

Rudradhar R. Trivedi

Vs

State of Maharashtra through The Secretary and Another

Slp (C) No. 12902 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

15.07.1996

ORDER

1. We have heard learned counsel for the petitioner.

2. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") was published on 11-7-1953. Successive declaration under Section 6 came to be published in the year 1955-56. Thereafter, as many as 40 awards have been passed determining the compensation. In this case notice was issued by the second respondent on 15-5-1963 under Section 9 of the Act pursuant to which the petitioner had filed his objections. Thereafter, the award came to be made on 13-3-1985. He filed writ petition challenging the validity of the notification under Section 4(1) and the declaration under Section 6. Primary contention raised in the writ petition was that the petitioner had not been given notice under Section 5-A whereas being a sub-lessee, he was an interested person. The High Court was not impressed with the argument. He further contended that there was inordinate delay in passing the award. On the account, notification under Section 4(1) and declaration under Section 6 were required to be set aside. That contention was also negatived. The learned Single Judge by judgment dated 16-2-1996 dismissed the writ petition. On appeal, the Division Bench in the impugned order dated 12-6-1996 in Appeal No. 423 of 1996 confirmed the same.

3. The learned counsel for the petitioner contended that since the land in an extent of 567 acres was acquired for public purpose, namely, establishment of IIT, transfer of 60 acres of land to NITIE by the IIT by a resolution of the Government, viz., 95 of 1970, dated 26-6-1970 was clearly a fraud on public purpose. Therefore, the acquisition is not valid in law. In support thereof, the learned counsel placed reliance on the judgment of the Bombay High Court in Industrial Development & Investment Co. (P) Ltd. v. State of Maharashtra [AIR 1989 Bom 156 : 1988 Mah LJ 1027] and of the Delhi High Court in Union of India v. Nand Kishore [AIR 1982 Del 462 : (1982) 22 DLT 251]. We find no force in the contention. It is settled law that the land acquired for public purpose can be transferred to another public purpose. Paramount consideration will be service of the public purpose. The NITIE is also one of the public institutions imparting technical education in the region. Under these circumstances, the transfer of 60.8312 acres of land handed over to NITIE pursuant to the resolution made by the Government is not vitiated by any error of law nor the notification under Section 4(1) and declaration published under Section 6 become bad in law. The aforesaid decisions bear no relevance.

4. It is next contended that in view of the inordinate delay in passing the award, the acquisition should be required to be quashed. We find no force in the contention. It is seen that in Maharashtra State, as per the rules prevailing, pursuant to the notice under Section 5-A a personal hearing is

required to be given to all the owners. In a massive acquisition like this, it would be wellnigh impossible for the Land Acquisition Officer to pass the award within a short span of time. Under these circumstances, necessarily delay had occasioned in passing the awards. The petitioner had evoked at a belated stage in 1985, after practically 22 years. The High Court was, therefore, clearly right in refusing to exercise its discretionary jurisdiction under Article 226 of the Constitution.

5. The SLP is accordingly dismissed.