

U.P. AVAS EVAM VIKAS PARISHAD LUCKNOW (U.P.)

A

v.

SMT. PUSHPA LATA AWASTHI

MARCH 6, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

B

*Land Acquisition Act, 1894:*

*Land Acquisition—Notification—Notice to owner—No challenge—Subsequent purchaser—Right to challenge.*

C

*Land Acquisition—State Act—Incorporation from Central Act—Unless State legislature incorporates amendment it cannot be applied to proceedings initiated under the State Act.*

**Disposing the appeals, this Court**

D

**HELD: 1. Notice was given to original owner and subsequent purchaser. No challenge was made to the notification. Therefore, it is not open to the respondents to challenge the notification after they had purchased the property in question. [514-B]**

**2. Unless the State legislature incorporates the amendment, these cannot be applied to the proceedings initiated under the State Act. The notification acquiring the land, therefore, does not lapse. Therefore, the High Court was not justified in quashing the notification. [514-G, 515-A]**

E

*Gauri Shankar Gaur and Ors. v. State of U.P. and Ors., [1994] 1 SCC 92, referred to.*

F

**CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3940 of 1995 etc.**

**From the Judgment and Order dated 3.10.85 of the Allahabad High Court in C.M.W.P. No. 15781 of 1983.**

G

**O.P. Rana and P.N. Gupta for the Appellant in C.A. No. 3940/95.**

**Shrish Kr. Misra, A.K. Goel, Mrs. Sheela Goel, E.C. Agarwala for the Respondent.**

H

A The following Order of the Court was delivered :

In view of the fact that the respondents had purchased the property on May 21, 1983, they cannot have any higher right than what the owner had. Admittedly, the owner had not challenged the notification. Awasthi was the subsequent purchaser from Chotelal. Notice was given to Chote Lal and Awasthi had not challenged the notification. Therefore, it is not open to the respondents to challenge the notification after they had purchased the property in question. Under these circumstances, the High Court was clearly in error in allowing the Writ Petition No. 15781/83. The appeal is accordingly allowed. No costs.

C

C.A. Nos. 3942 and 3943 of 1995.

(Arising out of SLP (C) Nos. 2886/86 & 2899/86).

D

Leave granted.

In view of the order of Civil Appeal arising out of SLP (C) No. 1143/86, these appeals are allowed. No costs.

C.A.No. 3941 of 1995.

E

(Arising out of SLP (C) No. 2885/86).

Though notice was served on the respondent, nobody appears for him. Leave granted. In *Gauri Shankar Gaur and Ors. v. State of U.P. and Ors.*, [1994] (1) SCC 92, this Court, one of us - K. Ramaswamy, J., elaborately considered and held that certain provisions of the Land Acquisition Act 1 of 1894 were incorporated in the State Act. Therefore, it is not a case of reference. In consequence, the Land Acquisition Amendment Act 68 of 1984 was inapplicable. Unless the State legislature incorporates the amendment, these cannot be applied to the proceedings initiated under the State Act. The notification acquiring the land, therefore, does not lapse.

H

The writ petition was also allowed by the High Court on the ground that notice under s.29 was not served on the respondent. It is stated in the counter affidavit thus :

"It is submitted that the notice under s.29 of the Adhinyam was issued and served to the petitioner and in response to the notice under s. 29 of the Adhinyam the petitioner admittedly filed the objection which has been annexed by the petitioners as Annexure 4 with the writ petition itself." A

In view of this specific averment, we find that the High Court was not justified in allowing the writ petition and quashing the notification. The appeal is accordingly allowed. No costs. B

T.N.A.

Appeal allowed.