
(1961) 04 MP CK 0023

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 214 of 1960

Satish Kumar Sahu Manmohanlal Sahu

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 17-04-1961

Acts Referred:

Constitution of India, 1950 — Article 14, 31(2)

Land Acquisition Act, 1894 — Section 4(1)

Madhya Pradesh Land Acquisition (Amendment) Act, 1959 — Section 3

Citation : AIR 1961 MP 280 : (1961) ILR (MP) 810 : (1961) JLJ 991

Hon'ble Judges : P.V. Dixit, C.J;K.L. Pandey, J

Bench : Division Bench

Advocate : A.P. Sen, for the Appellant; R.J. Bhawe, for the Respondent

Final Decision : Dismissed

Judgement

Dixit, C.J.—This is a petition challenging the constitutionality of the Land Acquisition (Madhya Pradesh Amendment) Act, 1959 (Act No. 5 of 1959), hereinafter referred to as the Act. It came into force on 1st April 1959. By Section 3 of the Act the Land Acquisition Act, 1894, in its application to Bhopal area, was amended as follows;

(1) After Clause (g) of Section 3 of the Act of 1894 a new clause was added defining "Bhopal area".

(2) A new section, Section 17A, was inserted in the Land Acquisition Act, 1894, giving to the Government the power to issue a direction to the Collector that it is urgently necessary to acquire immediate possession of any building site situated in Bhopal area, and providing that upon the issue of such a direction the provisions of Section 17 would in all respects apply in the case of such site as they apply in the case of waste or arable land.

(3) A new proviso was added to the first clause of Section 23(1). The proviso runs thus:

"Provided that when the market-value of any land situate in Bhopal area, in respect of which the date of publication of the notification aforesaid is after the commencement of the Land Acquisition (Madhya Pradesh Amendment) Act, 1957 (21 of 1958), is in excess of its market-value as on the 1st day of October, 1955, the market-value thereof shall be deemed to be its market-value as on the 1st day of October, 1955."

(4) A new Sub-section (3) was inserted in Section 23 enjoining the Court to award a further sum not exceeding twenty-five per cent of the market-value of the land acquired and an additional sum provided under Sub-section (2), as the Court may think fit, "in consideration of the appreciation in the price of the land concerned by reason of the location of the Capital at Bhopal, regard being had to the situation of such land."

The petitioner says that he had purchased a piece of land in Bhopal on 3rd June 1957 for a sum of Rs. 15,000/- and that land has been acquired by the State under the Land Acquisition Act, 1894, as amended by Act No. 5 of 1959, and that he has been served with a notice u/s 9 of the Act of 1894 asking him to submit his claim for compensation. He prays that it be declared that the Land Acquisition (M. P. Amendment) Act, 1959, is ultra vires the State Legislature, and that a writ of certiorari be issued for quashing the notifications issued under the Land Acquisition Act, 1894, for the acquisition of his land and the notice served on him u/s 9 of the said Act.

2. In the application the petitioner has stated various grounds against the validity of the Act and of the notifications issued. But before us, Shri Sen, learned counsel for the petitioner, urged only two points, namely, first that the new Proviso to the first clause of Section 23(1) was repugnant to Article 31 of the Constitution of India and, secondly, it also infringed Article 14. It was argued that the Proviso by providing that the market-value of the acquired property would be deemed to be that prevailing on 1st October 1955 irrespective of the date of acquisition thereof, did not provide for any compensation at all to the owner in respect of the property; and that before any payment can properly be described as compensation for the purpose of Article 31 the amount offered must be just equivalent to what the owner had been deprived of. To support his contention, learned counsel referred us to *The West Bengal Settlement Kanungoe Cooperative Credit Society Ltd. Vs. Mrs. Bella Banerjee and Others*, *The West Bengal Settlement Kanungoe Co-operative Credit Society Ltd. Vs. Mrs. Bella Banerjee and Others*, *The State of West Bengal Vs. Bela Banerjee and Others*, *Asst. Collector v. Jamnadas Gokuldas* AIR 1960 Born 35 and *The State of West Bengal Vs. Bon Behari Mondal*, .

3. There is no force in this contention. After the amendment of Clause (2) of Article 31 of the Constitution by the Constitution (Fourth Amendment) Act, 1955, a law with regard to the acquisition of property for a public purpose and providing for compensation for the acquisition cannot be attacked on the ground that the compensation provided for by the Legislature is not adequate or that it

is less than the market-value of the property or that it does not represent a just equivalent of what the owner has been deprived of.

The amended Clause (2) of Article 31 expressly provides that no such law shall be called in question in any court on the ground that the compensation provided by the law is not adequate. No doubt, under Clause (2) some compensation must be given. It is not that the new proviso to the first clause of Section 23(1) and the new Sub-section (3) added to Section 23, which contain the principles on which compensation is to be determined, result in non-payment of compensation or in the payment of an illusory compensation.

If Article 31(2) of the Constitution had permitted the adequacy of compensation being challenged in a court of law, then on the strength of *The State of West Bengal Vs. Bon Behari Mondal*, the petitioner could have with some degree of force contended that a just compensation or a fair market-value of the property would be that as existing at the date of the acquisition. But Article 31(2), as it stands now, makes the Legislature the sole judge for determining a just equivalent of the acquired property.

It is, therefore, competent for the Legislature to fix a date other than the date of acquisition as the basis for determining the market-value of the acquired property if it considers it expedient for some reasons. The date fixed here is reasonably approximate to the date of acquisition. It is not a remote one directing the computation of the market value of the property as existing on a date some fifty or sixty years back.

The award of further sum "mentioned in the new Sub-section (3) is, as the sub-section itself, indicates, because of the appreciation in the price of land concerned by reason of the location of Capital, at Bhopal. From this it is easy to see that the date specified in the new proviso was for the purpose of excluding speculative rise in the value of land because of the reasonable possibility in 1955 of the capital of the State being located at Bhopal.

It cannot, therefore, be maintained that the amendments made in Section 23 *prima facie* result in non-payment of compensation or in payment of illusory compensation. The decisions cited by the learned counsel for the petitioner are not in point here for the simple reason that when those cases were decided the Court had the power to determine whether the compensation offered was or was not a just equivalent of the property of which the owner was deprived.

4. Here we must notice the decision of a Division Bench of the Madras High Court in *D. Namasivaya Mudaliar and Others Vs. The State of Madras and Others*, where the effect of the amendment made in 1955 in Article 31(2) of the Constitution has been considered. The learned Judges of the Madras High Court expressed the view that even after the amendment the article still requires that compensation should be paid for the property acquired and the compensation must be a just equivalent of the acquired property and if instead of its fixing the quantum of compensation for the property to be acquired, the Legislature

specifies the principles in accordance with which compensation has to be ascertained, then the principles must be rational rules appropriate to the subject-matter and not devices or formulae compounded of irrelevant considerations, and that if for any particular reason it is considered expedient to fix a date other than the date of acquisition of property for ascertaining compensation, that date must be reasonably proximate to the date of acquisition and must not be fixed to avoid payment for rights or interests that a citizen may have lawfully acquired in the property which is being taken away for public use.

These observations were made while considering the validity of the Madras Lignite (Acquisition of Land) Act, 1953, which amended the Land Acquisition Act, 1894, in two important respects. It first substituted the date, 28th April 1947, for the date of the notification u/s 4(1) of the Land Acquisition Act, 1894. Then it directed that compensation would be payable only for agricultural improvements on the land commenced or made after 28th April 1947 and before the date of the publication of the notification u/s 4(1).

Thus under the amendment compensation was denied for every other kind of improvements regardless of their value and regardless of whether they had been lawfully made or not. The learned Judges of the Madras High Court took the view that the provisions made in the Madras Lignite (Acquisition of Land) Act, 1953, that compensation for land would be paid only on the basis of its value on 28th April 1947 and that no compensation would be paid for improvements other than agricultural improvements made thereafter were repugnant to Article 31(2) of the Constitution and that those provisions were more in the nature of devices for refusing compensation than for payment of any compensation which can, even after making legitimate allowance or latitude for difference of opinion, can be regarded as a fair equivalent of the property acquired.

In the context of the facts of the Madras case and of the provisions of the Act considered therein, the observations made by the learned Judges of the Madras High Court can only be taken as meaning that Article 31(2) still requires that some compensation must be given and not that it is open to the Court to examine the adequacy of compensation. The conclusion of the learned Judges that the Act before them was repugnant to Article 31(2) was reached because no compensation was provided for improvements other than agricultural improvements made after 28th April 1947 and the date, 28th April 1947, with reference to which compensation was to be determined was remote one from the date of acquisition and resulted in non-payment of compensation for the rights or interests that the owners lawfully acquired in the property which was taken away from them. The position here is different. The amendments made by the impugned Act do not deny any compensation for the property acquired and the date with reference to which compensation is to be ascertained cannot be said to be an irrelevant or remote one giving only an illusory compensation.

5. The other contention that the amendments effected in Section 23 are violative of the equal protection clause must also be rejected. The meaning, scope and

effect of Article 14 have been laid down by the Supreme Court in various cases. It is now well settled that when Article 14 forbids class legislation it does not prohibit reasonable classification for purposes of legislation. A classification founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and where the differentia has a rational relation to the object sought to be achieved by the statute in question is a permissible classification (see *Moti Das Vs. S.P. Sahi, The Special Officer In Charge of Hindu Religious Trusts and Others*, and *Ram Krishna Dalmia Vs. Shri Justice S.R. Tendolkar and Others*,).

The decisions of the Supreme Court further lay down that there is a presumption in favour of the constitutionality of an enactment and the burden is upon the person challenging the validity to show that there has been a clear violation of the constitutional guarantee, and that a presumption must be made that the Legislature understands and correctly appreciates the needs of its own people and that its laws are directed to problems made manifest by experience and its discriminations are based on adequate grounds.

The amendments made in Section 23 no doubt apply only to the Bhopal area which, according to the definition given in the amending Act means an area comprised within the municipal limits of Bhopal town and the area extending up to ten miles beyond such limits. The lands situated in other parts of the State are not governed by the amendments. Thus land located in Bhopal area if and when acquired is subjected to a different treatment so far as payment of compensation is concerned.

In support of this difference, it has been averred in the return filed by the State that in that reorganisation of the States, which was a political exigency, the fixation of the Capital at Bhopal was "an accident" not due to any economic or industrial reasons; that when it was decided to locate the Capital of the State in the underdeveloped town, there was heavy speculation in land prices; and that, therefore, these artificially inflated prices could not be taken as a proper basis for fixing the real market-value of the property.

The amendments themselves indicate that it was because of the location of the capital at Bhopal that they had to be made. Now, it cannot be denied that whenever, a capital or a big industry is located in a town or even in a city, land values are suddenly pushed up by prospective sellers and the increase in them during the interregnum between the date when it is known that the town will become more important and the date of acquisition of land may not represent its real value.

The prospect of acquisition of vast areas of private lands in connection with a capital or industrial project in town always gives rise to speculative dealings in lands in the town. When such speculative dealings occur it is not unreasonable and improper to compute the market-value of the Land with reference to a date proximate to the date of acquisition so as to exclude speculative rise in

determining the market value of the land.

On the material on record, it is impossible for us to hold that in this case there has been a discrimination in the matter of compensation between land acquired in Bhopal area and other areas in the State. The classification between land in Bhopal area and other parts of the State is with reason and reasonable, and is for the purpose of enabling the State to acquire land at a reasonable price in Bhopal for the construction of the Capital. In our view, the amendments are not hit by Article 14 of the Constitution.

6. For all these reasons, our conclusion is that, the Land Acquisition (Madhya Pradesh Amendment) Act, 1959, (Act No. 5 of 1959), is a valid piece of legislation and that this petition must be dismissed. The petition is accordingly dismissed with costs. Counsel's fee is fixed at Rs. 150/-. The outstanding amount of security deposit, after deduction of costs, shall be refunded to the petitioner.