

Sh. Navneet Ram Batra

Vs.

State of Uttar Pradesh and Others

Civil Appeal No. 1154 of 1972

(A. Alagiriswami, P.K. Goswami, N.L. Untwalia JJ)

17.09.1975

JUDGMENT

ALAGIRISWAMI, J. -

1. The appellant is a tenant of plot No. 428 in mauza Dehra Khas, pargana Central Doon, district Dehradun. This land along with some other pieces of land was notified under Section 4(1) of the Land Acquisition Act on February 8, 1962 for acquisition for the purpose of setting up an industrial estate at Dehradun. By the same notification, under Section 17(4) of the Act it was directed that the provisions of Section 5A shall not apply on the ground that the provisions of Section 17(1) were applicable to the facts of the case. He filed a writ petition out of which this appeal arises for the issue of a writ of certiorari for quashing the notification dated February 8, 1962. He made various allegation which it is not necessary to go into for the purpose of this appeal. A learned Single Judge of the Allahabad High Court dismissed the petition and an appeal filed by him was dismissed by a Division Bench of the same High Court.

2. The only point argued before us was that there was a pucca construction on plot No. 436 which was also notified for acquisition under the impugned notification and consequently the provisions of Section 17(4) would not be applicable to that land as it was not arable or waste land which could be acquired by dispensing with the enquiry under Section 5A and as such the whole notification is bad and should be quashed. Admittedly the appellant's land is a waste and arable land and thus falls under Section 17(1). There was therefore no objection to the Government dispensing with the provisions of Section 5A by resorting to the power conferred by Section 17(4). The person who could have taken objection to the enquiry under Section 5A being dispensed with was the owner of plot No. 436. He has not objected to the acquisition. He has taken the compensation awarded to him and walked out. It is, therefore, not open to the appellant to question the validity of this notification. If possibly the owner of plot No. 436 had objected to the notification different considerations might arise. The appellant who is only the owner of plot No. 428 in relation to which Sections 17(1) and 17(4) are applicable and therefore enquiry under Section 5A could properly be dispensed with, cannot object to the same notification because the notification also relates to another land to which Sections 17(1) and 17(4) are not applicable when the owner of that land has not chosen to challenge the notification.

3. On behalf of the appellant, however, reliance was placed on certain observations of this Court in Sarju Prasad v. State of U. P. (AIR 1965 SC 1763 : (1965) 2 SCJ 411) to the following effect :

It was contended by Mr. S. P. Sinha, appearing on behalf of the Municipal Board, Basti, that a part of the land notified for acquisition was waste or arable and in support of his

contention, Counsel referred us to certain revenue record. But if only a part of the land is waste or arable and the rest is not, a notification under Section 17(4) dispensing with compliance with the requirements of Section 5-A would be invalid. It would not be open to the court to regard the notification as partially good and partially bad, for if the State had no power to dispense with the inquiry in respect of any part of the land notified under Section 4(1), an inquiry must be held under Section 5-A giving an opportunity to persons interested in the land notified to raise their objections to the proposed acquisition and in that inquiry the persons interested cannot be restricted to raising objections in respect of land other than waste or arable land.

That case is the converse of the present case. The appellant therein was a person who was entitled to object to the notification. Under these circumstances the question whether the notification is to be quashed completely or only partially might well arise. But such a question cannot arise where a person like the appellant has no right to impugn the notification.

4. It was, however, urged that under Section 5A(1) it is not only the owner of the land sought to be acquired but any person in the locality may object and his objections will have to be heard. Section 5A(1) reads as follows :

5A. (1) Any person interested in any land which has been notified under Section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

This section should be understood in the background of the provisions of Section 4(1) which reads as follows :

4. (1) Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose, a notification to that effect shall be published in the Official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

It may be noticed that under this Section what is necessary is that only the locality the land in which appears to the appropriate Government as needed or as likely to be needed for any public purpose, need be specified in the notification under that section. But in actual practice always the survey numbers of the lands sought to be acquired are given in such notifications. The question of notifying the locality might probably arise when all the lands in a village are sought to be acquired. Otherwise the word 'locality' is a word of such indefinite import that it is difficult to conceive of any locality in any particular village being notified for acquisition. Therefore when a locality in the sense of a village or perhaps a group of villages is notified for acquisition any person interested in any land in that locality would be entitled to be heard under Section 5A. But where the land proposed to be acquired is specifically mentioned in the notification it is only the person interested in that land who is entitled to be heard under Section 5A. That is why Section 5A provides that any person interested in any land which has been notified under Section 4(1) may object to the acquisition of the land or of any land in the locality as the case may be. The latter part would apply to a case where lands in any locality are notified under Section 4(1). That is the significance of the use of the words "as the case may be". To give any other interpretation to this section would mean that any person interested in any land which has been notified may object to the acquisition of his land or to the acquisition of

any land in the locality. This cannot be correct because he would not be a person interested in any land in the locality which is a prerequisite before a person can object to the acquisition of any land. In other words in the background of Section 4(1), Section 5A provides that where land in any locality is notified under Section 4(1) any person who is interested in any land in the locality may object to the acquisition of his land or any land in the locality as the case may be.

5. We are therefore of opinion that there are no merits in this appeal. It is accordingly dismissed with costs.

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