

SUPREME COURT OF INDIA

Competent Automobiles Co.Ltd.

Vs.

Union of India & Ors.

C.A.No.5054 of 2008

(Kurain Joseph and R.F.Nariman,JJ.,)

11.05.2016

JUDGMENT

Kurian Joseph,J.,

1. The challenge in this appeal is the Judgment dated 25.08.2005 passed by the High Court of Delhi in W.P. (C) No. 4694 of 2002 and other connected matters.
2. In the impugned Judgment, the High Court upheld the proceedings taken for acquisition of the land on the ground that Section 6 Declaration (of Land Acquisition Act, 1894) was within time. It appears that the appellant herein pursued a Review Petition before the High Court, which was also dismissed.
3. When the matter came up before this Court, by way of interim order dated 15.05.2007, this Court stayed the dispossession.
4. When the appeal was heard on 07.01.2016, this Court passed the following order :-

"Having heard the learned counsel for the parties for sometime, we feel that certain factual aspects which are critical for the decision of this case are required. Therefore, the appellant as well as the competent officers of the D.D.A (Respondent No. 5) are directed to file an affidavit after verifying the records of the High Court and this Court stating clearly the period during which any stay operated in the case of acquisition of property referred to in this case after 08.07.2002. The affidavit shall be filed within a week. List the matter on Thursday i.e. 14th January, 2016 as part-heard. Counsel for the appellant is also free to produce certified copies of the orders instead of filing the affidavit."

5. Thereafter, on 14.01.2016, this Court passed the following order :-

"Learned counsel for the parties do not dispute that the records do not give any indication that the time fixed for passing the Award in terms of the Section 11 of

the Land Acquisition Act, 1984, has expired. The submissions having been made after verifying the records, we do not feel necessary to have any further affidavit in that regard. Heard learned counsel for the parties at some length. However, having extensively heard the learned counsel for the parties, we do not find fit to continue the interim order granted by this Court on 15.05.2007. Hence, the interim order dated 15.05.2007 is vacated. Arguments remained part-heard List the matter on 21.01.2016 as part-heard."

6. On 21.01.2016, this Court passed the following order :-

"The fifth respondent is directed to file an affidavit whether the Delhi Development Authority is keen on acquisition of the property which is heavily built up as can be seen from the photographs produced before the Court. It is to be made clear in the affidavit as to what purpose they intend to use it for. The Delhi Development Authority shall necessarily refer also to the Notification dated 19.01.2007. It will certainly be open to the officers concerned to conduct physical verification of the said property before filing the affidavit. The affidavit shall be filed within six weeks. Post after six weeks as part-heard. "

7. An affidavit, accordingly, has been filed by the Principal Commissioner, Land Management, Delhi Development Authority stating that in view of the intervening developments, it is not feasible to proceed with the acquisition. Para 4 of the said affidavit is reproduced below :-

"That the joint inspection report has been considered by the competent authority and keeping in view that area is forming part of Abadi Deh/Lal Dora of village Mehrauli and being built up at site with monuments, graveyards, masjids, Lal Masjid, Aulia Masjid, Jahaz Mahal, Kanati Masjid and vacant land of about 9 Bigha, it has been observed that acquisition of built up land would involve massive demolition and cause hardships to the occupant of the land. Therefore, it has been decided not to pursue the acquisition proceedings subject to further orders by this Hon'ble Court. It is pertinent to mention here that the Petitioner is carrying out commercial activity at the land in his alleged possession contrary to the permitted land use. However, it will be without prejudice to rights of the respondent to acquire the same in accordance with law if need so arises."

8. In that view of the matter, it has become unnecessary for us to consider this appeal on merits. The acquisition proceedings in respect of the land belonging to the appellant are set aside. Needless to say, the land stands consequently denotified.

9. We make it clear that this Judgment shall not stand in the way of the competent authority taking appropriate steps, as referred to in Paragraph 4 of the affidavit, which is extracted above.

10. With the above observations and directions, this appeal is disposed of. No costs.

