

SUPREME COURT OF INDIA

Delhi Devt.Authority

Vs.

Prithi Pal Singh & Ors.

C.A.No.2204-2206/2012

Kurian Joseph and R.F.Nariman, JJ.)

18.02.2016

JUDGMENT

Kurian Joseph, J.

1. The appellant is aggrieved by the Judgment dated 24-12-2010 of the High Court of Delhi in Writ Petitions (Civil) Nos. 3823-3825 of 2006. By the impugned Judgment, the High Court has set aside the Order dated 20-4-2006 whereby the request of the first respondent for de-notification under Section 48 of the Land Acquisition Act, 1894 has been turned down. The impugned order passed by the Government of NCT Delhi is a cryptic order mentioning only that since the possession of the acquired land had been taken over by the DDA on 22-2-2006, it was not possible for the D.D.A. to de-notify the land under Section 48 of the Act. The High Court in the impugned order, after examining the records, came to a finding that there is no basis for the stand taken by the DDA that the acquired land had already been taken into possession as per the proceedings dated 22-2-2006 and thus observing, the matter has been remitted to the DDA to consider the representation filed by the first respondent afresh and to pass orders on merits. The relevant paras of the impugned Order read as follows:-

"45. In the facts of the present case, we find that obviously no physical possession of the land was taken over, but a formality was completed only on the file. The representatives of the respondents in the absence of any Halka Patwari just went around the wall and completed a noting in the file and this cannot be categorized as sufficient to constitute taking over possession in view of what we have referred to aforesaid.

46. We thus come to the conclusion that no physical possession was taken over of the site of the petitioners and it is only when the demolition action was threatened at the site that the petitioners approached this Court and status quo order was passed."

2. We have heard Mr. Amarendra Sharan, learned Senior counsel appearing for the appellant - DDA, Mr. R.K. Khanna, learned Senior counsel and other learned counsel appearing for the respondents for quite some time.

3. The award is of 1979. The first respondent had already made a futile attempt to challenge the acquisition proceedings before the High Court in 1978. After passing the award in 1979, it appears that the first respondent made another attempt to get the award itself declared as null and void. It is seen that the matter remained before the Sub-Judge, Civil Court in Civil Suit No. 82 of 1979 for quite some time. The suit was ultimately dismissed on 18-8-2005. We have referred to this factual matrix only for the purpose of indicating the history of the litigation spanning over to more than three decades. Taking note of the purpose for which the land is said to be required by the appellant, taking note of the observations made by the High Court, taking note of the interest pursued by the Respondent Nos. 2 and 3 through the first respondent and also taking note of the likely impact of the subsequent legislation on land acquisition i.e. the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (New Land Acquisition Act) (30 of 2013), we are of the considered view that it is in the interest of all to put a quietus, otherwise it is certainly a good case for litigation for another couple of decades. The disputed land which has been lying unused for last around 40 years would continue to be so while the land is badly required if not for the housing scheme for many other public purposes. The learned counsel appearing for the South Delhi Municipal Corporation has also submitted on the need for some part if not whole of the land.

4. Therefore, we deem it a fit case, to balance equities between the parties and to put an end to the entire litigation, be it for the compensation, be it for de-notification or for that matter anything touching on road pertaining to the disputed land, and thus for doing complete justice, to invoke Article 142 of the Constitution of India.

5. We direct the appellant - Delhi Development Authority to limit its claim to 3000 square meters and leave the rest to the first respondent. This indication of 3000 sq. mtrs we have made is on the basis of the submission that for a group housing scheme, if at all DDA ventures for that project, the minimum requirement is of 3000 sq. mtrs. However, we make it clear while leaving the balance to the first respondent, the appellant should also see that the first respondent gets access to the main road and that he is in a position to utilize the property for any of the purposes as permitted under law. We make it clear that there shall not be any further claim available even by way of compensation to the first respondent or anybody claiming through him for the land in question or for the road portion. Therefore, there is no need for disbursement of any compensation.

6. The Appeals are disposed of as above. No costs.