

Union of India and Others

Vs

K. K. Chopra (Dead) By Lrs.

Civil Appeal No. 2024 of 1970

(S. Natarajan JJ)

05.08.1988

JUDGMENT

NATARAJAN, J. -

1. Against a common judgment rendered by the High Court of Delhi in Letters Patent Appeals Nos. 44 and 45 of 1969 there were two appeals by special leave to this Court being Civil Appeal Nos. 2024 and 2025 of 1970. While Civil Appeal No. 2025 has been dismissed as withdrawn by the appellants viz. Union of India and Others this appeal directed against the judgment in Letters Patent Appeal No. 44 of 1969 alone comes up for consideration on merits.

2. The Chief Commissioner, Delhi issued a notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter 'the Act') on November 13, 1959 for acquiring a large extent of land measuring 34,070 acres of land in and around Delhi for a public purpose, namely, planned development of Delhi. This notification had specifically excluded evacuee land. By reason of this exclusion the lands of one K. K. Chopra, whose legal representative are the respondents herein, the land of one Maya Devi Chopra and the lands of some others similarly placed like them came to be excluded from the extent of land notified for acquisition. It is relevant to mention here that K. K. Chopra and Maya Devi Chopra (the respondent in Civil Appeal No. 2025 of 1970) were displaced persons and they had succeeded in purchasing evacuee comprised within the limits of the area notified for acquisition. While K. K. Chopra had bought lands comprised in Khasra No. 207 and 569/297, Maya Devi Chopra had bought land comprised in Khasra No. 570/297.

3. The exclusion of the lands purchased by K. K. Chopra and Maya Devi Chopra from the acquisition proceedings was short-lived because on July 1, 1961, the Chief Commissioner of Delhi published notifications under Section 4(1) of the Act for acquisition of the evacuee lands also which were originally excluded from the acquisition. The subsequent notification for acquisition of the excluded lands was necessitated, because the government came to realise that those extents of land were also required if an effective and comprehensive development plan was to be prepared for the development of Delhi.

4. Along with the notification made under Section 4(1) on July 1, 1961, notifications were also made under sub-sections (1) and (4) of Section 17 of the Act and by reason of it the enquiry under Section 5-A was dispensed with and a declaration under Section 6 of the Act followed suit. The Land Acquisition Officer was directed to take possession of the lands on the expiry of 15 days from the date of publication of the notice under Section 9(1) of the Act.

5. K. K. Chopra and Maya Devi Chopra who felt aggrieved with the acquisition of their lands and

that too by resort to notifications under Sections 17(1) and 17(4) of the Act filed two writ petitions under Article 226 of the Constitution before the High Court of Delhi to seek the quashing of the notification. Various contentions were raised to assail the acquisition proceedings and in particular the notifications under Sections 17(1) and 17(4) of the Act were assailed on the ground of delay and non-application of mind. A learned Single Judge of the High Court dismissed the writ petitions but on Letters Patent Appeals being filed, a Division Bench of the High Court, sustained the contentions of the petitioners and allowed the appeals and quashed the notifications. Against the judgment of the High Court the Union of India and Others filed two appeals but as already stated one of the appeals has since been withdrawn and the present appeal alone survives for consideration.

6. In the view we propose taking of the matter it is not necessary to refer to the contentions put forth by the learned counsel for the appellants on the one hand and those of the counsel for the respondents on the other or to adjudicate them on their merit. In the course of the arguments the respondents expressed their willingness through their counsel that they would give up their challenge to the validity of the acquisition proceedings provided the appellants would make available to them an adequate area from out of their land situate in the residential portion of the acquired area in order to enable them to build houses thereon. In support of their plea they submitted that K. K. Chopra was a displaced person and he had purchased the two plots for building houses for himself and his family members and in fact he had even submitted plans for approval soon after his purchase of the lands. It was further stated that but for the acquisition proceedings, the four respondents herein, who are his legal representatives would have by now built houses for themselves and occupied them. Lastly it was urged that the denial of allotment of a small extent of land to them from out of their land subjected to acquisition to build houses would be highly unjust when the judgment of the High Court quashing the notifications pertaining to Maya Devi Chopra's land has been allowed to become final.

7. As we found merit and justification in the prayer of the respondents we asked the learned counsel for the appellants as to why the request of the respondents for allotment of a minimum extent of land to them to enable them to construct houses should not be granted. The learned counsel for the appellants in all fairness conceded that the request was not an unjustified one.

8. In such circumstances, having regard to the peculiar facts and circumstances of the case, we deem it proper to dispose of the appeal in the following terms :

(1) The validity of all the notifications issued under the Land Acquisition Act by the Chief Commissioner insofar as they pertain to the lands of late K. K. Chopra now represented by the respondents herein, will stand upheld.

(2) The appellants should make available to the respondents an extent of 1000 square yards from out of the land situate in the residential area of the colony to enable them to build houses for themselves. The appellants should demarcate the said extent of land and hand over possession to the respondents within a period of two months from today.

(3) On such possession being delivered, the respondents will be entitled to occupy the land without making any payment to the appellants and utilise the land for the construction of their houses subject to approval of plans etc., by the concerned authorities and subject to their complying with all the requisite formalities.

(4) Except for the extent of 1000 square yards to be made available to the respondents they would be bound by the acquisition proceedings and they will only be entitled to payment of compensation in accordance with law for the extent of land covered by the acquisition.

(5) Since the allotment of 1000 square yards of land to the respondents is made with reference to the peculiar facts and circumstances of the case, this will not constitute a precedent in other cases.

9. In the result the appeal will stand allowed except insofar as an extent of 1000 square yards of land has been excluded from acquisition and ordered to be made available to the respondents to construct their houses thereon. Parties will bear and pay their respective costs.

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