

Rohitashwa Kumar Vs. Delhi Development Authority

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Court : Delhi

Decided On : Jul-25-1997

Reported in : 1997VIAD(Delhi)560; 68(1997)DLT911; 1997(43)DRJ743

Judge : Devinder Gupta and; K.S. Gupta, JJ.

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

Appeal No. : Civil Writ Appeal No. 1484 of 1995

Appellant : Rohitashwa Kumar

Respondent : Delhi Development Authority

Advocate for Pet/Ap. : T. Shankar and; Rajesh Kumar, Advs

Judgement :

Devinder Gupta, J.

(1) Petitioner has sought the following directions in his writ petition filed under Article 226 of the [Constitution of India](#) on 27th April, 1995: 'quashing the Chief Commissioner's Notification No.F.15(iii)/59-LSG dated 13th November, 1959 under Section 4 of the Land Acquisition Act and the Lt. Governor's subsequent notification No. F.4(19)/65-L&H; dated 9th August, 1966 under Section 6 of the Act in respect of the acquisition of the land including in khasra No.127 situated within the revenue estate of village Oldenpur, Illaqa Shahdara, Delhi and the acquisition

proceedings commenced or likely to commence by the Land Acquisition Collector, Delhi in pursuance of the aforesaid notifications:'

'APPROPRIATE writ, order or direction in the nature of mandamus or any other appropriate writ, order or direction commanding the respondents not to make the award and proceed with the acquisition proceedings and further not to dispossess the petitioners from his land/house property and/or demolish the same as threatened by them.'

(2) The facts in brief are that the petitioner is owner and in possession of land comprised in Khasra No.127 situate within the revenue estate of village Oldenpur, Illaqa Shahdara, Delhi. A house has been built thereupon bearing Municipal No.1/11324, Gali No.6, Subhash Park Extn., Naveen Shahdara, Delhi-110032. Petitioner claims that the land was purchased by him under a registered Sale Deed dated 29th July, 1970 from Jai Bhagwan Gupta. He was earlier threatened of demolition of his house by the officials of respondents 4 & 5 without due process of law, therefore, he was constrained to file Suit No.374/83 titled as Rohitashwar Kumar v. DDA. In the said suit, it is alleged that in written statement the respondents, inter alia, pleaded that although notifications had been issued under Sections 4 & 6 of the [Land Acquisition Act, 1894](#), but the property in question had not been acquired. It was also stated that respondents were not going to take any action except by due process of law. Acting on the said undertaking given by the respondents in the written statement that they were not going to take any action except by due process of law, the suit was got dismissed as withdrawn on 31.1.1984. It is stated that again on 22.2.1995 officers of respondents came to the spot and threatened the petitioner of demolition of his house. It is alleged that though notification under Section 4 was issued as far back as on 13.11.1959 and Declaration under Section 6 was made on 9.8.1966, no steps thereafter had been taken to acquire the land. As such the aforementioned directions were sought in the above background.

(3) After show cause notice, reply was filed by respondent No.4 on the affidavit of Shri Harbans Raj, Director/L.M.I, D.D.A. wherein it is stated that:

'KHASRANo.127 of Village Oldenpur stands notified under Section 4 of Land Acquisition Act vide notification under F 15(111)/59 Lsg dated 13.11.1959. That the said Khasra was further notified under Section 6 of Land Acquisition Act vide notification No. F4(19)65 L&H; dated 9.8.1966. However, the same has not yet been acquired so far. It is submitted that land in question comes in the alignment of Road No.65 (CPWD) as per Master Plan of Delhi,1962.'

(4) We have heard counsel for the parties. Though notification under Section 4 of the Act was issued on 18th November, 1959 followed by Declaration on 9.8.1966, it is the admitted case that till date no award has been made. It is also stated in the reply that the land has not yet been acquired pursuant to the aforementioned two notifications. The mere fact that the land in question might have been shown in the alignment of road No.65 as per Master Plan of Delhi but that alone does not give any authority to the respondents to interfere with the petitioner's possession or dispossess the petitioner otherwise than due process of law. In case no award has been made on the basis of the aforementioned notifications, it will not be permissible for the respondents to make now any award after lapse of statutory period. The notifications as regards land in question stands lapsed. It might be open for the respondents to acquire the land by issuing fresh notifications but till such steps are taken to acquire the land as per law, the petitioner's possession cannot be disturbed by the respondents.

(5) In view of the above position in law, the only direction which deserves to be issued at this stage is to direct the respondents not to disturb the possession of the petitioner from the land in question and not to dispossess him there from otherwise than due process of law.

(6) Writ petition stands disposed of.

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