

(1957) 08 P&H CK 0007
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 136-D of 1957

Tej Ram Jag Ram

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 26-08-1957

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 3

Citation : AIR 1959 P&H 478

Hon'ble Judges : D. Falshaw, J

Bench : Single Bench

Advocate : A.N. Grover, for the Appellant; I.D. Dua, Bishambar Dayal and Keshav Dayal, for the Respondent

Final Decision : Dismissed

Judgement

D. Falshaw, J.—These are thirteen petitions filed under Article 226 of the Constitution by person owning land in a village called Chiragh Delhi challenging the validity of the acquisition proceedings culminating in the award of the Land Acquisition Collector dated the 26th of February 1957 by which an area of 141 bighas 16 biswas of land situated in the village was acquired, including the various holdings of the present petitioners.

2. The petitioner's case is that in the later part of 1954 respondent No. 3 the Dayalbagh Cooperative House Building Society Limited, Delhi, which is admittedly a society registered under the Co-operative Societies Act, had been negotiating with various land owners of Chiragh Delhi for the purchase of land for the purpose of carrying out its house-building scheme, but the negotiations did not lead to anything as the Society considered that the price being asked for the land was too high. The petitioners naturally maintain that the Society was not willing to pay the market value of the land, but be that as it may, the Society reported to the Registrar, Co-operative Societies that it had not been able to buy the land required to carry out its scheme because the price demanded was too high.

3. Thereafter the Chief Commissioner of Delhi issued a notification dated 19-3-1955 u/s 4 of the Land Acquisition Act notifying that a certain area of land situated in Chiragh Delhi was to be acquired for the construction of houses for the Dayalbagh Co-operative House Building Society. The land belongs to 33 owners, of whom only 13 are now challenging the proceedings.

4. The objections of land-owners, including the petitioners, were heard and overruled and a notification was issued on 30-6-1956 under 3 6 of the Land Acquisition Act ordering the acquisition of the land, which was stated to be required for public purpose, namely for the Society. The usual proceedings followed and the evidence produced by the land-owners regarding the market value of the land was recorded before the award of the Collector was delivered on 26-2-1957.

5. The real grievance of the petitioners is undoubtedly that the amount awarded by the Collector as compensation for the land is inadequate and does not represent the true market value of the land, but the validity of the acquisition proceedings as a whole is attacked on the ground that the acquisition of land for the housing scheme of a private body, even though it may be a registered cooperative society and not a profit-making concern, is not a public purpose and therefore it was illegal for the State Government to enter upon the acquisition proceedings at all.

6. The petition of the respondents is that in view of the acute shortage of house accommodation it is definitely the policy of the Government of India and the Delhi State Government to encourage house building schemes, and especially it is the policy of the Government to encourage in the public interest such schemes proposed by cooperative house-building societies. In fact requests by such societies to the Government requiring land for carrying out their schemes were expressly invited in a meeting of representatives of co-operative house-building societies convened on 18-11-1954, and it was in consequence of this encouragement from the Government that the Society in the present case applied for assistance in the acquisition of land for its scheme.

7. It was also contended on behalf of the respondents that the present petitions should be summarily dismissed on account of certain facts which have not been mentioned by the petitioners in the present petitions. These facts are that in May 1956 when the proceedings before the Collector were nearly concluded, and the announcement of his award would not have been long delayed, one of the land owners of the village Deep Chand filed a petition in this Court under Article 226 purporting to be on his own behalf and on behalf of other properties of Chiragh Delhi challenging the acquisition proceedings on grounds similar to those now taken. This petition was admitted on 11-5-1956 when a stay order was granted. When this petition came up for hearing on 19-11-1956 nobody appeared in support of it and it was dismissed in default.

The acquisition proceedings were then resumed in December 1956 and the land

owners were given further opportunities to produce evidence and the Collector's award was announced on 26-2-1957. Thereafter the compensation was deposited with the Collector for payment to the owner, who were invited to receive it and the owners as a whole, including the present petitioners, then applied for a reference to the Court of the District Judge under Sec. 18 of the Land Acquisition Act, this virtually amounting to an appeal against the Collector's award, and this reference, in which the present petitioners are active parties, is still pending.

8. From the facts as a whole it is clear that the grievance of the petitioners is not that they are being deprived of their land but they are not getting what they consider to be the proper price for it, and it cannot be denied that the petitioners have come to Court very late after participating in the acquisition proceedings and presenting their case, although their grievance really arose in 1955 when the acquisition scheme was first notified, and moreover they are even now pursuing another remedy by way of what amounts to an appeal against the award of the Collector for the purpose of getting the compensation increased. It is stated on their behalf that they were not actual parties to the previous writ petition which had the effect of getting the acquisition proceedings stayed for six months before it was dismissed in default, but at the same time I have no doubt that they were behind that petition, of which they must have been aware if only on account of the staying of the acquisition proceedings. On these grounds alone I think the Court would be entitled to dismiss the present petitions.

9. However, I am of the opinion that there is no force in the contention that the present acquisition proceedings, although the land has been acquired for the use of a co-operative house-building society and not directly for the use of Government, are not for a public purpose. The Land Acquisition Act itself makes provision for the acquisition of land by companies or industrial concerns for certain purposes, one of which is for the erection of dwelling houses and provision of amenities for workmen, and while this is contained in a separate section of the Act and treated as something distinct from the acquisition of land by the Government directly for public purpose, at the same time it is quite obvious that the acquisition of land by companies for the specified purposes must have been considered as *ejusdem generis*, and that the purposes for which companies were enabled to acquire land under the Act were regarded as being, if not actual public purposes, something closely akin thereto, and this Act, which is of the year 1894, was enacted at a time when development was comparatively slow and gradual, and half a century before war-time congestion in large cities, followed, particularly in the case of Delhi, by huge influx of refugees after the partition, had caused the problem of housing accommodation to become acute,

10. The meaning of the term "public purpose" is undoubtedly hard to define but in the case of acquisition of land it is not confined to the direct use of the land by Government itself or even that the land acquired is to be made available to the public at large. This was laid down by their Lordships of the Privy Council in *Hamabai Framjee Petit v. Secretary of State* 42 Ind App 44 : AIR 1914 PC 20. If

the Government were to acquire land for the purpose of building houses for persona of a particular class, such as Government servants or displaced persons I do not think it could possibly be objected that the acquisition was not for a public purpose. I even do not think that this objection could be made if Government were to acquire land for a housing scheme of any kind in which the houses were to be sold or let to persons of any class if an acute housing shortage existed and this shortage could not be, and was not being adequately met, by private enterprise.

11. In the Delhi area an acute housing shortage undoubtedly existed and I cannot see why it should not be regarded as a legitimate public policy to encourage people to form themselves into co-operative house building societies for the purpose of building homes for themselves on a strict co-operative and non-profit-making basis, and if as is said to be the case, the Government is even prepared to lend financial aid to such co-operative-societies I should go so far as to say that it could be almost the duty of the Government to help such societies to acquire the land needed at its proper value, which can only be done in proceedings under the Land Acquisition Act. The case would be of course different if the Government proposed to help a profit-making company to acquire land for development as a residential estate. As it is I consider the purpose for which the present acquisition has been made falls within the limits of a public purpose. I accordingly dismiss the present petitions with costs. The counsel's fee in the thirteen petitions are consolidated as Rs. 100/- for each of the respondents. The stay order will accordingly be vacated.