

PETITIONER:
S. GURDIAL SINGH & ORS.

Vs.

RESPONDENT:
LUDHIANA IMPROVEMENT TRUST

DATE OF JUDGMENT: 02/04/1997

BENCH:
K. RAMASWAMY, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:

Present:

Hon'ble Mr. Justice K. Ramaswamy

Hon'ble Mr. Justice D.P. Wadhwa

Manoj Swarup, Vikas Vashisht, Advs. for Ms. Minakshi Vij,
Adv. for the appellants

Rohit Aggarwal, Adv. for R.S. Suri, Adv. for the Respondent

O R D E R

The following order of the court was delivered:

This appeal by special leave, arises from the judgment of the Division Bench of the High Court of Punjab & Haryana, Chandigarh, made on November 26, 1985 in CWP No. 2575/85, dismissing the writ petition in limine.

The admitted position is that the respondent Trust had published on September 4, 1975 two notifications under section 36 and 48 of the Punjab Town Improvement Act, 1922 (for short, the "Act"), which are equivalent to the notifications under Section 4(1) of the Land Acquisition Act, 1894 (for short, the "Central Act"), respectively on 20.10.1972 and 19.9.1975, acquiring a total extent of 0.3 acres of land with boundaries, stated in the scheme framed under Section 24 read with Section 28 (2) of the Act including the statement made therein with a general map of the locality comprised in the declaration under Section 41(1) of the Act which is equivalent to Section 6 of the Central Act. An enquiry under Section 11 of the Central Act was conducted and the award was made on January 19, 1977. Thereafter, the appellants sought a reference. Accordingly, reference under section 18 came to be made to the civil court. In 1985, the appellants filed writ petition in the High court challenging the notification issued and the declaration under Section 41 on the ground that the notification and declaration were vague and, therefore, the acquisition was bad in law. The High Court, as stated above, dismissed the writ petition in limine, hence this appeal by special leave.

This Court has recently considered the entire case law and held in State of Tamil Nadu vs. L.N. Krishnan [(1996) 1 SCC 250] that the notification cannot be quashed on the ground of vagueness. Therein, notification under Section 4(1) indicated that the lands were needed for the housing

scheme to meet the demands made by various sectors of the population under K.K. Nagar Further Extension Scheme. That scheme was found to be not vague and hence could not be quashed on the ground that it was vague. This Court has reversed the judgment in State of Tamil Nadu Vs. A. Mohammed Yousef [(1991)(4) SCC 224] wherein it was held that unless a detailed scheme is framed under the improved scheme, the notification under section 4(1) is illegal. It is seen that the notification issued in the present case indicates the existence of the map and the detailed scheme for the inspection of the persons interested in the scheme. It was reiterated in the declaration published under Section 6 of the Central Act. A scheme was also annexed to the declaration. Under these circumstances, though the notification has not disclosed the public purpose, it cannot be said that the scheme itself is vague and is liable to be quashed. That apart, the award was made on January 19, 1977 and the reference under Section 18 also was sought for and was made. Under those circumstances, the writ petition was filed after an inordinate delay of 8 years and the appellants accepted the award passed by the court and the relief sought for. Accordingly, we do not find any illegality in the ultimate conclusion reached by the High Court that it does that it does not even warrant interference.

It is then contended, relying upon the decision of this court in State of U.P. vs. Pista Devi [(1986) 4 SCC 251] that the appellants are entitled to allotment of alternative sites for commercial purpose. Therein, the land was acquired for housing development and the persons whose properties were sought to be displaced were directed to be provided housing accommodation under the schemes formed thereunder. The general ratio therein cannot be uniformly and mechanically extended to all the cases unless there is any express scheme framed by appropriate authorities and the scheme is in operation. Under these circumstances, we cannot give any express direction in this behalf. However, when the grievance was made by the appellants, an admission was made in the counter affidavit filed in the High Court thus:

"The petitioners could get a plot of land as local Displaced Person in lieu of their acquired land according to rules on the subject."

In view of the above statement, it will be open to the appellants to make an application to the respondents and they would consider according to the scheme.

The appeal is accordingly dismissed with the above observation. No costs.