HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Spl. Appl. Writ No. 1048/2015

Vishnu Dutt s/o Sh. Bankat Lal, Age-64 years, r/o Bisson Ka Chowk, Nagaur (Rajasthan).

----Appellant

Versus

1. The State of Rajasthan through the Secretary, Department of Industries (Group-1), Govt. of Rajasthan, Govt. Secretariat, Jaipur.
2. The District Collector, Nagaur.
3. The Land Acquisition Officer -cum- S.D.O., Nagaur.
4. The Divisional Manager, Rajasthan State Industrial Development and Investment Corporation Limited (RIICO), Industrial Area, Nagaur.

----Respondent

Connected With

D.B. Spl. Appl. Writ No. 1024/2015

Puspa Devi

----Appellant

Versus

State And Ors.

----Respondent

D.B. Spl. Appl. Writ No. 1049/2015

Kheta Ram

----Appellant

Versus

State And Ors.

----Respondent

D.B. Spl. Appl. Writ No. 1050/2015

Amra Ram

----Appellant

Versus

State And Ors.

----Respondent

D.B. Spl. Appl. Writ No. 1051/2015

Munni Devi

----Appellant

Versus

State And Ors.

----Respondent

D.B. Spl. Appl. Writ No. 1052/2015

Lrs Of Chuki Devi And Ors

----Appellant

Versus

State And Ors.

----Respondent

D.B. Spl. Appl. Writ No. 1053/2015

Geeta Devi

----Appellant

Versus

State And Ors.

----Respondent

D.B. Spl. Appl. Writ No. 1054/2015

Santosh Devi

----Appellant

Versus

State And Ors.

----Respondent

D.B. Spl. Appl. Writ No. 1055/2015

Shanti Devi

----Appellant

Versus

State And Ors.

----Respondent

D.B. Spl. Appl. Writ No. 1056/2015

Basanti Devi

----Appellant

Versus

State And Ors.

----Respondent

D.B. Spl. Appl. Writ No. 7/2016

Shanti Devi

----Appellant

Versus

State And Ors.

----Respondent

D.B. Spl. Appl. Writ No. 111/2016

Shabir Khan

----Appellant

Versus

State And Ors.

----Respondent

For Appellant(s)	:	Mr. Nimba Ram Choudhary Mr. Chetan Singh Bhati
For Respondent(s)	:	Mr. Shyam Ladrecha AAG Mr. Sanjeet Purohit with Mr. Mudit Nagpal

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HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT

Judgment

Reserved on 06/11/2024
Pronounced on 20/12/2024

Per Dr. Pushpendra Singh Bhati, J:

1. The present special appeals under Article 225 of the Constitution of India read with Rule 134 of the Rajasthan High Court Rules, 1952, have been preferred by the appellants (writ petitioners) laying a challenge to the order dated 14.09.2015 passed by the learned Single Judge of this Hon’ble Court in a batch of writ petitions led by S.B. Civil

Writ Petition No.6863/2014 (Kheta Ram Vs. State of Rajasthan & Ors.).

2. The impugned order was passed, dismissing the writ petitions preferred by the appellants (writ petitioners), impugning the acquisition proceedings initiated vide Notification dated 05.06.2012 under Section 4 of the Land Acquisition Act, 1894 (*hereinafter referred to as 'Act of 1894'*), followed by declaration dated 24.06.2013 under Section 6 of the Act of 1894, and submission of the enquiry report dated 13.06.2013 under Section 5A of the Act of 1894, as well as the proceedings incidental thereto, pertaining to an agricultural land, total admeasuring 157.62 hectare, situated at Village Gogelav and Village Balwa, in the District Nagaur. The said land in question has been sought to be acquired for industrial development through the Rajasthan State Industrial Development and Investment Corporation Limited (in short, 'RIICO').

3. As against the land acquisition proceedings in question, the case of the appellants (writ petitioners) as represented by learned counsel Mr. Nimba Ram Choudhary and Mr. Chetan Singh Bhati, is that already there is a vacant government land (*charagah)* available for acquisition and the same is adjacent to the land in question. There is also a wildlife sanctuary nearby the land sought to be acquired for industrial development and the acquisition in question would have adverse impact upon the habitats of the wildlife sanctuary.

3.1. Further, the case of the appellants (writ petitioners) is that the RIICO itself has made a specific recommendation, which also goes against the acquisition proceedings in question. The appellants also allege non-compliance of the provisions of Section 5A of the Act of 1894 and that the declaration under Section 6 of the Act of 1894

stood lapsed; the said declaration has been made beyond the period of limitation. The objections raised by the appellants (writ petitioners) were not considered in the right perspective during the acquisition proceedings in question.

3.2. Learned Counsel in support of his submissions relied upon the judgment rendered by the Hon'ble Supreme Court in *Raghbir Singh Sehrawat vs. State of Haryana & Ors.*, (Civil Appeal No. 10080-10081 OF 2011, decided on 23.11.2011)

4. Per contra, Mr. Shyam Ladrecha, learned AAG, assisted by Mr. Sanjeet Purohit and Mr. Mudit Nagpal, learned counsels representing the respondents have supported the impugned judgment.

4.1. The appellant's contention that the notification under Section 6 of the 1894 Act is time-barred lacks merit, as the notifications under Sections 4(1) and 6(1) were issued in compliance with the Act. Moreover, per the Supreme Court's ruling in *Bheru Lal v. State of Rajasthan* (2009 (9) SCC 119), the publication date under Section 6(2) is irrelevant, and the acquisition proceedings are within the limitation period.

4.2. Learned Counsel also submitted that the appellant was duly heard, with notices issued and counsels present on multiple dates, ensuring natural justice. Objections were considered alongside RIICO's response before the Section 5A report was submitted.

4.3. Learned Counsel further submitted that the writ court's interference with LAO findings under Section 5A is limited, as upheld by the Supreme Court in *New Okhla Industrial Development Authority v. Darshan Lal Bohra* (CA No. 8048/2019) and *Pravinkumar Gosalia v. State of Goa* (WP No. 341/2008).

4.4. Learned Counsel also submitted that the claim of discrimination seeking similar treatment as Smt. Shanti Devi is misconceived, as her land, located in a corner unsuitable for industrial planning, was de-acquired after proper evaluation and procedure. No comparable representation was submitted by other applicants.

4.5. Learned Counsel further submitted that the acquisition for the industrial area was completed for a 'public purpose,' with compensation awarded, environmental clearance obtained, and over 150 plots allotted. The petitioner received compensation for their property at standard rates, and no irregularity is found in the process. The Hon'ble Single Bench's judgment is fair and valid.

5. Heard learned counsel for the parties as well as perused the record of the case.

6. This Court observes that the land acquisition proceedings under Section 4 of the Act of 1894 was initiated on 05.06.2012 for the agricultural land measuring 157.62 hectares (133.48 hectare at Gram Gogelav and 24.14 at Gram Balwa) in the District Nagaur for the industrial development through the RIICO.

7. This Court further observes that one of the appellants’ land measuring 32 bighas situated in khasra No.335 falls under the land to be acquired, has been shown at S.No.5 against Village Balwa, in the notification. The detailed objections were submitted by the appellants and their main contention is that neither any opportunity of hearing has been given nor any reasoned order has been passed; whereas on 06.02.2014, the declaration under Section 6 of the Act of 1894 was published in the newspaper, though the same was published in the Gazette on 05.08.2013.

8. This Court takes note of the fact that the appellants' main claim is non-compliance of Section 5A of the Act of 1894. This Court also observes that proceedings are for RIICO, and there is nothing on record to show that the agricultural land was converted into residential, before issuance of notification under Section 4 of the Act of 1894. This Court further observes that the provision of Section 5A of the Act of 1894 has been duly complied with, while conducting the acquisition proceedings in question, and all opportunity as per the principles of natural justice were given. The Land Acquisition Officer gave a report to the State Government, whereupon the State Government issued the declaration under Section 6 of the Act of 1894.

9. This Court also observes that the *barani* land which is less fertile is good for industrial area and therefore, the acquisition by the State Organ of RIICO since has been done under the procedure, does not call for any interference. The objections were duly considered by the Land Acquisition Officer and the same has been duly stated in affidavit by the respondent authorities. The Land Acquisition Officer gave ample opportunities to the interested parties as well as their counsel and also considered all the objections on merits before submitting the report to the State Government.

10. This Court observes that the notification under Section 4 of the Act of 1894 was issued on 05.06.2012 and published in the Gazette on 19.06.2012 and in the newspaper on 20.06.2012. Further on 27.06.2012, a public notice of such notification was made.

10.1. This Court further affirms from the plain reading of Section 6 of the Act of 1894 and the judgment of this Hon'ble Court in Bheru Lal v. State of Rajasthan (2011 (1) RLW Raj 608, decided on 25.03.2009),

that the declaration made under Section 6, should be issued within one year from the last date of publication of notification issued under Section 4 and that the date of publication of the declaration is not at all relevant.

10.2. This Court also observes that the declaration (under Section 6) dated 24.06.2013 having been signed, does not show any irregularity in the acquisition proceedings in question. Further, Section 5A of the Act of 1894 has been complied with as on affidavit it has been stated that the Land Acquisition Officer had given all due opportunities and dealt with the objections so raised.

11. This Court further observes that the learned Single Judge of this Hon'ble Court has duly considered the whole process of land acquisition in question, including initiation and publication in the newspapers as well as in Gazette. The learned Single judge has arrived at a considered conclusion regarding declaration under Section 6 of the Act of 1894, as while dealing with the provisions of clause (2) of first proviso to Section 6 of the Act of 1894, in which the respondent-State was directed by the Court to place the specific dates pertaining to the entire acquisition proceeding and that it was found that the notification under Section 4(1) of the Act of 1894 was issued on 05.06.2012, published in the Gazette on 19.06.2012, published in the newspaper on 20.06.2012 and pasted on the place of acquisition on 27.06.2012; and the report dated 13.06.2013 under Section 5-A of the Act of 1894 was sent by the Land Acquisition Officer to the Department, which was followed by amended report dated 22.07.2013. Section 5A was considered in these reports, the declaration under Section 6 made on 24.06.2013 was published in the Gazette on 05.08.2013 and in the newspaper on 06.02.2014.

12. This Court also observes that the learned Single Judge of this Hon'ble Court has already considered the matter and arrived at a considered conclusion that the proviso as to whether making of the declaration is sufficient or its publication in the newspaper or Gazette would be relevant for the purpose of determining the issue of limitation of one year, to which the learned Single Judge has relied upon the judgment rendered by the Hon'ble Apex Court in the case of ***S.H. Rangappa Vs. State of Karnataka, (2002) 1 SCC 538.*** The said judgment has been relied upon, to substantiate that the issues exhaustively dealt with, are absolutely applicable in the present case and once the notification under Section 4 of the Act of 1894 was paste at the place of acquisition on 27.06.2012 and Section 6 declaration was made on 24.06.2013, it cannot be said that the declaration was barred by clause (2) of the first proviso of Section 6 (1) of the Act.

13. The issue of non-compliance of Section 5A of the Act of 1894 has also been dealt with by the learned Single Judge of this Hon'ble Court, in which it has been recorded that the Land Acquisition Officer has noticed all the objections, which were sent to RIICO and thus, the same stood satisfied. The report of the Land Acquisition Officer under Section 5A of the Act of 1894, has been examined and a detailed narration of the same is there in the impugned order passed by the learned Single Judge.

14. The argument pertaining to alternate land has also been dealt with by the learned Single Judge and the same being of *Charagah*, has been rightly considered non-suitable for the acquisition.

15. The judgments cited at the Bar on behalf of the appellants do not render any assistance to their case in the instant appeals.

16. In light of the aforesaid observations, this Court does not find it a fit case so as to grant any relief to the appellants in the instant appeals.

17. Consequently, the present special appeals are ***dismissed***. All pending applications stand disposed of.

(YOGENDRA KUMAR PUROHIT),J (DR.PUSHPENDRA SINGH BHATI),J

33-SKant/-