

Delhi Development Authority vs Sudan Singh And Ors. on 20 September, 1991

Equivalent citations: JT1997(10)SC662, (1997)5SCC430

Author: M.M. Punchhi

Bench: M.M. Punchhi, K. Ramaswamy

ORDER

M.M. Punchhi, J.

1. These petitions, though bulky, show much ado about nothing 73 writ petitions were allowed by a division Bench of the Delhi High Court on 18-11-1988 vide judgment reported as B.R. Gupta v. Union of India . Undeniably the petitioners then approaching that Court were from eleven villages affected by notifications under Sections 4 and 6 of the Land Acquisition Act and none of those petitioners had challenged the acquisition in Village Saidul Azab, though it was one of the chain villages covered in the acquisition. It is true that Village Saidul Azab did figure to be mentioned in the judgment but apparently as a detail in the appreciation of facts. Later relying on the judgment in Gupta case a Single Bench of the Delhi High Court in CWs Nos. 2567-2568 of 1987 decided on 9-3-1989 accorded the same treatment to Village Saidul Azab. Resultantly, by these two decisions notification under Section 6 relating to 12 villages in its entirety stood quash.

2. Another batch of petitions CW No. 1373 of 1989 etc. came up before another Division Bench of the High Court in which grievance voiced by the writ petitioners was that despite notification under Section 6 of the Act relating to the villages in which their lands were situated (being part of 12 villages) having been quashed the judgment of the High Court was not being followed and the writ petitioners were about to be dispossessed. To grant appropriate relief, the High Court on 15-5-1989 when confronting the Delhi Administration and Delhi Development authority, on the subject, observed as follows :

The Delhi Administration as also the Delhi Development Authority have taken up a very fair stand before us. Their contention is that certain landowners have received compensation and as such they should not be allowed to deal with the land till the compensation is paid back to the Delhi Administration with interest at the rate of 12 per cent per annum from the date they received the payment till the date they have refunded the amount. The contention raised is quite fair and is accepted. It is further stated by learned Counsel for the respondents that no effort would be made to take

possession of an land from anybody and the possession already taken of these lands will be restored back to the landowners on receipt of the refund of compensation, if made with interest. It is further contended that in certain cases, the landowners have been allotted alternate plots in lieu of their land having been acquired and in those cases, the alternate plots must be surrendered before the landowners can take advantage of the quashing of the notifications. The counsel for the petitioner accepts this suggestion of the respondents. Consequently, we direct that the possession of the petitioners will not be disturbed except in cases where the compensation as been received by the landowners or alternate plots have been allotted, until the compensation amount and the alternate plot is surrendered. Counsel for the petitioner agree that the landowners who have received compensation or have been allotted alternate plots would surrender the same as indicated above within two months from today. All other landowners who have neither received compensation nor any alternate plot are free to deal with their lands the way they like and their possession will not be disturbed by the respondents. Delhi Administration will see to it that the revenue records are amended accordingly. The proper authority, i.e., the Land Acquisition Collector will receive the refund of compensation with 12 per cent interest per annum as well as the surrender of the alternate plots when and if offered. The writ petitions are disposed of in these terms.

3. The Delhi Administration and the Delhi Development Authority sought a review of the said order on the ground that their counsel appearing then was not authorised to make a concession which concession seemingly was evident as suggested. The High Court on 5-7-1990 saw through the gimmick of words and viewed that the counsel had rather made a contention and not a concession, being cognizant that the notification under Section 6 had been quashed and it was prudent to retrieve the situation keeping in view the ground realities which had intervened in the meantime such as the obligation to return compensation, change of possessions, etc. These aspects have adequately been noticed by the High Court in its judgment and order afore-extracted. Hence these special leave petition.

4. It has been asserted with vehemence that the High Court fell in error in CW No. 1373 of 1989 and batch cases in treating notification under Section 6 relating to Village Saidul Azab to have been quashed by the Division Bench of that Court in B.R. Gupta case. There is undisputably an obvious factual error in that judgment of the High Court. Therefore, this warrants special leave to be granted. Having granted it, we resort to the order passed by the learned Single Judge afore-referred to in which notification under Section 6 relating to Village Saidul Azab too had been quashed. If we use this information in the judgment under appeal as also in the review order of the High Court, we get to the conclusion that the notification under Section 6 relating to 12 villages had been quashed and thus all necessary consequences arising therefrom had to follow. The order of the High Court afore-extracted had become unexceptionable and obviously non-reviewable for there was nothing to review. On this analysis there remains nothing in these appeals which are dismissed, but in the circumstances, we leave the parties to bear their own costs.