

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WA No.562 of 2019

(Arising out of order dated 25.9.2019 passed by learned Single Judge in
WP- 4789 of 1996)

1. Rajendra Kumar Chandel S/o Shri Ramnath Chandel Aged About 59 Years Agriculturist.
 2. Anil Kumar Chandel S/o Shri Ramnath Chandel, Service.
 3. Naveen Kumar Chandel S/o Shri Ramnath Chandel, Shopkeeper.
 4. Praveen Chandel S/o Shri Ramnath Chandel, Service.
- All are R/o Village Baniyapara, Ratanpur, Tahsil Kota, District Bilaspur, Chhattisgarh.

---- Appellants

Versus

1. State of Madhya Pradesh (Now Chhattisgarh) Secretary, Department of Revenue Bhopal (Now Mahanadi Bhawan, Mantralaya Atal Nagar, Raipur) Chhattisgarh.
2. The Collector Bilaspur, District Bilaspur, Chhattisgarh.
3. Sub Divisional Officer (Revenue)-Cum-Land Acquisition Officer Sub Division, Kota, Bilaspur, Chhattisgarh.
4. The Managing Trustee/ Secretary Siddha Shakti Pith Shri Mahamaya Mandir Trust, Ratanpur, Tahsil Kota, District Bilaspur, Chhattisgarh.

-----Respondents

For Appellants	:	Dr. N.K. Shukla, Senior Advocate with Shri Manish Upadhyay, Advocate.
For State	:	Shri Sudeep Agrawal, Deputy Advocate General.
For Respondent No.4	:	Shri Saurabh Sharma, Advocate.

Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Judgment on Board

Per PR Ramachandra Menon, CJ

11.12.2019

1. Correctness and sustainability of the verdict passed by the learned Single Judge on 25.9.2019 in Writ Petition No.4789 of 1996 (wherein a challenge was raised to the acquisition proceedings pursued by the respondents) is subjected to challenge in this appeal.

2. Heard the learned Senior Counsel appearing for the appellants, the learned Deputy Advocate General appearing for the State and the learned counsel representing the Requisitioning Authority, i.e. fourth respondent.
3. The sequence of events is as follows: Way back on 17.06.1995, Annexure P/2 notification was issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act of 1894') by the State/District Collector, pursuant to the requisition made by the fourth respondent. The notification dated 17.06.1995 was published in the Gazette on 25.08.1995. This was followed by Annexure P/3 declaration under Section 6 of the Act of 1894 published on 08.09.1995. The objections were called for and later, final award came to be passed after completing the procedural formalities on 31.07.1996.
4. The appellants/ writ petitioners sought to challenge the proceedings by filing the writ petition with the following prayers :-
 - “(i) This Hon. Court may be pleased to send for the entire records from the possession of the respondents leading to the issuance of the impugned notifications and notice, for its kind perusal ;
 - (ii) This Hon. Court may kindly be pleased to issue a writ in the nature of certiorari quashing the impugned notifications (Annexure P/2 & P/3) and the notice (Annexure P/4) and declare the same as void and inoperative;
 - (iii) This Hon. Court may kindly be pleased to issue a writ in the nature of mandamus for bearing the respondents from in any manner interfering the peaceful possession of the petitioner ;
 - (iv) any other relief, though just and proper.
 - (v) Costs of the petition.”

5. The prayers were opposed from the part of the State as well as the Requisitioning Authority.
6. Various contentions were advanced from the part of the writ petitioners with regard to the competence of the Authority who issued the notification, lapses/ inadequacies in the notification and also as to the procedural infringement in the matter of enquiry and various other aspects including the obscurity in the contents of the notification. In response to the return filed from the part of the respondents contending that there was inordinate delay on the part of the petitioners in turning up before the Court, if at all, there was any grievance, and further that the matter had become final, as the final award had been passed by the Competent Authority on 31.7.1996. The writ petitioners sought to challenge the award by filing an application to amend the writ petition (by filling I.A. No. 05/2017) only decades later. The amendment was opposed and the merit involved was considered by the learned Single judge. After referring to the facts and figures and placing reliance on the various rulings rendered by the Apex Court at different points of time, as discussed in Paragraph Nos.18 to 23 of the judgment dated 25.09.2019, permission to amend the writ petition was declined and the writ petition was dismissed for the inordinate delay in raising the challenge.
7. The course and proceedings pursued by the learned Single Judge is questioned by the writ petitioners/appellants in this appeal.
8. The learned Senior counsel appearing for the appellants points out that Annexure P/2 notification issued under Section 4(1) of the Act of 1989 itself is defective, it having been issued by the District Collector, who was not competent enough to have issued the notification and the purpose of

the acquisition was not a 'public purpose' of the State, but for a private requirement as mooted by the fourth respondent Temple Trust, in connection with the activities of the Temple. The learned counsel also submitted that the very same notification was subjected to challenge in some other proceedings before the High Court of Madhya Pradesh and a ruling has been rendered by the Division Bench of the Madhya Pradesh High Court in the matter of **Sharif Patel v. State of Madhya Pradesh** reported in **1993 (II) MPWN 337**, to the effect that, it cannot be acted upon.

9. The next contention raised by the learned counsel is that, as per Annexure P/3 declaration under Section 6 of the Act of 1894 dated 08.09.1995, only a period of 14 days has been given to submit the objections. By virtue of the mandates under Section 5(A) of the Act of 1894, it is obligatory for the authorities concerned to have granted 30 days' time to submit the objections and since there is a clear infringement, no further proceedings could have been pursued and the proceedings ought to have been interdicted by the learned Single Judge.
10. Yet another contention has been raised to the effect that, Annexure P/2 notification is ambiguous, insofar as, there is no description with regard to the locality. Reliance is sought to be placed on two verdicts passed by the Apex Court in the matter of **Narendrajit Singh and another v. The State of U.P and another** reported in **1970 (1) SCC 125**, which was referred to and relied on in the matter of **Om Prakash Sharma and others v. M.P. Audyogik Kendra Vikas Nigam and others** reported in **2005 (10) SCC 306**, with regard to the mandatory requirement to be satisfied in terms of Section 5(A) of the Act of 1894. The learned counsel sought to place reliance on the verdicts in the matter of **Hindustan Petroleum Corpn.**

Ltd. v. Darius Shapur Chenai and others reported in **2005 (7) SCC 627** (Paragraph Nos. 8 & 12) and so also in **Usha Stud and Agricultural Farms Private Limited and others v. State of Haryana and others** reported in **2013 (4) SCC 210** (Paragraph Nos.16, 18 & 21).

- 11.The learned counsel lastly places reliance on the ruling rendered by the Apex Court in the matter of **R. Rajashekhar and others v. Trinity House Building Cooperative Society and others** reported in **AIR 2016 SC 4329**, pointing out that the alleged delay, if at all any, on the part of the petitioners ought not to have been a bar with regard to the declaration and the relief sought for referring to the invalidity of the notification. According to the appellants, the learned Single Judge has gone wrong and hence, the judgment requires to be interdicted by this Court.
- 12.The learned Deputy Advocate General points out that there is absolutely no merit or bona fides in the contentions raised on the part of the appellants, as he was virtually sleeping over the issue. In spite of the fact that the Section 4(1) notification was issued on 17.06.1995, followed by the declaration on 08.09.1995, absolutely no objection was ever filed by the writ petitioners at any point of time and the final award was passed on 25.09.2019. It was even without raising any challenge against the award, that the writ petitioners sought to challenge the notification before this Court by filing the writ petition. An amendment was sought to be effected by filing I.A. No.05/2017, virtually after 21 years of the acquisition proceedings and it was accordingly, that interference was declined and both the I.A. to amend the writ petition as well as the writ petition were dismissed by the learned Single Judge, which does not warrant any

interference, being perfectly within the four walls of the law and not assailable under any circumstances.

13. The version put-forth by the learned counsel for the State is supported by the learned counsel for the Requisitioning Authority as well, who submits that there is inordinate delay on the part of the writ petitioners in moving this Court, especially, in challenging the notification and also with regard to the award passed. The locus of the petitioners is also put to challenge; especially when no grievance has been raised by the other joint title holders in any manner. The learned counsel submits that the acquisition was for providing more comfort and convenience to the devotees who were coming to the Temple and it was never a matter of accumulation of wealth of the Temple trust. By virtue of the mounting increase in the number of pilgrims visiting the Temple, it was obligatory for the Temple trust to provide for minimum comforts and convenience to the pilgrims and as such, it was more as a matter of 'public purpose' convenience, that the acquisition was sought for by incurring huge expenditure in this regard. The learned counsel seeks to place reliance on the ruling rendered by the Apex Court in the matter of **Bajirao T. Kote (Dead) by Lrs & Anr. v. State of Maharashtra & Ors** reported in **(1995) 2 SSC 442** and a Division Bench verdict passed by the Andhra Pradesh High Court reported in the matter of **K. Ankaiah & Ors v. Government of Andhra Pradesh & Anr** reported in **AIR 1969 AP 231** involving similar circumstances, pointing out that the purpose under the given situation can only be regarded as 'public purpose' and that there is no illegality or irregularity in any manner with regard to the course and proceedings pursued by the Requisitioning/ Acquisitioning Authority.

14. The learned Deputy Advocate General submits that, the reliance sought to be placed by the petitioners with reference to Annexure P/6 Circular dated 24.12.1983, questioning the power and competence of the authority of the District Collector is wrong and misconceived. It is pointed out that the said Circular has been replaced by another Circular dated 22.06.1988, copy of which has been produced as Annexure P/6 along with the return, whereby the power and authority stand conferred upon the District Collector and hence that the notification issued is perfectly valid in all respects.
15. With regard to the sequence of events, there is no dispute at all; particularly with regard to the gazette notification and various other aspects as discussed by the learned Single Judge. It also remains a fact, as conceded during the course of hearing, that absolutely no objection was ever submitted by the writ petitioners/appellants in response to the notifications issued. The so called absence of power and authority, the alleged obscurity with regard to the notification issued in non-mentioning the locality and the alleged private purpose are virtually raised much after the notifications under Section 4, Section 6 of the Act of 1894, the award enquiry and the award. The award was admittedly not challenged by the writ petitioners earlier, as borne by the prayers already extracted herein-before. The same was sought to be challenged for the first time, as rightly observed by the learned Single Judge, only after 20-21 years of the acquisition proceedings. With regard to the point of applicability of the various rulings cited across the bar, they are with reference to the necessity to mention the various particulars such as the survey numbers, locality and other relevant aspects. The dispute is only with regard to non-mentioning of the clear locality and also with regard to the authority of the

District Collector. The said proceedings having not been subjected to challenge or questioned by raising any objection, leaving all the proceedings to be finalized by the authority concerned by passing an award and that too, in the light of the Annexure R-1 Circular, whereby the power stands specifically conferred upon the District Collector in supersession of Annexure P/6 Circular, we are of the view that, the precedents sought to be relied on are not attracted to the case in hand.

16. With regard to the reliance sought to be placed in the matter of **R. Rajashekhar** (supra). It is quite evident that the parties therein had submitted their objections before the Authority at appropriate point of time, though there was some delay in raising the challenge before the High Court. That apart, there was some vital distinction as to why the Apex court sought to confirm the verdict passed the learned Single Judge after setting aside the ruling rendered by the Division Bench, which is obvious from paragraphs Nos.18 and 34, which are reproduced for convenience of reference :-

“18. In the instant case there was no scheme framed by the respondent-Society for the purpose of providing housing sites to its members and therefore, no prior approval could have been accorded to it by the State Government. It is submitted that the cut-off date for registration of societies and enrollment of members being 30.06.1984, and the respondent-Society having been registered just before the said cut-off date, i.e. on 01.02.1984, and there being no Board of Directors constituted prior to December 1984, and therefore, it could not have enrolled any members before the cut off date. As such, there was no scheme framed before the cut off date. In the absence of the same, there could not have been any government approval of the scheme for initiating acquisition proceedings, so as to justify the acquisition of lands under Section 3(f) (vi) of the L.A. Act.”

34. Thus, in the light of the judgments of this Court referred to supra, and in the absence of framing of scheme by the respondent-Society and approval of the same by the State Government as required under Section 3 (f)(vi) of the L.A. Act, the Division Bench, holding that the letter dated 26.11.1987 referred to supra amounts to approval of the scheme, is wholly erroneous in law for the reason that neither the Three Men Committee, nor the State Level Co-ordination Committee even adverted to the said letter in their proceedings. Further, no details are forthcoming from the original file regarding the details of the scheme, and the application of mind by the state government to approve the same. In the light of the decisions of this Court, as well as the wording of Section 3(f)(vi) of the L.A. Act, we are constrained to hold that the acquisition proceedings in the instant case cannot be said to be one for 'public purpose' as defined under Section 3 (f) (vi) of the L.A. Act, especially in the light of the fact that not only was there no scheme formulated by the respondent-Society and approved by the State Government for the said purpose before initiating the acquisition proceedings, but that the evidence on record clearly indicates that the respondent-Society paid consideration to Mr. S. Rangarajan to act as the agent between it and the state government, to ensure that the lands of the original land owners are acquired in its favour. Upholding such an acquisition would be akin to approving to such type of agreements which are opposed to public policy and the same cannot be allowed by this Court under any circumstances, as the concept of hiring middlemen to get lands of the poor agricultural workers acquired by the state government in favour of a Cooperative Society is abhorrent and cannot be granted the sanction of law."

17. There is a specific finding that the acquisition proceeding was subject to a 'Scheme' framed by the co-operative society and that specific approval of the Government was necessary for initiating the Land Acquisition proceedings, which was never obtained. It was by virtue of the said basic and inherent defect, supplemented by such other facts and particulars discussed therein, that the proceedings were finalized by the Apex Court as mentioned therein. This does not come to be rescue of the writ petitioners in any manner. More so, in view of the admitted fact that no

objection was ever raised by the petitioner before the competent authority at any time. The ruling rendered by the Supreme Court as in the matter of **Rabindra Nath Bose & Ors v. Union Of India & Ors** reported in **AIR 1970 SCC 470** is to the effect that the discretionary jurisdiction vested with this Court is never to extend benefits to such people, who were simply sleeping on arm chair, unmindful of their rights and liberties in this regard. For this reason also, interference is not called for with the verdict passed by the learned Single Judge. The finding therein is well supported by the reasoning and it is based on the various judgments passed by the Apex Court as discussed in Paragraph No.18 to 23. We do not find it necessary to reproduced the said findings, except to make a reference to the rulings in the matter of **Municipal Council, Ahmednagar & Anr. v. Shah Hyder Beig & Ors** reported in **2000 (2) SCC 48**, **Municipal Corporation of Greater Bombay v. Industrial Development Investment Co. Pvt. Ltd. & Ors** reported in **1996 (11) SCC 501**, **A.P. Industrial Infrastructure Corporation Ltd. v. Chinthamaneni Narasimha Rao & Ors** reported in **2011 AIR SCW 5047**.

18.The observation Paragraph No. 24 alone will be enough to have a clear idea as to the course sought to be pursued in finalizing the proceedings by the learned Single Judge, which is reproduced below :-

“24. In view of the aforesaid legal pronouncements as it stands so far as the proceedings of land acquisition under the Land Acquisition Act, 1894 when these legal pronouncements are taken note of keeping in view the relevant dates which have been mentioned in the preceding paragraphs so far as the initiation of the land acquisition proceedings in the year 1995, Section 4 notification being issued on 21.07.1995, Section 6 notification also being issued on 23.08.1995 and the writ petition being filed on 09.11.1996 i.e. after more than a year coupled with the fact that in the writ petition

the challenge is only to Sections 4 & 6 notification and by the time the writ petition was filed, the final award under Section 11 was already passed but for reason best known the same was not challenged, at the final hearing stage the petitioners cannot after 21 years be granted permission to amend the petition. Since the right was available to the petitioners since 15 November, 1996 onwards and the petitioners also did not take prompt step in spite of specific objection being raised by the contesting respondents in their reply which itself was filed about 20 years back, the amendment application deserves to be rejected and it is ordered accordingly.”

19. After hearing both the sides, we do not find any tenable ground to interfere with the verdict passed by the learned Single Judge. The appeal fails. It is dismissed accordingly.

Sd/-

(PR Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge