

STATE OF U.P. AND ORS.

v.

MANOHAR

DECEMBER 15, 2004

[SHIVARAJ V. PATIL AND B.N. SRIKRISHNA, JJ.]

Constitution of India, 1950 :

Articles 300A and 226—Land owner deprived of his lands which were required by State—No compensation paid—Writ petition by land-owner for direction to State to determine compensation—Allowed by High Court—Held, there is no evidence to indicate that lands of the owner were acquired in accordance with law—High Court rightly exercised its jurisdiction under Article 226—In view of the manner in which the State dealt with the matter, appeal of State dismissed with exemplary costs.

Respondent-landowner filed a writ petition before the High Court praying for a direction to the appellant-State to determine and pay him compensation for his lands wherefrom he was forcibly dispossessed and over which the State constructed its office buildings. It was the case of the petitioner that in spite of repeated appeals, he was not paid compensation by the State. There is evidence on record indicating that the lands were recorded in the name of the petitioner and were not acquired, but after the consolidation operation, the State was recorded in possession thereof. The High Court allowed the writ petition.

Dismissing the appeal filed by the State, the Court

HELD : 1. There is no evidence to show that the land of the respondent had been taken over or acquired in any manner known to law or that he had ever been paid any compensation in respect of such acquisition. The case projected before the Court by the appellants is utterly untenable and not worthy of emanating from any State which professes the least regard to being a welfare State. The State authorities have been resisting a just and reasonable claim of the respondent. [914-F]

1.2. This is a case of utter lack of legal authority for deprivation

A of the respondent's property by the State Government. This case was an eminently fit one for exercising the writ jurisdiction of the High Court under Article 226 of the Constitution. The High Court was somewhat liberal in not imposing exemplary costs on the appellants. In view of the intransigence displayed by the appellants, the appeal is dismissed with exemplary costs of Rs. 25,000. [915-B-C]

B CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1058 of 2000.

C From the Judgment and Order dated 22.4.99 of the Allahabad High Court in C.M.W.P. No. 27449 of 1992.

S.W.A. Qadri, Kamendra Mishra, Rajeev Kumar Dubey and Ms. Rashmi Singh for the Appellants.

D Anish Dayal, Abhishek Mishra and Ms. Manjula Gupta for the Respondent.

The Judgment of the Court was delivered by

E **B.N. SRIKRISHNA, J. :** The respondent filed a writ petition before the High Court of judicature of Allahabad seeking a writ of Mandamus to the appellant- State of Uttar Pradesh and its officers to determine the compensation in respect of his land bearing plot no. 3 Ka (0.29 acres), 4 (0.37 acres) and 3 kha (1.01 acres) in village Chakiya Bhagwanpur, Tehsil Lalganj, District Azamgarh, which, according to the respondent, had been taken away forcibly without following any process of law. It was the specific case of the respondent that he had been dispossessed from his land and the land had been taken by the appellants without payment of any compensation and further that the appellants had put up building and structures on the land sometime in 1955 and that despite repeated appeals made by him nobody was prepared to pay compensation. He enclosed along with the writ petition

F a letter no. 73/S.T.D.M-91 dated 9/10.4.91 written by the Collector, Azamgarh to the Sepcial Land Acquisition Officer Azamgarh to the following effect:

G

H "Please refer to the application of Shri Manohar s/o Raghunath, Mauja Kharga Bhagwanpur, Block Lalganj (enclosed). He has stated that the compensation for the land acquired for development

Block, Lalganj has not yet been paid even though the construction of the Development Block has been done in the year 1955.

After looking into matter action be taken to make payment of the compensation and I may be informed about the position.”

This was replied to by the Special Land Acquisition Officer by his letter dated 5.8.91 in which he says thus :

“Please refer to this officer letter no.1159/Aa.S.L.A.D.(J.V.) dated 23.3.1991; and letter no.28(2) eight S.L.A. O.(J.V.) dated 16.4.91 on the above subject under which Shri Manohar Ram r/o Chakia Bhagwanpur Pargana Devgaon Tehsil- Lalganj Special Power of Attorney Shrilal s/o Bhoval made a complaint to the collection for non-payment of the compensation of the land acquired for construction of Development Block, Lalganj. The B.D.O. Lalganj has informed that the Development Block, Lalganj was established on 16.1.1955 at 1.533 acres of land.

Enclosing an attested copy of the Khatauni of 1377 F with his Application dated 20.6.91 Shri Manohar has given an application that his land no. 3ka, 3kaa, 4ka has not been acquired but during consolidation operation the Block Office being already in existence there, his name was deleted by the Department of consolidation. The copy of the intkhab Khatauni was verified from the papers preserved by the Record Room and the entries of the Khatauni were found to be correct. Even in the office there is no reference of any proposal for land acquisition.

Thus from the records and circumstantial evidence it is evident that the land of Development Block, Lalganj has not been acquired and on the basis of the local position during consolidation operation the Asstt. Consolidation Officer stated the name of the office of Development Block in Records. Under these circumstances, it is requested that the compensation of the land of development block office Lalganj may be paid by mutual settlement.

Under the above circumstances, this office has no concern with this case.”

A The grievance of the respondent before the High Court was that his name was high-handedly deleted from the revenue record and the revenue record thereafter showed the name of the appellants. He was dispossessed from the land and no compensation was paid, nor were any steps taken in law for acquiring the land. The respondent demanded an amount of Rs.10 lakhs as compensation with interest from the date of dispossession.

B
C The appellants appeared through counsel before the High Court and produced certain records. In view of the correspondence, to which we have referred, between the officers of the State, the High Court came to the conclusion that the case made out by the respondent was acceptable and that the State should be directed to take steps to pay compensation to the petitioner within 3 months with appropriate interest in accordance with the law. The High Court contemptuously dismissed the arguments of the counsel for the appellant that the petitioner had already been paid the compensation but that the records evidencing such payment were not available as they had been 'weeded out' due to the delay on the part of the respondent in approaching the Court.

D
E As a matter of fact, the appellants were unable to produce even a scrap of evidence indicating that the land of the respondent had been taken over or acquired in any manner known to law or that he had ever been paid any compensation in respect of such acquisition. That the land was thereafter constructed upon, is not denied.

F
G Having heard the learned counsel for the appellants, we are satisfied that the case projected before the Court by the appellants is utterly untenable and not worthy of emanating from any State which professes the least regard to being a welfare State. When we pointed out to the learned counsel that, at this stage at least, the State should be gracious enough to accept its mistake and promptly pay the compensation to the respondent, the State has taken an intractable attitude and persisted in opposing what appears to be a just and reasonable claim of the respondent.

H Ours is a constitutional democracy and the rights available to the citizens are declared by the Constitution. Although Article 19(1)(f) was deleted by the 44th Amendment to the Constitution, Article 300A has been placed in the Constitution, which reads as follows:

“300A - Persons not to be deprived of property save by authority of law — No person shall be deprived of his property save by authority of law.”

This is a case where we find utter lack of legal authority for deprivation of the respondent's property by the appellants who are State authorities. In our view, this case was an eminently fit one for exercising the writ jurisdiction of the High Court under Article 226 of the Constitution. In our view, the High Court was somewhat liberal in not imposing exemplary costs on the appellants. We would have perhaps followed suit, but for the intransigence displayed before us.

In the result, we dismiss the appeal with exemplary costs of Rs. 25,000. The compensation payable as directed by the High Court, together with the costs directed by us, shall be paid within a period of 3 months from today.

The respondent shall also be paid interest on the compensation amount from 22.2.1999 till date of payment @ 9% per annum.

A compliance report shall be filed by the appellants with the Registrar General of this Court. The appellants are charged personally with the duty of ensuring compliance with the order of this Court failing which they shall be answerable to this Court in contempt jurisdiction.

Copy of this order shall be transmitted to the Chief Secretary, State of Uttar Pradesh for his information and appropriate action.

R.P.

Appeal dismissed.