

Daryao Singh and ors. Vs. Union of India (Uoi) and ors.

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SooperKanoon Citation : sooperkanoon.com/698236

Court : Delhi

Decided On : May-18-2005

Reported in : 120(2005)DLT316

Judge : Manmohan Sarin, J.

Acts : Land Acquisition Act - Sections 4 and 6

Appeal No. : RP. 9312/2001 and CM. 659/05 in WP(C). No. 481/82

Appellant : Daryao Singh and ors.

Respondent : Union of India (Uoi) and ors.

Advocate for Pet/Ap. : C. Francis and; Jeemon Raju, Advs. for the review applicants in RP. 9312/2001 and CM. 659/05,;

Disposition : Petition dismissed

Judgement :

Manmohan Sarin, J.

1. By these applications, applicants seek review of the order dated 2nd August, 2001, by which the writ petition had been disposed of. The writ petition had been filed on 16th February, 1982, by nearly 366 residents of village Nangal Dewat, seeking quashing of the notification under Sections 4 and 6 of the Land Acquisition

Act, in respect of their lands and structures. Petitioners had also sought restraint on the making and announcing of the award and interference with the possession of their lands and structures situated in village Abadi of and village Nangal Dewat.

2. Notices in the writ petition had been issued and the Court had granted a limited stay of operation of the award to enable the Union of India to consider the question of rehabilitation of the residents of Village Nangal Dewat within three months. During the course of proceedings in the writ petition between 1986 to 2001, the Court was informed that the acquisition had been done for the public purpose in extension of Palam Airport International Section. Further, that the Government had initiated the rehabilitation scheme for the residents, whose land had been acquired in village Nangal Dewat and 713 bighas and 2 bids of land were being acquired in Rangpura village for rehabilitation. In the event the writ petition was disposed of by an order dated 2nd August, 2001, after the counsel appearing for the petitioners had made a statement that the only relief being pressed by him was that petitioners should be rehabilitated at an alternative place.

3. The present review applications were thereupon filed by the petitioners, numbering about 270, on the ground that the counsel Mr. B.S. Mann, who made the statement on 2nd August, 2001 was not so authorised to make the statement. The review petition remained pending, since the Court had asked the applicants to file details of their Khasra numbers and the area occupied by each of the review applicants. Thereafter the review applications remained pending, while the Court had been giving directions from time to time with regard to the put in place the rehabilitation scheme and for its implementation. During the course of these proceedings, a Nodal Officer was appointed vide Court order dated 28th April, 2004 and directions had been given to resolve some of the difficulties that have been experienced by various claimants to alternative allotment.

4. It may be noted that the land in question, the acquisition of which is challenged, has already been acquired and put in use for the public purpose of extension of international section of the Palam Airport. Mr. C. Francis, counsel for the review applicants, submitted that the statement made by Mr. B.S. Mann, giving up the challenge to acquisition was directly in conflict with the stand taken by counsel, Mr.

M.S. Mann and Mr. S.C. Dhamija. From the order sheets, it appears that the plea being urged before the court was that the acquisition was not in general public interest, since the general public was not going to utilise the international section of the Palam Airport and hence it could not be said to be in public interest. The above plea giving such a narrow and restricted meaning to 'public interest and public purpose' cannot be countenanced on merits. The acquisition was and is for a lawful public purpose. Confronted with this situation, counsel submits that the respondent Airport Authority of India has acted unfairly and played a fraud on the Court by making available only a small portion of land for rehabilitation while 711 bighas of land were acquired for rehabilitation in village Rangpuri and there has been miscarriage of justice. Mr. Francis next contended that the rehabilitation was not being done in a proper manner and large section of people, which were displaced, their concerns had not been addressed. Mr. Sandeep Sethi, senior counsel, submitted that the Airport Authority of India had acquired nearly 711 bighas of land while 311 bighas of land were being used for rehabilitation of persons and the remaining 400 acres of land had been put to its own use by the Airport Authority of India. It is this factor, which has resulted in allotment of smaller sizes of plots. I am not impressed by these submissions. Firstly, the review petition can only be in respect of the dismissal of the writ petition, in so far as challenge to acquisition is concerned. Moreover, it is not feasible always to make comparable extent of land available in alternate allotment. Besides, it would be idle to insist for the same in the growing urbanisation and explosion in population that the alternate plots being made available must be of the same size as of the land, which was acquired. Moreover, the review applicants do not have any enforceable right for an alternative plot de hors the scheme. In any case, such a substantial relief cannot be sought in the review petition, assailing the abandonment of the challenge to acquisition. The review petition has no merit and is dismissed.