IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11523 OF 2013

Ratan Runja Matale & Ors. ....Petitioners.
Versus
The Maharashtra Industrial
Development Corporation & Ors. ...Respondents.

Ms. Gayatri Singh i/by Sunil Dighe, advocates for the Petitioners.
Mr. P.P.Chavan with Ankit Kulkarni i/by Little & Co., advocates for the respondent nos.1 and 5.
Ms. Shaikh Iram Soha M.I. I/by Mr. T.J.Pandian, advocates for respondent nos.13 and 14.
Mrs. Neeta V. Masurkar with Jaydeep Deo , advocates for respondent nos.10 and 18.
Mr. Vineet Naik, Sr. Counsel i/by Kartikeya & Associates, advocates for the respondent no.16.
Mr. Arif Bookwala, Sr. Counsel i/by Dewani & Associates, advocate for R.No.17.
Ms. Rutuja A. Ambekar, advocate for respondent nos.11 and 12.
Mr. Vikas Mali AGP for the respondent nos.2,4, 6 to 9.

CORAM : SMT. VASANTI A.NAIK
& SHRI C.V.BHADANG, JJ.

DATED : February 17, 2015.

P.C.:

By this petition, the petitioner impugns the notification dated 6.1.1996 issued under Section 2(g) of the Maharashtra Industrial Development Act, 1961 as also, the awards passed by the Special Land Acquisition Officer on 18.12.2013 and 31.12.2013.

The State Government issued the notification under Section 1(3) and 2(g) of the Maharashtra Industrial Development Act, 1961 (Hereinafter referred to as the Act of 1961 for the sake of brevity) declaring its intention of acquiring of 204 Hectares of land from various villages notified therein. A notice under Section 32(2) of the Act of 1961 was published in the official gazette inviting objections from the persons interested in the land that was sought to be acquired and asking them to show cause as to why their lands should not be acquired. It is the case of the development corporation that there were negotiations between the land owners and the Special Land Acquisition Officer in respect of the rate of compensation payable to the land owners. Certain objections were received from the land owners in respect of the proposed acquisition. By an order dated 30.12.2013, the objections in respect of the acquisition of the lands in seven villages were rejected by the State Government and the State Government published the notification under Section 32(1) of the Act of 1961 in the official gazette in respect of the land from seven villages. An award was passed by the Collector under Section 32(2) of the Act of 1961 in respect of the land from the seven villages on 13.2.2013. Similarly, the objections to the acquisition of the land from the remaining three villages were rejected by the State Government on 30.12.2013 and the State Government published the notice under Section 32(1) of the Act of 1961 in the official gazette on 31.12.2013. A consent award was passed by the Collector under Section 32(2) of the Act of 1961 in respect of the land from the three villages on 31.12.2013 and out of the total compensation of Rs.138 crores, 29 lakhs 18 thousand and 680/- , the respondent no.16, the thermal power project company deposited a sum of Rs.65 lakhs on 18th and 19th of March, 2014 for disbursement of the same to the land owners.

The petitioners are the land owners from the ten villages, whose land was sought to be acquired in furtherance of the notification issued under Section 32 of the Act of 1961. The total land sought to be acquired is 180.60 Hectares and the 11 petitioners are the owners of only 11.16 Hectares. The petitioners have challenged the acquisition proceedings as also the award passed by this Special Land Acquisition Officer essentially on two grounds. Firstly, according to the petitioners, the State Government could not have acquired the land under the Act of 1961, if it was required for the benefit or development of one industry. According to the petitioners, the provisions of the Act of 1961 could be invoked only if the land is acquired for more industries than one. It is the case of the petitioners that since the land was acquired for the benefit of respondent no.16 industry only, the provisions of the Land Acquisition Act, 1984 could have been invoked for the purpose of the acquisition of the land. [******Also, the submission made on behalf of the petitioners that the land was acquired for SEZ and, therefore, the same should have been acquired under the provisions of the Land Acquisition Act is stated to be factually incorrect and is, therefore, rejected.]*********

Secondly, according to the petitioners, it was necessary for the Special Land Acquisition Officer to grant an opportunity of hearing to the petitioners. It is stated that in the instant case, the petitioners were not heard by the Special Land Acquisition Officer before the notification under Section 32(1) was published by the State Government in the official gazette. It is submitted that the Special Land Acquisition Officer had neither heard the petitioners nor had applied his mind to the objections raised by the petitioners against the acquisition of their lands. It is stated that no reasons were disclosed to the petitioners for overruling their objections and after this writ petition was filed, the State Government has rejected the objections by an order dated 3.12.2013. It is submitted that in the absence of an opportunity of hearing, the land acquisition proceedings stand vitiated. The learned counsel for the petitioners have relied on the judgment reported in 2014(6)Mh. L.J. Page 612 to substantiate her submission.

On the other hand, it is submitted by the learned counsel for the Maharashtra Industrial Development Corporation by taking this Court through the record and proceedings that the petitioners were granted an opportunity of hearing after the notice under Section 32(2) of the Act of 1961 was published. It is submitted that the objections to the acquisition of the land were decided by the Special Land Acquisition Officer after personally hearing the land owners and cogent reasons are recorded for the rejection of the objections. It is submitted that the State Government has rejected the objections by the orders dated 3.12.2013 and 30.12.2013 and only after the rejection of objections, the awards are passed by the Special Land Acquisition Officer under Section 33(2) of the Act of 1961 after publishing a notice under Section 32(1) of the same. It is submitted that most of the land holders have willingly accepted the compensation and have not challenged the acquisition proceeding. It is stated that the petitioners, who are the owners of only 11.16 Hectares of land, have challenged the acquisition proceedings and the awards. It is stated that the project of the respondent no.16 should not be stalled at the behest of the petitioners, specially when the petitioners were duly heard. By referring to various documents from the original record and proceedings, the learned counsel for the Development Corporation sought for the dismissal of the writ petition.

On hearing the learned counsel for the parties and on a perusal of the provisions of the Act of 1961 and the record and proceeding in the land acquisition proceedings, it appears that the relief sought by the petitioners cannot be granted. The first submission made on behalf of the petitioners that the provisions of the Act of 1961 could not have been invoked for acquiring the land for the benefit of only one industry and in such a case, the provisions of the Land Acquisition Act, 1894 should have been invoked is rejected. The Act of 1961 is enacted with a view to make special provisions for securing the orderly establishment in industrial areas and industrial estates and to assist generally in the organisation thereof. The State Government is empowered to compulsorily acquire the land required for the purpose of development by the Corporation or for any other purposes in furtherance of the objective of the Act of 1961. We do not find anything in the provisions of the Act of 1961, that prohibits the State Government from acquiring the land. The learned counsel for the petitioner has not relied on any material to substantiate her submission that when the land is required for the development of one industry, the provisions of the Land Acquisition Act, 1894 are required to be invoked and when the same is required for more than one industry, the provisions of the Act of 1961 should be invoked. There is no merit in the first submission made on behalf of the petitioners. We find on a perusal of the notification issued by the State Government under Section 1(3) of the Act of 1961 that the State Government has declared the area to be an 'industrial area', to be developed for the industries.

We also do not find any merit in the other submission made on behalf of the petitioners. On a perusal of the original record of the acquisition proceedings, it appears that the notice was issued under

Section 32(2) of the Act of 1961 and an individual notice was also served on the petitioners before the objections raised by the petitioners were considered and decided. We find from the perusal of the record that cogent reasons are recorded by the Special Land Acquisition Officer while rejecting the objections raised by the petitioners. We do not find any merit in the submission made on behalf of the petitioners that the petitioners were neither heard nor did the Special Land Acquisition Officer apply his mind to the objections of the petitioners. The petitioners were personally heard and the objections of the petitioners were decided. Ultimately, the State Government rejected the objections by the orders dated 3.12.2013 and 30.12.2013 and the awards were passed by the Special Land Acquisition Officer. Also, the owners of nearly 170 Hectares of land do not have any objection to the acquisition proceedings and the petitioners, who own merely 11 Hectares of land have filed the instant petition challenging the awards.

As there is no merit in either of the submissions made on behalf of the petitioners, we dismiss the writ petition with no order as to costs.

In the facts of the case, we reject the prayer made by the learned counsel for the petitioners for staying this order for a period of four weeks.

Order accordingly.

(C.V.BHADANG, J.) **(MRS. VASANTI A.NAIK, J.)**