
(1977) 07 RAJ CK 0018

In the Rajasthan High Court

Case No : Civil Revision No"s. 521 and 523 of 1973

The Urban Improvement Trust, Udaipur

APPELLANT

Vs

Smt. Prem Devi and Another

RESPONDENT

Date of Decision : 07-07-1977

Acts Referred:

Rajasthan Land Acquisition Act, 1953 — Section 18, 3, 50(2)

Citation : AIR 1979 Raj 66 : (1977) RLW 370 : (1977) WLN 363

Hon'ble Judges : A.P. Sen, J

Bench : Single Bench

Advocate : N.N. Mathur, for the Appellant; A.L. Metha, for the Respondent

Final Decision : Dismissed

Judgement

A.P. Sen, J.—These two revisions filed by the Urban Improvement Trust, Udaipur, are directed against an order of Civil Judge, Udaipur, dated 18-8-1973 holding that the reference applications filed by it u/s 18 of the Rajasthan Land Acquisition Act, 1953, were not competent inasmuch as it was not "person interested" within the meaning of Section 18.

2. The decision of these revisions must turn on a consideration of Section 18 (1) of the Rajasthan Land Acquisition Act, 1953, which reads as follows:--

"18. Reference to Court. -- (1) The State Government department on whose behalf or the company for which acquisition is being made or any person interested who has not accepted the award or the amendment thereof may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the court whether his objection be to the measurement of the land, the amount of the compensation, the amount of costs allowed, the persons to whom it is payable, or the apportionment of the compensation among the persons interested."

3. Shri Mathur, learned counsel for the applicant, with his usual fairness brought to my notice all the authorities which were against him. He was frank enough to

state that there was no view to the contrary. The general consensus of judicial opinion is that the local authority for whose benefit land is acquired, is not a "person interested" within the meaning of Section 3(b) of the Land Acquisition Act, 1894, and, therefore, it is not competent to file an application for reference u/s 18 thereof. The same principles must apply to the construction of "person interested" appearing in Section 18 of the Rajasthan Land Acquisition Act, 1953.

4. The scheme of the Act clearly is that when an acquisition of land is made for the benefit of a local authority, the proceeding is not only between the owner of the land and the Government. The owner of the land can look up to the Government only for payment of compensation. The local authority for whose benefit the land has been acquired, is neither a necessary nor a proper party to the acquisition proceedings. The only right of the local authority is that given by Sub-section (2) of Section 50 to adduce evidence for the purpose of determining the amount of compensation. In view of the scheme of the Act, the High Courts of Andhra Pradesh, Bombay, Gujarat and Orissa have held that an application for reference by a local authority is not competent: *Sree Mullapudi Venkatarayud, Memorial Medial Trust, Tanuku Vs. Chirapu Varada Raju and Another*, *Himalayan Tile and Marble (Pvt.) Ltd. Vs. Francis V. Coutinho and Others*, *Cautamlal Naranlal Vs. The Additional Special Land Acquisition Officer, Ahmedabad and Another*, and *State of Orissa Vs. Amarandra Pratap Singh and Another*, All these authorities have been recently reviewed by a Full Bench of the Andhra Pradesh High Court in *The Andhra Pradesh Agricultural University, Rajendranagar Vs. Mahmoodunnisa Begum and Another*,

5. *Lodha, J., in State of Rajasthan v. Ram Swaroop Das* (1975 Raj LW 127) strenuously held that Devasthan Department of the Government of Rajasthan, for which acquisition was made, being a limb of the State Government, cannot fall within the definition of the expression "person interested" in Section 3(b). He negated the contention that the definition of the expression "person interested" in Section 3(b) being an inclusive one, Devasthan Department comes within the purview of Section 18. He held that the expression "person interested" as defined in Section 3(b), includes all persons bearing an interest in compensation to be awarded on account of the acquisition.

6. *Shri Mathur*, learned counsel for the appellant, however advanced a twofold submission. The first submission is that the definition of "person interested" in Section 3(b) is an inclusive one and, therefore, includes a local authority. I am afraid, the contention cannot be accepted. Only those who have an interest in the land that is acquired, could claim an interest in compensation are "person interested" within the meaning of Section 3(b), and not a person who is liable to pay.

7. The other submission is that there is a drafting lacuna and, therefore, the expression "person interested" in Section 18 must be construed in generic sense. It is pointed out that the proviso to Section 50 (2) was deleted by Section 25 of the Rajasthan Act No. 22 of 1966. There is now a drastic change in Section 18 of

the Rajasthan Land Acquisition Act, giving a right of reference to (1) the State Government Department and (2) the Company, for whose benefit the acquisition is made. This change in Section 18 was brought about by the two Acts: by Section 4 of Rajasthan Act No. 27 of 1957 and by Section 10 of Rajasthan Act No. 22 of 1966. The Court must, however, interpret Section 18 as it is. There is obviously a lacuna. When the Legislature deleted the proviso in Section 50 (2), it should have made a corresponding change in section giving a right of reference to a local authority, particularly when the right of reference was given, both to the Government Department as well as to the Company, for whose benefit the acquisition is made. This, however, is a matter which the Urban Improvement Trust can take up with the State Government.

8. In the result, both these revisions must fail and are dismissed. No order as to costs.