
(1995) 11 SC CK 0046
In the Supreme Court Of India
Case No : Civil Appeal No. 5315 of 1983

Yadu Nandan Garg

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 01-11-1995

Acts Referred:

Constitution of India, 1950 — Article 14

Rajasthan Land Acquisition Act, 1953 — Section 16, 4(1), 6, 9

Citation : AIR 1996 SC 520 : AIR 1995 SC 520 : (1995) 8 JT 179 : (1995) 6 SCALE 389 : (1996) 1 SCC 334 : (1995) 4 SCR 710 Supp : (1996) 1 UJ 351

Hon'ble Judges : K. Ramaswamy, J;B. N. Kirpal, J

Bench : Division Bench

Advocate : P.H. Parekh, Krishan Mahajan and Arvind Kr. Sharma, for the Appellant; Aruneshwar Gupta and Manoj Kumar, for the Respondent

Final Decision : Dismissed

Judgement

1. The preliminary Notification u/s 4(1) of the Rajasthan Land Acquisition Act, 1953 (for short, 'the Act') was published in the Gazette on October 17, 1963 acquiring 99 Biswas & 17 Bighas of land in Rampura Roopa and Gopalpur villages for 'planned development of Jaipur city'. It comprises of Survey No. 265 admeasuring 12 Bighas of the land in Rampura Roopa village. The declaration u/s 6 was published on January 7, 1991 after the improvement scheme had been finalised under the Rajasthan Urban Improvement Trust Act, 1969. In the meanwhile, the appellant had purchased 453 sq. yards, viz., 3 biswas of the land under a registered sale deed dated 15th July, 1970. Therefore, the notice was issued u/s 9 of the Act on April 12, 1971. The appellant filed an application for exemption on July 15, 1991 which was turned down. He also filed an objection to the notice u/s 9 regarding Survey No. 265/1. Since exemption was rejected on May 17, 1972 he filed a writ petition in the High Court. The learned Single Judge by his order dated November 15, 1979 dismissed the writ petition and the same was confirmed by the Division Bench of the High Court on July 16, 1980 in D.B. Civil Special Appeal No. 194 of 1980. Thus this appeal by special leave.

2. Sri P.H. Parekh, learned Counsel appearing for the appellant, raised three-fold contention, viz., that there is an unexplained inordinate delay between publication of the preliminary notification u/s 4(1) and the declaration u/s 6 vitiating the validity of the notification u/s 4(1). So it needs to be quashed on that premise. He further contended that Anand Nursery which is adjacent to the appellant's site was given exemption from the acquisition whereas the appellant's site used for residential purpose has not been exempted. The appellant had constructed the house and is living therein and thus this invidious discrimination offends Article 14 of the Constitution. Lastly, he contended that survey number initially mentioned was '265' whereas in the notice u/s 9 it was mentioned as '265/1' and that, therefore, the acquisition proceedings are invalid in law as it was not covered by 4(1) notification.

3. We do not find any substance in any of these contentions. It is seen that long after the notification u/s 4(1) was published in the Gazette, the appellant had purchased the property and constructed the house thereon. Therefore, as against the State his purchase was not lawful and it could not be used against the State to cloth it with a colour of title as against the State. It is in encumbrance against the State and when the acquisition was finalised and the possession is taken, the State u/s 16 is entitled to have the possession with absolute title free from all encumbrances. The appellant cannot get any title much less valid title to the property.

4. Sri Parekh contended that the unexplained delay in issuing declaration u/s 6 is fatal to the acquisition. That contention is no longer available to the appellant. He himself had purchased the property in 1970 long after the acquisition and, therefore, he cannot take the ground of unexplained delay between the date of issuance of notification u/s 4(1) and the declaration u/s 6. It is seen that after the publication of the notification u/s 4(1) the improvement scheme was prepared and sent to the Government for finalisation thereof. It has taken, as usual, certain time for approval and after the declaration u/s 6 was duly published in the Gazette. Under these circumstances, we do not find any inordinate delay in the issuance of declaration u/s 6 and the valid notification u/s 4 does not become invalid on that account due to inaction on the part of the subordinates.

5. It is true, for reasons best known to the authorities, that Anand Nursery had the benefit of the exemption. The wrong exemption under wrong action taken by the authorities will not cloth others to get the same benefit nor can Article 14 be pressed into service on the ground of invidious discrimination. The wrong mention of Survey number in notice u/s 9 cannot cast cloud on valid notification issued u/s 4(1) of the Act. It is enough that main survey number is mentioned in the notification u/s 4 and the details thereof would be supplemented at the appropriate stage. Mention of the sub-division of the main survey number does not render the notification u/s 4(1) illegal.

6. The appeal is accordingly dismissed but without any order as to costs.