

(1997) 09 DEL CK 0047

In the Delhi High Court

Case No : Civil Writ Appeal No. 1281 of 1994

Sardar Gurcharan Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 29-09-1997

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4

Citation : (1997) 6 AD 952 : (1997) 69 DLT 349

Hon'ble Judges : K. Ramamoorthy, J;Devinder Gupta, J

Bench : Division Bench

Advocate : Mukul Rohatagi, Rajiv Bansal and Bhupinder Singh, for the Appellant;

Judgement

K. Ramamoorthy, J.

(1) The petitioner has filed the writ petition for the following reliefs:

(I) Issue a writ in the nature of certiorari or any other appropriate writ, order or direction quashing the Notification No. 7(58)/ 62- C8H dated the 15th September, 1962 (published in Part Iv of Delhi Gazette on the 27th September, 1962) issued u/s 4 of the Land Acquisition Act and the declaration u/s 6 of the Act in so far as it violates to the land which was acquired from the petitioner. (ii) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction directing the respondents not to use the land comprised in the premises known as I, Factory Road, New Delhi - 110029, for a purpose different from and/or unrelated to the purpose for which the same was acquired. (iii) Quash the allotment made by the respondents. Nos. 1 to 5 of any part of the land comprised in the premises now known as 2 Factory Road, to respondents Nos 6, 7 and 8 or to any other individual, H.U.F. partnership firm, company or other association of persons in so far as such allotment is not for the public purpose for which the land of the petitioner was acquired. (iv) Issue a writ in the nature of mandamus directing the respondents to allot to the petitioner the land or part

thereof, comprised in the premises known as I, Factory Road, in so far as the said land is intended to be used or is being used for a public purpose different from and/or unrelated to the purpose for which the notification No. F(58)/62-L&H dated 15th September 1962 u/s 4 of the Land Acquisition Act was issued and declaration made u/s 6 of the Act bearing No. 07(58)/62-L&H. (v) Issue a writ in the nature of mandamus directing the respondents to allot an alternative plot of land to the petitioner in lieu of the land of the petitioner acquired for the public purpose and intended to be used by the respondents 1 to 5 for the said public purpose.

(2) Mr. Mukul Rohtagi learned Sr. Counsel for the petitioner submitted that the petition was confined only in respect of relief No. 5. Learned Senior Counsel for the petitioner fairly submitted that 4815.33 sq. yds. of land was acquired by the Government of India and that was challenged in the writ petition. The Government released 1694.925 sq. yds. and according to learned Sr. Counsel what remained under acquisition is 3120.40 sq. yds.

(3) The learned Sr. Counsel submitted that whatever be the result of the earlier Writ Petition No. 2908 of 1985 when the Government acquired 3120.40 sq. yds. of land, as per the policy of the Government framed in 1961 to allot alternative land to the persons from whom the land was acquired, they are allotted a particular piece of alternative land that may be chosen by the Government. As per that policy the petitioner is entitled to allotment of land on the basis of the acquisition of 3120.40 sq. yds. of land.

(4) Mr. Bhupinder Singh learned Counsel for respondents 1 and 2 submitted that the earlier writ petition was filed challenging the acquisition. There was a compromise as it were and in lieu thereof the petitioner now cannot claim any land as per 1961 Policy.

(5) In the counter affidavit of respondents 1 and 2, it is stated :

"A plot of land measuring 24.01. acres (which was part of Nazul land acquired in 1911 for the New Capital of India) was leased out on perpetual lease on 19.2.1924 to Sardar Ram Singh Kabli for construction of pottery factory and subsidiary buildings. Sardar Kabli divided this plot into 10 sub plots. Out of these, plot No.4 known as I, Factory Road (now known as a 2, Factory Road) measuring one acre was purchased by Sh. Gurcharan Singh the petitioner vide sale deed dated 18.5.1932. Mutation was carried out by Land & Development Office in favor of Shri Gurcharan Singh vide letter No. 1050 dated 22.3.1934. The lease was unrestricted and the permission of the Lesser for any transfer or sub division was not required nor asked for. Later on the setting up of Dda, the Government decided to acquire large area of land in Delhi including the entire lease hold land referred to above for planned development of Delhi. The entire land was under acquisition and on Award No. 20-A/74 (Supplementary) was given on 29.3.1975. At the request of the petitioner the Government acquired only a part of the said plot of one acre leaving a piece of land admeasuring about

1694.925 sq. yds. for the bona fide use of the said petitioner for residential purpose with the specific conditions that the petitioner will not claim any compensation in the nature of damages from Government for keeping the land under notification for such a long time vide Ministry of Works and Housing letter No. 14/33/69-III (Vol. III) dated 10.1.1994 and upon the lessee agreeing to certain additional terms and conditions set out in the said letter. The petitioner, however filed a Civil Writ No." 2908 of 1985 in Hon"ble High Court titled as Sh. Gurcharan Singh v. Land Acquisition Collector and Others. On 17.7.1986, on the submission of the learned Counsel for the petitioner, this Hon"ble Court was pleased to dismiss this writ petition as withdrawn was accordingly dismissed as withdrawn. The petitioner had agreed to execute a fresh lease of the aforesaid piece of land admeasuring 1694.925 sq. yds. The remaining of land was taken over on 22.4.1987. The lease deed was executed on 22.5.1987 and got registered with the Sub-Registrar on 9.6.1987. The lessee got the plans sanctioned from Ndmc vide Resolution No. 22 dated 21.3.1990 for the construction of a residential building on the land released from acquisition."

(6) In view of the above, when the petitioner Sardar Gurcharan Singh had taken advantage of the concession shown by the Government of India and having obtained release of 1694.925 sq. yds. of land neither he nor his successors can claim and ask for further relief for an alternative plot under the policy in lieu of acquisition.

(7) The writ petition is dismissed. There shall be no order as to costs.