

MANSUKHBHAI DHAMJIBHAI PATEL & ANR.

A

v.

STATE OF GUJARAT & ORS.

(Civil Appeal No. 20919 of 2017)

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DECEMBER 01, 2017

[ADARSH KUMAR GOEL AND UDAY UMESH LALIT, JJ.]

Land Acquisition:

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Re-grant of acquired land – Acquisition of land owned by appellant – Resolution passed by the Government permitting re-grant of land where land is considered to be of no use for public purpose – In view of the resolution, appellants approached the High Court for release of the land – High Court held that the land once acquired for public purpose could not be re-granted to the original owner – On appeal, held: The policy is in violation of law – If land acquired for public purpose is no longer needed for such purpose, the State can transfer such land but such disposal is regulated by doctrine of public trust – In instant case, apart from the appellants having not been found entitled to re-grant of the acquired land, re-grant policy itself is against Art.14 – Policy of the State may not be given effect to in future – State at liberty to frame the appropriate policy in accordance with law for rehabilitation of the displaced persons who are rendered landless – Constitution of India – Art.14.

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Re: Natural Resources Allocation (2002)10 SCC 1 – relied on.

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V. Chandrasekaran and Anr. v. Administrative Officer and Ors. (2012) 12 SCC 133 : [2012] 10 SCR 603 – referred to.

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Case Law Reference

[2012] 10 SCR 603 referred to Para 3

(2002) 10 SCC 1 relied on Para 5

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A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 20919 of 2017.

From the Judgment and Order dated 25.04.2016 of the High Court of Gujarat at Ahmedabad in Special Civil Application No. 4657 of 2016

WITH

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C. A. Nos. 20920 and 20921 of 2017.

Puneet Jain, Ms. Christi Jain, Ms. Priyal Jain, Ms. Pratibha Jain, Advs for the Appellants.

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Ms. Hemantika Wahi, Ms. Jesal Wahi, Ms. Puja Singh, Ms. Shodhika Sharma, Advs for the Respondents.

The following Order of the Court was delivered :

ORDER

1. Leave granted. Heard learned counsel for the parties.

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2. The land of the appellants was acquired in the year 1981 for the purpose of construction of a dam. In the year 2011, the appellants approached the High Court for release of the land in view of Resolution of the Government dated 31.08.2001 permitting re-grant of land where land is considered to be of no use for public purpose. The learned Single Judge directed consideration of the said prayer which was rejected.

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3. The appellants again approached the High Court. The High Court held that the land once acquired for public purpose could not be re-granted to the original owner in view of the law as laid down by this Court in *V. Chandrasekaran and Anr. Vs. Administrative Officer and Ors. (2012) 12 SCC 133*. The High Court concluded thus:

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“It can thus be seen that the petitioner’s request for re-grant of the land is legally not tenable. Nothing was stated by the learned Single Judge in his decision dated 06.08.2015 to change this position. Learned Judge merely directed reconsideration of the question of re-grant of land. Same cannot be done de-hors the law settled by Supreme Court through series of judgements. Merely because Government agencies opined that the land is no longer needed or that the same can be re-granted, would not change this legal position”.

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4. When the matter came up for consideration before this Court, the following order was passed: A

“Delay condoned.

Issue notice to consider the validity of policy which enables re-grant of land vested in the State without any valid criteria and without applying the doctrine of public trust in the matter of disposal of government land”. B

5. Learned counsel appearing for the State submits that the policy was made to help landless people and since the appellants were not landless, they are not entitled to avail of the policy. However, the policy was justified. C

6. We are of the view that the policy is in violation of law. The High Court was justified in holding that re-grant of land is not permissible. It is a different matter if there is policy for rehabilitation for persons displaced by the land acquisition, in case such persons are rendered landless. If land acquired for public purpose is no longer needed for such purpose, the State can transfer such land but such disposal is regulated by doctrine of public trust. Thus apart from the appellants having not been found entitled to re-grant of the acquired land, re-grant policy itself is against Article 14 as interpreted in several decisions including in In Re: Natural Resources Allocation, (2002) 10 SCC 1. D E

7. Accordingly, we direct that the policy of the State for re-grant may not be given effect to in future. The State will be at liberty to frame the appropriate policy in accordance with law for rehabilitation of the displaced persons who are rendered landless on account of acquisition within a period of three months. F

8. We make it clear that disposal of property vested in the State can only be consistent with Article 14 of the Constitution of India.

9. The appeals are, accordingly, disposed of. G