

(2007) 07 DEL CK 0174

In the Delhi High Court

Case No : Writ Petition (C) 1130 of 1997

Raj Kumar and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 09-07-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Land Acquisition Act, 1894 — Section 17, 4, 48, 48(1)

Citation : (2007) 07 DEL CK 0174

Hon'ble Judges : Vikramajit Sen, J;J.P. Singh, J

Bench : Division Bench

Advocate : Naresh Thanai, for the Appellant; Sanjay Poddar, for LAC, Valmiki Mehta and Shobhna Takiar, for DDA, for the Respondent

Final Decision : Dismissed

Judgement

Vikramajit Sen, J.—This Petition was tagged alongwith several others in which the acquisition of large tracts of land for the Rohini Residential Scheme is an issue. Detailed arguments have been heard over several days, during which counsel for the Petitioner was not present. We have heard Mr. Ravinder Sethi & Mr. P.N. Lekhi, learned Senior Counsel appearing on behalf of the Petitioners and Mr. Valmiki Mehta, Sr. Advocate & Mr. Sanjay Poddar, Mr. Gaurav Sarin and Ms. Shobhna Takiar, Advocates appearing on behalf of the Respondents.

2. Arguments stood concluded on 3.5.2007. Today, Mr. Naresh Thanai, Advocate has made a mention and has submitted that this Petition is not connected with the said Batch matter of which W.P.(C) 2835/2000 is a lead case.

The prayers in this Petition read as follows

(I) Certiorari to quash the notification dated, 28.5.1995 u/s 4 and 17 and other subsequent acquisition proceedings under the Land Acquisition Act in respect of the land and structures of the petitioners situated in the revenue estate of village Shahbad Daulatpur, Delhi, over the khasra Nos. 51/8, 12, 13/1, 18, 19, 23,

53/14, 17 and 9.

(II) Directing the respondents to withdraw from the acquisition proceedings of the said land and structures of the petitioners by issuing a notification u/s 48(1) of the Land Acquisition Act, 1894 as amended up to date.

(III) Restraining the respondents from taking forcible possession of the aforesaid land and houses belonging to the Petitioners in respect of village Shahbad Daulatpur, Delhi.

(IV) Issue any other appropriate writ, order or directions as this Hon'ble Court may deem fit and proper in the circumstances of the case thereby directing the Respondents to regularise the structures of the Petitioners.

3. Mr. Thanai presses prayer No. (II) before us. Prayer No. (I) seeks the quashing of Notification dated 28.5.1995 u/s 4 read with Section 17 of the Land Acquisition Act in respect of the Acquisition of land situated in the Revenue Estate of Shahbad Daulatpur. In Smt. Rakhi Rughwani's case a prayer pertaining to denotification of the land u/s 48 of the Land Acquisition Act has not been made.

4. It appears to us that arguments on prayer No. (I) would be on lines similar to those in Rakhi Rughwani's case. On a perusal of the Order dated 17.3.1997 it appears that only the prayer pertaining to denotification had been pressed. This is also what Mr. Thanai submits before us today.

5. On 17.4.2001 statement had been recorded that symbolic possession has been taken by the Respondents. On 4.1.2002 proceedings had been adjourned in order to enable learned Senior Counsel appearing for the Petitioners, to examine the question of maintainability of the Writ Petition in so far as the prayers for issuance of a writ seeking denotification u/s 48 of the Land Acquisition Act was concerned. On 10.8.2005 Mr. Thanai had appeared on behalf of the Petitioner, and it was recorded that Writ Petition Nos. 2835/2000 and 393/2006 shall be treated as lead case.

6. On several occasions we have had the opportunity to consider the appropriateness of issuing Writ Petitions in the context of Section 48 of the Land Acquisition Act in W.P.(C) 3795/2007 titled Dalpat Singh v. Lt. Governor decided on 18.5.2007, W.P.(C) 17538-42/2006 titled Dharamvir Singh v. Lt. Governor, decided on 20.3.2007 and W.P.(C) 2972/2007 titled Satya Narain Prakash Punj v. Union of India pronounced on 25.4.2007, we have held, after going into the matter in detail, that writs or directions under Article 226 of the Constitution should not be passed so far as they relate to Section 48 of the Land Acquisition Act. We may note that Notification dated 6.9.1996 has been issued in respect of the impugned Notification u/s 4 and 17 of the Act dated 28.4.1995. Entertaining any further relief in this regard would tantamount to a second salvo or relooking into the matter which already stands concluded.

7. The Writ Petition is without merit and is dismissed.