

SUPREME COURT OF INDIA

Hori Lal

Vs.

State of Uttar Pradesh

C.A.No.1462 of 2019

(Abhay Manohar Sapre and R.Subhash Reddy,JJ.,)

05.02.2019

JUDGMENT**Abhay Manohar Sapre, J.**

SLP(C)No.14820 of 2017

1. Leave granted.
2. This appeal is directed against the final judgment and order dated 09.03.2017 of the High Court of Judicature at Allahabad in Writ Petition No.44731 of 2016 whereby the Division Bench of the High Court dismissed the writ petition filed by the appellants herein.
3. A few relevant facts need mention to appreciate the short controversy involved in this appeal.
4. The appellants herein were the writ petitioners whereas the respondents herein were the respondents in the writ petition filed before the High Court out of which this appeal arises.
5. In exercise of the powers conferred under Section 4 (1) of the Land Acquisition Act, 1894 (for short called "the Act 1894"), the State of UP (respondent No.1 herein) issued a notification on 30.10.2002 (Annexure P-1) for acquisition of lands as detailed in the schedule to the notification.
6. The acquisition was for the public purpose, namely, construction of Varanasi Bye-Pass (Ring Road) in District Varanasi. The State, however, invoked the urgency clause under Section 17 and, therefore, dispensed with the inquiry as provided in Section 5-A of the Act, 1894. This was followed by a declaration made under Section 6 on 29.11.2003. The appellants' land was acquired in these acquisition proceedings.
7. "The Act, 1894" was repealed on 01.01.2014 and was replaced by another Act called "the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation And Resettlement Act, 2013" (for short called "the Act, 2013"). The Act 2013 came into force on 01.01.2014.

8. The Land Acquisition Officer, however, passed an award on 30.06.2016 (Annexure P-4), i.e., after the repeal of the Act, 1894 in relation to the aforementioned lands by determining the compensation payable to the landowner (appellant herein) accordingly.

9. The appellant (writ petitioner) thereupon felt aggrieved by the entire acquisition proceedings including passing of the award dated 30.06.2016 and filed the writ petition in the Allahabad High Court challenging therein the validity and legality of the notification issued under Section 4 of the Act, 1894 dated 30.10.2002 as also the award dated 30.06.2016.

10. The main challenge of the appellant to the acquisition proceedings was that the entire acquisition proceedings initiated by the respondent-State on the strength of notification issued on 30.10.2002 under Section 4 of the Act, 1894 which eventually led to passing of the award on 30.06.2016, stood lapsed consequent upon the repeal of the Act, 1894.

11. It is pertinent to mention here that during the hearing before the High Court, the writ petitioner (appellant herein) expressly gave up his challenge to the acquisition proceedings and confined his challenge only to the manner in which the determination of the compensation was done by the Land Acquisition Officer and, in consequence, to its quantum.

12. The State, in the counter affidavit filed before the High Court, placed reliance on the order of the Central Government issued under Section 113 of the Act, 2013 and contended that the compensation payable to the appellant would be determined on the basis of market value as it was prevalent on 01.01.2014. .

13. By impugned order, the High Court dismissed the writ petition. The High Court held that in view of the stand taken by the State in this case, that the compensation payable to the appellant would be determined on the basis of market value of the land in question as it was prevalent on 01.01.2014, nothing survives for deciding any question. The appellant was, however, granted liberty to claim reference to the competent authority for determination of the compensation under the Act, 2013 in accordance with law.

14. It is against this order of the High Court, the writ petitioner has felt aggrieved and filed this appeal by way of special leave in this Court.

15. The short question, which arises for consideration in this appeal, is whether the High Court was justified in dismissing the appellant's writ petition and, if so, whether the reasoning of the High Court is legal, just and proper.

16. Heard Mr. Pallav Sisodia, learned senior counsel for the appellant and Mr. Tushar Mehta, learned Solicitor General for the respondents.

17. Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in this appeal.

18. As mentioned above, the High Court held that in the light of the stand taken by the State contending in their counter that the appropriate date for determining the market value of the appellant's acquired land would be the date, which is declared by the Central Government, i.e., "01.01.2014" and, therefore, the State would determine the compensation payable to the appellant accordingly. This order is not under challenge in these proceedings.

19. Indeed, once the State took a defense in this case that the compensation in the case of the appellant would be determined keeping in view 01.01.2014 to be the date as the basis, the appellant should feel satisfied with this stand. The apparent reason is that though the acquisition was made under the old Act in 2002 yet the appellant was held entitled to get compensation under the New Act, 2013 by taking 01.01.2014 as the base date for determination of the compensation.

20. We, therefore, find no good ground to accept the submission of the learned counsel for the appellant when he contended that the date for determining the compensation should be the date on which the Land Acquisition Officer passed the award. This argument does not have any basis and is, therefore, not acceptable for the simple reason that such date is not provided either in the old Act, 1894 or in the Act, 2013.

21. Indeed, how the compensation is required to be determined and with reference to what date, is provided under the Act and admittedly the date suggested by the learned counsel is not the date prescribed either in the old Act or the new Act. This submission has, therefore, no merit and deserves to be rejected. It is accordingly rejected.

22. We, therefore, find no good ground to take a different view than what was taken by the High Court in the impugned order.

23. As mentioned above, since the challenge to the acquisition proceedings was expressly given up by the appellant (writ petitioner) in the High Court, the High Court rightly did not decide this question. We also need not examine this question in the present appeal.

24. However, before parting, we consider it apposite to mention that the appellant would be entitled to get the compensation re-determined by the competent authority in accordance with the procedure prescribed under the Act, 2013 as per the liberty granted by the High Court in the impugned order.

25. The appeal thus fails and is accordingly dismissed.