SUPREME COURT OF INDIA

D.Hanumanth SA

Vs.

State of Karnataka

C.A.Nos.17-20 of 2005

(Dr. Mukundakam Sharma and Swatanter Kumar JJ.)

27.10.2010

JUDGMENT

Dr.Mukundakam Sharma, J.

1. By filing the present appeals the appellants have challenged the validity of the notification issued under Section 4 of the Land Acquisition Act, 1894 [hereinafter referred to as "the Act") and also the notification issued under Section 6 of the Act whereby the respondents sought to acquire land admeasuring 3 acres 34 guntas situated in Kengeri Village and Hobli, Bangalore, Karnataka.

2. Initially appellants filed writ petitions registered as Writ Petition Nos. 20083-20085 of 1993 before the Karnataka High Court challenging the validity of the notification issued under Section 4 invoking the emergency clause. The High Court of Karnataka, while issuing notice, granted stay. Subsequently, an order dated 30.08.1993 was passed in the writ petition regarding the statement/submission on behalf of the State Government that they would not proceed with the acquisition proceeding of invoking the emergency provision under the Act. Consequent to the same, the appellants herein were given opportunity to file objections.

3. The appellants thereafter filed detailed objections contending inter alia that the vast extent of land that is already possessed by the Karnataka State Road Transport Corporation [for short `KSRTC'] and some of the State owned land is still laying vacant and, therefore, the purpose of acquiring the land of the appellants for formation of link road is unjustified and that the same cannot be said to be required for formation of link road. The appellants also contended that despite the aforesaid objection filed and a report submitted by the Land Acquisition Officer in favour of the claimants, the State Government issued a final notification under Section 6(1) of the Act by holding that the land belonging to the appellants are required for the purpose of workshop and providing residential quarters to its employees.

4. Being aggrieved by the aforesaid action on the part of the State Government in issuing a notification under Section 6 of the Land Acquisition Act, the appellants filed Writ Petition

Nos. 25361-25364 of 1994 and 25264 of 1994 before the Karnataka High Court challenging the legality and the validity of the preliminary and final notifications.

5. The Single Judge of the Karnataka High Court, by his judgment and order dated 01.02.2000, allowed the said writ petitions holding that in the proceedings prepared by the State Government, the purpose of acquisition was stated to have a link road and in the final notification under Section 6 of the Act, the purpose of acquisition having been shown as completely different, the entire purpose was not justified and tenable. The said fact was also stated to be so, and had been held as unjustified by the Land Acquisition Officer. By so holding the learned Single Judge of the Karnataka High Court allowed the writ petitions and quashed the said notifications issued under Section 4 and Section 6 of the Land Acquisition Act.

6. Being aggrieved by the said judgment and order the respondent filed a writ appeal before the High Court of Karnataka. By judgment and order dated 02.07.2003 the Division Bench of the Karnataka High Court allowed the appeal filed by the State Government and set aside the judgment and order of the learned Single Judge holding that the acquisition for the land was for a public purpose and that there was no ambiguity in the two notifications issued under Sections 4 and 6 of the Act.

7. Being aggrieved by the said judgment and order passed by the Division Bench of the High Court the present appeals have been filed by the claimants-appellants on which we have heard learned counsel appearing for the parties.

8. In the light of the submissions made before us we now proceed to decide the contentions raised before us by the counsel appearing for the parties. Counsel appearing for the appellants submitted that the notification issued by the respondent under Section 4 was vague and the purpose for which the land was sought to be acquired as disclosed from the entire records of the proposed acquisition including the said notification was different than what was sought to be stated in the notification under Section 6. It was also submitted that the Government had failed to give detailed reasons for issuing the said notifications to satisfy that the land was required for public purpose, particularly when the Land Acquisition Officer had given his reasons to indicate that the purpose for which the land is sought to be acquired was not justified in the facts and circumstances of the case. In order to appreciate the aforesaid contentions raised, we have considered all the notifications relevant to the facts and circumstances of the case and also relevant records useful for our purpose.

9. In the notification issued under Section 4(1) which is dated 14.10.1992, it is specifically stated that the State of Karnataka required the land under acquisition for a specific public purpose, viz., for the benefit of Karnataka State Road Transport Corporation. The part of the notification invoking the provisions of Section 17(4), i.e., applying the urgency requirement of the Government was set aside by the writ court which became final and binding and we are not required to address the aforesaid issue. But, so far as the requirement of the land for

public purpose is concerned, the same was necessarily for a public purpose, viz., for the benefit of Karnataka State Road Transport Corporation.

10. Counsel appearing for the appellants however drew our attention to the proceedings regarding acquisition of 7 acres 15 guntas of land. We have perused the said copies of the proceedings also. In the said proceedings, it was stated that in order to meet the increasing traffic in the surrounding area of Bangalore city, and also with a view to provide better transport service to the public, it is proposed by the Government to establish a large workshop and city bus depot in the said land and also for establishment of residences to workers, training centre and others are also proposed to be undertaken and in order to construct/form the road the said land is required. The said proceedings on careful analysis would also indicate that the land which was sought to be acquired also figured in a comprehensive plan for construction of a road as also workshop and residential building of the staff of KSRTC. The said fact also came to be reiterated by the State Government by filing an affidavit wherein it is stated that the entire land in dispute is in fact required not only for making an approach road but also for building a workshop and staff residential quarters.

11. The aforesaid reasons and the purpose for which the land was sought to be acquired is definitely of a public character and therefore, the respondent-State Government, in our considered opinion, is fully competent to issue such a notification under Section 4 as also under Section 6 of the Land Acquisition Act. Counsel appearing for the appellant at one stage also drew our attention to the fact that subsequently, another notification came to be issued by the Karnataka Industrial Areas Development Board stating that the land as mentioned in the letter dated 16.12.2004 which is annexed as Annexure R-5 is being acquired by the Karnataka Industrial Areas Development Board. The said land was sought to be acquired by issuing notification under the State Act, viz., under Section 28(1) and Section 28(4) of the State Act.

12. A preliminary notification was issued by the said authority, viz., Development Board, including land admeasuring 39 guntas from Survey No. 128/1 and 34 guntas from Survey No. 128/2. The said letter itself also indicates that subsequently, a final notification came to be issued under Section 28(4) of the State Act only for 34 guntas covered by Survey No. 128/2. Incidentally, the land falling under Survey No. 128/2 was not notified either under Section 4 or under Section 6 under the notifications dated 14.10.1992 and 28.03.1994, respectively.

13. So far as 39 guntas covered by Survey No. 128/1 is concerned, which is sought to be acquired as indicated from letter dated 10.12.2004, we find that the same is not included in the final notification. A bare perusal of the notifications issued under Sections 4(1) and 6 of the Act would indicate that the land covered by Survey No. 128/1 was a part of the said notification but since the same came to be excluded in the final notification under Section 28(4), the contentions raised by the counsel appearing for the appellants that the said land

stood acquired for a different purpose and, therefore, the purpose for which the land was sought to be acquired under Section 4 and 6 was unjustified, is not tenable.

14. Even otherwise, if land already stands acquired by the Government and if the same stands vested in the Government there is no question of acquisition of such a land by issuing a second notification, for the Government cannot acquire its own land. The same is by now settled by various decision of this Court in a catena of cases. In *State of Orissa v. Brundaban Sharma*[1], this Court has held that the Land Acquisition Act does not contemplate or provide for the acquisition of any interest belonging to the Government in the land on acquisition; This position was reiterated in a subsequent decision of this Court in *Meher Rusi Dalal v. Union of India*[2]. In paragraphs 15 and 16 of the said judgment, this Court has held that the High Court clearly erred in setting aside the order of the Special Land Acquisition Officer declining a reference since it is settled law that in land acquisition proceedings the Government cannot and does not acquire its own interest. While laying down the aforesaid law, this Court has referred to its earlier decision in the case of *Collector of Bombay v. Nusserwanji Rattanji Mistri*[3].

15. However, on a close scrutiny of the records we find that same is not the case in the present case at hand. It cannot be said that the land which stood acquired under the notification issued under Sections 4 and 6 of the Act are in any manner connected with the notifications issued by State Government for Karnataka Industrial Areas Development Board for Bangalore Mysore Infrastructure Corridor Project and even assuming a part of the said land is now sought to be acquired for a different purpose to that extent, the same cannot be said to be a proper acquisition as the land already stands acquired under a different notification issued by a separate authority under separate provisions of law.

16. In that view of the matter, we find no merit in these appeals and the same are disposed of by this common judgment and order. Parties are left to bear their own costs.

[1]*1995 Supp (3) SCC 249,*
[2]*(2004) 7 SCC 362*
[3]*(1955) 1 SCR 1311*