SUPREME COURT OF INDIA

Narayan Prasad Agrawal

Vs.

State of Madhya Pradesh

C.A.No.643 of 2002

(K.G. Balakrishnan and P. Venkatarama Reddi JJ.)

29.04.2003

JUDGMENT

K.G. Balakrishnan, J.

1. An extent on 2.428 hectares of land comprising Khasra No. 400/1 and 399/2 situated in Patan Tehsil of Jabalpur District was sought to be acquired for the purpose of establishing Krishi Upaj Mandi yard. The Notification under Section 4 of the Land Acquisition Act was published on 29.12.1989. Declaration under Section 8 of the Land Acquisition Act was also simultaneously published. For the same purpose, some other plots of land were also acquired. According to the appellant, as regards other lands, emergency provision under Section 17 was invoked. The appellant contended that even though Section 17 was not invoked in respect of the appellant's property, there was no inquiry as contemplated under Section 5A of the Act and, therefore, the whole proceedings initiated for acquisition of the appellant's land are illegal and liable to be quashed.

2. The appellant filed writ Petition No. 4386/2000 before the High Court of Madhya Pradesh at Jabalpur. The appellant alleged in the Writ Petition that he had filed a Civil suit registered as C.S. No. 2-A/91 before the Court of Civil Judge, Class I challenging Section 4(1) Notification and Declaration under Section (6) of the Act and the suit was held to be maintainable and thereafter he filed the Writ Petition. The Learned Single Judge held that the Writ Petition filed in 2000 challenging Section 4(1) Notification dated 29.12.1989 was highly belated and hence declined to grant injunction. This Judgment of the learned Single Judge was challenged by the Appellant before the Division Bench and the appellate court also held that the order passed by the learned Single Judge dismissing the Writ Petition was justified. This appeal is against the Judgment of the Division Bench in LPA No. 356/2000.

3. We heard learned Counsel for the appellant. The main contention urged by the Counsel for the appellant is that as regards the property of the appellant, Notification under Section 4(1) and Declaration under Section 6 were simultaneously published and as long as Section 17 was not invoked, the entire acquisition proceedings are illegal. The learned Counsel for the appellant placed strong reliance on the decision of this Court in *State of Uttar Pradesh v. Radhey Shyam Nigam and Others, etc.*[1]. It is true that some illegality has been committed as

Section 5A inquiry was not conducted by the authorities before Section 6 Declaration was made. But it is important to note that Section 4(1) Notification and Section 6 Declaration were made as early as on 20.12.1989. The appellant challenged only the award notice issued on 30.7.1990 pursuant to the Notification under Section 4(1) by filing the suit in the year 1991. The Civil suit was dismissed for default on 15.10.1998 and it was restored to file on 4.1.1999. Meanwhile, the award was passed on 10.12.1991. After the restoration of the suit, the appellant moved for temporary injunction and the same was refused by the trial court. The appellant thereafter filed a Civil Miscellaneous Appeal and the learned Additional District Judge, by his Order dated 23.6.2000 held that the suit filed by the appellant was not maintainable in view of the decision of this Court in *State of Bihar v. Dhirendra Kumar and Others*[2], and thereafter the appellant filed the Writ Petition.

4. The appellant has been seeking to quash Section 4(1) Notification under the Land Acquisition Act which was published on 29.12.1989. The decision of this Court in State of Bihar (supra) was given on 27.4.1995 and it was held that Civil Court had no jurisdiction to go into the question of validity and legality of the Notification of Section 4(1) or Declaration under Section 6 and the remedy open to the aggrieved party is to invoke the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution. Even after the said decision of this Court, the appellant herein pursued his civil suit and only when the Additional District Judge held that the suit was not maintainable, the appellant decided to file the Writ Petition. The learned District Judge was justified in taking the view that the long delay of about 11 years cannot be condoned in a matter relating to land acquisition as, by that time, the authorities must have proceeded with the acquisition proceedings and would have taken further steps in the matter. We do not think that the learned Single Judge as well as the Division Bench erred in holding that the invocation of the extra-ordinary jurisdiction of the High Court was made belatedly.

5. The learned Counsel for the appellant further contended that the appellant is seriously prejudiced as in view of this litigation, the appellant could not even seek a reference for enhancement of the land value. In view of the said submission, we asked the respondent to consider whether the land value offered in the award could be modified and the compensation towards land value fixed at a higher rate. The learned Counsel for respondent No. 5 came forward with a suggestion and submitted that the respondent is prepared to pay Rs. 10,18,068/- as the land value for the property acquired. The amount offered by respondent No. 5 is not agreed to by the appellant's Counsel. The parties are also not agreeable to come to a consensus.

6. Having regard to the rise in land value and considering the peculiar facts and circumstances of this case and in order to put an end to further litigation, we direct that a sum of Rs. 12 lakhs would be a reasonable compensation towards land value for the property acquired, from the appellant. The respondent No. 5 is directed to deposit Rs. 12 lakhs before the Land Acquisition Officer within a period of one month failing which it will carry interest @ 12% from this date till payment. The appeal is disposed of accordingly without costs. Order accordingly.

[1] *(1989) 1 SCC 591* [2] *(1995) 4 SCC 229*