

SUPREME COURT OF INDIA

Talson Real Estate Pvt. Ltd.

Vs.

State of Maharashtra

(H Sema and L S Panta JJ.)

02.05.2007

JUDGMENT

1. Special leave granted.

2. This appeal is directed against the judgment and order dated 24th August, 2005 passed by the High Court of Judicature at Bombay whereby and whereunder the High Court has dismissed the Writ Petition No. 726/2002 filed by the appellant-petitioner challenging the validity of land acquisition proceedings initiated by the respondents under the Land Acquisition Act, 1894 [for short "the Act"].

3. The brief facts leading to the filing of the appeal are as under:

4. The appellant-company herein is the owner of the suit property bearing Survey No. 23/2/1 situate in Village Kondhwa Budruk, Taluka Haveli, District Pune, admeasuring 1 Hectare and 82 Are. In the year 1996, the Executive Engineer, Civil Construction Division, Maharashtra State Electricity Board, Pune [for short "MSEB"] approached the Collector, Pune, for the acquisition of the land situate in Village Kondhwa Budruk bearing Survey Nos. 23/2/1, 23/1/1/1, 23/1/2, 23/1/1, 23/1/3/1 and 23/1/2/2, total 2 Hectares and 78 Ares including the land of the appellant-company for public purpose, namely, to 'install/'erect' 132 K.V. Sub-station. The Collector, Pune, accordingly, vide order No. PLO/CR/25/96 dated 01.02.1996 forwarded the proposal of the Executive Engineer to the office of the Land Acquisition Officer, Pune, to acquire the above extent of land under the provisions of the Act. On 01.04.1997, the Special Land Acquisition Officer (SLAO) (14), Pune, issued Notification No. LAO / 48/ 570, under Section 4 of the Act for acquisition of the above-said lands. The notification was published in the Maharashtra Government Gazette (MGG), Pune Division, Part-1 (Supplement) on 17.04.1997. Also, in compliance with the requirements of the Act, the said notification was published in two newspapers, namely, daily 'Kesari' and daily 'Prabhat' on 17.04.1997 and on 30.04.1997 it was published on the site. On 26.09.1997, the SLAO held mandatory enquiry under Section 5A of the Act and submitted his report to the Commissioner, Pune Division, Pune, through the Collector, Pune. Subsequent thereto, on 18.04.1998 the Additional Commissioner, Pune Division, issued a declaration under Section 6 of the Act, which was published in MGG, Pune Division, Part-I (Extra Ordinary) dated 18.04.1998 and Part-I (Supplement) dated 11.06.1998 respectively. Section 6 declaration was published in daily 'Aaj Ka Anand' on 29.04.1998 and on 30.04.1998 it was published in daily 'Rashtratej' and on site on 08.07.1998.

5. It appears that subsequently a corrigendum No. LAQ/48/30/2000 was issued by the SLAO (14) Pune, to the notification under Section 4 which was published in MGG, Pune Division Part-I (Supplement), Pune, on 02.03.2000 in two daily newspapers 'Kesari' and 'Prabhat' on 01.06.2000. Similarly, corrigendum to the declaration under Section 6 of the Act was issued by the Additional Commissioner, Pune Division, Pune, on 01.06.2000. The corrigendum to Section 6 was published in MGG, Pune Division Part-I (Supplement), Pune, on 02.03.2000 and in daily newspapers 'Sanz Samachar on 01.03.2000 and 'Samana' on 01.06.2000. It appears from the record that detail of the publication of the corrigendum issued under Section 6 of the Act was published on website on 12.06.2000. The record also reveals that the general notice under Sections 4(1), 6(1), 6(2), 9(1) and 9(2) were notified on Notice Board at Talathi and Tehsil Notice Board. Details of such publication are as below:

Talathi

Tehsil

1

Section 4(1) Notification

30.04.1997

02.05.1997

2

Corrigendum to Section 4(1) Notification

17.05.2000

22.05.2000

3

Section 6(1) (2) Notification

20.06.1998

22.06.1998

4

Corrigendum to Section 6(1) (2) Notification

17.05.2000

22.05.2000

5

Section 9(1) (2) Public Notice

20.06.1998

22.06.1998

6

Corrigendum to Section 9(1) (2) Public Notice.

17.05.2000

22.05.2000

6. The SLAO (14), Pune, finally made an Award of the acquired lands bearing Survey No. 23 (Part), admeasuring 2 Hectares and 78 Ares and awarded a sum of Rs. 73,86,740/- as compensation payable to as many as 84 claimants-owners of the lands including the appellant-company.

7. Feeling aggrieved, the appellant-company filed W.P. No. 726/2002 before the High Court of Judicature at Bombay seeking quashing of the acquisition proceedings and the Award made by the Collector inter alia on the ground of failure of the respondents to afford an opportunity to the appellant-company to file objection and also not giving personal hearing to it under Section 5A of the Act.

8. It appears that on 15.02.2002 while issuing notice to the respondents, the Division Bench of the High Court granted liberty to the appellant-company to file a Reference Application under Section 18 of the Act without prejudice to the contentions raised in the writ petition. The appellant, accordingly, filed a Reference Application. Finally, the Division Bench in the impugned judgment came to the conclusion that the appellant-company could not make out any justification for interference in the land acquisition proceedings initiated by the respondents and accordingly, dismissed the writ petition. However, at the request of the learned Counsel for the appellant-company, status quo order for a period of 12 weeks from the date of recording of the judgment, i.e. 24th August, 2005, was ordered. Hence, the appellant-company has filed this appeal.

9. We have heard Mr. Arun Jaitley, learned Senior Advocate appearing for the appellant-company, Mr. U.U. Lalit, learned Senior Advocate for the State of Maharashtra and Land Acquisition Officer - respondent Nos. 1 and 2 herein and Mr. Altaf Ahmed, learned Senior Advocate for MSEB - respondent No. 3.

10. Mr. Jaitley contended that newspapers namely daily 'Kesari' and daily 'Prabhat' in which Section 4 notification was published as well as daily 'Rashtratej' and daily 'Aaj Ka Anand' in which Section 6 declaration was published are insignificant newspapers and are not widely circulated in the area where the lands were situated.

11. He contended that the amendment of Survey No. 23 (Part) brought in by the corrigendum to Section 4 of the Act is vague and the said Survey number did not exist in the land records.

Therefore, for want of specific identification of the land sought to be acquired, land acquisition proceedings suffered from various infirmities and illegality.

12. Mr. Jaitley then contended that the appellant-company, being a person interested, ought to have been given 30 days time to file objections to the acquisition of its land as envisaged under Section 5A of the Act but such vested right was not afforded to the appellant as the corrigendum was published on 01.06.2000 in two daily newspapers and the Award came to be made by the SLAO on 14.06.2000 without waiting for the expiry of stipulated period within which objection could have been filed.

13. The learned Counsel for the respondents, on the other hand, made submissions and supported the judgment of the High Court. They contended that the notification under Section 4 and declaration under Section 6 of the Act and the corrigendum issued by the SLAO and Additional Commissioner, Pune respectively, did not suffer from any perversity or infirmity warranting interference by this Court in the land acquisition proceedings taken by the respondents for public purpose. They added that having regard to the developments that have taken place in that area and having regard to the Reference Application filed by the appellant-company under Section 18 of the Act before the Collector, this Court may not disturb the well-reasoned judgment at the instance of the appellant-company who is one of the claimants-owners out of 84 claimants-owners whose lands were acquired under the same notification and except for the appellant-company other claimants-owners were fully satisfied with the correctness and validity of the land acquisition proceedings initiated by the respondents.

14. Having regard to the respective contentions, the question that arises for consideration is - "Whether the respondents have failed to comply with the mandatory provisions of the publication of the notification under Section 4 and declaration under Section 6 of the Act?"

15. It is not in dispute that Section 4(1) notification was published in MGG, Pune Division Part-I (Supplement) on 17.04.1997 and two daily newspapers, namely, 'Kesari' and 'Prabhat' on the same day. The notification was also published on site on 13.04.1997. In the Schedule to the notification, Survey numbers of the proposed lands with respective areas were provided in column Nos. 1 and 2 and the public purpose for which the lands were required was stated as installation of '132 K.V. Sub-station'. The aforesaid notification was followed by a declaration under Section 6 of the Act issued by the Additional Commissioner, Pune Division, on 18.04.1998 which was published in MGG, Pune Division, Part-I (Extraordinary) dated 18.04.1998 and Part-I (Supplement) dated 11.06.1998 respectively. The declaration under Section 6 was also published in two daily newspapers 'Aaj ka Anand' on 29.04.1998 and 'Rashtratej' dated 30.04.1998 as also on the site on 08.07.1998. A clarification to the notification under Section 4 by way of corrigendum was issued on 01.02.2000 by the SLAO, Pune which was published in MGG, Pune Division, Part-I (Supplement) dated 02.03.2000 and in two daily newspapers 'Kesari' and 'Prabhat' on 01.06.2000. The corrigendum was also published on the site. Similarly, corrigendum to declaration under Section 6 was issued on 16.02.2000 which was also published in MGG, Pune Division, Part-I (Supplement) dated 02.03.2000 and in two daily newspapers, namely, 'Saanz Samachar' dated 01.03.2000 and 'Samaria' on 01.06.2000. The corrigendum was also published on the site on 12.05.2000. Joint notices under Section 4(1), 6(1), 6(2) and 9(1)(2) were duly published on Notice Board at Talathi and Tehsil Notice Board on the dates specified in column Nos. 2 and 3 of the above extracted table.

16. The essential requirements of publication of primary notification under Section 4 of the Act is to

indicate the intention of the appropriate Government that the land in any locality is likely to be needed for any public purpose and for achieving the said purpose, a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulating in that locality and the Collector shall call public notices of the substance of such notification to be given at convenient places in the said locality. In the present case, as noticed above, the respondents have wholly complied with the requirements of the provisions of law. The appellant-company has not brought on record any iota of evidence to show that the above-named newspapers are not widely circulated in the locality where the land, in question, was situated. The High Court has rightly come to the conclusion that the provisions of Section 45 of the Act will not be attracted in cases where there is no obligation cast upon the authorities to issue notice to the persons interested once it is clear that neither Section 4 nor Section 5A of the Act contemplates any personal notice to the person interested other than the objectors for the purpose of conducting inquiry under Section 5A of the Act. Therefore, the question of applicability of Section 45 in the case of the appellant-company would not arise at all as the appellant-company had not filed any objection under Section 5A to the acquisition proceedings consequent to the issuance of notification under Section 4 of the Act.

17. The provisions of Section 5A of the Act are attracted only when a person interested in any land which has been notified under Section 4(1) makes objection in writing to the Collector within 30 days from the date of the publication of the notification. The period of 30 days will have to be counted from the last day of the publication of the notification under Section 4 of the Act which, in the present case, was admittedly published in the Official Gazette on 17.04.1997 and in two daily newspapers on the same day. The substance of such notification was notified on the site on 30.04.1997. The appellant-company did not choose to file objections under Section 5A of the Act against the acquisition of its land bearing Survey No. 23/2/1, admeasuring 1 Hectare 82 Are.

18. The record placed before us would reveal that the Joint Measurement Plan supplied by TILR, Haveli, did not indicate the hissas of Survey No. 23. The owners of the hissa at the time of inquiry conducted under Section 9 of the Act by the SLAO stated that the lands notified for acquisition had some built-up constructions and sheds, etc. The appellant-company was the holder of hissa No. 23/2/1 which was a part of Survey No. 23. The subject matter of the corrigendum issued under Section 4 on 01.02.2000 by the SLAO (14) was published in MGG, Pune Division Part-I (Supplement) dated 02.03.2000 and in two daily newspapers on 01.06.2000. Had the appellant-company been diligent, it would have approached the authorities with whom the plan of the lands under acquisition was available and the appellant-company could have filed objections under Section 5A of the Act within the time prescribed therein from the date of notification under Section 4(1) admittedly, issued on 01.04.1997 and published in the Official Gazette on 17.04.1997 and two daily newspapers on the same day. By publishing the corrigendum under Section 4 and declaration under Section 6, the SLAO had not changed the Survey numbers of the lands under acquisition, but the entire Survey No. 23 (Part) came to be included in the corrigendum. On perusal of the corrigendum, we find no infirmity or vagueness in the identification of the lands covered by Section 4 notification published on 17.04.1997 and declaration under Section 6 of the Act. The only insignificant clarification contained in the corrigenda was that in the notification under Section 4 and declaration under Section 6, min-survey numbers of the entire Survey No. 23 of the land were notified with the extent of the land in each min-survey numbers, but the total area intended to be acquired for the public purpose remained the same and all the land owners including the appellant-company were granted compensation by the SLAO vide Award made on 14.06.2000. Therefore, there was no obligation or requirement on the part of the SLAO to give 30 days' time to the appellant-company to file objections under Section 5A of the Act. Notification under Section 4

remained the same by which adequate and reasonable opportunity was given to the interested persons including the appellant-company, whose land was intended to be acquired, to inspect the map showing the proposed survey numbers and the area involved therein and if any person interested was aggrieved, he could have filed objections under Section 5A of the Act and the SLAO was under obligations to decide such objections in accordance with law.

19. The appellant-company, being the owner of the land, has not filed objection under Section 5A, in principle, must be accepted that it had no objection to Section 4 notification operating in respect of its property. Those claimants -owners of the lands who have not filed objection under Section 5A could not be allowed to contend that Section 5A inquiry was bad and that consequently Section 6 declaration must be struck down and that then the Section 4 notification would lapse.

20. The appellant-company has failed to point out that the corrigendum issued to Section 4 notification and declaration under Section 6 of the Act, indicating Survey No. 23 (part) in any manner has misled the appellant-company about the identity of its lands involved in the land acquisition proceedings. The respondents have followed the prescribed statutory procedures laid down in the Act, completed the acquisition proceedings which finally culminated in the making of Award on 14.06.2000 by SLAO. The appellant-company admittedly, has preferred Reference Application under Section 18 of the Act during the pendency of the writ petition before the High Court and the said application is stated to be still under consideration of the SLAO or Civil

21. We are, therefore, not impressed by any of the submissions made on behalf of the appellant-company. We have, in view of the above discussion, not been persuaded to take a view different than the one taken by the High Court.

22. The judgment passed by the High Court is a well-reasoned judgment and the same does not require any interference in the present appeal.

23. The appeal is, accordingly, dismissed with no order as to costs.