

Sardarmal Lalwani

Vs.

State of Madhya Pradesh and Others

Writ Petition No. 646 of 1970

(CJI S. M. Sikri, A. N. Ray, J. M. Shelat, I. D. Dua, S. N. Dwivedi, D. G. Palekar, M. H. Beg JJ)

11.12.1972

JUDGMENT

SIKRI, C.J. -

1. This petition was heard along with Civil Appeals Nos. 2139-2140 of 1968. The facts are different but the principles of law to be applied are the same which we have laid down in our judgment in Civil Appeal No. 2139 of 1968.
2. The facts in this petition are that the Land Acquisition Act, 1894 was amended by the Land Acquisition (Madhya Pradesh Amendment) Act, 1959 (Madhya Pradesh Act V of 1959) hereinafter referred to as the impugned Act.
3. By Section 3 of the impugned Act The Land Acquisition Act, 1894, in its application to Bhopal area, was amended as follows:
 - (1) After clause (g) of Section 3 of the Act of 1894 a new clause was added defining "Bhopal area".
 - (2) A new section, Section 17-A, was inserted in the Land Acquisition Act, 1894, giving to the Government the power to issue a direction to the Collector that it is urgently necessary to acquire immediate possession of any building site situated in Bhopal area, and providing that upon the issue of such a direction the provisions of Section 17 would in all respects apply in the case of such site as they apply in the case of waste or arable land.
 - (3) A new proviso was added to the first clause of Section 23(1). The proviso runs thus :

"Provided that when the market value of any land situate in Bhopal area, in respect of which the date of publication of the notification aforesaid is after the commencement of the Land Acquisition (Madhya Pradesh Amendment) Act, 1957 (21 of 1958), is in excess of its market value as on the 1st day of October, 1955, the market value thereof shall be deemed to be its market value as on the 1st day of October 1955."
 - (4) A new sub-section (3) was inserted in Section 23 enjoining the Court to award a further sum not exceeding twenty-five per cent. of the market value of the land acquired and an additional sum provided under sub-section (2), as the Court may

think fit, "in consideration of the appreciation in the price of the land concerned by reason of the location of the Capital at Bhopal, regard being had to the situation of such land".

4. The notification to acquire the land in question under Section 4(1) of the Land Acquisition Act, 1894, was published in the Madhya Pradesh Rajpatra, dated October 3, 1962. Notification under Section 6(1) of the said Act was published in the Madhya Pradesh Rajpatra, dated November 23, 1962. Thereafter, the notice under Section 9(1) was published for general information and notices under Section 9(3) were issued to the individual interested parties. Ultimately, the Land Acquisition officer gave his award in the Land Acquisition Case No. 51/LA/62 on March 25, 1963. The award was given on the basis of market value of the land as on October 1, 1955, plus 25 per cent. extra compensation, and not on the basis of the market value of the land on or about the date of acquisition, by virtue of the provisions of Section 3 of the Land Acquisition (M.P. Amendment) Act, 1959.

5. It is alleged inter alia that Bhopal was made Capital of Madhya Pradesh on November 1, 1956. We were referred to the report of the States Reorganisation Commission, 1955. Para 486 (page 132) states :

"486. The new State, which can appropriately be described as Madhya Pradesh will be a compact unit. It will bring almost the whole of Bundelkhand and Baghelkhand under one administration. Jabalpur will be situated at a central place in this unit and has or will soon have some important facilities like water supply and availability of electrical power. It will, in our opinion, be a suitable capital."

This report was submitted on September 30, 1955. It is quite clear from this para that on the date of the report the proposed capital was Jabalpur and there could thus be no speculation in land before the announcement of Bhopal as capital.

6. In view of these facts, it is submitted in ground (viii) of the petition that "the impugned Act violates Article 14 of the Constitution as there is no rational classification on the basis of which the prices of Bhopal area have not been determined by the principle by which the market prices of other places would be determined". It is further submitted that "there can be no rational basis to differentiate between Bhopal and other areas for award of compensation merely because Bhopal was made Capital. The theory that in view of Capital, there was speculative prices at Bhopal and the prices at any given time might not reflect the real price, is neither rational nor reasonable". It is also alleged that the date, October 1, 1955, is an arbitrary date for the purpose of fixing the market value.

7. The only reply given to this ground is contained in Para 21 of the counter affidavit on behalf of the State wherein it is stated :

"With reference to ground (viii), of the petition, I deny that the Amendment Act infringes any fundamental right of the petitioner and in particular Article 14 of the Constitution."

8. The learned Advocate General was unable to point out to us any material to show that there was any expectation or speculation on or about October 1, 1955, that Bhopal would be the Capital of Madhya Pradesh. If this fact had been established, it may have been reasonable to have fixed the date for the purpose of determining the market value as October 1, 1955.

9. But this does not mean that for all time to come for any land acquired by the State for a capital, the date of announcement of the Capital would be the relevant date. In this case, the acquisition was in 1962 and prices may have risen not only because of speculative dealings but because of general increase in prices throughout the State.

10. In *Satish Kumar v. State of M.P.* (AIR 1961 MP 280 : 1961 MPC 405 : 1961 MPLJ 881) the Madhya Pradesh High Court upheld the validity of the impugned Act. The High Court justified the basis to differentiate the land located in Bhopal area thus :

"In support of this difference, it has been averred in the return filed by the State that in the reorganisation of the States, which was a political exigency, the fixation of the Capital at Bhopal was 'an accident' not due to any economic or industrial reasons; that when it was decided to locate the Capital of the State in the underdeveloped town, there was heavy speculation in land prices; and that, therefore, these artificially inflated prices could not be taken as a proper basis for fixing the real market value of the property.

The amendments themselves indicate that it was because of the location of the Capital at Bhopal that they had to be made. Now, it cannot be denied that whenever a capital or a big industry is located in a town or even in a city, land values are suddenly pushed up by prospective sellers and the increase in them during the interregnum between the date when it is known that the town will become more important and the date of acquisition of land may not represent its real value.

The prospect of acquisition of vast areas of private lands in connection with a capital or industrial project in town always gives rise to speculative dealings in lands in the town. When such speculative dealings occur it is not unreasonable and improper to compute the market value of the land with reference to a date proximate to the date of acquisition so as to exclude speculative rise in determining the market value of the land.

On the material on record, it is impossible for us to hold that in this case there has been a discrimination in the matter of compensation between land acquired in Bhopal area and other areas in the State. The classification between land in Bhopal area and other parts of the State is with reason and reasonable, and is for the purpose of enabling the State to acquire land at a reasonable price in Bhopal for the construction of the Capital. In our view, the amendments are not hit by Article 14 of the Constitution."

11. With respect, the High Court has not examined the question of the validity of the reason for fixing the relevant date as October 1, 1955. There is no material on the record to show that on October 1, 1955, it was known that Bhopal may be the Capital of the State or that there was speculation because of this fact.

12. We have in the judgment delivered in *Nagpur Improvement Trust v. Vithal Rao*, ((1973) 1 SCC 500) examined Article 14 and its implications as far as land acquisition is concerned. In our view, in the light of that judgment, the petition must be allowed.

13. In the result, the petition is allowed with costs and it is declared that Sections 2 and 4 of the

impugned Act are hit by the provisions of Article 14 of the Constitution.

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