

Supreme Court of India

Municipal Committee, Bhatinda vs Land Acquisition Collector And ... on 15 April, 1993

Equivalent citations: 1993 (2) SCALE 561, (1993) 3 SCC 24

Author: S Agrawal

Bench: J Verma, S Agrawal

JUDGMENT S.C. Agrawal, J.

1. This appeal by special leave is directed against the judgment and order of the High Court of Punjab and Haryana dated May 8, 1985 whereby Civil Writ Petition No. 3534 of 1984 filed by the appellant was dismissed.

2. On October 20, 1976, the Government of Punjab issued a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') whereby it was notified that land measuring 14 bighas and 13 biswas comprised in Khasra No. 2012 situated at Bhatinda was required for the construction of a public park by the Municipal Committee, Bhatinda. After considering the report submitted under Section 5-A of the Act, the State Government issued a declaration under Section 6 of the Act on July 5, 1977 in relation to the said land. Civil Writ Petition No. 2315 of 1977 filed by Smt. Parwati Devi, respondent No. 2(deceased), to challenge the validity of the said notification and declaration was dismissed by the Punjab and Haryana High Court by its judgment and order dated April 26, 1978 and special leave to appeal against the said decision was refused by this Court on May 4, 1979. It appears that during the pendency of the said writ petition in the High Court and the special leave petition in this Court, the acquisition proceedings had been stayed and the same were revived after the dismissal of the special leave petition by this Court. While the said proceedings were pending before the Additional Deputy Commissioner, Bhatinda exercising the powers of Collector, Bhatinda, Smt. Parwati Devi and Sudesh Kumar, respondent Rs. 3 herein, filed an application whereby it was prayed that the acquisition proceedings be dropped and the notifications under Section 4 and 6 of the Act be quashed for the reason that a period of six years had elapsed and that possession had not been taken by the Government and the applicants were still in possession of the land in question. In that application, reliance was placed on the decision of the full bench of the Punjab and Haryana High Court in Radhey Shyam Gupta and Ors. v. State of Haryana 1982 PLJ 349, and other decisions of the High Court. The appellant filed a reply to the said application wherein it was submitted that the notifications were not liable to be quashed and no such power to quash the notification vested in the Collector who has only to make an award. In the said reply, it was also stated that the delay in disposal of the acquisition proceedings was on account of the pendency of the matter in the High Court and this Court and that the market price of the land had already been obtained from the revenue authority. The said application filed by respondents Nos. 2 and 3 was allowed by the Additional Deputy Commissioner, Bhatinda by his order dated December 20, 1983 on the view that in a case where the possession of the land is not taken within one year of the issuance of the notification under Section 6 of the Act, the notification would be deemed to have lapsed. The appellant filed a writ petition in the High Court to challenge the said order of the, additional Deputy Commissioner, Bhatinda. It was dismissed by the High Court by its order dated May 8, 1985 on the view that the appellant had no locus standi to file the writ petition and further that the State Government was always competent to abandon the acquisition of land and in this case, it had been done for good reasons Feeling aggrieved by the said order, the appellant has

filed this appeal.

3. Smt. Parwati Devi, respondent Rs. 2, died during the pendency of the matter in this Court. Respondent No. 3, who is also the legal representative of deceased respondent No. 2, has not appeared in spite of notice.

4. Having heard Shri K.K. Mohan, the learned Counsel for the appellant in support of the appeal, we are of the view that the judgment of the High Court cannot be upheld and must be set aside. As mentioned earlier, the High Court has refused to interfere on two grounds, namely, (a) the appellant had no locus standi to file the writ petition; and (b) the collector was fully competent to pass the impugned order inasmuch as the State Government was always competent to abandon the acquisition of land and in this case, it has been done for good reasons.

5. As regards the locus standi of the appellant to file the writ petition, it may be stated that in the notification issued under Section 4 of the Act, it is specifically mentioned that the land is required for the purposes of Punjab Municipal Act, 1911, namely, for the construction of public park etc. In the said notification, it is further stated.

And whereas in pursuance of the provisions of Section 88 of the said Act, the Municipal Committee, Bhatinda has requested the Government of Punjab, to acquire the said land under the provisions of Land Acquisition Act, 1894, on payment by the said "Bhatinda Municipality" of compensation awarded under that Act and of any other charges incurred in acquiring the land as specified below.

6. Similarly, in the declaration issued under Section 6, it is stated-

Whereas the Governor of Punjab, after considering the report made under Section 5A of the Land Acquisition Act, 1894, is satisfied that the land described in the specifications below is needed for a public purpose for providing public park etc. at the expense of the Municipal Committee, Bhatinda under Section 55 of the Punjab Municipal Act, 1911 read with Section 50 of the Land Acquisition Act, 1894.

7. From the aforesaid recitals in the notification under Section 4 and the declaration under Section 6 of the Act, it is evident that the acquisition of the land in question was at the request of the appellant for the purpose of construction of a public park. It may also be mentioned that in the earlier writ petition filed by Smt. Parwati Devi which was dismissed by the High Court and against which order special leave to appeal was refused by this Court, the appellant had been impleaded as a respondent. Furthermore, the cause title of the proceedings, as described in the application submitted by Respondents Nos.2 and 3 before the Addl. Deputy Commissioner for quashing the notifications under Sections 4 and 6, was "Municipal Committee v. Roshan Lal". The appellant had filed a reply opposing the said application submitted by respondent Nos. 2 and 3 before the Additional Deputy Commissioner, Bhatinda. After considering the said reply, the Addl. Dy. Commissioner had passed the impugned order dated December 20, 1983. It would thus appear that the application submitted by respondents Nos. 2 and 3 before the Additional Deputy Commissioner gave rise to a lis between respondents Nos. 2 and 3 and the appellant on question whether the notifications under Sections 4

and 6 of the Act be deemed to have lapsed. The said lis was decided in favour of respondents Nos. 2 and 3 and against the appellant by the Additional Deputy Commissioner by his order dated December 20, 1983. In these circumstances, it cannot be said that the appellant was not a person aggrieved by the order dated December 20, 1983 passed by the Addl. Dy. Commissioner holding that the proceedings for the acquisition of the land in question for the construction of public park at Bhatinda by the appellant be deemed to have lapsed. The High Court was, therefore, not justified in holding that the appellant has no locus standi to file the writ petition seeking to challenge the said order of the Addl. Dy. Commissioner.

8. As regards the other ground given by the High Court for rejecting the writ petition, that the State Government was always competent to abandon the acquisition of land and in this case, it had been done for good reasons, it may be stated that there is nothing on the record to show that the State Government has issued a notification withdrawing from the acquisition and to abandon the acquisition under Section 48 of the Act. We are, therefore, unable to appreciate as to how the High Court has concluded that the State Government was always competent to abandon the acquisition of land and in this case, it has been done for good reasons.

9. The Additional Dy. Commissioner did not proceed on the basis that the State Government had withdrawn from the acquisition. In the order dated December 20, 1983, he has held that the notifications under Sections 4 and 6 should be deemed to have lapsed in view of the decisions of the High Court. The decision of full bench of the High Court of Punjab and Haryana in Radhey Shyam Gupta's case (supra) on which reliance was placed by respondents Nos. 2 and 3 has been disapproved by this Court. (See : Improvement Trust Faridkot and Ors. v. Jagjit Singh and Ors. 1987 Supp SCC 608, and State of Punjab and Ors. v. Hari Om Cooperative House Building Society Ltd. Amritsar, 1987 Suppl. SCC 687). The Additional Deputy Commissioner could not, therefore, drop the acquisition proceedings on the ground that notifications issued under Sections 4 and 6 of the Act should be deemed to have lapsed. The order dated December 20, 1983 passed by the Additional Deputy Commissioner is unsustainable and the High Court was in error in upholding the said order.

10. For the reasons aforesaid, the appeal is allowed, the judgment and order of the High Court dated May 8, 1985 in Civil Writ Petition No. 3534 of 1984 is set aside, the said writ petition filed by the appellant is allowed and the order dated December 20, 1983 passed by the Additional Deputy Commissioner, Bhatinda is set aside. The Collector, Bhatinda, is directed to proceed with the acquisition proceedings in accordance with law. No orders to costs.