
(1972) 09 P&H CK 0026

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 509 of 1971

Tulsa Singh

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 20-09-1972

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : AIR 1973 P&H 263

Hon'ble Judges : Harbans Singh, C.J; Bal Raj Tuli, J

Bench : Division Bench

Judgement

1. The facts giving rise to this appeal under Clause 10 of the Letters Patent are as follows:

In the year 1958 notification No. 8277/W1 was published in the Official Gazette for the acquisition of land described therein for a public purpose, namely, " for construction of Post Office building at Barara." The specification given therein indicated the locality as near railway station. Barara. Tahsil Naraingarh, district Ambala, and the area desired to be acquired was mentioned as 0.37 acres. No Khasra number was given and no other description was mentioned from which the particular area sought to be acquired could be specifically known. It was brought on the record that in 1959 there was another notification issued making correction with regard to the tahsil and according to it Ambala was to be read in place of Naraingarh. In this notification either no details were given.

For nearly four years from the original notification. Annexure "D", nothing happened till 30th March, 1962, when the notification u/s 6 of the Land Acquisition Act, 1894. was issued indicating the boundaries of the property that was required to be acquired. Though in the copy. Annexure "E", Khasra number is not given, it was stated by the Additional Advocate General for the State of Haryana that the Khasra number was given in the last column. Award is said to have been given some time in 1969 and possession was not taken till 1971.

Meanwhile the present appellant Tulsa Singh, purchased the land in dispute from some of its co-owners and it is stated that later on he raised some building thereon. When the possession was taken in 1971, he filed Civil Writ No. 1911 of 1971 challenging the acquisition proceedings, which was dismissed by the learned Single Judge and he has come up in appeal under Clause 10 of the Letters Patent.

2. Before us the main point urged was that the notification u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act), is not in accordance with law, because it does not give sufficient description of the locality so as to convey the landowners of the land concerned the intention of the Government to acquire their land so as to enable them to put in objection u/s 5A of the Act or to take other steps. The learned Single Judge felt that the description of the land as near railway station, Barara, was sufficient to convey to the land owners of the land in the vicinity of the railways station that their lands were likely to be acquired." One of the reasons given was that when the acquisition proceedings were started Barara was a small village. It was urged in the first place that there is nothing on the record to show that Barara could be described as a small village at the time of the acquisition proceedings. The learned counsel wanted to refer to the Gazetteers of Ambala district showing that as far back as in 1923-24 Barara was an important place which formed the headquarters of an itinerating Veterinary Assistant of the district. It is however, not necessary to go into this question. No plan has been put on the record to show how far the land sought to be acquired was from the railway station. In any case "near railway station" hardly gives any indication of where the land in question is situated. The object of notification u/s 4(1) of the Act is to give a clear indication to the owners whose land is sought to be acquired so that they can take steps in the matter. In *Bahori Lal Vs. Land Acquisition Officer and Others*, it was observed as follows:--

".....But the notification itself must contain particulars adequately revealing the locality and the land proposed to be acquired therein.....If the description of the locality is too vague or by such description a very large area is covered the identity of the land cannot be said to have been localised by the notification....."

3. By saying that the land sought to be acquired in the present case was near the railway station gave no indication about the distance and the direction in which the land sought to be acquired was situated. It is a common case between the parties that the land in dispute bears Khasra number. The simplest way to describe it was by the Khasra number or by giving other details. It by the words "near the railway station" it was meant that the land is situated within two furlongs of the railway station, it would be impossible that all the land holders whose land is situated say within the radius of two furlongs taking the railway station as the centre, would come within the description. The area to be acquired was 0.37 acres. To expect that all the landholders within this area of two furlongs radius must rush to the office of the Collector to put in their objections would be

defeating the very object of the notifications u/s 4 of the Act. Apart from this, there is no mention that the area was situated within two furlongs either. It may be more or it may be less. This notification, therefore, hardly complies with the provisions of the law. That being the case, the very foundation of the acquisition proceedings is lacking and the subsequent proceedings taken on the basis of the same will be ineffective and invalid.

4. Another point that arises in the case is whether the purchaser from the original owner has a right to bring the writ petition. This matter is not respondent *integra* and has been finally settled by their Lordships of the Supreme Court in *Smt. Gunwant Kaur and Others Vs. Municipal Committee, Bhatinda and Others*, . This case also gives support on the first point. A notification was issued in this case in the year 1959 by the State Government of Punjab u/s 4 of the Act to the effect that the land specified in the schedule was required for the construction of Mall Road leading from the railway station, Bhatinda, to the main road known as Goniana-Bhatinda road. In the schedule the land was described as Khasra number 2030 and 11 sets of persons were shown as owners of different pieces of land. The aggregate area of the land likely to be needed was shown as 15 Bighas and 5 Biswas. By an amendment of the notification, the holding of Hari Ram was shown in the aggregate as 8 Bighas and 15 Biswas. Later on the notification u/s 6 of the Act was issued. The matter was challenged by *Smt. Gunwant Kaur and others* before the High Court by a writ petition which was dismissed in *limine*. On a certificate issued by the High Court, the petitioners appealed to the Supreme Court. *Inter alia* it was urged that the notification was vague, that the land was not fully described in the notification, that Khasra No. 2030 was a very large plot of land consisting of several building plots which were all part of the main Khasra No. 2030 and the original owners of this field number had divided this field into several *abadi* plots and had sold them to different persons before the notifications and that unless the portion sought to be acquired is specified, the owners could not be deemed to have intimation that their plots were to be acquired. In paragraph 7 of the report, their Lordships of the Supreme Court observed as follows:--

"The notification u/s 4 is the foundation of a proceeding for acquisition of land. In the present case the notification u/s 4 did not set out with the precision the parts of Khasra No. 2030 belonging to different owners sought to be acquired. The notification merely set out the areas intended to be acquired out of Khasra No. 2030 but the location of the areas under Khasra No. 2030 could not thereby be ascertained. No plans demarcating the land to be acquired were published or made available to the owners of the land."

Then in paragraph 9 it was observed as follows:--

"Section 4 of the Land Acquisition Act does not expressly require the Collector to publish or make available the plans of the lands intended to be notified to the owners of the lands. But the acquiring authority is bound to publish sufficient information giving due notice to the owners of the lands that their properties are

intended to be compulsorily acquired....."

5. With regard to the other question, whether the purchaser could challenge the notification or not, the observations are contained in paragraph 17 to the following effect:--

"It was urged on behalf, of the Municipal Committee, Bhatinda that the three appellants were purchasers of the lands claimed by them after the notifications u/s 4 was issued and they had no right to challenge the issue of notifications. If however, the notification u/s 4 was vague the three appellants who are purchasers of the land had title thereto may challenge the validity of notifications. The appellants have spent in putting up substantial structures considerable sums of money and we are unable to hold that merely because they had purchased the lands after the issue of the notification u/s 4 they are debarred from challenging the validity of the notifications, or from contending that it did not apply to their lands."

6. In view of this clear authority of the Supreme Court, we have no hesitation in holding that the present appellant was fully entitled to challenge the validity of the notifications and in view of the fact that the notification issued u/s 4 of the Act is hopelessly vague and does not give any description by which the land sought to be acquired could be identified, we accept this appeal, set aside the order of the learned Single Judge and make the rule absolute, quash the notification u/s 4 of the Act and all the proceedings taken subsequent thereto. The appellant will have his costs in this appeal as well as in the writ petition.

7. Appeal allowed.