

Chief Commissioner (Now Lt. Governor), Delhi Administration and Others

Vs

S. Dhanna Singh and Others

Civil Appeals Nos. 815, 817, 818, 819 of 1971 with Special Leave Petitions Nos. 6118 of 1980 And 1780 of 1981 and Civil Appeals Nos. 4331 of 1984 and 1174 of 1978

(G. L. Oza, V. B. Eradi JJ)

10.02.1987

JUDGMENT

OZA, J. -

1. These appeals arise out of land acquisition matters and they have been filed aggrieved by the judgments of Delhi High Court dated August 6, 1969 quashing the notification under Section 6 of the land Acquisition Act issued by the Delhi Administration i.e. the present appellant.

2. The short facts necessary for disposal of these appeals are that on September 3, 1957 a notification under Section 4 of the Land Acquisition Act was issued and this notifications included the land involved in all these appeals. The relevant part of the notification reads as under :

Whereas it appears to the Chief Commissioner, Delhi that the land is likely to be required to be taken at the public expense for a public purpose, namely, for the execution of the Interim General Plan for the Greater Delhi, it is hereby notified that the land described in the Schedule below is likely to the required for the above purpose.

This notification was published in the Delhi Gazette on September 12, 1957.

3. On February 20, 1963 a notification under Section 6 was issued which is the declaration under Section 6. The relevant declaration reads :

Whereas it appears to the Chief Commissioner, Delhi that land is required to be taken by the government at the public expense for a public purpose, namely, for the execution of the Interim General Plan for the Greater Delhi it is hereby declared that the land described in the specification below is required for the above purpose.

This declaration is made under the provisions of Section 6 of the Land Acquisition Act, 1894 to all whom it may concern and under the provisions of Section 7 of the said Act. The Collector of Delhi is hereby directed to take order for the acquisition of the said land.

A plan of the land may be inspected at the office of the Collector of Delhi.

4. It is not disputed that on September 1, 1962 the Master Plan for Delhi came into force and it is on this basis that the learned Judges of the Delhi High Court felt that before a declaration under Section 6 was issued the Master Plan for Delhi had come into force and it had replaced the Interim General

plan and therefore the declaration under Section 6 is not for the same public purpose. On this basis the notification under Section 6 and the Award made by the Collector have been quashed by the learned Judges of the Delhi High Court.

5. It was contended by the learned counsel appearing for the Delhi Administration the Interim General Plan or Master Plan do not indicted two different purposes. In fact a fact which could not be disputed was that with the increasing population in Delhi alongwith the growth of industries and business it became necessary to have a proper planning of expansion of Delhi so that residential and other accommodation may be made available to all those who are residing here and it is for this purpose that initially in Interim General Plan was prepared which covered smaller area of land which at that time was thought sufficient but when ultimately a final plan was drawn up the Master Plan was notified and brought into force. The purpose of the Master Plan and the Interim General Plan as the same. The only difference was that the Master Plan covered a wider area and was notified after final deliberations. He therefore contended that in fact the public purpose was for development of the township to provide residential and other accommodation and it is that requirement which is the public purpose. In short as originally an Interim General Plan was notified it was stated in the notification that the land was needed for the purpose of execution of the Interim General Plan of Greater Delhi and even when Master Plan came into force still the requirement continued and therefore the view taken by the learned Judges of the Delhi High Court cannot be sustained. The learned counsel placed reliance on the decision of this Court in Babu Singh v. Union of India ((1981) 3 SCC 628). It was also contended that it is not the case of the case of the respondents that the area which was indicated to be required for execution of the Interim General Plan has been excluded in the Master Plan. On the contrary the undisputed facts are that for the Master Plan much more area is needed including the area which was included in the Interim General Plan.

6. Learned counsel appearing for the respondents on the other hand contended that the public purpose indicted in the declaration notified under Section 6 on February 20, 1963 is for execution of the Interim General Plan for Grater Delhi and this Interim General Plan had ceased to be operative on February 20, 1963 as the Master Plan and come into force on September 1, 1962. It was contended that execution of the Interim General Plan therefore ceased to be a public purpose. However it is not disputed that even in the original notification under Section 4 execution of the Interim General Plan was mentioned and it is not disputed that it indicted a public purpose as Interim General Plan is understood to mean that lands were needed for planned development of the expanding town of Greater Delhi. According to the learned counsel as on the date on which the delectation under Section 6 was notified as the Interim General Plan ceased to be operative, the declaration under Section 6 ceased to be for public purpose.

7. It is not disputed that whatever name may be given for the public purpose Interim General Plan of Master Plan ever one clearly understood the public purpose and that was that land was required for planned development of the expanding township of Delhi. This is very clear from what was the Interim General Plan and what is the Master Plan and is not disputed at all. It is also clear from the fact that notification under Section 4 quoted above which talks of the requirement of land for execution of the Interim General Plan is accepted to be for public purpose. It is therefore necessary to understand as to what was the public purpose for which these notifications were issued. Admittedly the public purpose was the land required for planned development of expanding town i.e. Greater Delhi. This public purpose is the purpose for which both these notification have been issued. By what ever name it is called, the purpose remains the same.

8. It is also not disputed that the area which was covered in the Interim General Plan is not excluded when the Master Plan is brought into operation and therefore it could not be said that since the Master Plan came into force the part of the land which is not included in the Master Plan is not required for public purpose. As admittedly the land in dispute is included in the Master Plan and this fact is not dispute, it is therefore plain that what was understood by the use of the term "for execution of the Interim General Plan of Greater Delhi" was clearly the requirement of land for planned development of Delhi and if in the notifications notifying the declaration under Section 6 the same terminology is used its meaning remains the same and it could not be doubted that it continued to be a public purpose. Merely because a Master Plan had come into force does not mean that the land which was required for planned development of the city is now not required. In order to indicate the area in the declaration it appears the same terminology has been used as was used in the notification under Section 4 and in our opinion therefore only because that terminology is used it does not indicate that the purpose for which the land is required ceased to be a public purpose. This Court while considering the language of the two notifications under Section 4 and 6(1) in Babu Singh case ((1981) 3 SCC 628) considered this aspect of the matter : (SCC p 633, para 8)

A mere comparison of the statement of public purpose made in the respective notifications would by itself negative the contention raised on behalf of the appellants. The statement of public purpose under section 4(1) notification is more comprehensive setting out details of improvement works while the one set out under Section 6(1) is more precise and restricted in terms. Broadly speaking the public purpose for which the land is acquired is for soil conservation measures in Sukhna Lake Catchment Area. A green belt is one such measure and its explicit statement does not change the public purpose. What the law requires is a broad and understandable statement of public purpose and this is being insisted upon with a view to giving an opportunity to those whose lands are proposed to be acquired, to effectively object the proposed acquisition in an inquiry under Section 5-A. If such be the object behind the provision requiring setting out of public purpose in the notification issued under Section 4(1) as also one under Section 6(1), it would appear that the statement of public purpose as set out in both the notifications is the same and there is no difference between the two. We specifically requested Mr Varma to point out any real contradiction between the statement of public purpose in Section 4(1) and Section 6(1) notifications to appreciate his submission but none such was pointed out and, therefore, the contention must be negatived.

9. It is therefore clear that so far as public purpose is concerned it is the same in both the notifications and is clearly understandable and it therefore could not be contended that when the declaration under section 6(1) was notified there was any absence of application of mind. Consequently the view taken by the Delhi High Court appears to be erroneous. We therefore allow this appeal, set aside the judgment passed by the Delhi High Court in these matters and hold that the impugned notification under Section 6 and the Award made by the Collector in accordance with law are valid and could be enforced. In the circumstances of the case parties are directed to bear their own costs.

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