

SUPREME COURT OF INDIA

Financial Commissioner (Revenue) and Secretary, Punjab

Vs.

Gurkirpal Singh

S.L.P.(Civil) No. 21780 of 2008

(Dr.B.S.Chauhan and V.Gopala Gowda JJ.)

05.08.2013

JUDGMENT

Dr. B. S. CHAUHAN, J.

The first petition has been filed against the impugned judgment and order dated 9.5.2008, passed by the High Court of Punjab & Haryana at Chandigarh in Writ Petition No.10511 of 2007 by which the notification dated 23.2.2007 de-notifying the land in exercise of the power under Section 48 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') has been exercised by the State and the said order has been quashed.

The subsequent two petitions have been disposed of by the High Court of Punjab & Haryana in terms of the judgment and order passed by the said High Court in first petition.

Land was notified under Section 4 of the Act on 8.9.1994. Section 6 declaration was made on 13.6.1995 and the Award was made on 7.7.1997. As the award amount was not paid, the "person interested" approached the High Court by filing writ petitions wherein directions were issued to release the amount of compensation. Subsequently, references under Section 18 of the Act were filed. Some of the references were decided and in the Execution Court an objection was filed by the State authorities that the land was no longer required for the purpose it was sought to be acquired for, i.e., establishment of court complex as it was to be established at a different place. Therefore, the execution proceedings were dropped and certain orders were passed. Subsequently, State authorities denotified the land so acquired issuing a notification dated 23.2.2007 under Section 48 of the Act.

We have heard the matter at length and also summoned the learned Land Acquisition Collector, Dasuya alongwith the original record. The record was produced before us.

It is a settled legal proposition that once the possession of the land is taken by the State under Section 16 of the Act, land vests in the State free from all encumbrances. The State loses its power to de-notify the same under Section 48 of the Act.

In the instant case, the only question arose as to whether the possession had been taken or not. The High Court after examining the facts/record of the case came to the conclusion that the possession had been taken on 10.7.1997. Mutation had also been made, showing the land use as for establishment of court complex, Dasuya. Entries in Rapat Roznamcha dated 10.7.1997 corroborate the same.

We have examined the original record ourselves. There is an office order issued by the learned Sub Divisional Officer (Land Acquisition Collector), Dasuya, District Hoshiarpur, addressed to the Tehsildar, Dasuya, which reads as under:-

“From

Sub Divisional Officer cum

Land Acquisition Collector,

Dasuya.

To

The Tehsildar, Dasuya.

Sub: No.375 LAC/dated 7/7/1997, Announcement of Award for Judicial Complex, Dasuya.

In the abovenoted subject, the Award for the acquisition of land for Judicial Complex has been announced on 7.7.1997 in the presence of the land owners. You are requested to take possession of this land in presence of land owner and representative of the Judicial officers. The compensation of crops may be assessed, if any or take consent of the land owners for harvesting the crop at their own level.

After taking of possession report may be sent to this office alongwith Rapat Roznamcha within two days. The matter be treated as most urgent.

Sd/-

DA/copy of award. Sub Divisional Officers cum Land Acquisition Collector

Dasuya.

xx xx xx xx

No...../LAC/SDA dated /7/97

A copy is forwarded to the Addl. Senior Sub Judge, Dasuya for information.

No...../LAC/SDA dated /7/97

A copy is forwarded to the Distt. & Sessions Judge, Hoshiarpur for information.

Sd/-

Sub Divisional Officers cum

Land Acquisition Collector

Dasuya.”

The original record reveal entries of taking over and handing over the possession containing the signatures of the officers of the State as well as of the “persons interested” and witnesses which make it evident that the actual physical possession of the land had been taken on 10.7.1997.

In view of the above, there is no room for doubt that possession had been taken on 10.7.1997 and in such a fact-situation it was not permissible for the State to exercise its power under Section 48 of the Act. No fault can be found with the impugned judgment and orders

The petitions are devoid of merit and are accordingly dismissed.