

Sarbati Devi Vs. Union of India and ors.

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Court : Delhi

Decided On : Apr-12-1994

Reported in : 1994IIAD(Delhi)345; AIR1995Delhi102; 54(1994)DLT303; 1994(29)DRJ180

Judge : R.C. Lahoti, J.

Acts : [Constitution of India](#) - Article 226; [Land Acquisition Act, 1894](#) - Sections 4

Appeal No. : Civil Writ Appeal No. 2309 of 1991

Appellant : Sarbati Devi

Respondent : Union of India and ors.

Advocate for Pet/Ap. : R.P. Bhardwaj,; Ravinder Sethi,; Sumeet Bansal and;

Judgement :

R.C. Lahoti, J.

(1) This petition filed on 19th July, 1991 lays challenge to Land Acquisition proceedings conducted under the [Land Acquisition Act, 1894](#) (hereinafter referred to as 'the Act', for short). Notification under Section 4 was issued on 30th October, 1963. Notification under Section 6 was made on 16th January, 1969. Award of compensation was made on 10th September, 1986. The challenge is laid on dual grounds. Legality of notifications under Sections 4 and 6 has been challenged and

consequently the validity of the award, in the alternative the proceedings are sought to be struck down on the ground of unreasonable delay in making the award calculated from the dates of notifications under sections 4 and 6 of the Act. It is submitted that construction work of the petitioner is standing on the land possession where of was not taken till now and belated taking of possession by the respondent would irreparably prejudice the petitioners.

(2) In the counter it is submitted that the land of the petitioner Along with the land belonging to several other persons has been acquired for executing the prestigious project of Narela Township whereby the respondents are going to house more than one million persons and the project is at an advanced stage of execution. The petitioners had participated in the acquisition proceedings, filed objections and preferred claim for payment and enhancement of compensation. The award was made within the statutory li introduced by amendment Act of 1984. If this Court interfered, it would not be in public interest inasmuch as the land belonging to the petitioners being part and parcel of a very big project which has substantially progressed, would disturb and shatter the whole project. The petitioner is guilty of laches and culpable delay disentitling him discretionary relief in the writ jurisdiction of this Court. It is also submitted that there were several other writ petitions filed by owners of pieces of land covered in the same project and the land having been acquired under the same impugned notifications, which have all been dismissed by .this court and hence the present petition too deserves to be dismissed.

(3) Having heard the learned counsel for the parties, we are satisfied that the petitioner's challenge to the land acquisition proceedings must fail. We have already noticed the admitted dates of the two notifications and the award. The petitioner having participated in the award proceedings and having not challenged the legality of the two notifications before the making of the award, he cannot now be permitted to question the validity of the two notifications so belatedly. In so far as the challenge founded on the ground of long lapse of time between the dates of the two notifications and the date of making of the award is concerned, the learned counsel for the petitioner placed strong reliance on the decision of the Supreme Court in Ram Chand Others v. Uoi J.T. 1993 (5) Sc 465. 1993 (27) Drj 443.

Though certain observations made by their Lordships do assist the petitioner, yet in the ultimate analysis we find the petitioner herein not entitled to any relief for the paramount consideration of public interest coupled additionally with delay and laches on the part of the petitioner. We have already noticed the conduct of the petitioner not challenging the two notifications up to the date of making of the award inspire of his participating in the proceedings. The award having been made on 10th September, 1986 the petitioner did not even then come up to this court complaining of the delay but chose to wait until 19th July, 1991, for about five years and there is no Explanationn coming forward for the delay.

(4) The learned counsel for the respondent has brought to our notice several other orders made by this court. C.W.658/91 Meer Singh v. Uoi, C.W.2052/91, Hoshier Singh v. Uoi, Dev Ram v. Uoi and C.W.2903/91 Hoshier Singh v. Uoi were all filed by different owners of the land challenging the very same acquisition proceedings. By orders dated 29th September, 1992, 23rd September, 1992, 12th June, 1991 and 20th December, 1991 respectively, all the petitions have been dismissed. The last mentioned order dated 20th December, 1991 was challenged by the petitioner therein by filing Special Leave Petition before the Supreme Court which was registered as SLP(Civil) No.590/92 and dismissed on 21st January, 1992 entailing affirmation of the order of this Court. Thus the acquisition has achieved a finalityfactually,fullyandfinally. There cannot be any justification for treating the petitioner with any distinction.

(5) Having noticed colossal delay on the part of the State in nmaking the award after the date of the notification of land acquisition, p=09 their Lordships observed in Ramchand & Others' case (supra):-

'THE exercise of power in the facts and circumstances of the cases by the respondents have to be held to be against the spirit of the provisions of the Act, tending towards arbitrariness. In such a situation this Court in exercise of power under Article 32 and the High Court under Article 226, could have quashed the proceedings. But taking into consideration that in most of the cases, the Delhi Administration and Delhi Development Authority have taken possession of the lands and even developments have been made, it shall not be proper exercise of

discretion on the part of this Court to quash the proceedings because, in that event, it shall affect the public interest. Moreover, third party interests created in the meantime are also likely to be affected and such third parties are not imp leaded. The relief of quashing the acquisition proceeding having become inappropriate due to the subsequent events, the grant of a modified relief, considered appropriate in the circumstances, would be the proper course to adopt. The High Court or this Court, can grant a modified relief taking into consideration the injury caused to the claimants by the inaction on the part of respondents and direct payment of any additional amount, in exercise of power under Article 226 or Article 32 of the Constitution.'

(6) Before moulding the relief in favor of the petitioner we may notice yet another contention advanced on behalf of the petitioner. It was contended by the learned counsel for the petitioner 'that out of very large land acquired for the purpose of Narela Township project, the respondents have left out from acquisition 561 Bighas of land as not required for the purpose and inasmuch as the land belonging to the petitioner adjoins the land left out from acquisition, there should be no difficulty in leaving out the land belonging to the petitioner also. We cannot entertain this prayer. It is not for this court to sit in judgment on the wisdom of the respondents where for various reasons and relevant factors they might have chosen to give up some land from acquisition. If we were to enter into that prayer of the petitioner on merits, we would be opening doors for endless demands. Soon after the petitioner next would come up another person having his land next adjoining the land of the petitioner. It is for the petitioner to approach the respondents and make that prayer to them and we express no opinion on it except that such a prayer is not to be entertained in our writ jurisdiction.

(7) However, a marginal relief deserves to be allowed to the petitioner in terms of what was allowed to the petitioner before their Lordships of the Supreme Court in Ram Chand & Others case (Supra). It cannot be denied that there was a long lapse of time between the date of notification under Section 4 and the award. In between the decision of their Lordships in Aflatoon's case 1975 (4) Sc 285 had come. It appears that the land acquisition authority was not alive to the decision which it should have been. Keeping in view para 27 of the decision of their

Lordships in Ram Chand's case (Supra), it is directed that for the period between 23.8.1976 (the date on which a period of two years elapsed from the date of p=09 decision of their Lordships in Aflatoon's case), and 10.9.1986, (the date of the award) the petitioner shall be paid an additional amount of compensation to be calculated @ 12% p.a. on the market value of the land in question, as on the date of the notification under Section 4(1) of the Act.

(8) The petitioner shall be entitled to costs also quantified at Rs.2,000.00 .

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