
(1970) 08 P&H CK 0019
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1852 of 1970

Suresh Verma

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 31-08-1970

Acts Referred:

Land Acquisition Act, 1894 — Section 17

Citation : AIR 1971 P&H 406

Hon'ble Judges : H.R. Sodhi, J

Bench : Single Bench

Advocate : R.P. Bali, for the Appellant; S.C. Sibal, for Advocate-General, for the Respondent

Judgement

1. This is a petition against the State Government asking for the quashing of the notifications whereby land of the petitioner measuring about 2352 square yards situate in the estate of village Saleem Tabri, Tahsil and District Ludhiana, was acquired under the Land Acquisition Act, 1894. (hereinafter called the Act).

2. The case of the petitioner is that he purchased this piece of land and leased out the same to Burmah Shell Company for a term of 20 years with effect from 1st February, 1968, on a monthly rent of Rs. 220/- to enable them to install petrol and diesel pumps. He has placed on the record a letter. Annexure "A" from the Burmah Shell Company to show that the averment that he had rented out the land to the said Company is correct. There is no dispute with regard to this averment but what we find is that the State Government issued two notifications on 10th June, 1968, one purporting to be u/s 4 of the Act and the other u/s 17 dispensing with the necessity of following the procedure in the matter of hearing objections as envisaged in Section 5A of the Act.

Section 17 gives special powers in cases of urgency and at the time of issue of these notifications the Government declared that the land was required at public expenses for the construction of a bus stand in Ludhiana City. A notification u/s 6 was also subsequently issued. Possession of the land was taken by a Government

on 5th July, 1968 and the Government actually started construction of the bus stand and the executive file which has been produced before me by Mr. Harphool Singh goes to show that the Government had invested about Rs. 66,000/- towards the said construction. The award in regard to compensation had not yet been made by the Collector when with the change of Ministry in the State, it was decided by the Chief Minister on 21st August, 1969, that instead of having a bus stand at the acquired site the same be utilised for other purposes. About half the land measuring nearly 6 acres was decided to be handed over immediately to the Punjab Agro-Industries Corporation, respondent, a State-owned undertaking, to enable it to build up a workshop. This Corporation is registered under the Indian Companies Act with its head office at Chandigarh. Amongst the several objects of the Corporation, some relate to the manufacture of agricultural implements and other equipments needed for the promotion or conduct of commercial or industrial enterprises which the Government wants to encourage. The Chief Minister also took the decision that the compensation for the area passed on to the Corporation would have to be paid by the latter. The petitioner made representations to the Chief Minister pointing out the losses suffered by him as a result of not having been able to avail of the lease which he had entered into with the Burmah Shell Company but the land was never released. He then came up to this Court with a petition under Articles 226 and 227 of the Constitution seeking to have the notifications issued u/s 4, 6 and 17 of the Act quashed and get the land released for his use. A return has been filed on behalf of respondents 3 and 4 and the State, in a brief affidavit sworn by Shri Ujagar Singh, Joint Director, State Transport, adopted the same written statement.

3. Mr. Ranbir Partap Bali, learned counsel for the petitioner, has raised the following contentions before me:-

1. That the State Government acquired the site belonging to the petitioner by a colourable exercise of its authority inasmuch as the same was intended to be used for purposes other than the construction of a bus stand:

2. That the acquisition being really for the Corporation, it was incumbent on the State Government to have followed the procedure as contained in Part VII of the Act. The argument is that on the Government's own showing the entire compensation for the land given to the Corporation was to be paid by the Corporation and when no money was to be paid towards compensation out of public funds, the acquisition must be deemed in law for the Corporation only;

3. That it was not open to the Government to change the purpose and the acquired land could be used only for the one for which it had been acquired, otherwise the same should have been released.

4. I am afraid there is no force in any one of these contentions. There is no data to warrant the assumption that the State Government did not have at the time of the issue of the impugned notifications an honest motive and that it did not propose to construct the bus stand but intended to acquire the land for any other

purpose. We have it in the return filed by the Corporation that construction of the bus stand had partly been made and this fact is borne out by the executive file as well. The acquisition would have been colourable if at the time when it was made there was lack of bona fide and the object really was to use certain provision of law and the authority thereunder for extraneous purposes.

I do not find any such thing in the instant case but on the other hand the bona fides are at writ large when we find that the Government actually spent Rs. 66,000/- towards the construction of the bus stand. It was only when the ministry changed, and for the reasons best known to the Government, it thought that the bus stand should not be located, at the site selected during the time of the previous ministry. Ordinarily the land acquired vests in the State Government when the Collector has made an award u/s 11 of the Act and thereafter it becomes entitled to take possession of the property so acquired. In cases of urgency, as envisaged in Section 17, the acquired land vests in the State Government free from all encumbrances though no award has yet been made by the Collector.

In the instant case, the land was required for an urgent purpose and it became vested in the State Government in the year 1968 after the requisite notifications had been issued. "Vesting" implies the passing of ownership and in the instant case, it passed to the State Government by virtue of Section 17 and did not depend on the making of the award. The State Government, thus, became owner of the property and it was open to it subsequently to use it for any purpose it liked so long as it could not be shown that all this was being done for extraneous reasons or that the resort to the urgency provision and the abrogation of normal procedure was mala fide for which, as I have already said, there is no evidence in the present case. The owner, whose land has been acquired, when the acquisition is in accordance with law, is entitled only to compensation and cannot claim that if the purpose is to be changed the property should be returned to him.

5. Mr. Bali has invited my attention to Section 48 of the Act in support of the contention that the Government should have withdrawn the notification and released the land to the petitioners. Section 48 is only an enabling provision which permits the State Government to withdraw from the acquisition of any land of which possession has not been taken and not that it puts an obligation on the Government that it must release the land in any eventuality. He has not been able to cite before me any authority or provision of law under which he can claim any such legal right.

6. No doubt the whole of the compensation for a part of the land given to the Corporation will have to be paid by it but the mere fact that subsequent to the acquisition and as a result of transfer of land to it, the latter is made to pay the amount of proportionate compensation from its own funds does not indicate that the acquisition originally was for the Corporation so as to necessitate report to the provisions of Part VII of the Act.

7. For the foregoing reasons, there is no merit in the writ petition which stands dismissed. In the peculiar circumstances of the case, I leave the parties to bear their own costs.

8. Petition dismissed.