

Vishwas Nagar Evacuee Plot Purchasers ... vs Under Secretary, Delhi Admn. And Others on 27 February, 1990

Equivalent citations: AIR1990SC849, JT1990(2)SC176, 1990(1)SCALE429, (1990)2SCC268, 1990(1)UJ372(SC), AIR 1990 SUPREME COURT 849, 1990 (2) SCC 268, 1990 UJ(SC) 1 372, (1990) 18 DRJ 260, (1990) 1 RRR 548, (1990) 2 LJR 44, (1990) 2 CURLJ(CCR) 166, (1990) 2 LANDLR 25, (1990) 1 CURCC 643, (1990) 40 DLT 444, 1990 ALL CJ 485, (1990) 2 JT 176 (SC)

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Bench: L.M. Sharma, T.K. Thommen

ORDER

Lalit Mohan Sharma, J.

1. This appeal by and on behalf of sixty-one persons who came as refugees from West Pakistan in 1947 is directed against the order of the Delhi High Court rejecting their writ petition at the admission stage on the ground of laches. The appellants are aggrieved by a land acquisition proceeding in respect to the lands which they had obtained at an auction held in 1959 for the purpose of rehabilitating the evacuees.

2. Soon after the purchase of the land by the petitioners a notification under Section 4 of the Land Acquisition Act, 1894 was published in respect to an area shown in the map attached thereto, which included the lands of the petitioners. According to the case of the petitioners they had no information of this notification and they, therefore, did not take any step for its annulment. It was only in January, 1969 when the notification under Section 6 was issued that the petitioners learnt about the acquisition proceeding. They, then, raised their protest and went on agitating their grievance, but, did not get any relief. Ultimately, they filed their writ application in July, 1986 which was dismissed by the High Court in limine.

3. It has been contended by the learned counsel for the appellants that the High Court ought not to have dismissed the writ case on the sole ground of delay. The case of the petitioners is that in view of the language used in the notification under Section 4 of the Act exempting government land and evacuee land from the acquisition proceeding, the disputed land, even after it was auctioned, ought to have been excluded from the proceeding.

4. Coming to the question as to whether the petitioners were prompt in challenging the acquisition proceeding before the High Court, it is relevant to state that the first objection petition by the

petitioners was filed in September, 1971, that is, more than two and half years after the publication of the notification under Section 6. The petitioners claim to have represented again in 1973, 1977 and 1978. Assuming their case to be correct that they had no information of the proceeding for acquisition of their lands before January, 1969 they should have acted promptly thereafter. There is no justification for them to ignore the land acquisition proceedings for about two years and eight months when the letter marked as Annexure-P-5(A) was sent to the Land Acquisition Collector, Tis Hazari in 1971. Even, thereafter, the appellants were not justified in not moving the High Court and sending representations at intervals of several years. The next letter is marked as Annexure-P-6(B) and is claimed to have been despatched in 1973. The other letters relied upon are Annexures-P-6(D) dated 29.10.1977 and P-6(E) dated 18.5.1978. It has been contended on behalf of the appellants that they received a reply, Annexure-P-6(F), dated 9th June, 1983 from the Deputy Director (New Leases), Delhi Development Authority, which after acknowledging the appellants' letter stated thus: "I am directed to inform you that you may apply to the Secretary, Land & Building Deptt., Delhi Admn., Vikas Bhavan, New Delhi for allotment of residential plot in lieu of your alleged plots." The petitioners do not claim to have made an application before the aforesaid authority as directed, and ignored the matter again for more than three years before filing the writ petition in the High Court on 8.7.1986. The negligence on the part of the appellants for about two years and eight months between January, 1969 and September, 1971; four years between 1973 and 1977, and again for three years between 1983 and 1986 has remained unexplained. The finding of the High Court about laches, therefore, can not be held to be erroneous.

5. This case was taken up for hearing on 13.2.1990 when we pointed out to the learned Additional Solicitor General appearing on behalf of the respondents that although the appellants were guilty of serious negligence, so as to become disentitled to press their case as a matter of right, it did not disable the authorities from granting some relief by allotment of residential plots as was indicated in the letter of Deputy Director (New Leases) dated 9.6.1983. The learned counsel wanted time to take instructions and accordingly the case was adjourned to 20.2.1990, when the learned Additional Solicitor General stated on behalf of the respondents that they were agreeable to make available one acre of land for the appellants, provided they are ready to accept it on the, following terms:-

- a) Out of the sixty-one evacuees represented by the appellants, four of them have already made some constructions on their respective plots. Three of them are at one place, who will not be disturbed and their plots will be completely exempted. The fourth one is at another place and will have to give up his claim to the land and in lieu thereof he will be given another piece of land in the neighbourhood. He will also be paid compensation for the constructions already made by him.
- b) the remaining fifty-seven evacuees must form a Housing Co- operative Society and get it registered by moving the Registrar without delay.
- c) A formal application on behalf of the Co-operative Society (after it is registered) should be promptly filed before the appropriate authority, and the Society shall be allotted a total area of one acre which has to be utilised by all the fifty-seven members.

The above assurances have been given on behalf of the respondents including the Delhi Development Authority, represented in the present appeal separately by a counsel.

6. We appreciate the attitude of the respondent in extending the offer as mentioned above, and now it will be for the appellants to take advantage of it or not. If they decide to accept the offer they must act immediately and in that case all the concerned authorities including the Registrar, Co-operative Society shall pass promptly necessary orders consistent with the aforementioned offer. The appeal is dismissed subject to these observations. The parties shall bear their own costs.