

CASE NO.:
Appeal (civil) 66 of 1998

PETITIONER:
Tej Kaur & Ors., etc.

RESPONDENT:
State of Punjab & Ors.

DATE OF JUDGMENT: 07/03/2003

BENCH:
K.G. Balakrishnan & P. Venkatarama Reddi.

JUDGMENT:

J U D G M E N T

K.G. BALAKRISHNAN, J.

The appellants in these two appeals are land-owners whose land was acquired for the purpose of starting an "Industrial Focal Point" by the State of Punjab. Notification under Section 4(1) of the Land Acquisition Act, 1894 was published on 7.5.1991. Appellants in Civil Appeal No. 66 of 1998 filed objections on 13.6.1991. Section 6 declaration was made on 18.3.1992 and the award was passed on 15.3.1994. The appellants filed writ petitions before the High Court of Punjab & Haryana, challenging the acquisition proceedings. The Division Bench of the High Court dismissed the writ petitions and aggrieved by the same, the present appeals are filed.

Though the appellants had raised several grounds in the writ petitions, those grounds were not urged before us. The appellants urged only two grounds, namely : there was no Section 5A inquiry and the appellants were not given personal hearing regarding the objections filed by them; and secondly, the lands owned by them were liable to be exempted as the acquired lands were agricultural lands.

In Civil Appeal No. 66 of 1998, the counsel for the appellants contended that though Section 5A inquiry was mandatory, no such inquiry was conducted in the instant case and that after the declaration under Section 6 of the Land Acquisition Act was made, the award was passed within a short period and, therefore, the subsequent proceedings are illegal. In support of his contention, learned counsel relied on the decision in Farid Ahmed Abdul Samad & Anr. Vs. Municipal Corporation of the City of Ahmedabad & Anr. (1976) 3 SCC 719 wherein this Court held that personal hearing under Section 5A of the Land Acquisition Act is mandatory and does not rest on person's demand for personal hearing.

Another decision relied on is Shri Mandir Sita Ramji vs. Lt. Governor of Delhi & Ors. (1975) 4 SCC 298. In that case, this Court held that the duty of the Land Acquisition Officer to afford opportunity of being heard under Section 5A of the Act is mandatory and that a decision by Government on the objection, when the Collector afforded no opportunity of being heard to the objector, would not be proper. The power to hear the objection under Section 5A is that of the Collector and not of the appropriate Government. Merely because the Government may not choose to accept the recommendation of the Land Acquisition Collector, even when he makes one, it can not be said that he need not make the recommendation at all but leave it to the Government to decide the matter.

Similarly, in the decision in Shyam Nandan Prasad & Ors. vs.

State of Bihar & Ors. (1993) 4 SCC 255, this Court observed that affording of opportunity of being heard to the objector during inquiry under Section 5A is a must and that this provision embodies a just and wholesome principle that a person whose property is being, or is intended to be, acquired, should have the occasion to persuade the authorities concerned that his property be not touched for acquisition.

It is true that Section 5A inquiry is an important stage in the acquisition proceedings and a person who is aware of Section 4(1) Notification can raise objection to the effect that his property is not required for acquisition and he is also at liberty to raise the contention that the property is not required for any public purpose. It is also true, that the objector must also be given a reasonable opportunity of being heard and any violation of the procedure prescribed under Section 5A would seriously prejudice the rights of the owner of the property whose land is sought to be acquired. In the instant case, however, it is pertinent to note that the Collector had, in fact, conducted the Section 5A inquiry, though there is no material on record to show that the appellants in Civil Appeal No. 66 of 1998 were heard in person. The facts and circumstances of Civil Appeal No. 66/1998 clearly show that the objection raised by the appellants was considered and partly allowed by the Collector. About eight acres of land was sought to be acquired from the appellants as per the Notification, but out of that, an extent of six acres was excluded from acquisition and only one and half acre of land was actually acquired by the authorities. This would clearly show that the objection filed by the appellants was considered by the Collector. Moreover, Section 6 Declaration was made on 18.3.1992 and the award was passed on 15.3.1994. The appellants filed the writ petition only on 12.4.1994. In spite of the Section 6 Declaration having been made on 18.3.1992, the appellants allowed the acquisition proceedings to go on until the award was passed. This fact clearly indicates that the appellants did not have a genuine grievance against Section 5A inquiry held by the Collector. Therefore, we are not inclined to interfere with the judgment on the grounds now advanced by the appellants.

As regards Civil Appeal No. 67 of 1998, the appellants did not raise any objection within a reasonable time after Section 6 Declaration was made. The possession of the land itself was given to the third parties for the purpose of starting the industry. Moreover, the land of the appellants is surrounded completely by other plots which are acquired and sought to be used for industrial purposes. We do not find any justifiable ground to exclude the appellants' lands from acquisition. The Division Bench has correctly held that the appellants were not entitled to any of the reliefs prayed for in the writ petition.

In view of the above, we see no merit in these appeals which are dismissed accordingly. There will be no order as to costs.