

(1989) 03 DEL CK 0079

In the Delhi High Court

Case No : Civil Writ Petition No. 1283 of 1983

Sahab Singh and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 09-03-1989

Acts Referred:

Citation : (1989) 38 DLT 127 : (1989) RLR 464

Hon'ble Judges : S.B. Wad, J

Bench : Single Bench

Advocate : K.L. Rathi, Subhash Mittal, R.K. Gupta, S.P. Pandey and Ratan Lal, for the Appellant;

Judgement

S.B. Wad, J.

(1) In this writ petition the validity of Notifications u/s 4, Section 6 and Sections 9 & 10 and the consequent Award are challenged. Section 4 Notification was issued on 23.1.65; Section 6 Notification on 6.9.66 and Section 9 & 10 notifications on 21.5.1983. Subsequently, on 19.9.86 an Award purported to be an Award for acquisition of the petitioners' land was made. Counsel has placed a copy of the Award before me. The same be taken on record.

(2) The petitioners submit that after the issuance of the notification u/s 6, they served a notice on the respondents on 28.9.76 u/s 55 of the D.D.A. Act, 1957, as they were entitled to get the lands released from compulsory acquisition under Sub-section 2 of Section 55. The respondents have received the said notice u/s 55. This has also been mentioned specifically in a preliminary Award made on 12.9.80. The present Award is a supplementary Award made on 19.9.86. The principal question for decision in this writ petition is whether the petitioners are entitled to getting their lands released from compulsory acquisition. Section 55 of the Delhi Development Act, 1957 reads :

"55. (1) Where any land situated in any area in Delhi is required by the master plan or a zonal development plan to be kept as an open space or unbuilt upon or

is designated in any such plan as subject to compulsory acquisition, then, it at the expiration of ten years from the date of operation of the plan u/s 11 or where such land has been so required or designated by any amendment of such plan from the date of operation of such amendment the land is not compulsorily acquired the owner of the land may serve on the Central Government a notice requiring his interest in the land to be so acquired. (2) If the Central Government fails to acquire the land within a period of six months from the receipt of the notice, the master plan or, as the case may be, the zonal development plan shall have effect, after the expiration of the said six months as if the land were not required to be kept as an open space or unbuilt upon or were not designated as subject to compulsory acquisition."

(3) The object of this Section has been elaborately discussed, in the decision of this Court in CW. 721/74 wherein it is stated that private interest and the public interest are tried to be reconciled by the said provision. The provision is if at the expiration of 10 years from the date of the operation of the master plan or where such land was required or designated for compulsory acquisition and not being so acquired shall be deemed to have been released from compulsory acquisition six months after the notice to that effect is served on the Central Government. As stated above, the notice in this case was served on 28.9.76. Six months thereafter the land in question automatically stood released from compulsory acquisition and the petitioners are entitled to such a declaration The subsequent proceedings in regard to the Award on 12 9.80 and 19.9.86 were illegal and incompetent in law.

(4) It is hereby declared that the lands of the petitioner for being subject-matter of the present writ petition stand released from compulsory acquisition by virtue of Section 55(2) of the Delhi Development Act. The subsequent land acquisition proceedings purported to be the proceedings under the Act are invalid and set aside. The writ petition is allowed with costs.