

(2015) 12 P&H CK 0137
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 8435 of 2013

Sunil and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 10-12-2015

Acts Referred:

Constitution of India, 1950 — Article 213, 342, 345, 346, 347
Haryana Official Language Act, 1969 — Section 3, 4, 4A, 4-A
Land Acquisition Act, 1894 — Section 16, 3, 36, 4, 5-A

Citation : (2015) 12 P&H CK 0137

Hon'ble Judges : Hemant Gupta and Raj Rahul Garg, JJ.

Bench : Division Bench

Advocate : M.L. Sharma, Advocate, for the Appellant; Palika Monga, DAG, for the Respondent

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—Challenge in the present writ petition is to the notifications dated 13.02.2008 (Annexure P-2) and 31.12.2008 (Annexure P-4) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short "the Act").

2. The State of Haryana vide notification dated 13.02.2008 (Annexure P-2) issued under Section 4 of the Act intended to acquire land measuring 1951 Acre 7 Kanal 7 Marlas including land measuring 320 Acre 5 Kanal 16 Marla situated in Village Garhi Bohar, Rohtak, the village where the land of the petitioners is situated. The notification under Section 6 of the Act was published on 31.12.2008 (Annexure P-4) in respect of land measuring 316 Acre 6 Kanal 11 Marla situated in Village Garhi Bohar, Rohtak. An Award in respect of the said notifications was announced on 17.08.2009.

3. The present writ petition was filed in the year 2013. In the writ petition, the petitioners averred that they have filed writ petition bearing CWP No. 11681 of 2009 challenging the same notifications. However, the said writ petition was dismissed on 18.11.2010. Even the Special Leave Petition was also dismissed.

The petitioners assert that the land, subject matter of the present writ petition, was not the subject matter of challenge in the earlier writ petition for the reason that the land comprising in Rect. No. 327, Khasra Nos. 21(8-0), 22/1(4-0), 22/2(4-0), 23(8-0), 24(8-0) & 25(8-0) measuring 5 Acres was not included in the notification under Section 4 of the Act.

4. When the writ petition came up for hearing before this Court on 02.09.2015, it was argued that though such Khasra Numbers were not part of the notification under Section 4 of the Act, but were part of the notification under Section 6 of the Act. Notices under Section 9 of the Act were also issued in respect of the said Khasra Numbers. Even the Award announced on 17.08.2009 includes the said Khasra Numbers. In view of the said fact, the State Counsel sought time to find out the future course of action.

5. It is, thereafter, an additional affidavit has been filed in reply to an application for stay filed on behalf of the petitioners pointing out that the above-said Khasra Numbers were published in the Gazette Notification in Hindi, but inadvertently the same were left out in the English version of the Notification under Section 4 of the Act. A corrigendum was issued to correct the said mistake on 10.12.2009. The notification under Section 6 of the Act was published correctly in all the modes contemplated under the Act. Another corrigendum was issued on 12.02.2009 to correct the mistake in notification issued under Section 6 of the Act so as to correct the name of the Village as "Garhi Bohar" instead of "Bohar" as well as its Hadbast Number published in Hindi version. An additional affidavit dated 24.10.2015 has also been filed on behalf of Joint Secretary to Government of Haryana, Industries and Commerce Department, Haryana. The relevant extract from the said affidavit reads as under:

"4.2 Some of the land parcels comprising in Rectangle Nos. 323, 324, 325, 326, 327 and 328 of Village Garhi Bohar, tehsil and district Rohtak, though specifically mentioned in the Hindi version of the Gazette as well as the newspapers (which happens to be the language of communication of the people in the area), these got inadvertently left out from the English version of the notification dated 13.02.2008 issued under Section 4 of the Act. (A copy of the gazette notification (Hindi version) has already been annexed as Annexure R-4 with the written statement dated 03.03.2014 filed by the respondent State). A corrigendum dated 10.12.2009 (copy of the corrigendum was annexed as Annexure R-5 with the written statement dated 03.03.2014 filed by the respondent State) was issued by the State Government to rectify this mistake.

4.3 It is further submitted that pursuant to the publication of the notification, a number of landowners, namely, Sh. Prem Singh son of Sh. Dhup Ram, Sh. Balbir Singh, Sh. Ranbir Singh, Sh. Subhash, all sons of Sh. Chand Ram and Sh. Sajjan Singh son of Sh. Ranbir Singh, Sh. Romesh Vig, Managing Director, Micron Precisions Screws Limited and DAV Sanctuary Public School filed objections under Section 5-A of the Act qua those khasra Nos. , which were published in Hindi version, but did not find a mention in the English version of the official gazette.

Therefore, the petitioners cannot claim any relief on this account as the landowners of the village were aware of the specifications of the land notified under Section 4 of the Act in the locality.

4.4 It is further submitted that these land parcels were part of the Section 6 declaration dated 31.12.2008, the landowners were issued Section 9 notices qua these land parcels and the award of these land parcels was announced by the LAC, Rohtak. The petitioners neither challenged the Section 6 declaration dated 31.12.2008 nor did they challenge the Award dated 17.08.2009. Rather, they have received the compensation without making any representation or seeking any legal remedy, thus, acquiescing their rights over the land in question. Therefore, as per the provisions of the law of estoppel, the petitioners are barred by their own acts and conduct from approaching this Hon"ble High Court at such a belated stage and after receiving the compensation. The possession of the land has already been taken over and the land vests in the State Government free from all encumbrances as per the provisions of Section 16 of the Land Acquisition Act, 1894."

6. Before this Court, the sole argument raised by the learned counsel for the petitioners is that non-publication of a notification in English vitiates the entire acquisition proceedings, as the petitioners have been deprived to exercise their valuable right to file objections. It is, thus, contended that the notifications, which are not in compliance of the statutory requirements, vitiate the entire acquisition proceedings. He refers to a Full Bench judgment of Allahabad High Court reported as Smt. Ram Rati and Others Vs. Gram Samaj, Jehwa and Others, to contend that in case of difference in the published. Resigns in Hindi and English, it is English version which is to be relied upon.

7. To appreciate the argument raised, the relevant extract of Section 4 of the Act is required to be reproduced. The same is as under:

"4. Publication of preliminary notification and powers of officers thereupon - (1) Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose or for a company a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of publication of the notification.

(Emphasis supplied)

xx xx xx"

8. The undisputed facts are that 5 Acre of land comprising in Khasra Numbers, mentioned above, was part of the Gazette Notification published in Hindi version, but the same was left out in the English version of the Gazette Notification. The

publication in the newspapers had the correct Khasra Numbers so is the rapat roznamcha. Therefore, the question required to be examined is, whether non-publication of the few Khasra Numbers in the English version of the Gazette Notification vitiates the acquisition proceedings.

9. On the other hand, learned counsel for the respondents referred to the Haryana Official Language Act, 1969 (for short "the Language Act") incorporated in terms of the provisions of Article 342 of the Constitution to assert that Hindi is the official language to be used for all official purposes in terms of Section 3 of the aforesaid Act. Therefore, it is the Hindi version, which is relevant. The mistake in the translated version is only an irregularity and would not vitiate the acquisition proceedings.

10. We have heard learned counsel for the parties at length. To examine the respective contentions of the parties certain provisions of the Constitution of India and the Haryana Official Language Act, 1969 need to be extracted. The same are as under:

"Constitution of India

"343. Official language of the Union - (1) The official language of the Union shall be Hindi in Devanagari script.

The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

xxx xxx

345. Official language or languages of a State - Subject to the provisions of articles 346 and 347 , the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State.

Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution."

The Haryana Official Language Act 1969

"3. Subject to the provisions of this Act, Hindi shall, as from the appointed day, be the language to be used for all official purposes of the State of Haryana except such purposes as the State Government may by notification specify and the language in use for such excepted purposes immediately before the appointed day may be used as official language for such purposes.

4. Notwithstanding anything contained in section 3, Hindi shall, on and from such date as the State Government may by notification appoint in this behalf, be the language to be used -

(a) in all Bills to be introduced or amendments thereto to be moved in the House

of the Legislature of the State;

(b) in all Acts passed by the Legislature of the State;

(c) in all Ordinances promulgated under Article 213 of the Constitution; and

(d) in all orders, rules, regulations and bye-laws issued under the Constitution or under any law for the time being in force in the State;

Provided that different dates may be appointed in respect of any of the matters referred to in clauses (a), (b), (c) or (d).

4-A. A translation in Hindi published under the authority of the Governor of the State of Haryana in the Official Gazette -

(a) of any Haryana Act passed in the English Language, or

(b) of any Punjab Act as in force in the State of Haryana, or

(c) of any Ordinance promulgated in the English language by the Governor of Haryana under Article 213 of the Constitution, or

(d) of any order, rule, regulation or bye-law issued in the English language by the Governor of Haryana or by the Governor of Punjab and in force in the State of Haryana, shall be deemed to be the authoritative text thereof in Hindi.

4-B. The authoritative text in the English language of all Bills to be introduced or amendments thereto to be moved in the House of the Legislature of the State shall be accompanied by a translation of the same in Hindi authorized by the State Government."

11. The Haryana Official Language Act, 1969 is an Act enacted in furtherance of Article 345 of the Constitution.

12. The argument of learned counsel of the petitioners is that in case of conflict between Hindi version and English version, English version would prevail. He relies upon Clause (d) of Section 4-A of the Language Act.

13. We do not find any merit in the argument raised. Sections 3 , 4 & 4A of the Language Act operate in different spheres. Section 3 contemplates that Hindi shall be language to be used for all official purposes of the State of Haryana except such purposes, as it may notify. As per Section 4 , all Bills, Acts, Ordinances, orders, rules, regulations and bye-laws issued under the Constitution or under any law are required to be published in Hindi. On the other hand, Section 4-A deals with the Acts passed by the Haryana in English language or the Punjab Acts as in force in the State of Haryana or Ordinance promulgated in the English language or order, rule, regulation or bye-law issued in the English language by the Governor of Haryana or by the Governor of Punjab and in force in the State of Haryana. Meaning thereby, that all those Statutes, Ordinances, Order, Rule, Regulation or Bye-laws in English shall be deemed to be the authoritative text of Hindi. It deals with a situation, where text is in English prior

to enactment of the Act.

14. Section 4-A has no application to the facts of the present case, when the notification was issued in the year 2008. Such notification in terms of Section 3 of the Language Act is required to be in Hindi language alone. The notification in English version is the translation thereof only.

15. Still further, notification under Section 4 of the Act is required to be published in an Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language and the substance of such notification to be given at convenient places in the said locality. Section 4 of the Act does not contemplate that the notification in the official gazette has to be published in English language. The publication of notification under Section 4 of the Act read with Section 3 of the Language Act is validly made when such notification is published in Hindi. The publication of the Gazette Notification in English is not warranted by Section 4 of the Act.

16. In Smt. Ram Rati's case (supra), the Full Bench judgment referred to by the learned counsel for the petitioner, learned Single Bench referred the matter to Full Bench observing that the English version was not clear and, thus, sought to interpret the provisions in accordance with Hindi version of enactment. In reference, the Full Bench examined the question that where the Hindi version is in conflict with the English version, then the preference is to be given to the English version or to the Hindi version. The Bench relied upon Article 348 of the Constitution to return a finding that though the Act was passed by the State Legislation in Hindi, yet its English version shall be recorded as authoritative text and will prevail over Hindi version. The Bench held as under:

"10. The other argument is that in clause (3) of Article 348 the use of words "notwithstanding anything in sub-clause (v) of clause (1)" suggests that this clause will override clause (1). This interpretation is not correct. It only means that a State Legislature may prescribe any language other than the English language for use "in Bills introduced in or Acts passed by the State Legislature and that clause (1)(b) shall not create an impediment in its way. As we have already indicated above, when a Bill is introduced or an Act is passed in a language other than the English language by a State Legislature, an authoritative translation thereof in the English language has to be provided and that translation shall for the purposes of clause (1)(b) be deemed to be the authoritative text thereof. Indeed, it will be beyond the competence of a State Legislature to provide that the authoritative text of its Act and Ordinance etc., shall be in a language other than the English language, because such a power vests only in the Parliament. Thus, when there is a conflict between the English version of a Statute of a State Legislature and its version in a local language, the version in English language will prevail over the version in the local language. A Division Bench of this Court in Sagir Ahmad and Others Vs. The Govt. of the State of Uttar Pradesh and Others, while referring to Article 348 of the Constitution has at page 278 in paragraph 83 observed:--

"In view of this provision of the Constitution the notification appearing in English must prevail over the notification appearing in Hindi".

17. However, the said judgment is not applicable to the facts of the present case. Firstly that was the case of interpretation of the Act of the State Legislature in respect of which Article 348 of the Constitution makes provision. Secondly, there is no reference to the official language Act as is applicable in the facts of the present case. We also find that the attention of the Bench was not drawn to the earlier judgment in Haji Lal Mohammad Biri Works, Meeranji, Allahabad and Others Vs. The Sales Tax Officer, Allahabad, wherein it has been noticed that Hindi is the language adopted by the U.P. State. It has been held as under:

"The English version of the Act, on the basis of which arguments were advanced before us, in the State has merely the status of an authoritative text in the English language of the original Act. The original Act is in Hindi and whenever there be any doubt, and, in fact, principally for purposes of properly interpreting any provision of such an enactment, the proper course is to look at the original Act as published in Hindi. In these circumstances, we looked up the Hindi version of this Act. On examining it, we find that there can be no doubt at all that the expression in English authoritative version in the form in which they were in force immediately before the commencement of this Act qualifies the words "the notifications" is Section 3 of the U.P. Sales Tax (Validation) Act, 1958. The language in the Hindi version is as follows:

x x x

It would, of course, have been belief, had the meaning conveyed in the original Hindi version been put in the proper form in the English translation so as not to leave any ambiguity which could easily have been done if the expression on the date on which the notifications were issued had not been placed in this section at the place where this expression has been placed, but had been placed earlier between the expression "as if the said sections were" and the words "in force". If this had been done, it would not have been necessary for us to make a reference to the original Hindi version."

18. The said decision was challenged before the Hon"ble Supreme Court. The Hon"ble Supreme Court in a judgment reported as J.K. Jute Mills Co. Ltd. Vs. The State of Uttar Pradesh and Another, has held as under:

"9.It should further be noted that the Validation Act was published both in Hindi and in English, and both of them were authorized versions. The words in the Hindi version make it clear beyond all doubt that the words, "in the form in which they were in force immediately before the commencement of this Act" qualify the word "sections" and not the word "notifications." That is the view expressed by a Bench of the Allahabad High Court in Haji Lal Mohammad Biri Works, Meeranji, Allahabad and Others Vs. The Sales Tax Officer, Allahabad, ."

19. It was, thus, held that where Hindi has been adopted as a language by the

Legislature of a State, Hindi and English are both authorized versions. Thus, it is permissible to rely on Hindi version in case of a doubt.

20. The said judgment was quoted by a Full Bench of Madhya Pradesh High Court in a judgment reported as *Mangilal and Another Vs. Board of Revenue, Gwalior and Others*, when it was said to the following effect:

"4.It was conceded before us and rightly so, that the Hindi version of Section 36 of the Act left no room for any doubt that the restrictions on the powers of the second appellate Court provided by the said provision were applicable to all second appeals irrespective of the question of forum of the second appeal. However, in the English translation of Section 36 of the Act, as published in the Government Gazette, the clause "on any of the following grounds and no other:--namely", which should have been placed before sub-clause (3), is incorporated in sub-clause (3). The question for consideration is whether it is permissible for this Court to refer to the Hindi version of the Act, as published in the Government Gazette."

21. Clause (3) of Article 348 of the Constitution, inter alia, deals with languages to be used by the State Legislatures. It contemplates that the Bills introduced or Acts passed by the Legislature or the Ordinances promulgated by the Governor would have authoritative text thereof in English language. Article 348 has not application except in the cases of Bills introduced, Acts enacted or the Ordinances promulgated. It is Article 345, which authorizes the State Legislature to prescribe language in use in a State. The State has enacted Language Act to mandate that all official acts shall be done in Hindi language. Therefore, the notification under Section 4 of the Act in the State of Haryana was required to be published in Hindi language alone. Thus, mere omission of certain Khasra Numbers in the English version is inconsequential, as it is not the requirement of the Statute. Even otherwise, such mistake stands corrected, when the corrigendum in this respect was issued.

22. It cannot be disputed that right to file objections is a valuable right. The fact remains that petitioner No. 1 has filed objections in respect of land in question. Similarly, many other land-owners such as Sh. Prem Singh son of Sh. Dhup Ram, Sh. Balbir Singh, Sh. Ranbir Singh, Sh. Subhash, all sons of Sh. Chand Ram and Sh. Sajjan Singh son of Sh. Ranbir Singh, Sh. Romesh Vig, Managing Director, Micron Precisions Screws Limited and DAV Sanctuary Public School, as mentioned in the affidavit dated 24.10.2015 filed by the Joint Secretary to Government of Haryana, Industries and Commerce Department, have filed objections under Section 5-A of the Act in respect of the land, though which was not included in the English version of the Gazette Notification. Still further, the notifications published in two newspapers i.e. *Amar Ujala* dated 26.02.2008 and *The Hindu (English)* dated 27.02.2008 as well as *rapat roznamcha* dated 05.03.2008 carried the complete description of the land including the land omitted in the English version of the Gazette notification. Therefore, mere omission of certain Khasra Numbers in the English version of the notification cannot be said to have

deprived the landowners of their right to file objections, when all other modes were validly carried out in respect of land in question.

23. Apart from the said fact, the petitioners have sought to dispute the acquisition proceedings after delay and after receiving the amount of compensation. Thus, they are also estopped to challenge the acquisition proceedings at this stage as well.

24. In view of the above, we do not find any merit in the present writ petition. The same is accordingly dismissed.