

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).7208/2005

(From the judgement and order dated 17/12/2004 in WP No. 1804/1987 of the
HIGH COURT OF DELHI AT N. DELHI)

SUNIL GUPTA

Petitioner(s)

VERSUS

U.O.I. & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 23/08/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Petitioner(s) Mr. P.N. Lekhi, Sr.Adv.
Mr. Ravinder Sethi, Sr.Adv.
Mr. N.S.Vashisht, Adv.
Mr. Arun K. Sinha, Adv.
Mr. Mukesh Kumar Sinha, Adv.

For Respondent(s) Mr. A. Saran, A.S.G.
Ms. Rachana Srivastava, Adv.
Mr. Nurullah, Adv.

Mrs. Indira Sawhney, Adv.
Mrs. Sushma Suri, Adv.

UPON hearing counsel the Court made the following
ORDER

On 18th July 1986, Notification under Sec.4 of the Land
Acquisition Act, 1894 was issued proposing to acquire the land
admeasuring 19 bighas 4 biswas in Khasra No.193 MIN in village
Bijwasan.

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In September/October 1988, writ petition (1804 of
1987) challenging the aforesaid acquisition was filed for setting
aside the Notification dated 18.7.1986 under Sec.4 as well as
Notification under Sec.6 dated 21.7.1986. In the writ petition it was
prayed that the IAQ Officer(s) and/or the beneficiaries of the
acquisition should be directed not to interfere with the possession of
the petitioner and also to restore back part of the land which has
been encroached by the respondents.

In this CW No. 1804/1987 the ground of challenge
was, inter alia, that there was no publication of Notification under
Sec.4 as well as under Sec.6 either in the official gazette or in daily
newspaper published in New Delhi and nor was there public notice
of the substance of the Notification at convenient places in the
locality of Sec.4 Notification prior to the making of declaration

under Sec.6; that particulars of the land were not mentioned in the Notification and accordingly Khasra No.193 MIN admeasuring 130.06 bighas, out of which 19.07 bighas stood acquired vide Award No.25/85-86 was not spelt out and therefore the Notifications were liable to be struck down on the ground of vagueness.

Before proceeding further we want to be conceptually clear. It is one thing to say that the Notification under the Land Acquisition Act is bad in law on the ground of vagueness and that is quite different from saying that the said land admeasuring 19.07 bighas is not covered by the acquisition Notification. Petitioner herein alleges that area under acquisition sought to be taken is more than 19 bighas 4 biswas.

In the present case the petitioner alleged that the acquisition is bad in law as the Notifications

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were vague. That is quite different from saying that the petitioners land has never been acquired. It is quite different from saying that the possession of the land has never been taken in accordance with law. In fact the petitioner in the writ petition itself has stated that the respondents should be directed not to interfere with his possession and also to restore part of the land encroached upon by the Government.

The only question which arises for determination in this regard is whether the petitioner who has purchased this land after Sec. 4 Notification, Sec.6 declaration and the alleged possession being taken was entitled to challenge the Notifications on the ground of vagueness. In our view, on the question of locus, the High Court was right in holding that the petitioner who is the subsequent purchaser was not entitled to challenge the validity of the Notifications issued under Sec.4 and 6 of the Land Acquisition Act on the ground of vagueness.

However, it is asserted in the writ petition that the petitioner continues to be in peaceful possession of the lands in question. In the writ petition the petitioner has alleged that no notice under Sec.9 of the Land Acquisition Act has either been received by the petitioner or served on his predecessor entitled respondent No.6. It may be stated that Respondent No.6 did not enter appearance in the writ petition before the High Court. He has not appeared before us. This averment finds place on page 84 of the special leave petition paperbook. We make it clear that the above contentions advanced on behalf of the petitioner, namely, that the petitioner continues to be the owner, that he continues to be in peaceful possession of the land in question as alleged and that no notice under Sec.9 was ever received

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by him and the question as to whether the Government had encroached upon a part from his land are all questions of title. Even the area which is in possession of the petitioner as claimed is one of the disputed facts.

Accordingly we hold that the High Court was right in dismissing the writ petition on the ground that writ petitioner who was a subsequent purchaser was not entitled to challenge the

Notification on the ground of vagueness.

However, dismissal of the writ petition will not come in the way of the petitioner instituting a civil suit on title & possession in accordance with law, if so advised. We make it clear that any observations made in the impugned judgment of the High Court will not constitute expression of opinion/finding on the question of title and/or possession. All contentions on question of title and possession are expressly kept open. However our order shall not be construed as liberty given to the petitioner herein to file a civil suit. This is because it would be a matter of right of every citizen to seek legal remedy as he may be advised.

Subject to above special leave petition is dismissed.

Status quo as of today shall continue for a period of three months. It is made clear that it will be open to the petitioner to move for interim reliefs in the civil suit within the aforesaid period. The interim order of status quo shall continue till such time as civil court passes interim orders (either granting or refusing it) or for three months, whichever is earlier.

(Suman Wadhwa)
Court Master

(Madhu Saxena)
Court Master