
(2015) 07 RAJ CK 0130
In the Rajasthan High Court
Case No : Civil Writ Petition No. 20696 of 2013

Saroj Devi Natani

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 22-07-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 17, 18, 4, 5A, 6
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24(1)(b), 24(2)

Citation : (2015) 07 RAJ CK 0130

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Advocate : Shailesh Prakash Sharma, for the Appellant; Satya Narayan Kumawat, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Bela M. Trivedi, J—The present petition has been filed by the petitioner, challenging the land acquisition proceedings initiated under the Land Acquisition Act, 1894 (hereinafter referred to as "the Act of 1894") by the respondents, in respect of the lands in question for the development of the scheme "Mohanlal Sukhadia" of the U.I.T. The petitioner has also/challenged the award dated 25.09.2013 passed by the Land Acquisition Officer, (Dy. Secretary) U.I.T., Kota, and alternatively has prayed that if the Court came to the conclusion that the reference proceedings under Section 18 has been initiated by the petitioner, the petitioner be allowed to raise all grounds having come into existence in view of the new Act i.e. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (hereinafter referred to as "the Act of 2013").

2. It appears that in the instant case, the notification under Section 4 of the said Act was issued on 23.05.2013 and was published at the conspicuous places and in the newspapers as required. The petitioner pursuant to the said notification

had also submitted the objections in the enquiry under Section 5A of the said Act. The Land Acquisition Officer vide the letter dated 29.06.2013 had submitted his report of the said enquiry to the State Govt., after considering the objections of the persons interested including of the petitioner. Thereafter, the State Government had issued the declaration under Section 6 of the said Act on 04.07.2013 and the same was also duly published in the manner prescribed under the Act. It also appears that the State Govt. had invoked the provisions contained in Section 17 of the said Act for taking the possession of the land in question. The public notice under Section 9(1) was also issued on 12.07.2013, pursuant to which the petitioner had submitted her claim. Finally the Land Acquisition Officer made the award on 25.09.2013, which was approved by the State Government on 04.10.2013. It appears that pending this petition, the petitioner had also submitted an application seeking reference under Section 18 of the said Act before the Collector on 24.03.2014, as per Annexure-18.

3. In the backdrop of these facts, it is sought to be submitted by the learned counsel Mr. Sharma for the petitioner that the proceedings initiated by the respondents under the said Act were not in consonance with the mandatory provisions contained in the said Act and were discriminatory in nature, inasmuch as the lands of influential persons were left out from acquisition, whereas the petitioner's lands have been sought to be acquired without any justification. According to him, the Land Acquisition Officer had also not duly considered the objections filed by the petitioner during the enquiry under Section 5A of the said Act, and hence the subsequent declaration made under Section 6 of the said Act was also illegal. He further submitted that though there was no urgency in acquiring the lands in question, the State Government had invoked Section 17 of the said Act. Mr. Sharma also submitted that the petitioner had submitted the objections under Section 9(1), however no opportunity of hearing was granted to her and the award was made hurriedly by the Land Acquisition Officer. Pressing into service the provisions contained in Section 24(2) of the Act of 2013, he submitted that the petitioner would be entitled to the compensation under the provisions contained in the said Act of 2013. Lastly, he submitted that action of respondents in acquiring the petitioner's land for the so called public purpose was the colourable exercise of powers, and hence the entire proceedings were required to be held arbitrary and illegal. He urged in the alternative that the petitioner should be awarded compensation as per the new Act, 2013.

4. Learned Govt. Counsel Mr. Satya Narayan Kumawat for the respondents has relied upon the reply filed to the petition and submitted that the objections of the petitioner were duly considered by the Land acquisition Officer from time to time, and after making of the award, the cheque dated 07.11.2014 of the requisite compensation was also issued and forwarded to the Tehsildar, U.I.T., Kota for disbursement. He also submitted that the petitioner having already made an application seeking reference under Section 18 of the said Act, she is not entitled to challenge the acquisition proceedings at this juncture submitted that the provisions of the Act of 2013 could not be made applicable to the case of the

petitioner as the award has already been made prior to coming into force of the said Act.

5. At the outset, it is required to be stated that the petitioner had filed the petition, initially challenging the land acquisition proceedings, and not the Award though the Award was already made by the Land Acquisition Officer when the petition was filed, however subsequently the petitioner amended the petition and prayed to set aside the said Award, and in the alternative sought declaration that she was entitled to the compensation as per the Act, 2013. It is also pertinent to note that during the pendency of the petition, the petitioner also made an application seeking reference under Section 18 before the Collector, as per Annexure-18. Thus, on one hand the petitioner, filed this petition challenging the notifications issued under the Land Acquisition Act and on the other hand she had made an application under Section 18 of the said Act seeking reference to the civil court. Since the land acquisition proceedings had already concluded and the award was also made, it was too late in the light of the day to challenge the notification under Section 4 and declaration under Section 6 of the said Act.

6. As transpiring from the documents on record, the objections raised by the petitioner during the enquiry under Section 5A were duly considered by the Land Acquisition Officer, and the State Government thereafter had issued the declaration under Section 6 of the said Act, to the effect that the said land was needed for public purpose. At this juncture, it is pertinent to note that as per Section 6(3), the declaration made under Section 6(1) is the conclusive evidence that the land is needed for the public purpose and the State Government can acquire the land in the manner provided under the Act. Hence, the declaration under Section 6 having become final as back as on 04.07.2013, it was not open for the petitioner to challenge the notification under Section 4 or proceedings of enquiry under Section 5A on the ground that the purpose for which the land was sought to be acquired was not for a public purpose. The mode of publications of the said notification and declaration is not under challenge. It is trite to say that once acquisition proceeding is complete, land vests in the State and the award is passed, no writ petition can be filed challenging the acquisition notice or against any proceedings thereunder. A beneficial reference of the decisions of the Apex Court in case of *The Municipal Council, Ahmednagar and Another Vs. Shah Hyder Beig and Others*, AIR 2000 SC 671 : (1999) 10 JT 336 : (2000) 1 SCALE 124 : (2000) 2 SCC 48 : (1999) 5 SCR 197 Supp : (2000) AIRSCW 197 : (2000) 1 Supreme 146 ; in case of *C. Padma and Others Vs. Dy. Secretary to the Govt. of T.N. and Others*, (1996) 9 SCALE 278 : (1997) 2 SCC 627 : (1996) 9 SCR 158 Supp ; and in case of *Municipal Corporation of Greater Bombay Vs. The Industrial Development Investment Co. Pvt Ltd., and others*, (1996) 6 AD 761 : AIR 1997 SC 482 : (1996) 8 JT 16 : (1996) 6 SCALE 379 : (1996) 11 SCC 501 : (1996) 5 SCR 551 Supp : (1996) AIRSCW 3871 : (1996) 7 Supreme 26 , be made in this regard.

7. As regards applicability of the Act, 2013, it is required to be noted that the

award having been made on 25.9.2013, i.e. prior to coming into force of the Act of 2013, with effect from 01.01.2014, the provisions of the said Act of 2013 could not be made applicable to the petitioner's land in view of Section 24(1)(b) of the said Act of 2013. The Court, therefore, does not find any substance in the alternative submission made by the learned counsel for the petitioner that the petitioner would be entitled to the compensation as per the provisions contained in the Act of India.

8. Learned counsel for the petitioner has also failed to make out any case of discrimination as alleged in the petition, by producing any cogent evidence. It is needless to say that mere allegations made in the petition without any cogent material on record, could not be entertained in the petition filed under Section 226 of the Constitution of India.

9. In that view of the matter, the Court does not find any substance in the issues raised in the petition or in the submissions made by the learned counsel for the petitioner. The petition being devoid of merits, is dismissed. By this order, the stay application also stands dismissed.