

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8977 OF 2014

JAI NARYANA @ JAI BHAGWAN & ORS. Appellant(s)

VERSUS

THE STATE OF HARYANA & ORS. Respondent(s)

WITH

CIVIL APPEAL NO.13828/2015

CIVIL APPEAL NO.9211-9213/2016

O R D E R

Heard learned counsel for the parties.

In the instant case, total area is 1407 acres. Under Section 4 of the Land Acquisition Act, notification was issued on 2nd June, 2009 for acquiring land admeasuring 1407 acres of land, situated at Villages of Nagli Umarpur, Tigra, Ulahwas, Kadarapur, Maidawas, Badshahpur, Bahrampur and Ghata, District Gurgaon, for the purpose of development and utilization of land for residential sectors 58 to 63 and residential commercial sectors 65 to 67 at Gurgaon. Declaration under Section 6 of the L.A. Act was issued on 31st May, 2010 with respect to 850 acres of land; rest of the land was left out from acquisition.

On 29th July, 2011 a High Powered Committee was constituted to consider the release.

The case of the appellant was not referred to the High Powered Committee. The appellant preferred a writ petition with respect to 9 kanals, 3 marlas of land, situated at Village Madiawas, Gurgaon. It is the case of the appellant, that his land, measuring 9 kanals and 3 marlas, was left from being referred to the High Powered Committee as otherwise not required after declaration under Section 6 of the L.A. Act. The Land Acquisition Collector passed award only in respect of 87 acres of land on 22nd December, 2011. There was release of approximately 95% of the notified land for acquisition. The award was passed and it was submitted that electric substation had not come up in the area particularly belonging to the appellant-Jai Narain.

It was submitted by learned counsel for the appellant, that the area in fact was not required for electric sub-station and was lying vacant its possession from the appellant had not been taken. It was also pointed out that the action of the Land Acquisition Officer was wholly malafide, taken with a view to benefiting the private builders inasmuch as, 95% of land had been released from acquisition time to time after private builders have purchased the property from the poor

agriculturists. The entire purpose of acquisition stood defeated due to illegal release of 95% of the land, it was submitted that when land to the extent of 1407 area was proposed to be acquired and out of that declaration was issued only with respect to 850 acres and award was passed for a small area as compared to the proposed acquisition of 1407 acres and 560 acres of land has been released in favour of the private builders. The land in area 750 acres had been excluded before the declaration under Section 6 and 750 acres was released in favour of private builders after award was passed. It was wholly malafide exercise and bonafide of action of the High Powered Committee has also been questioned directing release of so much land. It was submitted that the whole exercise has made the acquisition a statutorily mockery and it was colourable exercise of power, only to benefit the private builders and could not be said to be sustainable.

It was also pointed out, that in a similar case in C.A.No.8788 of 2015, titled as *Rameshwar and Ors. vs. State of Haryana and Ors.*, acquisition of 912 acres of land had been done away with; this Court directed the CBI to investigate the matter. Before us, counsel for the State has placed on record a letter dated 1st November, 2017. In the said letter, it has been mentioned, that the State Government is agreeable to hand over the matter for investigation to CBI, regarding initiation of acquisition

for approximately 1400 acres of land and, finally, restricting it to 87 acres only and all matter connected therewith.

In the circumstances, without making any further comments, as they may prejudice the investigation itself to be made by CBI regarding action of release of land in the instant case. Considering the serious allegations, let there be investigation made by the CBI in the instant case and it may submit report to this Court within a period of six months from today.

In the facts and circumstances of the case it was submitted by the counsel for the appellant that as his land is not required, he may file a representation to the respondent for releasing of land. It is assured by counsel for the State that in case representation is filed, it would be considered and decided objectively.

The civil appeal is disposed of with aforesaid directions.

CIVIL APPEAL NO.9211-9213/2016

It is submitted by learned counsel for the State, that in para Nos.30 & 31, certain observations have been made by the High Court; the same may be deleted. In para Nos.30 & 31 following observations have been made:

"30. We do not see any provision in the 1975 Act capable of construing to say that the State

Government or a Local Authority is under a statutory obligation to carry out the external development works. Section 3(3)(ii) is unambiguously optional and does not cast any duty on the State or a local authority for compulsory execution of the external development works. The Statute obligates the colonizer to carry out the external development works at his own and that too in conformity with the development schemes of the colony land of the neighbouring areas. It is only when the State or its Local Authority elects to execute the external development works that the colonizer is obligated to pay the proportionate charges incurred on the execution of such works.

31. It is, thus, a totally farcical, misleading and distorted plea taken by the State authorities in their written statement that it is their beholden duty to execute the external development works under the 1975 Act or that the acquired land is still needed for such like *bona fide* public purposes. We reiterate at the cost of repetition that while the 1975 Act does not cast any obligation on the State or the local authority to provide the external development works, they can at best opt for executing such works. Not an inch of land is to be made available or to be acquired by the State for the execution of external development works as the scheme of the Act through Section 3(3)(iv) obligates the colonizer to set apart the lands for these works. The ulterior object behind acquiring land for public utilities is to enable the private builders in exploiting commercially every inch of their own land and maximizing their profits. It is for this precise reason that the land which a colonizer has to set apart for public utilities is permitted to be used for his own licensed project and instead, the lands of small scale farmers are forcibly taken away for those very purposes. The allegations made by the farmer-petitioners that their land has been acquired by giving mischievous and self-serving interpretation to the provisions of 1975 Act so as to give undue favour to the private builder-cum-coloniser, thus, carry weightage. The petitioners appear to be right in contending that since they did not come under the pressure tactics of the land mafia prowling in the area that their lands have been usurped out of vengeance."

In our opinion the said observations *prima facie* deserves to be expunged; they shall not be treated as adjudication part of the order.

The appeals, stand disposed of, accordingly.

CIVIL APPEAL NO.13828/2015

As ultimately the acquisition of land has not been made, learned counsel for the appellant submitted that appeal has been rendered infructuous.

The civil appeal is dismissed as infructuous.

.....J.
(ARUN MISHRA)

.....J.
(MOHAN M.SHANTANAGOUDAR)

NEW DELHI,
NOVEMBER 1, 2017.

ITEM NO.101

COURT NO.10

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).8977/2014

JAI NARYANA @ JAI BHAGWAN & ORS.

Appellant(s)

VERSUS

THE STATE OF HARYANA & ORS.

Respondent(s)

(C.A NO-9211-13/16 IS NOT READY)

WITH

C.A.No.9211-9213/2016 (IV)
(NOT READY)

C.A.No.13828/2015 (IV)

Date : 01-11-2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Appellant(s)

Mr.Neeraj Jain, Sr.Adv.
Mr.Siddharth Mittal, Adv.
Mr.Nayan Nepal, Adv.
Mr.R.C.Kohli, Adv.

Mr.D.K.Sharma, Adv.
Mr.Rohit Vats, Adv.
Mr.Rajesh Saharan, Adv.
Mr.Maninder Pal Singh, Adv.

For Respondent(s)

Mr.Anil Grover, AAG
Mr.Satish Kumar, Adv.
Mr.Manik Garg, Adv.
Dr.Monika Gusain, Adv.

Mr.Atul Mangla, Adv.
Dr.Monika Gusain, Adv.

Mr.Piyush Hans, Adv.
Mr.Atul Mangla, Adv.

Mr.Alok Sangwan, Adv.
Mr.Anil Grover, Adv.
Mr.Sanjay Visen, Adv.
Mr.Vishwa Pal Singh, Adv.

Mr.Jasbir Singh Malik, Adv.
Mr.Siddharth Mittal, Adv.
Ms.Usha Nandini. V, AOR

Mr.Kamal Mohan Gupta, AOR

Dr.Kailash Chand, AOR

UPON hearing the counsel the Court made the following
O R D E R

C.A.No.8977 of 2014 & C.A.No.9211-9213 of 2016

The civil appeals are disposed of in terms of the
signed order.

C.A.No.13828 of 2015

The civil appeal is dismissed as infructuous in
terms of the signed order.

(Ashok Raj Singh)
Court Master

(Jagdish Chander)
Court Master

(Signed Order is placed in the file)