

TEJ KAUR AND ORS. ETC.  
v.  
STATE OF PUNJAB AND ORS.

MARCH 7, 2003

[K.G. BALAKRISHNAN AND P. VENKATARAMA REDDI, JJ.]

*Land Acquisition Act 1894:*

*Section 5A—Inquiry under—Land acquisition—Challenged on the ground of failure of hold inquiry—Delay in challenging the proceeding—Held: Facts of the case showing holding of the inquiry—Land owners allowed the proceedings to go on till passing of award—It indicates there was no genuine grievance against the inquiry—Hence acquisition upheld.*

*Land acquisition—For the purposes of industrial set up—Challenged on the ground that land liable to be exempted as it was agricultural land—Delay in raising the objection—Surrounding lands acquired and sought to be used for industrial purpose—Held, in such circumstances land not liable to be excluded from acquisition.*

The lands of the appellant-landowners were acquired under Land Acquisition Act, 1894 for the purpose of starting industries. After the award was passed appellants filed writ petitions before High Court challenging the acquisition, which were dismissed.

In appeal to this Court appellants in one appeal contended that though Section 5A inquiry was mandatory, no such inquiry was conducted, and so the subsequent proceedings were illegal. In another appeal it was contended that lands owned by them were liable to be exempted as the acquired lands were agricultural lands.

Dismissing the appeals, the Court

**HELD:** 1. 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,

**A** 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, evidence on record show that the objection filed by the appellants was considered by the Collector. In spite of the Section 6 declaration having been made on **B** 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. [710-B, C; E, F]

**C** *Farid Ahmed Abdul Samad and Anr. v. Municipal Corporation of the City of Ahmedabad and Anr.*, [1976] 3 SCC 719; *Shri Mandir Sita Ramji v. Lt. Governor of Delhi and Ors.*, (1975) 4 SCC 298 and *Shyam Nandan Prasad and Ors. v. State of Bihar and Ors.*, [1993] 4 SCC 255, referred to.

**D** 2. There is no justifiable ground to exclude the appellants' lands from acquisition. 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. [711-A; 710-G, H]

**E** CIVIL APPELLATE JURISDICTION : Civil Appeal No. 66 of 1998.

**F** From the Judgment and Order dated 15.10.1996 of the Punjab and Haryana High Court in C.W.P. No. 4759 of 1994.

WITH

C.A. No. 67 of 1998.

**G** Manoj Swarup, U. Gupta and Ms. Nidhi Aggarwal for the Appellants.

B.B. Sawhney, R.K. Rathore, Additional Advocate General for State of Punjab, Ms. Indra Sawhney, Ms. K. Seth, Bimal Roy Jad, R.S. Suri for the Respondents.

**H** The Judgment of the Court was delivered by

**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 and Anr. v. Municipal Corporation of the City of Ahmedabad and 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 v. Lt. Governor of Delhi and 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.

A Similarly, in the decision in *Shyam Nandan Prasad and Ors. v. State of Bihar and 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.

B  
C 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  
D 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  
E 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  
F 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.

G 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  
H industrial purposes. We do not find any justifiable ground to exclude the

appellants' lands from acquisition. The Division Bench has correctly held **A**  
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.

K.K.T.

Appeals dismissed. **B**