

SUPREME COURT OF INDIA

Jeet Singh & Anr.

Vs.

Union of India & Ors.

C.A.No.5195-5196 of 2004

(Mukundakam Sharma and Anil R.Dave,JJ.,)

15.09.2011

JUDGMENT

Anil R.Dave,J.,

1. Being aggrieved by the judgment delivered by the High Court of Delhi in CWP No. 3193 of 2003 dated 1st August, 2003 and in CM No. 9049 of 2003 in CWP No. 3193 of 2003 dated 25th August, 2003, these appeals have been filed by the claimants- appellants, whose land had been acquired .

2. The appellants filed a writ petition in the High Court praying that the land acquisition proceedings in question be quashed as the award dated 21st April, 2003 made in respect of the land in question was made in violation of the provisions of Section 11A of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). It was submitted before the High Court that according to the provisions of Section 11A of the Act, the award under Section 11 should be made within two years from the date on which declaration under Section 6 of the Act is made. According to the appellants, who were the petitioners before the High Court, the declaration under Section 6 of the Act was made on 9th April, 1997 and it was published on 14th April, 1997 whereas the award was made on 21st April, 2003. As there was delay beyond the period of two years in making the award, according to the appellants, the acquisition proceedings had lapsed as per the provisions of Section 11A of the Act. Of course, it was submitted before the High Court that the proceedings had been stayed for sometime by virtue of an order dated 12th February, 1999 passed in CWP No. 6687 of 1998 but the said stay order had been vacated on 23rd July, 2002 and even after ignoring the period during which the stay was operating, the authority had taken more than two years for making the award and, therefore, the proceedings had lapsed.

3. The High Court dismissed the petition as it was of the view that though the stay granted, in CWP No. 6687 of 1998, was vacated on 23rd July, 2002, the said order was communicated to the Land Acquisition Collector on 27th March, 2003 and, therefore, the award was made within the period prescribed in Section 11A of the Act.

4. Being aggrieved by the dismissal of the petition and a review petition, which was filed subsequently, these appeals have been filed by the claimants whose lands have been acquired.

5. The learned counsel appearing for the appellants submitted that by virtue of an interim order dated 12th February, 1999, parties to the acquisition proceedings had been directed to maintain status quo in CWP No. 6687 of 1998. The said interim order was vacated on 23rd July, 2002. In the circumstances, the period commencing from 12th February, 1999 to 23rd July, 2002 would be excluded while considering the period available to the authority for making an award as per the provisions of Section 11A of the Act. According to him, the date on which the order was communicated to the Land Acquisition Collector is not relevant and, therefore, it can be very well said that the award was made beyond the period prescribed under Section 11A of the Act. Therefore, the proceedings ought to have been quashed by the High Court and as the High Court committed an error by not quashing the proceedings, this Court should quash the same. So as to substantiate his case, he relied upon the judgments delivered by this Court in *Padma Sundara Rao (Dead) and Others vs. State of Tamil Nadu and Others*¹ *N. Narasimhaiah and Others vs. State of Karnataka and Others*² *Mohan and Another vs. State of Maharashtra and Others*³ *Ravi Khullar and Another vs. Union of India and Others*⁴ & *Vijay Narayan Thatte and Others vs. State of Maharashtra and Others*⁵

6. On the other hand, Shri P.P. Malhotra, learned Additional Solicitor General appearing for the respondents-Government authorities submitted that though the interim order, whereby the Government-authorities were directed to maintain status quo was vacated on 23rd July, 2002, intimation of the said order was given to the Land Acquisition Collector i.e. respondent no.3, for the first time, on 27th March, 2003 and if the period upto 27th March, 2003 is considered as period during which the government authorities were prevented from taking further proceedings by the court, there would be no violation of Section 11A of the Act. He further submitted that at the time when the aforesaid order dated 23rd July, 2002 was passed by the High Court, respondent no.3 and even other government authorities were not represented by any counsel and, therefore, respondent no.3, who had to make an award under Section 11 of the Act, was not informed about the said order and, therefore, respondent no.3 was under an impression that the stay which was granted on 12th February, 1999 had not been vacated. Upon getting a certified copy of the order on 27th March, 2003 and intimation of the said order for the first time, respondent no.3 immediately did the needful for making an award under Section 11 of the Act and in fact, he made the award on 21st April, 2003.

7. Learned counsel for the respondent further submitted that an effort was being made to stall the proceedings by the appellants. He drew our attention to the proceedings of CWP No.6687 of 1998, which had been initiated by the father of the present appellants. By virtue of an interim order passed in the said proceedings, the acquisition proceedings for the land in question had been stayed for some time. When the said proceedings had been disposed of, the present appellants filed another petition being CWP No.3845 of 2002, wherein a grievance was made that though the lands had been acquired, they had not been paid compensation. It is pertinent to note that the father of the appellants had challenged the acquisition proceedings and by virtue of an interim order passed in the said petition, the

entire proceedings had been stayed, whereas the present appellants had filed a petition praying for compensation. Ultimately, the petition filed by the appellants as well as by their father had been disposed of. Thus, the learned counsel made an effort to show that all possible efforts were made by the appellants and their father to delay the proceedings.

8. The learned counsel further submitted that the land in question had to be acquired for the purpose of construction of Delhi Metro Rail. He submitted that looking to the increase in vehicular traffic, the government authorities wanted the Delhi Metro Rail to operate at all places as per the schedule, as soon as possible and because of the hurdles created in the process of land acquisition, the entire project was being delayed and not only cost of the project was increasing but people were also put to lot of inconvenience. He further submitted that the possession of the land in question was also been taken long back and the land in question was also being used for the purpose for which it was acquired.

9. Upon hearing the learned counsel and upon perusing the facts of the case, we find that the following facts are not in dispute.

(i) Declaration under Section 6 of the Act was made on 9th April, 1997 and it was published on 14th April, 1997.

(ii) Award was made on 21st April, 2003.

(iii) By virtue of proceedings in CWP No. 6687 of 1998 on 12th February, 1999, the parties were directed to maintain status quo and the said order was vacated on 23rd July, 2002 but a certified copy of the said order was communicated to the Land Acquisition Collector on 27th March, 2003.

10. Thus, what has to be considered is whether the period commencing from 23rd July, 2002, the date on which the interim relief granted by the High Court in CWP No. 6687 of 1998 was vacated should be considered for the purpose of calculating the period covered under Explanation to Section 11A or whether the date on which the order was actually communicated, i.e. dated 27th March, 2003 should be considered.

11. Section 11A of the Act is reproduced hereinbelow:

"11-A. Period within which an award shall be made - The Collector shall make an award under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings, for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation- In computing the period of two years referred to in this Section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded."

12. Upon perusal of Section 11-A of the Act, it is clear that the award should be made within two years from the date of the publication of the declaration made under Section 6 of the Act. The purpose is to see that the award is made at an early date so that the claimants, whose lands have been acquired, get compensation as soon as possible. By acquiring the land and by not making the award, the government would be acting against the interest of the persons whose lands had been acquired. If the government acquires the land and does not give the amount of compensation to the land owners at an early date, it would adversely affect the land owners because they would be without their land and, therefore, they would be losing their source of income and at the same time, they would also not get the compensation. So as to make sure that such a situation does not arise, Section 11A had been introduced. Thus, the purpose behind introduction of the said Section was to see that the award is made at least within two years so that the compensation is paid to the persons whose lands are acquired at an early date.

13. It is also pertinent to note that the explanation to Section 11A of the Act is of vital importance. At times the land owners or some persons, at the instance of the land owners, might initiate proceedings for challenging the land acquisition with an oblique motive or so as to create hurdles and hindrances in the process of acquisition of the land. In such a process, sometimes acquisition proceedings are stayed by the court and after some time, upon knowing the facts, stay is vacated. Whatever may be the object behind initiation of the legal proceedings for challenging the acquisition, the result is that the authorities are prevented from taking further action for some time, if the proceedings are stayed and in such an event, the proceedings are delayed due to interim orders passed by the court. So as to see that the land acquisition proceedings do not lapse, the explanation to the Section provides that the period during which the proceedings are stayed by an order of a court, the said period would be excluded while computing the period of two years.

14. The learned counsel appearing for the appellants made an effort to compare the provisions of Section 11A with the provisions of Section 6 of the Act so as to show that the law laid down in Padma Sundara Rao's case (supra) would also be applicable in case of Section 11A of the Act. It was his submission that the period commencing from 12th February, 1999 to 23rd July, 2002 only should be excluded for the purposes of Section 11A as the stay was operating only for the said period. According to him, the period during which intimation of the order, whereby the stay was vacated, was given to Land Acquisition Collector will have to be ignored. Looking to the facts of the case we do not accept the said submission because in the instant case the appellants and their father had made all possible efforts to stall the proceedings and only on account of the litigation initiated by them, the acquisition proceedings had been stayed. Ultimately, the stay granted by the High Court had been vacated but intimation of the order, whereby stay was vacated, i.e. dated 23rd July, 2002 was communicated, for the first time, to the Land Acquisition Collector on 27th March, 2003. When the order dated 23rd July, 2002, vacating the earlier stay order was passed, the

counsel appearing for respondent no.3, namely, the Land Acquisition Collector or the government was not present and, therefore, intimation of the said order was not given to the Land Acquisition Collector, who was duty bound to make an award as per the provisions of Section 11 A of the Act within two years from the date of publication of the declaration under Section 6 of the Act.

15. The purpose behind enactment of Section 6 and Section 11A is different though the language used in both the Sections is similar. Section 6 pertains to pre-acquisition stage whereas Section 11A pertains to post- acquisition stage, the stage at which the award is to be made by the Collector.

16. In our opinion, once Section 4 notification is issued, necessary declaration under Section 6 must be made as soon as possible for the reasons that the owner of the land would not be in a position to use the land as per his desire because of the uncertainty prevailing prior to declaration made under Section 6 of the Act. A prudent owner would not put up any construction on the land and normally no one would come forward to purchase the land also as there would be possibility of the land being acquired. Therefore, declaration under Section 6 is required to be made as soon as possible. So far as provisions of Section 11A of the Act are concerned, they expect the acquiring authorities to make the award within two years so that the land owner can get compensation after the award is made. He must get his compensation at an early date because his land is acquired, but in case of delay caused in paying the compensation, the land owner would be sufficiently compensated in terms of money for the reason that he would be getting interest on the amount of compensation payable to him as per the provisions of the Act. Thus, in fact, not much harm is caused to the land owner if some delay is caused.

17. In the instant case, the facts are peculiar. The land owners, i.e. the appellants and their father made all possible efforts to delay the proceedings. In fact, the proceedings were delayed because of the litigation initiated by them. In fact they wanted the acquisition proceedings to fail. Let us look at their conduct and behaviour. The father challenged the acquisition proceedings and in the said proceedings, an interim direction to maintain status quo was granted. On the other hand, another petition was filed making a grievance that no compensation was paid to them and in that petition a direction was given to pay compensation to them. Thus, they had shown their intention to claim and get compensation and compensation can be given only if their land was acquired. Again they filed another petition submitting that the proceedings had lapsed. We do take notice of the above conduct and attitude of the appellants and their father and we believe that in such a set of facts and circumstances, they would not be entitled to any discretionary relief in a petition filed under Article 226 of the Constitution of India.

18. In the aforesaid set of circumstances, in our opinion, the acquisition proceedings cannot be permitted to lapse, especially when the Land Acquisition Collector had acted promptly after getting a certified copy of the order whereby the stay granted in CWP No. 6687 of 1998 was vacated. As his counsel was absent when the abovestated order was passed, he could not

know about the said order earlier and as per findings of the High Court, he came to know about vacation of the stay order for the first time on 27th March, 2003.

19. We also note the fact that possession of the land in question was taken long back and the land in question has been put to the use for which it has been acquired.

20. We do not find any fault with the Land Acquisition Collector for not making the award before getting a certified copy of the order dated 23rd July, 2002 on 27th March, 2003 especially when he was not informed about the said fact earlier. There cannot be any doubt that no person would ever think of taking an action when he has been restrained by any interim order of any court from doing so. Once a person has been restrained by a court of competent jurisdiction from doing something, the person concerned is not expected to do anything till he gets communication from the court to the effect that the earlier order was modified or vacated. No officer would ever think of taking a chance upon any unauthentic communication with regard to vacation of interim relief because in that event, if the information is not correct, he might be held guilty under the provisions of the Contempt of Courts Act. In the instant case, there is nothing on record that prior to 27th March, 2003, the Land Acquisition Collector had received any communication that the stay granted on 12th February, 1999 had been vacated and, therefore, he was absolutely right in not taking any action for proceeding further for making an award till 27th March, 2003.

21. In view of the above circumstances, one can surely believe that the Land Acquisition Collector could have proceeded further for making an award only after 27th March, 2003, when a certified copy of the order dated 23rd July, 2002 was communicated to him.

22. In view of the afore-stated undisputed facts with regard to communication of the said order dated 23rd July, 2002 on 27th March, 2003, and taking notice of all the aforestated facts we are of the view that the High Court was right in dismissing the writ petition.

23. For the aforestated reasons, we are of the view that the High Court was justified in dismissing the petition. Accordingly, the appeals are dismissed with no order as to costs.

Judgment Referred.

¹(2002) 3 SCC 0533

²(1996) 3 SCC 0088

³(2007) 9 SCC 0431

⁴(2007) 5 SCC 0231

⁵(2009) 9 SCC 0092