

2025 LiveLaw (SC) 172

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

B.R. GAVAI; J., K. VINOD CHANDRAN; J.

DIARY NO(S). 7824/2020 04-02-2025; FEBRUARY 04, 2025

D.M. JAGADISH VERSUS BANGALORE DEVELOPMENT AUTHORITY & ORS.

Land Acquisition - Natural Justice - Whether the High Court's reliance on the respondent's affidavit without granting the petitioner an opportunity to respond violates principles of natural justice. Held: The Supreme Court quashed the acquisition proceedings initiated by the development authority, holding that the High Court's Division Bench violated principles of natural justice by relying solely on the authority's affidavit and closing the matter on the same day without allowing the appellant to respond. The Court set aside the Division Bench's order, remanded the matter to the High Court for fresh consideration, and permitted the High Court to conduct a spot inspection if necessary. (Para 14, 15)

Petitioner: Mr. Mahesh Thakur, AOR Mr. Ranvijay Singh Chandel, Adv. Ms. Geetanjali Bedi, Adv.

Respondent: Mr. Mayank Jain, Adv. Ms. Uditha Chakravarthy, Adv. Mr. Ankur S. Kulkarni, AOR Mr. Tarun, Adv.

J U D G M E N T

B.R. GAVAI, J.

1. Delay condoned.
2. Leave granted.
3. This appeal challenges the judgment and order dated 27th September, 2019, vide which the appeal filed by the respondent(s) came to be allowed.
4. A preliminary notification dated 03rd February, 2003 in respect of 380 acres 4 guntas of land came to be issued. In the final notification dated 23rd February, 2004, out of the said 380 acres 4 guntas, the acquisition in respect of 154 acres 26 guntas came to be dropped. The effect being the area admeasuring 225 acres 18 guntas came to be covered under the final notification for acquisition. A subsequent revised notification was issued on 18th June, 2014. By the said notification a further area of 66 acres 3 guntas came to be excluded from acquisition.
5. The father of the appellant approached the High Court by way of Writ Petition Nos.45695-697 of 2004 challenging the acquisition. The said writ petitions were allowed, thereby quashing the acquisition. The same was challenged in appeal(s) by the respondent(s). The Writ Appeal No.2624/2005 and 2625/2005 came to be disposed of on 25th November, 2005. By the said judgment, the Division Bench, while upholding the acquisition issued several directions to the respondent No.1/B.D.A.
6. It will be relevant to refer to the directions issued by the Division Bench in the said order, which read thus:-
“(i) All the petitioners who are the land owners who are seeking dropping of the acquisition proceedings in so far as their respective lands are concerned, on the ground that: (a) their lands are situated within green belt area; (b) they are totally built up; (c) properties wherein there are buildings constructed 'by charitable, educational and/or religious institutions (d) nursery lands; (e) who have set-up factories (f) their lands are similar to the lands which are adjoining their lands but not notified for acquisition at all, are permitted to make appropriate application to the

authorities seeking such exclusion and exemption and producing documents to substantiate their contentions within one month from the date of this order.

It is made clear that the BDA shall consider such request keeping in mind the status of the land as on the date of preliminary notification and to exclude any developments, improvements, constructions put up subsequent to the preliminary notification and then decide whether their cases are similar to that of the land owners whose lands are notified for acquisition, notified and whose objections were upheld and no final notification is issued. In the event the BDA comes to the conclusion that the lands of those persons are similarly placed, then to exclude those lands from acquisition.

(ii) Petitioners who are interested in availing this benefit shall make appropriate application within 30 days from the date of this order and thereafter the BDA shall give notice to those persons, hear them and pass appropriate orders expeditiously.

(iii) Till the aforesaid exercise is undertaken by the BDA and the applications filed by the petitioners either for allotment of site or for denotifying or exemption sought for are considered their possession shall not be disturbed and the existing construction shall not be demolished. After consideration of the applications, in the light of the aforesaid directions, if the lands are not excluded then the BDA is at liberty to proceed with the acquisition."

7. It could thus be seen that the Division Bench had permitted such owners of the land, whose lands were situated within the green belt where structures were existing; where they were totally built up; where there were buildings constructed by charitable, educational and/or religious institutions; nursery lands; who have set-up factories and the lands adjoining the ones which were excluded from acquisition, to make an application to the B.D.A. Such petitioners who wanted to avail the benefit were required to make such applications within 30 days. The B.D.A. was thereafter required to give notice to those persons, hear them and pass appropriate orders. Till the completion of such an exercise, the possession of the landowners was not to be disturbed, and the existing construction was not to be demolished.

8. Pursuant to the aforesaid directions issued by the Division Bench, the appellant made an application before the B.D.A. within the prescribed period urging therein that the land abutting the land had been excluded from the acquisition and as such, the appellant was also entitled to the benefit of exclusion of his land from the acquisition. It is also contended that there were structures existing on the land in question prior to the preliminary notification being issued. The same was rejected by Respondent No.1/B.D.A. vide endorsement dated 17th June, 2006. This was again challenged by a Writ Petition No.13198 of 2006. On the second occasion also, the petition was allowed with directions to the Land Acquisition Officer to conduct a spot inspection and consider the claim of the appellant for exclusion of land. The Land Acquisition Officer, though conducted the inspection, did not pass any orders. As such, on the third occasion the appellant filed Writ Petition No.33136 of 2015.

9. The learned Single Judge partly allowed the Writ Petition No. 33136 of 2015 vide judgment and order dated 3rd October 2017. It will be relevant to refer to the following observations made by the learned Single Judge in the said order:

"11. There is nothing to show that this exercise was done by the Land Acquisition Officer or by any of the authorities of the B.D.A. They have not passed any order. They have blindly proceeded to forward the entire papers to the State Government for issuing the final notification. The State Government has accordingly issued the impugned final notification. In the circumstances, petitioner is right and justified in contending that the B.D.A. has not followed the directions of this Court and this action has resulted in serious prejudice to the interests of the petitioner.

12. Before issuing the final notification, B.D.A. ought to have applied its mind to the directions of the Division Bench followed by the directions issued by the learned Single Judge and passed an order after conducting spot inspection. Therefore, in normal circumstances, the final notification issued in so far as the land in question is concerned has to be declared as having been vitiated. The fact remains that thereafter the B.D.A. formed certain sites and as many as 15 sites have been allotted in favour of third parties. They are not before this Court. In respect of the remaining land it is urged by the counsel for the B.D.A. that the sites have been formed. But, there is no dispute that no allotments have been made to the third parties and the remaining property is kept intact. Therefore, keeping in mind the interests of the third parties that have intervened, the question for consideration in this petition is restricted to the remaining extent of land so as to find out if petitioner is entitled for exclusion of the same from acquisition by granting appropriate relief.

13. In this connection, petitioner has produced Annexure J sketch and Annexure K map to substantiate that the surrounding lands bearing Sy. Nos.63/1, 63/2, 63/3, 64/1 and 64/2 have been excluded from acquisition while issuing the impugned final notification after considering the entitlement of those land owners as per the directions issued by the Division Bench whereas the case of the petitioners in respect of the very adjoining land bearing Sy. No.64/3 has not been considered and without considering, notification acquiring the land has been published. Indeed, this contention is probabalised and substantiated by the very document produced by the respondents at Annexure R1. It is clear from Annexure R1 sketch that lands lying towards the North, South and West abutting Sy. No.64/3 have been excluded from acquisition. In respect of the eastern portion wherein Sy. No.64/4 is situated, 1 acre 30 guntas have been included. It is therefore clear that the case of the petitioner was eminently fit for being considered favourably keeping in mind the parameters prescribed by the Division Bench. In this connection, it has to be also stated that it is the specific case of the petitioner that he had put up construction in the acquired portion of the land. Indeed this is probabalized by the spot inspection conducted on 27.12.2006, at an earlier point of time, pursuant to the directions issued by this Court that there were two RCC constructions and one bore-well. It is not the case made out by the B.D.A. that these constructions have been put up after the preliminary notification was published. Nothing of that sort emerges from the spot inspection though an assertion is made in the statement of objections that these constructions have come up later. In such circumstances, it has to be stated that if only the B.D.A. had complied with the directions of this Court and passed an order keeping in mind the parameters prescribed by the Division Bench, petitioner would have got the benefit of exclusion of his land from acquisition in view of the exclusion of similarly placed lands abutting the land of petitioner. The omission on the part of the B.D.A. in not discharging its duties as per directions of the Division Bench has landed the petitioner into this legal entangle in as much as he is forced to approach this Court again and again. Indeed, this is the third time petitioner is before this Court in respect of the very same grievance."

10. It can thus be seen that the learned Single Judge came to a specific finding that the land adjoining the appellant's land was excluded from the acquisition and as such, the appellant was also entitled to the benefit of exclusion. It was also found that there were structures existing on the land prior to the preliminary notification issued in 2003.

11. It was sought to be contended before the learned Single Judge by the B.D.A. that the constructions were carried on by the appellant on the land in question after the preliminary notification was issued. The learned Single Judge specifically rejected the said contention. The Court therefore found that the appellant was entitled to the reliefs claimed. The learned Single Judge also observed that this was the third round of litigation at the instance of the appellant and therefore thought it appropriate not to remand back the matter. However, the learned Single Judge took notice of the fact that out of the land belonging to the appellant, 15 sites were already allotted to third parties. The learned Single Judge, therefore, directed that the benefit of the quashing of acquisition would not be applicable in the case of the 15 sites which were already allotted to third parties.

12. Respondent No.1/B.D.A. challenged the same by way of Writ Appeal No. 8 of 2018. The said Writ Appeal came to be allowed by the impugned order. It is to be noted that though in paragraph 13, the Division Bench of the High Court found that from the inspection report dated 20th September, 2003 in Survey No.64 of 2003 there existed one RCC roof building and four AC sheet rooms, the approximate age of the building was recent one. It further found that as per the subsequent inspection report dated 28th March, 2006 conducted pursuant to the order of the Division Bench of the High Court dated 25th November 2005, it was noticed that there were further additional constructions.

13. The Division Bench found that it appears that the constructions were either made after the preliminary notification was issued or just before the issuance of preliminary notification having gotten wind of the possible land acquisition proceedings.

14. Insofar as the contention of the appellant herein that the adjoining lands were already excluded from acquisition, the Division Bench relied on an affidavit dated 12th September, 2019 sworn by the Special Land Acquisition Officer, B.D.A. to come to a finding that the land on the western side of the land of the appellants already stood acquired. It is pertinent to note that though the said affidavit was filed on 12th September, 2019 the Division Bench, without giving any opportunity to the appellant herein to respond to the said affidavit, closed the matter for hearing on the very same day, though the judgment was subsequently pronounced on 27th September, 2019.

15. We find that the approach of the Division Bench in relying on the affidavit of the authority and closing the matter on the same day, without giving an opportunity to the appellant herein to meet the averments made in the said affidavit would be in violation of the principles of natural justice. The well-reasoned order passed by the learned Single Judge as has been reproduced by us hereinabove has been reversed by the learned Division Bench based on the affidavit of the authority without giving an opportunity to the appellant herein to meet the averments made therein.

16. We find that on this short ground alone, the appeal deserves to be allowed and, therefore, is allowed. The impugned judgment and order is quashed and set aside. The matter is remitted back to the Division Bench of the High Court to consider it afresh in accordance with law.

17. Needless to state that if the High Court finds that any further spot inspection is necessary, it may direct so. The parties are directed to maintain status quo as on the date of the order of the learned Single Judge of the High Court, until the decision of the Writ Appeal on remand.

18. Pending application(s), if any, shall stand disposed of.