

(2001) 08 RAJ CK 0004

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4608 of 1995

Rajasthan State Industrial Development and Investment
Corporation Limited (RIICO) Udyog Bhawan, Tilak Marg, 'C'
Scheme, Jaipur

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 31-08-2001

Acts Referred:

Citation : (2002) 2 RLW 1077 : (2002) 1 WLC 366 : (2002) 5 WLN 546

Hon'ble Judges : K.S. Rathore, J

Bench : Single Bench

Advocate : R.K. Goyal, for the Appellant; Pratap Singh, G.A., for the Respondent

Final Decision : Allowed

Judgement

Rathore, J.—The State Government issued a Notification dated 18th July, 1979 for acquisition of the land in dispute situated at village Jhalana Chod, Tehsil Sanganer, District Jaipur. The Notification u/s 6 of the Rajasthan Land Acquisition Act, 1953 (hereinafter to be referred as the Act of 1953) issued on 22nd June, 1982 followed by the Notification u/s 17(4) and notice u/s 9 of the Act of 1953 and the lands of the respondents No.3 and 4 measuring 14 bighas 10 biswas comprised of Khasra No. 1 situated at village Jhalana Chod, Tehsil Sanganer, District Jaipur were acquired and the Land Acquisition Officer passed the Award on 14th May, 1984 which was later on modified on 28th November, 1985. It was submitted by the petitioner RIICO that in pursuance of the award full and final payment was made to the respondents No. 3 and 4. The respondents No. 3 and 4 did not challenge the award at the relevant point of time. After more than six years of the award and 5 years of the modified award, respondents No. 3 and 4 submitted an application on 5th April, 1990 claiming additional solatium u/s 23(1A) as well as additional interest u/s 34 of the Land Acquisition Act, 1894 (as amended from time to time) (hereinafter to be referred as the Acquisition Act). The learned Land Acquisition Officer vide its order dated 27th April, 1995 passed

an order revising the compensation and the solatium. The petitioner challenged the second award dated 27th April, 1995 passed by the Land Acquisition Officer in the case No. 46/79 Devi Ram & Kanhaiya Lal v. RIICO.

2. It is submitted by the learned counsel appearing on behalf of the petitioner that in view of Section 13(A) of the Land Acquisition Act which authorises the Collector " to correct any clerical or arithmaticaf mistake in the Award or errors arising therein either on his own motion or on the application of any person interested or a local authority within a period of six month from the date of the award or where he has been required u/s 18 of the Acquisition Act to make a reference to the Court before making such reference after giving reasonable opportunity for making its representation in the matter to the affected person.

3. It is further submitted that admittedly period of six months expired much prior to the making of the application by the respondents No. 3 and 4 on 5th April, 1980 (Annexure-3) and thus, the order of the learned Sub Divisional Officer-cum-Land Acquisition Officer (respondent No. 2) can not be deemed to have been made under the provisions contained in Section 13-A of the Acquisition Act.

4. It is further contended that Sub-section (1) of Section 23 of the Acquisition Act, the Court is required to take into consideration the following ingredients:-

5. First, the market-value of the land at the date of the publication of the notification u/s 4, Sub-section (1);

6. Secondly, the damage sustained by the person interested, by reason of the taking of any standing crops of trees which may be on the land at the time of the Collector's taking possession thereof;

7. Thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by person of severing such land from his other land;

8. Fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner or his earnings;

9. Fifthly, if, in consequence of the acquisition of the land by the Collector, the person interest is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

10. Sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration u/s 6 and the time of the Collector's taking possession of the land.

11. All the abovesaid ingredients were considered by the Collector while passing the Award dated 14th May, 1984 (Annexure- 1) and modified Award dated 28th of November, 1985 (Annexure.2)

12. To resolve the present controversy it is necessary to peruse the relevant provisions of Land Acquisition Act which are reproduced hereunder:-

13. Section 56 was inserted in the acquisition act, as amended in the year 1984 by the Amendment Act. Sub-section (2) of Section 56, inter alia, provided that where in any proceeding under the Act of 1953 pending on the date of extension, the State Government, the Collector or the Court has, on or after the said date and before the commencement of the Amendment Act of 1987, done anything, taken any action or made any order, which is at variance with that as is provided in the said Act, such thing, action or order shall, subject to the other provisions of this Section, be deemed to have been done, taken or made under and in accordance with the provisions of this Act and such proceedings shall not be re-opened or reviewed or liable to challenge on the ground of not being in accordance with the provisions of this act.

14. Sub-Section (8) of Section 56, however, provided that in a proceeding where the amount of compensation has been determined before the commencement of the Land Acquisition (Rajasthan Amendment) Act, 1987, whether by the Collector or by the Court the amounts in addition to the market-value of the land as specified in Sub-section (1-A) and Sub-section (2) of Section 23 shall be further paid, after adjustment of any sum paid earlier under the said sub-sections, by the Collector to the persons to whom compensation was payable or paid. These amounts shall be payable in every proceeding and in regard to every award as specified in Sub-section (1) and (2) of Section 30 of the Land Acquisition (Amendment) Act, 1984 (68 of 1984).

15. Sub-Section (9) of Section 56 of the Act, as contained in Section 56, provides that where, in the cases as specified in Sub-section (2) and (3) of Section 30 of the Land Acquisition (Amendment) Act, 1984 (68 of 1984) interest is payable or has been paid u/s 28 or Section 34, the amount of such interest shall be determined and paid after adjustment of any sum paid earlier under the said section by the Collector at the respective rates specified in and in accordance with the provisions of the said sections as amendment by the said Act.

16. Section 56(10) of the Act provides that in a matter where award has been made after the date of extension and Section 28-A if applicable an application under the said section is not made earlier, may be made within three months, from the commencement of the Land Acquisition (Rajasthan Amendment) Act, 1987.

17. Learned counsel appearing on behalf of the petitioner submitted a judgment passed in the case Additional Special Land Acquisition Officer v. Thakoredas, Major & Ors. (1), wherein it has been observed as under:-

"No Limitation prescribed under the Act for making application to the civil court for direction to the Deputy Commissioner to make the reference-Article 137 of the Limitation Act, 1963 would apply. Such application must be made within three years from the date of the expiry of 90 days prescribed in Section 18(3) of

the Land Acquisition Act, 1961.

18. Learned counsel for the petitioner further placed reliance on the judgment Corporation Bank & Another v. Navin J. Shah (2), it was observed as under:-

"Limitation for money claim-Claim ought to have been made within reasonable time even if relevant statute has not prescribed any period of limitation-what is reasonable time depends on facts and circumstances of case-Three years period as prescribed under law of limitation should be appropriate standard to be adopted for computing reasonable time to raise such claim."

19. It is thus seen that however, no reasonable time has been prescribed under the relevant statute for the claim like in the instant case but the Apex Court is of the view that under the law three years period should be the appropriate standard to be adopted for computing reasonable time to raise the claim as in the instant case.

20. In the instant case, respondents No.3 and 4 did not challenge the award dated 14th May, 1984 and modified award dated 28th November, 1985 at the relevant point of time and the same were challenged only on 5th April, 1990 i.e. much beyond the period of three years meaning thereby award dated 14.5.84 and 28.11.85 have become final.

21. Consequently, the writ petition is allowed. The impugned second award dated 27th April, 1995 is set aside. As a result of which, the award dated 14th May, 1984 and modified award dated 28th November, 1985 are upheld.