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Madhya Pradesh High Court

Case No: Writ Petition No''s. 4559, 4560-61 and 4564 of 2002

Smt. Anita Sand and Others	APPELLANT
Vs	
State of M.P. and Others	RESPONDENT

Date of Decision: May 13, 2003

Acts Referred:

- Land Acquisition Act, 1894 - Section 4, 6
- Madhya Pradesh Land Revenue Code, 1959 - Section 172(7)

Citation: (2003) 4 MPHT 244 : (2003) 4 MPLJ 204

Hon'ble Judges: A.K. Mishra, J

Bench: Single Bench

Advocate: Greeshm Jain, for the Appellant; Mukesh Agarwal, Government Advocate, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Arun Mishra, J.

Petitioners in these writ petitions are assailing the orders passed by the SDO, Addl. Collector, Commissioner and Board of Revenue refusing to divert the land primarily on the ground that land in question comes under Indira Sagar Project and there was proposal to acquire the same. Notification u/s 4 has been issued on 24-8-2001, declaration u/s 6 of the Land Acquisition Act was issued on 23rd August, 2002.

Petitioners submitted an application (R-II) on 2-9-2000 claiming for diversion on the ground that land was lying fallow and petitioner intend to use it for non-agricultural purpose.

SDO as per order (P-1), dated 6-6-2001 disallowed the prayer on two grounds mainly that land is being acquired and application is not bona fide. Secondly Sub-section (7)

of Section 172 of M.P. Land Revenue Code deals with diversion of fallow land stands omitted with effect from 1996. It was found that Section 4 notification was going to be issued very soon. Order was assailed in appeal before the Addl. Collector, appeal stands dismissed as per order (P-3), dated 28th August, 2001. Second appeal was filed before the Addl. Commissioner, that too also met the same fate, order (P-5) was passed on 31-1-2002. Petitioner preferred revision before the Board of Revenue, Board of Revenue has also dismissed the revision as per order (P-6), dated 21-2-2002.

It is not in dispute that land in question is covered under the notification u/s 4 and declaration u/s 6 issued under the Land Acquisition Act.

In my opinion, making any interference at this stage is going to be simple academic exercise. Land can no more be used by the petitioner on diversion for any diverted purpose even if diversion is ordered. Since it is open to the petitioner to adduce evidence in the claim case with respect to the nature of the land and its potential user for purpose of determination of compensation, in my opinion, no interference is called for in the impugned orders. In the peculiar facts and circumstances of the case when land has been acquired.

Writ petitions are devoid of merit and arc dismissed. No order as to costs.