Supreme Court of India
Lila Ram Etc vs Union Of India & Ors. Etc on 19 August, 1975
Equivalent citations: 1975 AIR 2112, 1976 SCR (1) 341
Author: H R Khanna
Bench: Khanna, Hans Raj

PETITIONER:
LILA RAM ETC.

Vs.

RESPONDENT:
UNION OF INDIA & ORS. ETC.

DATE OF JUDGMENT19/08/1975

BENCH:
KHANNA, HANS RAJ
BENCH:
KHANNA, HANS RAJ
KRISHNAIYER, V.R.
GUPTA, A.C.
FAZALALI, SYED MURTAZA

CITATION:
1975 AIR 2112 1976 SCR (1) 341
1975 SCC (2) 547
CITATOR INFO :
R 1978 SC 515 (7)
D 1984 SC1767 (12)

ACT:
Land Acquisition Act, Section 4-Execution of Interim General Plan for the Greater Delhi, if a public purpose for the purposes of the section.

HEADNOTE:
on September 3, 1957 the Chief Commissioner of Delhi issued a notification under section 4 of the Land Acquisition Act in respect of land measuring about 3,000 acres mentioned in the schedule attached to the notification. lt was also stated that the land is likely to be required to be taken at the public expense for a public purpose, namely, for the execution of the Interim General Plan for the Greater Delhi. The notification was published in the Delhi Gazette on September 12 1957. Large tracts of land belonging to the appellant and situated in villages Garhi Jaharia Maria and Zamurdupur were covered by the above notification. Declaration dated February 15, 1961 under section 6 of the Act in respect of the land of the appellant

and some other lands covered by the above notification was published on February 23, 1961. On or about February 24, 1961 the appellant filed petition under article 226 of the Constitution challenging the validity of the notification under section 4 of the Act on various grounds. It was argued on behalf of the appellant in the High Court that the acquisition of the land was not for a public purpose. that the so-called public purpose was merely a colourable device for freezing huge areas of land and that there could not be successive declarations under section 6 of the Act in respect of the lands covered by one notification under section 4 of the Act. The High Court rejected the contentions and dismissed the writ petition.

Dismissing the appeal.

^

HELD : (I) The public purpose mentioned in the notification namely, for the execution of the Interim General Plan for the Greater Delhi, is specific in the circumstances and does not suffer from any vagueness. The land covered by the notification is not a small plot, but a huge area covering thousands of acres. In such cases it is difficult to insist upon greater precision for specifying the public purpose because it is quite possible that various plots covered by the notification may have to be utilised for different purposes set out in the Interim General Plan. No objection was also taken by the appellant before the authorities that the public purpose mentioned in the notification was not specific enough and as such he was not able to file effective objections against the proposed acquisition. [343F-H, 344A]

Munshi Singh & Ors. v Union of India [1973] 1 S.C.R. 973: Aflatoon & Ors. v. Lt. Governor of Delhi ors. A.I.R. 119741 S.C. 2077 and Ratni Devi v. Chief Commissioner W.P. Nos. 332 and 333 of 1971 decided on April 13, 1975, referred to.

(ii) The lnterim General Plan was prepared and published by the Government after approval by the Cabinet as a policy decision for development of Delhi as an interim measure till a Master Plan could be made ready. In Aflatoon case this Court laid down that the planned development of Delhi was a public purpose for the purpose of section 4 of the Act. As the object of the Interim General Plan was to prevent haphazard and unplanned development of Delhi and thereby ensure planned development of Delhi. the execution of the Interim General Plan must be held to be a public purpose for the purpose of section 4 of the Act. [344G H, 345A]

(iii) It is, true the effect of the notification under section 4 of the Act was to freeze the land, but that fact would not in any way affect the validity of the notification. The object of a notification under section 4 is to give public notice that it is proposed to acquire the land mentioned in the notification and

342
that any one who deals in that land subsequent to the notification would do so at his own risk. According to section 23 of the Act, in determining the amount of compensation to be awarded for land acquired under the Act, the Court shall take into consideration, besides other factors the market-value of the land at the date of the publication of the notification under section 4. It is further provided in section 24 of the Act that the Court shall not take into consideration any outlay or improvement on, or disposal of the land acquired, commenced, made or affected without the sanction of the Collector after the date of the publication of the notification under section 4, It is, therefore, obvious that the consequences of the "freezing of the land" is inherent in the nature of things once the notification under section 4 is issued. [345B-D]

JUDGMENT:

CIVIL APPELLATE JURISDICTION; Civil Appeal No. 35 and 989 of 1968.

From the Judgment and order dated the 8th May, 1964 of the Punjab High Court (Circuit Bench) at Delhi in Civil Writ Nos. 76-D of 1961 and 604-D of 1962 respectively.

B. R. L. Iyengar, K. P. Gupta, for the Appellants in C.A. No. 35 of 1968.

L. N. Sinha, Solicitor General of India, S. N. Prasad and S. P. Nayar, for the respondents in C.A. No 35 of 1968.

Hardayal Hardy, P. C. Bhartari and J. B. Dadachanji and Co., for the appellants in C.A. No. 989 of 1968.

L N. Sinha, Solicitor General of India, S. N. Prasad and S. P. Nayar, the Respondents in C.A. No. 989 of 1968.

The Judgment of the Court was delivered by KHANNA, J.-This judgment would dispose of civil appeals No. 35 and 989 of 1968 which have been filed on certificate against the common judgment of the Punjab High Court whereby petitions under article 226 of the Constitution file by the appellants and others challenging the validity of the land acquisition proceedings were dismissed.

We may now set out the facts giving rise to appeal No.

35. On September 3, 1957 the Chief Commissioner of Delhi issued a notification under section 4 of the Land Acquisition Act (hereinafter refer- red to as the Act) in respect of the land measuring about 3,000 acres mentioned in the schedule attached to the notification. The material part of the notification reads as under:

> "Whereas it appears to the Chief Commissioner of Delhi that land is likely to be required to be taken at the public expense for a public purpose namely for the execution of the Interim General Plan for the Greater Delhi it is hereby notified that the land described in the Schedule below is likely to be required for the above purpose."

The notification was published in the Delhi Gazette on September 12,. 1957. Large tracts of land belonging to the appellant and situated in villages Grahi Jaharia Maria and Zamurdupur were covered by the above notification. Declaration dated February 15, 1961 under section 6 of the Act in respect of the land of the appellant and some other lands covered by the above notification was published on February 23, 1961. on or about February 24, 1961 the appellant filed petition under article 226 of the Constitution challenging the validity of the notification under section 4 of the Act on various grounds, to which reference would be made hereafter. The Union of India the Delhi Development Authority and the Chief Commissioner were impleaded as respondents in the petition and affidavit was filed on their behalf by Shri K. L. Rathee, Housing Commissioner. Delhi Administration in opposition to the petition.

It was argued on behalf of the appellant in the High Court that the acquisition of the land was not for a public purpose, that the so called public purpose was merely a colourable device for freezing huge areas of land and that there could not be successive declaration under section of the Act in respect of the lands covered by one notification under section 4 of the Act. A Division Bench of the High Court consisting of Falshaw, C.J. and Mehar Singh J. (as he then was) repelled the various contentions advanced on behalf of the appellants and in the result dismissed the writ petitions.

Mr. Iyengar on behalf of the appellant has at the outset contend ed before us that the so-called public purpose, namely, "for the execution of the Interim General Plan for the Greater Delhi" is vague and as such the notification is liable to be quashed. Reliance in this context has been placed by the learned counsel upon the case of Munshi Singh and ors. v. Union of India(1). In this collection we find that the judgment of the High Court shows that the appellant did not challenge the notification in question or the acquisition proceedings on the ground that the public purpose mentioned in the notification was vague. As such, the appellant in our opinion, cannot be allowed to agitate this question for the first time in appeal. Apart from that, we are of the view that the public purpose mentioned in the notification. namely, for the execution of the Interm General Plan for the Greater Delhi, is specific in the circumstances and does not suffer from any vagueness. It is significant that the land covered by the notification is not a small plot but a huge area covering thousands of acres. In such cases it is difficult to insist upon greater precision for specifying the public purpose because it is quite possible that various plots covered by the notification may have to be utilised for different purposes set out in the Interim General Plan. No objection. was also taken by the appellant before the authorities concerned that the public purpose mentioned in the notification was not specification enough and as such he was not able to file effective objections against the proposed acquisition. In the case of Munshi Singh and Ors. (supra) the complaint of the appellant was that he was unable to object effectively under section 5A of the Act to the proposed acquisition. The (1) [1973] 1 S.C.R. 973.

appellant in that case in that context referred to the fact that a scheme of planned development was not made available to him in spite of his application. As against that, as already mentioned, no objection was taken by the appellant that because of alleged vagueness of the public purpose he was not able to file any effective objection under section 5A of the Act. The case of Munshi Singh, it may also be pointed out, was considered by the Constitution Bench of this Court in the case of Aflatoon and ors. v. Lt. Governor of Delhi and ors.(l) and it was observed that in the case of acquisition of a large area of land comprising several plots belonging to different persons, the specification of the Purpose can only be with reference to the acquisition of the whole area. Unlike in the case of acquisition of a small area, it might practically be difficult to specify the particular public purpose for which each and every item of land comprised in the area is needed. This Court in that case upheld the validity of the notification by for the acquisition of land for "the planned development of Delhi". In a subsequent unreported case Ratni Devi v. Chief Commissioner(2) this Court reiterated after referring to Aflatoon's case that acquisition OF land for the planned development of Delhi was for a public purpose.

There is also no force in the submission made on behalf of the appellant that the execution of the Interim General Plan is not a public purpose. The affidavit of Shri Rathee shows that consequent upon the increase in the population of Delhi after the partition of the country the Central Government decided that a single planning and development authority should be set up to deal with the land and housing problems in Delhi. As the constitution of such a body would have taken some time and as none of the existing authorities had the necessary lower to check, control or regulate building activities which were rapidly creating slum conditions in the city, the Delhi (Control of Building operations) Ordinance 1955 was promulgated on October 22, 1955. The Delhi Development (Provisional) Authority was constituted under the provisions of the ordinance to prevent unplanned and haphazard development and constructions. The ordinance was later on superseded by the Delhi (Control of Building operations) Act, 1955. Simultaneously the Town Planning organisation was set up in November 1955 to to draw up a Master Plan for Delhi. In September 1956 this organization submitted an Interim General Plan which was considered by the Central Cabinet in October 1956 and was approved subject to such variations, as might be found necessary on further examinations. It will thus be seen that the Interim General Plan was prepared and published by the Government after approval by the Cabinet as a policy decision for development of Delhi as an interim measure, till a Master Plan could be made ready. We have already referred to the case of Aflatoon wherein this Court laid down that the planned development of Delhi was a public purpose for the purpose of section 4 of the Act. As the object of the Interim General Plan was to prevent haphazard and unplanned development of Delhi and thereby to ensure planned de-

(1) A. l'. R. 1974 S. C. 2077.

(2) WP.Nos. 332and 333 of 1971 decided on April 13, 1975.

velopment of Delhi, the execution of the Interim General Plan must be held to be a public purpose for the purpose of section 4 of the Act.

Equally devoid of force is the submission that the proceedings for the acquisition of land are liable to be struck down on the ground that the notification under section 4 of the Act was issued for the collateral purpose of freezing the land of the appellant. As already stated above, the public purpose mentioned in the notification under section 4 of the Act was the execution of the Interim General Plan for the Greater Delhi. It is true that the effect of the notification under section 4 of the Act was to freeze the land, but that fact would not in any way affect the validity of the notification. The object of a notification under section 4 is to give public notice that it is proposed to acquire the land mentioned in the notification and that any one who deals in that land subsequent to the notification would do so at his own risk According to section 23 of the Act, in determining the amount of compensation to be awarded for land acquired under the Act, the Court shall take into consideration, besides other factors, the market value of the land at the date of the publication of the notification under section 4. It is further provided in section 24 of the Act that the Court shall not take into consideration any outlay or improvements on, or disposal of, the land acquired, commenced, made or affected without the sanction of the Collector after the date of the publication of the notification under section 4. It is therefore, obvious that the consequence of the "freezing of the land" about which complaint has been made by the appellant is inherent in the nature; of things once a notification under section 4 is issued.

Reference has also been made by Mr. Iyengar to the fact that the lands of some others.which were also earlier proposed to be acquired under the notification were subsequently ordered not to be acquired. This fact too, in our opinion, would not militate against the validity of the acquisition of the land of the appellant. According to section SA of the Act, any person interested in any land which has been notified under section 4, sub-section (1), as being need ed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be. The objector is then given opportunity of being heard and thereafter a report is submitted to the appropriate Government by the Collector containing his recommendations on the objections. It is for the appropriate Government thereafter to take the decision on the objections. There is, therefore, no inherent infirmity in the decision of the Government in accepting some of the objections and rejecting others. The question as to what factors weighed with the authorities concerned in deciding not to acquire the land of others need not be gone into in these proceedings because that would not in any way affect the validity of the acquisition of the land of the appellant Civil Appeal No. 989 of 1968 has been filed by the Birla Cotton Spg. & Wvg. Mills Ltd. in connection with the acquisition of its land measuring 9 bighas 1 biswas situated in village Ada Chini. Notification under section 4 of the Act in respect of the appellant's land was issued on November 13, 1959. Declaration under section 6 of the Act was issued on May 14, 1962. Various grounds were urged before the High Court on behalf of the appellant challenging the validity of the acquisition of its land. We are not, however, concerned with them all as Mr. Hardy on behalf of the appellant in this appeal has advanced only one contention. According to the learned counsel, no adequate opportunity was given to the appellant of being heard after the appellant had filed objections under section 5A of the Act to the acquisition of the land. Clause (2) of section SA reads as under:

> "(2) Every objection under sub-section (1) shall be made to the Collector in writing, and 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 inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government. The decision of the appropriate Government shall be, final."

After notification under section 4 of the Act was issued on November 13, 1959 the appellant company filed objections on December 12, 1959. Intimation was thereupon given to the appellant that the objections were fixed for hearing in the office of the Collector on May 9, 1961. According to the case of the respondents, no one representing the appellant company appeared on the date of hearing. The High Court apparently accepted this stand and in this context observed that no affidavit of the person who was alleged to have been present on behalf of the appellant on May 9, 1961 had been filed. In any case, the learned Judges had no doubt that the objections submitted by the appellant were considered along with the objections of other interested persons before the decision was taken to go ahead with acquisition proceedings.

At the hearing of the appeal Mr. Hardy has referred to judgment G dated May 15 1972 of the Delhi High Court in a case filed by the appellant company against the respondents relating to the acquisition of some other land of the appellant. In that case a number of affidavits were filed and on consideration of those affidavits as well as the fact that the respondents had not been able to produce the relevant file before the High Court, the High Court inferred that a representative of the appellant has actually appeared before the Collector on May 9, 1961 when objections relating to the acquisition of the other land were taken up. The finding of the Delhi High Court in the other case cannot, in our opinion, be of much avail to the appellant because we are unable to rely upon that finding for coming to the conclusion that a representative of the appellant actually appeared before the Collector in support of the objections relating to the acquisition of the land in dispute in the present case. The present case has to be decided upon the material brought on the record in this, case As already observed above, no affidavit of the person who was alleged to have appeared on behalf of the appellant before the Collector in the proceedings with which we are concerned was filed. There is also nothing to rule out the possibility of a person deputed to attend the hearings of two different cases fixed for the same date in a court appearing in only one of them and not being present when the second case is called. The relevant file was sent for at the instance of the appellant company and was produced before us. It contains the written representation of the appellant. We find no indication therein that a representative of the appellant was actually present before the Collector on May 9, 1961. The report of the Collector shows that he considered objections of a ,number of other parties who were present before him and sent his recommendations about the lands of those objectors. As regards the lands upon which nothing had been built, the recommendation was that the objections of the objectors be ignored. The appellant's land belonged to the last mentioned category. We are, therefore, of the view that there is no force in the contention that opportunity was not afforded to the appellant of being heard before the Collector made his report to the appropriate Government with his recommendations on the objections under clause (2) of section 5A of the Act.

As a result of the above, both the appeals fail and are dismissed with costs one hearing fee.

V.M.K. Appeals dismissed