
(2010) 06 P&H CK 0027
In the Punjab And Haryana At Chandigarh

Thakar Dass and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 14-06-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 11A, 4, 6, 9

Citation : (2010) 159 PLR 802

Hon'ble Judges : M.M. Kumar, J;Jitendra Chauhan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

M.M. Kumar, J.—The instant petition is directed against acquisition proceedings initiated by issuance of notification u/s 4 of the Land Acquisition Act, 1894 (for brevity, "the Act") on 9.12.1974 (P-1) and declaration made u/s 6 of the Act on 7.4.1976 (P-2). The petitioners acquired proprietary rights in the land on 28.11.1978 when there was no award announced nor there was any entry made in the revenue record showing that the land was subject matter of acquisition. It is claimed that on 28.4.1983 when the respondent State of Haryana issued notice u/s 9 of the Act, the petitioners came to know about the acquisition proceedings in respect of the land they had purchased. Accordingly, they filed the instant petition on 11.8.1983 and a Division Bench of this Court on 24.8.1983 stayed dispossession of the petitioners. The matter was admitted for regular hearing on 5.10.1983 with the direction that the interim order was to continue. The petitioners have raised the grievance that their land could not be acquired after inordinate delay when no award has been announced.

2. The respondent filed the written statement on 16.9.1983 before the petition was admitted. The stand taken in the written statement is that at the time of issuance of notification u/s 4 on 9.12.1974, the petitioners were neither the owner nor in possession of the land in question and, therefore, they have no locus standi. On merit it has been asserted that Khewat No. 1850, which is claimed to be owned by the petitioners, has never been subject matter of

acquisition in any of the impugned notifications. It is asserted that the land comprised in Khewat No. 1939, which is subject matter of acquisition was acquired by the State of Haryana for the public purpose of setting up Water Supply Scheme for the City of Sonipat (R-3 & R-3/1). It has also been claimed that the award was announced by the Land Acquisition Officer after complying with the provisions of the Act and that similar writ petitions, bearing CWP Nos. 1183 and 1197 of 1982 in respect of the acquisition in question were dismissed on 12.5.1982.

3. Mr. R.K. Sharma, learned Counsel for the petitioners has vehemently argued that there is inordinate delay in finalisation of acquisition proceedings and such a delay itself would prove the lack of bona fide in the exercise of power of acquisition. According to the learned Counsel the land, in fact, is not required by the State and had it not been so then the acquisition proceedings could have been finalised within reasonable time. He has pointed out that from 9.12.1974 till 28.4.1983 no award was announced and even in the written statement no date of announcement of award has been finalised. Assailing the stand of the respondent State that the petitioners have no locus standi on account of having become the owner in 1976, learned Counsel has submitted that a Full Bench of this Court in Radhey Sham Gupta and Others Vs. State of Haryana and Others, , has taken the view that even a subsequent purchaser could acquire proprietary rights and would be entitled to challenge the acquisition proceedings. He has placed reliance on various paragraphs of the judgment to argue that such a huge delay would prejudice the rights of the land owners in claiming fair amount of compensation as the prices have been pegged on the date of notification issued u/s 4 of the Act. Another submission made by the learned Counsel is that the petitioners are owner only of a small piece of land comprised in Khasra Nos. 3453/1 and 3453/2. The total area comes to few biswas and after such a long period of more than 25 years, the public purpose of setting up of a Water Supply Scheme for the City of Sonipat, has already been achieved.

4. Ms. Palika Monga, learned State counsel, however, has submitted that the petitioners have acquired proprietary rights on 28.11.1976 when the notifications u/s 4 and 6 had already been issued. She has maintained that the award in this case has been passed within a period of two years from the date of incorporation of Section 11A by way of amendment. The aforesaid amendment has come into force w.e.f. 24.9.1984 and the award could have been announced within two years.

5. After hearing learned Counsel for the parties and perusing the paper book with their assistance we are of the considered view that dispossession of the petitioners was stayed by a Division Bench of this Court on 24.8.1983 and announcement of award subsequently would not make any difference because possession cannot be taken during the operation of the stay order. It is true that the petitioners have acquired proprietary rights in the land in question after issuance of notifications u/s 4 and 6 of the Act but it is equally true that peculiar

facts of this case would show that acquisition proceedings have been finalised after inordinate delay. The possession of the land belonging to the petitioners have not been taken on account of continuation of stay order for the last over 26 years. It would not be efficacious to disturb the aforesaid arrangement which have continued for such a long period. Even otherwise, the Full Bench judgment of this Court in Radhey Sham Gupta case (supra) would show that in a case where there is long un-explained procrastination, then either by itself or coupled with other factors, the exercise of the power of acquisition may tend to lack bona fide. The real motivation behind the acquisition may not be specific public purpose and its expeditious execution but was a mere ruse to peg down the prices by issuance of notification u/s 4 and, thus, holding the citizens to ransom for years. The Full Bench judgment of this Court in Radhey Sham Gupta 's case (supra) still holds the field and was relied upon by Hon"ble the Supreme Court in Hansraj H. Jain Vs. State of Maharashtra and Others, .

6. Therefore, we do not wish to examine other legal issues. Accordingly, we allow the writ petition by quashing notifications u/s 4 and 6 of the Act qua the rights of the petitioners and the land belonging to the petitioners shall be deemed to be free from acquisition.

7. The instant petition stands disposed of in the above terms.