

(1994) 11 AHC CK 0021

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petn No. 27527 of 1994

Ramji Das and another

APPELLANT

Vs

State of Uttar Pradesh and others

RESPONDENT

Date of Decision : 02-11-1994

Acts Referred:

Constitution of India, 1950 — Article 226

Land Acquisition Act, 1894 — Section 11, 11A, 13, 17, 17(1)

Uttar Pradesh Land Revenue Act, 1901 — Section 14A

Citation : AIR 1995 All 342

Hon'ble Judges : R.R.K. Trivedi, J;G.P. Mathur, J

Bench : Division Bench

Advocate : Sri Atul Dayal, for the Appellant; S.C. and Sri B.D. Mandhyan, for the Respondent

Judgement

1. The challenge in this writ petition is to the award dated August 5, 1994 made u/s 11 of the Land Acquisition Act (hereinafter referred to as the Act).

2. Notification u/s 4(1) and Section 6 with respect to certain land belonging to the petitioners were published in the Gazette on November 29, 1975. Aggrieved by the aforesaid notifications the petitioners filed Writ Petition No. 590 of 1976 in the High Court in which their dispossession was stayed on January 6, 1976 but the petition was ultimately dismissed on October 12, 1977. Thereafter, Civil Appeal No. 2857 of 1977 was filed in the Supreme Court in which stay order was passed on December 5, 1977. The appeal was however dismissed on August 6, 1992 and consequently the stay order was vacated. After dismissal of the appeal, notice u/s 9 of the Act was issued to the petitioners and an award was made on August 5, 1994 determining the amount of compensation payable to the land holders. The present petition has been filed for quashing of this award.

3. The main ground of attack to the award is that the same has been given by an Additional Collector (Finance & Revenue) and not by a Collector as required by Section 11 of the Act. The word "Collector" has been defined as follows in Section

3(c) of the Act.

"The expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act."

The definition shows that any officer specially appointed by the appropriate Government to perform the functions of a Collector under the Act would be deemed to be a Collector. In view of Section 3(ee), "appropriate Government" in the present case would be the State Government. It has therefore, to be examined whether the State Government has appointed the Additional Collector (Finance & Revenue), Muzaffarnagar to perform the functions of the Collector under the Act. Learned Counsel for Krishi Utpadan Mandi Samiti-respondent No. 4, has placed before us a copy of the notification issued by the State Govt. on August 14, 1963 which was published in U.P. Gazette of August 24, 1963 and it reads as follows;

"In exercise of the powers under clause (c) of Section 13 of the Land Acquisition Act, 1894 (Act No. 1 of 1894), the Governor of Uttar Pradesh, is pleased to appoint with effect from the date of publication of this notification in the Gazette every Additional Collector of a district appointed under subsection (1) of Section 14A of the U.P. Land Revenue Act, 1901 (U.P. Act No. HI of 1901) to perform the functions of a Collector under the Land Acquisition Act, 1894 in that district."

Section 14 A of Land Revenue Act which has a bearing on the point in issue reads as follow;

14A (1); The State Government may appoint an Additional Collector in a district or in two or more districts combined.

(2) An Additional Collector shall hold his office during the pleasure of the State Government.

(3) An Additional Collector shall exercise such powers and discharge such duties of a Collector in such cases or classes of cases as the Collector concerned may direct.

(4) This Act and every other law for the time being applicable to a Collector shall apply to every Additional Collector, when exercising any power or discharging any duties under sub-section (3), as if he were the Collector of the district.

Section 14A (1) of U.P. Land Revenue Act empowers the State Government to appoint an Additional Collector in a district. An Additional Collector so appointed has been conferred the power to perform the functions of a Collector under the Land Acquisition Act by the notification issued by the State Govt. on August 14, 1963. Therefore, the award by the Additional Collector (Finance & Revenue), Muzaffarnagar on August 5, 1994 cannot be challenged on the ground that the same has been given by a person who was not legally competent to do so. The principal ground of attack to award, therefore, fails.

4. Apparently the main object of filing the petition is that if the award is quashed the proceedings for acquisition, according to the petitioner, would lapse by virtue of Section 11A of the Act, as the award has been made on the last date on which the period of two years expired, calculating from the date on which the stay order granted by the Supreme Court was vacated, namely, on August 6, 1992 on account of the dismissal of the petitioner's appeal. We are however, of the opinion that on the facts and circumstances of the present case as a direction had been issued u/s 17(4) while issuing notification under Sections 4 and 6 of the Act, the provisions of Section 11A of the Act will not apply. This view has been taken in a recent pronouncement by the Court in *Satendra Prasad Jain and Others Vs. State of U.P. and Others*, wherein, it has been held as follows;

"The provisions of Section 11A are intended to benefit the land owner and ensure that the award is made within a period of two years from the date of Section 6 declaration. In the ordinary case, therefore, when Government fails to make an award within two years of the declaration u/s 6, the land has still not vested in the Government and its title remains with the owner, the acquisition proceedings are still pending and, by virtue of the provisions of Section 11A lapse. When Section 17(1) is applied by reason of urgency, Government takes possession of the land prior to the making of the award u/s 11 and thereupon the owner is divested with the title to the land which is vested in the Government. Section 17(1) states so in unmistakable terms. Clearly, Section 11A can have no application to cases of acquisitions u/s 17 because the lands have already vested in the Government and there is no provision in the said Act by which land statutorily vested in the Government can revert to the owner."

Therefore, even if the impugned award is quashed there will be no legal impediment in the way of the Collector to make another award and the acquisition proceedings shall not lapse as Section 11A of the Act does not apply to the present case.

5. Shri K.M. Dayal, learned Senior counsel for the petitioner has vehemently argued that the petitioners were not given any opportunity to lead evidence in support of their claim to compensation and the award has been given in hot haste and therefore, the same deserves to be set aside. It is well settled that the award of the Collector u/s 11 of the Act is nothing more than an offer of compensation made by the Government to the Claimant whose property is acquired. (See *Raja Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer and Another*, , *Dr. G.H. Grant Vs. State of Bihar*, and *Periyar and Pareekanni Rubbers Ltd. Vs. State of Kerala*, . Without expressing any opinion on the contention of the petitioners that they were not given proper opportunity to lead evidence for putting forth their case, we are of the opinion that in view of the scheme of the Act and true nature of the award, it will not be proper for this Court to interfere under Article 226 of the Constitution of India on this ground. That apart, the statute itself provides a complete remedy to a person interested to make an application to the Collector for making a reference to Court u/s 18 of

the Act if his objection is to the measurement of the land or to the amount of compensation or to the appointment thereof. The petitioners can thus ask for a reference if they are not satisfied with the award made by the Collector. Since an efficacious alternative remedy for redress of their grievance is available to the petitioners, it will not be a sound exercise of discretion to quash the award on the grounds urged by the learned counsel as they at best amount to procedural irregularity in the matter of determination of the amount which has been offered as compensation by the State Government.

6. Learned counsel for the petitioners has urged that there was no stay order for plot No. 346 by the Supreme Court and therefore, the proceedings for acquisition of this plot has lapsed. It appears that in the stay application filed by the petitioners before the Supreme Court (Annexure. I to the Rejoinder Affidavit) plot No. 347 was mentioned by mistake though the correct No. is 346 and, therefore, this very plot No. namely 347 was incorporated in the stay order. But the petitioners had challenged the entire acquisition proceedings and by the stay order dispossession was stayed from the total area (8 bighas 17 biswas pucca) covered under the notification dated 30th October, 1975. Therefore, the contention that there was no stay order with respect to plot No. 346 is not correct.

7. Shri K.M. Dayal has also urged that Mandi Samiti has already made constructions and its requirement has been fully met and as such it does not need the disputed land. In our opinion, this can be no ground for quashing of the award, specially when the entire acquisition has already been upheld by the Supreme Court.

8. For the reasons indicated above, there is no merit in this petition which is dismissed at the admission stage. The interim orders passed in favour of the petitioners are vacated.

9. Petition dismissed.