

Ram Charan Lal vs The State Of Uttar Pradesh on 18 April, 1952

Equivalent citations: AIR1952ALL752, AIR 1952 ALLAHABAD 752

JUDGMENT

Agarwala, J.

1. This is an application praying that writ in the nature of certiorari may be issued to the opposite party to bring up the record of the proceedings in the Land Acquisition Case No. 174 dated the 31st August 1950 and to quash the order of the Government dated the 16th March 1950, Notification No. 122/XI-A-4M-49.

2. The petitioner is the owner of plots Nos. 11 and 10 Minjumla measuring 0.933 acres of a garden land in Mohalla Dewan Daya Ram, Gorakhpur city. The U. P. Government published Notification No. 4221/XI-4 M-49, dated 28-6-1949 under Section 4(1), Land Acquisition Act, to the effect that 0.225 acres out of the petitioner's aforesaid land was needed for public purpose, viz. for the construction of a public latrine. The petitioner by means of an application dated the 26-7-1949 filed an objection before the Collector to the acquisition of land upon various grounds which are not necessary to be detailed here. These objections were under Section 5-A, Land Acquisition Act, which entitles a person interested in any land which has been notified under Section 4(1), as being needed or likely to be needed for a public purpose to object to the acquisition of the land within 30 days after the issue of the notification. The section further provides that "The Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further enquiry, if any, as he thinks necessary, submit the case for the decision of the Provincial Government, together with the record of the proceedings held by him a report containing his recommendation on the objections. The decision of the Provincial Government on the objections shall be final."

3. What the Collector did was that on receiving the objection he fixed a date for the inspection of the site of the land in question. He inspected the locality in the presence of the parties on 6-8-1949, but gave no opportunity to the petitioner of being heard in support of his objections. After making the inspection, he made a report to the State Government which made a notification under Section 6 of the Land Acquisition Act to the effect that the land in dispute was required for public purpose. Section 6 of the Act provides, "Subject to the provisions of Part VII of this Act (which deals with acquisition for companies), when the State Government is satisfied, after considering the report, if any, made under Section 5-A, Sub-section (2), that any particular land is needed for a public purpose, or for a company, a declaration Shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders.

* * * "(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be; and, after making such declaration, the Provincial Government may acquire the land in manner hereinafter appearing."

4. If the declaration made under Section 6 is a valid declaration, it is conclusive against the petitioner as against every body else and no evidence can be led to prove that the land was needed for a public purpose. The grievance of the petitioner is that as he was not given an opportunity of being heard in support of his objections, the report of the Collector was without jurisdiction and the declaration of the Government which was made after taking the report into consideration was also without jurisdiction and ought to be quashed.

5. The argument advanced on behalf of the State is to the effect that this declaration of the Government is an administrative act and is neither judicial nor quasi-judicial and, as such, cannot be questioned in this Court in the exercise of its jurisdiction under Article 226 of the Constitution, secondly, that the opportunity given to the petitioner was sufficient and there was substantial compliance with the provisions of law, and, thirdly, that the declaration having been published, whether rightly or wrongly, is conclusive evidence that the land is needed for a public purpose and, as such, the Court has no jurisdiction to interfere with it.

6. In the view that we take of the matter, it is unnecessary, to decide whether the act of the Collector or of the Government in this case was quasi-judicial or administrative. Even if it was an administrative act, if it was made in violation of the mandatory provisions of Section 5 of the Land Acquisition Act it was without jurisdiction. No doubt a writ of certiorari is issued in England in respect of judicial or quasi-judicial acts alone. But as observed by the Supreme Court in 'RASHID AHMAD v. MUNICIPAL BOARD, KAIRANA', 1950 S C R 566, the powers of the Indian Courts under the Constitution "are much wider and are not confined to issuing prerogative writ only." Article 226 empowers the High Court to issue to any person or authority "any directions, orders or writs". This Court, therefore, has power to interfere even in the case of administrative orders which are made in defiance of mandatory provisions of law or without any jurisdiction.

7. There is no force in the contention of the learned Standing Counsel that sufficient opportunity was given by the Collector to the petitioner of being heard in support of his objections. No date was fixed for the objector to lead evidence in support of his objections or addressing oral submissions to the Collector. The Collector merely fixed a date for the inspection of the site. After inspection it was his duty to fix another date for hearing evidence and arguments. This was not done. It cannot, therefore, be said that the petitioner was given an adequate opportunity of being heard in support of his objections.

8. The provisions of Section 6(3) that the declaration under Section 6(1) shall be conclusive evidence that the land is needed for a public purpose is based upon the assumption that the declaration has been made within jurisdiction after complying with the provisions of Section 5-A. Where the provisions of Section 5-A have not been complied with, the declaration made by the State Government under Section 6 is without jurisdiction and the conclusiveness provided for in Section 6(3) does not attach to it.

9. We, therefore, quash the declaration made by the local Government under Section 6(1), Land Acquisition Act published in its notification No. 1220/XI-A-4M-49 dated the 16th March 1950. It will be open to the Collector to proceed afresh with the hearing of the objections of the petitioner after affording him an adequate opportunity of being heard in support of his objections.