

INDRAPURI GRIHA NIRMAN SAHAKARI SAMITI LTD.

v.

THE STATE OF RAJASTHAN & ORS.

September 17, 1974

[A. N. RAY, C.J., K. K. MATHEW, Y. V. CHANDRACHUD, A. ALAGIRISWAMI AND A. C. GUPTA, JJ.]

Rajasthan Land Acquisition Act, 1953—Delay in challenging acquisition proceedings—Effect of.

A notice under s. 4 of the Rajasthan Land Acquisition Act, 1953 was issued by the State Government in May, 1960. It was published in the gazette in June, 1960. A notice under s. 6 was issued in May, 1961 and under s. 9 in July, 1961. In January 1970 the appellants challenged the validity of these notifications. The High Court dismissed the writ petitions on the ground that the petitioners were guilty of inordinate delay.

Dismissing the appeals to this Court.

HELD : The High Court rightly dismissed the petitions on the ground of delay. Any challenge to the notifications should be made within a reasonable time. [70B; A]

If persons allowed the Government to complete the acquisition proceedings on the basis that the notification under s. 4 and the declaration under s. 6 were valid and then attacked the notification on grounds which were available to them at the time when the notification was published it would be putting a premium on dilatory tactics. [69E-F]

Aflatoon & Ors. v. Lt. Governor of Delhi & Ors. [19751] 1 SCR 802 followed.

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 943 and 980 to 989 of 1973.

Appeals by Special Leave from the Judgment & Order dated the 12th April, 1973 of the Rajasthan High Court in D.B. Civil Appeals Nos. 311, 310, 313, 316, 317, 320 to 325 of 1971.

A. K. Sen and M. M. Kshatriya for the appellants.

Niren De Attorney General and L. M. Singhvi, S. M. Jain and S. K. Tewari, for the respondents.

The Judgment of the Court was delivered by

RAY, C.J. These appeals are by special leave from the judgment dated 12 April, 1973 of the Rajasthan High Court.

The State of Rajasthan proposed to acquire land for the planned development of the city of Jaipur.

On 13 May, 1960 a notice was issued under section 4 of the Rajasthan Land Acquisition Act, 1953 (hereinafter referred to as the Act) which was published in the Rajasthan Gazette on 9 June, 1960. No objection was made under section 5A of the Act. A notice under section 6 of the Act was published on 11 May, 1961. On 18 July, 1961 notices under section 9 of the Act were issued,

- A 63 persons including the predecessor-in-title of the appellant in Civil Appeal No. 943 of 1973 filed claims.

An award under the Act was made on 9 January, 1964. On 9 July, 1964 the award was amended because of certain transactions of sale of portions of the land.

- B Writ Petitions were filed on 23 January, 1970. The appellants challenged the validity of the notifications dated 13 May, 1960 and 3 May, 1961 issued under sections 4 and 6 of the Act. The appellants also challenged the notices dated 18 July, 1961 under section 9 of the Act.

- C The High Court held that the appellants were guilty of inordinate delay. The appellants failed on that ground.

The High Court also dealt with the challenge to the land acquisition proceedings on the ground of discrimination and the further plea that the land was being acquired at negligible price and the same would be sold at exorbitant price by the Improvement Trust to the public. The High Court did not accept any of the grounds on the merits.

- D The Attorney General said at the threshold that if the appellants would fail on the ground of delay it was not necessary to go into the rest of the contentions in the judgment.

- E This Court in the recent decision in *Aflatoon & Ors. v. Lt. Governor of Delhi & Ors.*⁽¹⁾ held that if persons allowed the Government to complete the acquisition proceedings on the basis that the notification under section 4 and the declaration under 6 were valid and then attacked the notification on grounds which were available to them at the time when the notification was published it would be putting a premium on dilatory tactics.

- F The facts in *Aflatoon's* case (supra) were these. On 13 November, 1959 notification under section 4 of the Land Acquisition Act was issued. Between 1959 and 1961 objections were filed under section 5A of the Act. On 18 March, 1966 declaration under section 6 of the Act was published. In 1970 notices under section 9 of the Act were issued. Writ Petitions were filed in 1972. The petitioners did not move after the declaration under section 6 of the Act.
- G The petitioners came to the court after the issue of notice under section 9 of the Act.

In the present case the facts show in bold relief that the appellants came to Court nine years after the declaration under section 6 of the Act.

- H Land Acquisition proceedings commence with the notification under section 4 of the Act. Objections are invited under section 5A of the Act. Thereafter a declaration under section 6 of the Act is

(1) (1975) 1 S.C.R. 802.

made. Any challenge to a notification under section 4 and a declaration under section 6 of the Act should be made within a reasonable time thereafter. The length of the delay is an important circumstance because of the nature of the acts done during the Interval on the basis of the notification and the declaration. A

The High Court rightly dismissed the applications on the ground of delay. B

The appeals are dismissed with costs. There will be one set of costs.

P.B.R

Appeals dismissed.