Smt. Ratni Devi and Another

Vs

Chief Commissioner, Delhi and Others

Writ Petitions Nos. 332 and 333 of 1971 and Civil Appeal Nos. 608 and 609 of 1972

(CJI A. N. Ray, K. K. Mathew, M. B. Beg, Y. V. Chandrachud JJ)

30.04.1975

JUDGMENT

RAY, C.J. –

1. There are tow principal questions in these writ petitions and civil appeals. First, is compensation which is related to the date of notification under Section 4 of the Land Acquisition Act referred to as the Act bad ? Second, is planned development of Delhi bad and vague ?

2. This Court in Aflatoon v. Lt. Governor of Delhi ((1975) 4 SCC 285) held that the notification dated November 13, 1959, under Section 4 of the Act which is also being challenged in these writ petitions and appeals is beyond challenge now.

3. Piecemeal acquisition which was held to be bad in State of M. P. v. Vishnu Prasad Sharma ((1966) 3 SCR 557 : AIR 1966 SC 1593) was validated by the Land Acquisition Amendment and validation Act with retrospective effect. The validity of the Amending Act has been upheld by this Court in Udai Ram Sharma v. Union of India ((1968) 3 SCR 41 : AIR 1968 SC 1138) and reaffirmed in Aflatoon's case (supra)

4. The contention that piecemeal acquisition under Notification dated November 13, 1969 under Section 4 of the Act is bad is really a challenge to the adequacy of compensation under Section 23 of the Act. The Act is protected under Article 31(5) of the Constitution. Where acquisition is for public purpose reasonableness is presumed for such public purpose. The challenge under Article 19 of the Constitution which, according to the petitioner and the appellants, is directed as a result of the Bank Nationalisation case (R. C. Cooper v. Union of india (1970) 3 SCR 530 : (1970) 1 SCC 248), can be restricted to procedural reasonableness.

5. The Government set up the Town Planning Organisation in 1955 which prepared an interim general plan in 1956 for Delhi. The influx of displaced persons after the partition of the country, the growth of slums, the problems of overcrowding, insanitation, traffic hazards, sub-standard construction and lack of proper civic amenities led the Government to take effective measures to ensure the orderly and planned development of the city. This planning is to provide for different classes of people who have to live and work in the city of Delhi.

6. The plan has to provide for bona fide requirements of the public for residential, industrial and commercial purposes, and to ensure healthy and properly planned development of Delhi, on the basis of the studies made by the town planning experts. The government decided to acquire 34,070 acres of land in and around the city, develop and then lease out the same on a non-profit non-loss

basis. With this public purpose the Government issued a notification on November 13, 1959 under Section 4 of the Act.

7. The draft master plan giving the detail rules and regulations in respect of the "land rules" and allied matters, was published in July, 1960. In order to meet the requirements of the plan, the Government issued another notification for a further acquisition of about 16,000 acres in October, 1961.

8. On October 22, 1960, of the Government of India issued a notification under Section 6 of the Act. The declaration was that specified land was required to be taken at public expense for a public purpose, viz, the planned development of Delhi.

9. The main contention of the petitioners and the appellants is that compensation which is to be paid with reference to the value of the property on the date of the notification is an unreasonable restriction to hold and dispose of property. It was submitted that compensation should be paid with reference to the value of the property on the date possession of the property was taken. This question has been answered in the judgment in Aflatoon's case (supra). Mathew J. speaking for the Court said that Article 31(5) precludes such a challenge. Further, Section 4(3) of the Land Acquisition Amendment and Validation Act, 1957, provided for payment of interest at 6 per cent of the market value after the expiry of three years from the date of notification under Section 4 to the date of payment of compensation. Again, Section 24 of the Act provides that any outlay or improvement on, or disposal of, the land acquired, made or affected without the sanction of the collector after the date of the publication of the notification shall not be taken into consideration by the Court in awarding compensation. Therefore, any outlay or improvement made with the sanction of the Collector after the date of the notification will be taken into consideration in awarding compensation.

10. In the Bank Nationalisation case (supra) the acquisition of the property was required to pass the test of Article 19(5) on the question of procedural reasonableness. If for instance a Tribunal is authorised to determine compensation without hearing the owner it would be exposed to vice. Section 23 of the Act does not with procedural unreasonableness.

11. Declarations under Section 6 of the Act pursuant to the notification under Section 4 of the Act have been held by this Court to be valid for acquiring the notified land for the planned development of Delhi. In Aflatoon's case (supra) this Court held that the planned development of Delhi is a public purpose. In Aflatoon's case it was held that in the case of an acquisition of large area of land comprising several plots belonging to different persons, the specification of the purpose can only be with reference to the acquisition of the whole area. The notification which was for the acquisition of over 30,000 acres of land in the very nature of things could not specify each particular purpose, and, therefore, the planned development of Delhi was sufficient particularity.

12. In Aflatoon's case (supra) public purpose with regard to the planned development of Delhi has been upheld. In aflatoon's case the petitions which were filed in the year 1972 were held to be dilatory. The reason is that a valid notification under Section 4 is a sine qua non for initiation of proceedings for acquisition of property. In the present case, Section 4 notification in the year 1959 was followed by notification under Section 6 of the Act in July, 1960 and again in October, 1961. In Aflatoon's case it was said that [SCC p. 291, para 11]

> to have sat on fence and allowed the Government to complete the acquisition

proceedings on the basis that the notification under Section 4 and the declaration under Section 6 were valid and then to attack the notification on grounds which were available to them at the time when the notification was published would be putting a premium on dilatory tactics.

13. For these reasons, the petitions and the appeals are dismissed. Parties will pay and bear their own costs.

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