
(2005) 03 DEL CK 0081

In the Delhi High Court

Case No : Writ Petition (C) No. 1687 of 1986

Shri Balwant

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-03-2005

Acts Referred:

Delhi Development Act, 1957 — Section 15, 55

Citation : (2005) 119 DLT 458 : (2005) 81 DRJ 412

Hon'ble Judges : Swatanter Kumar, J; Madan B. Lokur, J

Bench : Division Bench

Advocate : P.R. Aggarwal and Anju Bhushan, for the Appellant; Sanjay Poddar, for LAC and LandB and Ajay Verma, for DDA, for the Respondent

Judgement

Swatanter Kumar, J.—By this judgment we would dispose of the above noticed 5 writ petitions as in all these writ petitions the Petitioners raised a common challenge to the notice dated 29.7.1986 issued u/s 9 and 10(1) of the Land Acquisition Act (hereinafter referred to as the 'Act') and further they pray that the Respondents be restrained from interfering in the peaceful possession and occupation of the Petitioners. Though, for the purposes of brevity, we would be referring to the facts of the case of Balwant and Ors. v. Union of India and Ors.

2.The facts giving rise to this writ petition are that the Petitioners own land measuring about 3 Bighas 12 bids was in Khasra No.818/468 in Village Saboli, Delhi. The appropriate Government issued a notification u/s 4 of the Act intending to acquire the land in Village Saboli including the land belonging to the Petitioners being notification No.F.4(14)65 L and D dated 6.3.65. In furtherance to this notification declaration u/s 6 of the Act was issued on 7.1.69. The Land Acquisition collector took the proceedings and issued notice to the interested persons. However, such notices were issued u/s 9 and 10(1) of the Act on 29.7.86. Various awards were made by the concerned authorities including Award No.81/8687 dated 19.9.86.

It is stated by the Petitioners that more than 20 years had passed from issuance

of the notification u/s 4 of the Act but no award was passed and the Petitioners were served with notices u/s 9 and 10 of the Act in July, 1986. Relying upon certain judgments including the judgments of different High Courts in the cases of Patel Shankerbhai Mahijibhai Vs. State of Gujarat, , P. Appalamurthy and Others Vs. State of Andhra Pradesh and Others, , and Radhey Sham Gupta and Ors. v. State of Haryana and Ors., 1982 P & H 519, it is contended that the interests of the Petitioners is being seriously jeopardised inasmuch as the possession of their land would be taken now and they would be paid the value of the land on the basis of the prevalent market value of 20 years back. Main emphasis of the Petitioners while challenging the action of the Respondents is that it would be inequitable, unfair and the notices issued to them suffer from serious delay and they would be paid no damages for their property. In substance the only challenge raised in these petitions is that the delay of more than 17 years in issuance of such notifications/notices would vitiate the acquisition proceedings and as such the possession of their lands cannot be taken by the Respondents. However, according to the Petitioners, the notifications in question have died/expired by efflux of time and the State has become functus officio. The action of the State thus stated to be arbitrary and not an honest discharge of official duties assigning to the Respondents.

3. Another contention raised before us is that the statutory period for which the Master Plan had been prepared had since expired and in view of the provisions of Section 55 of Delhi Development Act, 1957 there be automatic release of the acquired land as there is no public purpose in existence.

4. We find no merit in either of the contentions raised before us. As already noticed, the main emphasis of arguments of the Petitioners is that the acquisition proceedings are vitiated because of extraordinary delay in issuance of the notices u/s 9 and 10 of the Act and particularly when they would not be paid any damages for such delayed period. This argument does not take the case of the Petitioners any further inasmuch as it is no more rest integra and is squarely answered by a Full Bench judgment of this Court in the case of Roshanara Begum Vs. Union of India, , where the Bench was considering large number of writ petitions wherein the land has been acquired under notification issued u/s 4 of the Act dated 13.9.59. The Award was passed in the year 1977-78 and the Petitioners had approached the Court with similar prayers amongst other reliefs. The Full Bench while declining to quash the acquisition proceedings defined certain benefits which the Petitioners would be entitled to. Reference can be made to the judgment of the Supreme Court in the case of Bhagat Singh Vs. State of U.P. and Others, . The judgment of the Full Bench of this Court was upheld by the Supreme Court with somewhat modifications in the case of Murari and Others Vs. Union of India (UOI) and Others, , where the Court held as under :

A half-hearted argument was also advanced to the effect that the life span of the master plan was 20 years but the acquisition proceedings are not yet complete

and, Therefore, the notifications issued for acquisition of the land for planned development of Delhi have lost their value and the acquisition proceedings should be quashed. This argument is also without any merit for the simple reason that Delhi is the capital of the largest democratic country of the world. There is inflow of more than one lakh of people every year to this city. It is an ever-expanding, cosmopolitan, commercial and industrial city with multifarious national and international activities. The city of Delhi is confronted with serious housing problems due to enormous growth and ever-expanding population. Consequently Delhi development is a continuous unending process for which no terminal point for the completion of such process can be visualised. In these facts and circumstances simply because there is a delay which in the facts and circumstances of the present case was bound to occur, it cannot justifiably be contended that the notifications issued were rendered ineffective. As pointed out by the High Court, and in our opinion rightly so, that large tracts of land were sought to be acquired for the purpose of constructing huge residential colonies and commercial areas and, Therefore, the delay was bound to occur in completing the acquisition proceedings.

After overall consideration of the issues involved in these transfer cases and the appeals we find no ground to take a different view than the one taken by the High Court in the impugned judgment. Consequently, the acquisition proceedings could not be quashed on any grounds. We also find ourselves in respectful agreement with the view taken by this Court in the case of Ram Chand. Consequently, the appeals fail and are hereby dismissed. The transfer cases are allowed in terms of the order made in the case of Ram Chand directing that the transfer petitioners and the appellants shall be paid an additional amount of compensation to be calculated at the rate of 12 per cent per annum, after the expiry of two years from the date of decision of Aflatoon case i.e. 23.8.1974 till the date of making of the awards by the Collector, to be calculated with reference to the market value of the land in question on the date of notification u/s 4(1) of the Act. In the facts and circumstances of the case we make no order as to costs.

5. As is clear from the above judgment of the Full Bench of this Court and as approved by the Supreme Court there is no reason for us to grant any relief to the Petitioners other than the one which has been granted to the Petitioners in those cases. There is delay in issuance of such notices but the same would not vitiate the acquisition proceedings and the notifications issued are not liable to be set aside.

6. As far as the plea of the Petitioners while relying upon Section 55 of the DDA Act in questioning the validity of the acquisition proceedings, question has been answered against the Petitioners by the Full Bench in the case of Roshanara Begum (supra) as well as in the case of Murari and Others (supra) as noticed above. It is a settled position of law that planned development of Delhi is a public purpose and the mere fact that the period for which the plans were made had expired would per se no ground for the Court to hold that the public purpose has

ended and the lands acquired would be liable to be released automatically. The planned development of Delhi is a continuing process and there is no dispute to the fact that after session of the period of 1st Master Plan the subsequent Master Plan duly approved under the provisions of the DDA Act were enforced at the relevant time. Master and Zonal plan of Delhi are indications as to how the acquired land are intended to be developed. It does not unnecessarily imply that the administrative and the competent authority cannot continue with acquisition even for a purpose other than the purpose for which the land was originally sought to be acquired but of course subject to the section of the authorities u/s 15 of the DDA Act. The planned development of Delhi has been held to be a public purpose in all its intent and purposes. This view has been taken by the Courts consistently. Reference in this regard can be made to the judgments of the Supreme Court in Aflatoon and Others Vs. Lt. Governor of Delhi and Others, .

7. In view of our discussion above, we find no merit in the contentions raised on behalf of the Petitioners and would dispose of these writ petitions by granting limited relief to the Petitioners as was granted to the Petitioners in Murari and Others (surpa) by the Supreme Court.

8. The writ petitions are accordingly disposed of while leaving the parties to bear their own costs.