that after notification was issued under Section 4(1) on 7.8.1992, possession from the petitioners were taken over on 14.8.1993 and award was passed on 30.11.1994 which was approved by the competent authority on 9.2.1995. It was found by the learned writ court that the petitioners have filed the writ petitions after inordinate delay of more than 9 years after the award was passed. The learned writ court has found that there is inordinate and unexplained delay and latches in the writ petitions. That apart, respondent No. 4 has already taken possession of the land and once possession was taken over, the benefit could not be extended over to the petitioners. In view of judgment relied upon and referred to in para 6 above, as learned writ court has decided the writ petitions in accordance to requirement of law and principle laid down by the Supreme Court which contemplates that once possession of the land is taken over and is handed over to the beneficiaries, there is no provision for revision from the acquisition proceedings.

6. In the facts and circumstances of the case the reason indicated by the learned writ court and grounds for rejection of the writ petitions could not be found to be erroneous by us and, therefore, we see no reason to interfere.

The appeals are, therefore, dismissed.