
(2022) 03 MAN CK 0027
In the Manipur High Court
Case No : Writ Appeal No. 11 Of 2019
State Of Manipur & Ors Maithem Deben Singh & Ors

Date of Decision : 16-03-2022

Acts Referred:

Land Acquisition Act, 1894 — Section 7, 12(1), 13A, 18
General Clauses Act, 1897 — Section 21

Citation : (2022) 03 MAN CK 0027

Hon'ble Judges : Sanjay Kumar, CJ; MV Muralidaran, J

Bench : Division Bench

Advocate : N. Kumarjit, H.S. Paonam

Final Decision : Dismissed

Judgement

Sanjay Kumar (CJ)

(Through Video Conferencing)

[1] The State of Manipur and its authorities in the Revenue, Land Acquisition and Horticulture Departments are in appeal, aggrieved by the Judgment and Order dated 20-09-2018 passed by a learned Judge of this Court in WP(C) No. 306 of 2017. By the said order, the learned Judge allowed the writ petition and set aside the impugned orders dated 04-05-2015 and 22-05-2015.

[2] Heard Mr. N. Kumarjit, learned Advocate General, Manipur, appearing for the appellants; and Mr. H. S. Paonam, learned senior counsel, appearing for the respondents.

[3] Facts relevant to this adjudication fall in a narrow compass. The lands of the respondents were acquired by the State for expansion of the Imphal Tuliha Airport. The Award fixing the compensation therefor under the Land Acquisition Act, 1894 (for brevity, 'the Act of 1894'), was passed on 21-02-2009. This Award pertained to the compensation payable for the lands only and indicated that a separate statement for the compensation payable for standing properties would be issued thereafter. Accordingly, Addendum dated 27-11-2010 was issued by the DC/Collector, Land Acquisition, Imphal West District, quantifying the

compensation payable for supplementary standing properties, i.e., buildings, forests, standing crops, fish farms, etc. However, it appears that a resurvey was undertaken after considerable time leading to the issuance of Order dated 04-05-2015 by the Under Secretary, Horticulture & Soil Conservation Department, Government of Manipur, cancelling all earlier and latest survey/assessment reports, including the claims for compensation, etc. with immediate effect in public interest. This order recorded that the initial reports had concealed the actual facts and there were no floriculture farms, green houses/shade nets, Mushroom Units, buildings, forests, fish farms, etc. in existence. Pursuant thereto, the DC/Collector, Land Acquisition, Imphal West, issued order dated 22-05-2015 cancelling the Addendum dated 27-11-2010.

[4] These two orders were subjected to challenge in the writ petition. Upon consideration of factual and legal aspects, the learned Judge held that it was doubtful whether cancellation of the Addendum could be done at all by the Government. The learned Judge further held that the failure to put the affected persons on notice rendered the entire exercise, be it the resurvey or the cancellation of the Addendum, in violation of the principles of natural justice and the prescribed procedure. The learned Judge further held that the General Clauses Act, 1897 (for brevity 'the Act of 1897'), would not be applicable to proceedings initiated under the Act of 1894 and an Award made thereunder. It was on these grounds that the learned Judge set aside both the impugned orders and held that the respondents herein were entitled to the compensation awarded to them under the Addendum dated 27-11-2010.

[5] Before proceeding to the legal issue, certain crucial facts may be noted. The subject land acquisition dates back to January, 2009, and possession of the acquired lands was taken under Section 7 of the Act of 1894 at that time itself. The Award fixing the compensation for the lands was passed on 21-02-2009. The Addendum quantifying the compensation for standing properties was issued on 27-11-2010. The resurvey appears to have been undertaken more than two years after possession of the lands was taken by the State. Significantly, the orders based thereon, including the cancellation of the Addendum, were passed much later, i.e., in May, 2015. At no point of time, be it during the resurvey or the exercise of cancelling the Addendum, were the respondents put on notice.

[6] That apart, the scheme of the Act of 1894 does not vest the land acquisition authorities with any power of review, whereby they could have undertaken such an exercise in the context of the Addendum dated 27-11-2010, which was in the nature of a supplementary Award. On the other hand, Section 12(1) of the Act of 1894 posits that the Award, once passed, attains finality and it is not open to even the Land Acquisition Collector to tamper with it, except to the limited extent permitted under Section 13A of the Act of 1894. Section 13A provides that the Collector, after passing the Award, has the power to correct only clerical/arithmetical errors therein and that too, before the expiry of six months from the date of the Award. Even such errors cannot be corrected without putting a

person, who would be prejudicially affected thereby, on notice and giving him a reasonable opportunity of making a representation.

[7] Mr. N. Kumarjit, learned Advocate General, would contend that notwithstanding the provisions of the Act of 1894, Section 21 of the Act of 1897 would come to the aid of the authorities and empower them to cancel an Award or an Addendum Award passed under the Act of 1894. It may however be noted that Section 21 of the Act of 1897 states that the general power to issue notifications, orders, rules or bye-laws under a Central Act would include the power to add to, amend, vary or rescind them also. However, this provision does not mention an 'Award', relatable to the Act of 1894, and speaks only of notifications, orders, rules or bye-laws issued under a Central Act. The nature of an Award under the Act of 1894 is entirely different from 'notifications, orders, rules, or bye-laws' referred to in Section 21 of the Act of 1897, as it is in the nature of a decision arrived at after hearing all the parties concerned. It would therefore not be open to the authorities to bank upon this general provision to assume the power of review in the context of an Award passed under the Act of 1894. Further, a general provision cannot prevail over a special legislation, viz., the Act of 1894, which embodies a complete and comprehensive scheme for dealing with all issues relating to land acquisition.

[8] Mr. H.S. Paonam, learned senior counsel, would point out that the Supreme Court had occasion to deal with the finality of Awards under the Act of 1894 in Kothamasu Kanakarathamma and others vs. State of Andhra Pradesh and others [AIR 1965 SC 304]. Therein, the Supreme Court observed that the only manner in which the finality of the Award of the Land Acquisition Officer can be called in question is by resort to Section 18 of the Act of 1894. It was further observed that, as per Section 12(1) of the Act of 1894, once the Award is filed in the Collector's Office, it shall be final and conclusive evidence between the Collector and the persons interested as regards the area/value of the land and apportionment of compensation.

[9] On the above analysis, we find that the learned Judge was absolutely correct and justified in setting aside the impugned orders passed in May, 2015. Neither the Government nor the Collector had any power to cancel the basis for an Award already passed or cancel an Award or an Addendum to an Award. The orders to that effect therefore beseeched invalidation.

[10] The writ appeal is devoid of merit and is accordingly dismissed.

In the circumstances, there shall be no order as to costs.

A copy of this order shall be supplied online or through Whatsapp to the learned counsel for the parties.