

(2005) 07 DEL CK 0141

In the Delhi High Court

Case No : Regular First Appeal No. 273 of 1982

Ram Pat and Others

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 28-07-2005

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4, 6

Citation : (2005) 83 DRJ 676

Hon'ble Judges : B.C. Patel, C.J.; Sanjay Kishan Kaul, J

Bench : Division Bench

Advocate : Sudhanshu Tomar and V.S. Tomar, for the Appellant; Geeta Luthra and Atulesh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

B.C. Patel, C.J.—On the last date of hearing we heard the parties at length and pronounced judgment on certain issues. The order passed is as under :

"1. "Notification u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") was issued on 13.11.1959 in respect of the land in question situated in village Lado Sarai. Declaration u/s 6 of the Act was issued on 16.5.1996 which resulted in award No. 38/80-81. The Land Acquisition Collector fixed different values of land in respect of different categories being Category "A", "B", "C" and "D".

2. The appellant aggrieved by the same preferred reference u/s 18 of the said Act and in respect of categories "B" and "C" some enhancement was granted.

3. The dispute really is not confined only to the quantum of compensation but also to entitlement of the appellant in view of the fact that in pursuance of the order of Revenue Assistant the land stood vested in the Gaon Sabha. Both the Land Acquisition Collector and the Reference Court found that the appellants were not entitled to any compensation in view of the land having vested with the Gaon Sabha.

4. The appellants aggrieved by the same have preferred the present appeal.

5. In so far as the dispute of quantum of compensation is concerned, learned counsel for the parties state that the matter is no more rest integra in view of the Division Bench judgment of this Court in RFA No. 55/1982 (Basti Ram v. U.O.I.) decided on 25.11.1999 which was followed in Raj Kumar and Others Vs. Union of India, fixing the land value for the same village and in respect of the same notification. The land value has been determined at Rs. 12,100/- per bigha uniformly apart from other benefits under the Act.

6. The question thus which is really in dispute is about the entitlement of the appellants to get the compensation.

7. There has been two fold submissions on behalf of learned counsel for the appellants. The first submission arises from a judgment of civil court in a suit filed by the appellants claiming rights in respect of the land. It is not disputed that the suit was decided in favor of the appellants and no appeal was preferred. The submission made by learned counsel for the appellants is that in view thereof that the appellants must be held entitled to the compensation.

8. It really cannot be disputed before us that the competent court in this behalf is the Revenue Court specially in view of the subsequent pronouncement in Hatti Vs. Sunder Singh, and the civil court would have no jurisdiction in the matter.

9. However, learned counsel for the appellants submits that despite this judgment, the appellants would be entitled to the compensation. This is really based on legal submission that even civil court did not have jurisdiction, it had framed the issue, decided the issue in favor of the appellants and the judgment was accepted by the respondent. It is thus submitted that lack of jurisdiction of the civil court on this issue cannot come in the way of the appellants. On being specifically asked whether there is any case laws to support this contention, learned counsel for the appellants seeks some time. It is only for appreciating this submission of the learned counsel for the appellants that we defer the decision on this point to the next date of hearing.

10. The second plea of learned counsel for the appellants was based on the fact that the Revenue Assistant exercised powers for mutating the land in favor of Gaon Sabha based on a notification issued by the Deputy Commissioner Mr. Satish Chandra on 1.11.1954. The said notification stands quashed in appeal No. 7-D of 1963 (Ramjas v. Gaon Sabha) decided on 29.4.1965 by the Circuit Bench at Delhi of the High Court of Punjab. This issue is thus linked to the fact as to whether the Revenue Assistant exercised the powers in view of this notification. Learned counsel for the appellants fairly states that no evidence has been led on this issue wherein the power was exercised by the Revenue Assistant for mutation under this notification. Thus the second plea is not sustainable.

11. List on 28.7.2005."

2. However, the matter was held over only on the request of learned counsel for

the appellant to substantiate his plea that despite the judgment of the Apex Court, the proceedings of the Civil Courts in favor of the appellant could be relied upon by him.

3. Learned counsel for the appellant today fairly does not dispute legal position on this aspect specially in view of the judgment in Gaon Sabha and Another Vs. Nathi and Others, , where it has been held in categorical terms that the Civil Court has no jurisdiction to entertain suit filed seeking declaration that the order of vesting of land in Gaon sabha is illegal and the decree passed by the Court without jurisdiction is a nullity.

4. Learned counsel for the appellant sought to reopen the chapter today which had been been concluded on the last date of hearing arising from the judgment in Ramjas v. Gaon Sabha, decided on 29.04.1965, where the notification dated 01.11.1954 had been quashed. Learned counsel contends that on re-examination of the material on record he has been able to find some evidence which he could not point out on the last date of hearing. In this behalf, learned counsel has referred to the Jamabandis exhibited for the year 1948-49. However, the point remains that even if the appellant was recorded as a `Khudkasht" at that period of time, by the subsequent proceedings the land stood vested in Gaon Sabha. Thus unless the vesting of the land in the Gaon Sabha is set aside in appropriate proceedings, the appellant would not be entitled to get the compensation. The only proceedings taken out by the appellant to set aside that mutation in favor of the Gaon Sabha has been civil proceedings which culminated in the order in his favor but that order is a nullity in view of the judgment in Gaon Sabha and Anr. v. Nathi and Ors., case (supra).

5. In view of the aforesaid decision, we find no merit in the appeal and the same is dismissed.