

A JAGJIWAN COOP. GROUP HOUSING SOCIETY LTD. & ORS.

v.

LT. GOVERNOR, NCT OF DELHI & ORS.

(Civil Appeal No. 3278 of 2012)

B OCTOBER 24, 2019

[ARUN MISHRA AND S. RAVINDRA BHAT, JJ.]

Land Acquisition Act, 1894 – ss.4, 5A, 17(1), (4) – Acquisition proceedings initiated by issuance of notification u/s.4 of the 1894 Act – Land proposed to be acquired for Vasant Kunj residential scheme– Appellant-Society claimed the ownership of the land – Appellant filed writ petition – High Court allowed the writ petition in part, maintaining the notification u/s.4 of the 1894 Act, but quashed the same with respect to invoking the provision of s.17(4) of the said Act – On merits, held: No case for interference is made out – There is no rhyme or reason to direct de-notification of the land – Prayer in that regard has already been rejected by the appropriate Government – Merely by the fact that one of the appellants is Cooperative Society, the complexion of the case does not change and this fact was duly taken note of at the time of land acquisition – Land acquisition could not be said to be illegal in any manner – Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 – ss.4 and 24(2).

Dismissing the appeals, the Court

HELD: 1.1 No case for interference is made out in the appeals filed at the instance of the appellants. There is no rhyme or reason to direct de-notification of the land and a prayer in that regard has already been rejected by the appropriate Government. Merely by the fact that one of the appellants is Cooperative Society, the complexion of the case does not change and this fact was duly taken note of at the time of land acquisition under the Act. Thus, no advantage can be derived from the policy of the State Government, the land acquisition could not be said to be illegal in any manner. There is no room for making indulgence to quash the land acquisition proceedings. [Para 5] [1048-F-G]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3278 A
of 2012

From the Judgment and Order 03.02.2005 of the High Court of
Delhi at New Delhi in Writ Petition (Civil) No. 7332 of 1999

With

Civil Appeal Nos. 3279 and 3280 of 2012. B

Maninder Singh, Ms. Vibha Dutta Makhija, Sr. Advs., Sibo Sankar
Mishra, Niranjana Sahu, Ashok Kumar Singh, V. Balaji, T. A. Khan,
Praveen Gaur, Ms. Priyanshi Agarwal, Aadhyia Mishra, B. V. Balram
Das, Ms. Rachana Srivastava, Ms. Vasundra, Advs. for the appearing C
parties.

The Judgment of the Court was delivered by

ARUN MISHRA, J.

1. The appeals have been filed against the impugned judgment D
and order dated 3.2.2005 passed by a Division Bench of the High Court
of Delhi. The case pertains to land acquisition proceedings initiated by
way of issuance of notification under section 4 of the Land Acquisition
Act, 1894 (the Act). It was proposed to acquire the land for Vasant Kunj
residential scheme. Enquiry under section 5A was dispensed with as E
section 17(1) was invoked. The society filed a representation for
withdrawal of the notification and thereafter filed a writ petition on
6.12.1999. The society claimed the ownership of the land admeasuring
42 bighas 16 biswas situated in village Mehrauli, New Delhi. The
Government of India has policy to ensure shelter to the citizens and F
cooperative sector is to be given preference for allotting housing sites to
encourage housing. The appellant-society was not under liquidation at
the time of issuance of the notification. On 29.9.2000 the declaration
under section 6 of the Act was issued. The High Court allowed the writ
petition in part, maintaining the notification dated 11.11.1999 under section
4 of the Act and quashed the same with respect to invoking the provision G
of section 17(4) of the Act.

2. The appeals were earlier heard by a Division Bench of this
Court and decided vide order dated 26.2.2015. At the time of hearing of
the appeal, it was submitted that in view of the provisions contained in H
section 24(2) of the Right to Fair Compensation and Transparency in

- A Land Acquisition Rehabilitation and Resettlement Act, 2013 (the 2013 Act). The acquisition has lapsed. This Court disposed of the appeals and permitted the landholders to initiate appropriate proceedings before the proper forum/court claiming the benefit of section 4 of the 2013 Act, and in case orders under section 24 of the 2013 Act are adverse to their interest, they may apply for reviving the appeal within 90 days of the passing of the order.
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3. It is submitted in the Miscellaneous Applications which have been filed for revival of the appeals that the writ petition was filed in the High Court of Delhi. The writ petitions were allowed by the High Court. However, the D.D.A. has challenged the judgment and order passed by the High Court in the civil appeals. Appeals have been allowed vide judgment and order dated 16.2.2018 hence the applications have been filed for revival of the appeals.

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4. We have revived the appeals and heard them on merits. Shri Maninder Singh, learned senior counsel appearing on behalf of the appellants, urged that the need of the Cooperative Housing Society is for housing and the Government may be directed to release the land to the appellants. He has further submitted that the area is no more required and as per the policy of the Government, land should be de-notified. Learned counsel appearing for the respondents has pointed out that the prayer for de-notifying the land has already been rejected and there is no question of de-notification of the acquired land. Correct facts have not been placed before this Court.

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5. We find that no case for interference is made out in the appeals filed at the instance of the appellants. There is no rhyme or reason to direct de-notification of the land and a prayer in that regard has already been rejected by the appropriate Government. Merely by the fact that one of the appellants is Cooperative Society, the complexion of the case does not change and this fact was duly taken note of at the time of land acquisition under the Act. Thus, no advantage can be derived from the policy of the State Government, the land acquisition could not be said to be illegal in any manner. There is no room for making indulgence to quash the land acquisition proceedings. Resultantly, the appeals being devoid of merits, are hereby dismissed.

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