

(1968) 01 MAD CK 0018
In the Madras High Court

AL.CT. Alagappa Chettiar, Hereditary Trustee of Sree
Uchinathaswami Devasthanam Sivapuri

APPELLANT

Vs

The Revenue Divisional Officer and Another

RESPONDENT

Date of Decision : 08-01-1968

Acts Referred:

Citation : (1968) 2 MLJ 310

Hon'ble Judges : P. Ramakrishnan, J

Bench : Division Bench

Judgement

P. Ramakrishnan, J.—The petitioner is the hereditary trustee of Sri Uchinathaswami Devasthanam, Sivapuri, Chidambaram Taluk, South

Arcot district. The respondents are respectively the Revenue Divisional Officer, Chidambaram (Land Acquisition Officer) and the State of Madras,

represented by the Secretary for Industries, Labour and Co-operation (Housing) Department. The facts that led up to the present writ petition are

briefly the following:

2. The temple of which the petitioner is the hereditary trustee, owns several lands which include 1 acre 61 cents comprised in R. S. Nos. 217/1,

and 217/2 in Thiruvetkalam Village. The petitioner alleged that following the procedure outlined in the Hindu Religious and Charitable Endowments

Act, Section 34, the petitioner on behalf of the temple with a view to augment the income of the temple for meeting its need, applied and got the

permission of the authorities under the Act for dividing the said land into 17 plots and selling them in public auction as house sites. The Government

also at the instance of the Commissioner, appointed under the Hindu Religious and Charitable Endowments Act, accorded such approval by a

communication sent on. 13th June, 1964. In pursuance of these proceedings under the Hindu Religious and Charitable Endowments Act the

petitioner was able to sell in public auction held on 6th January, 1964, 17 plots for a sum of Rs. 55,000 and the successful bidders paid one-third

of the purchase money. When the petitioner applied to the authorities under the Act for confirming the sale in favour of the respective bidders,

some of the members of the staff of the Annamalai University who were not able to bid successfully at the auction sale, became disgruntled and

made false representations and this led the first respondent to issue a notice u/s 4(1) and Section 5-A of the Land Acquisition Act for the purpose

of acquiring the above-said extent of land for a public purpose, namely, the construction of staff quarters for the Annamalai University. In the

meantime some of the purchasers at the auction had paid the balance of the purchase money but the sale deeds have not been executed in their

favour by the petitioner because of the pendency of the acquisition proceedings.

3. The petitioner alleged that the construction of staff quarters meant for the occupation of individual members of the staff of the Annamalai

University cannot be held to be for a public purpose, as such members of the staff do not constitute a section of the public. This apart, it was urged

by the petitioner that after the Commissioner, Hindu Religious and Charitable Endowments, had accorded sanction for selling the same plots in

public auction and after the Government had approved of that course, the resort to the provisions of the Land Acquisition Act for acquiring the

very same lands at the instance of the University must be considered to be a misuse of power as well as a fraudulent and colourable exercise of

such a power.

4. In the counter affidavit which was filed by the respondents, it was alleged that the proposal to initiate land acquisition proceedings in this case

was taken up on the application of the Registrar of the Annamalai University based upon a resolution of the Syndicate of the University in March,

1964. The fact that prior to that application, the Department of the Government dealing with religious endowments had accorded sanction to the

trustee to sell the lands in public auction under the provisions of Section 34 of the Hindu Religious and Charitable Endowments Act, would not

stand in the way of the Government approaching the question again for the

purpose of the Land Acquisition Act and taking a decision to initiate"

land acquisition proceedings. Such a step cannot be said to be a fraudulent and colourable exercise of power. It was also urged in the counter

affidavit that the construction of staff quarters for a University is a public purpose under the Act falling within the ambit of Section 4 of the Land

Acquisition Act.

5. There is no doubt a certain unfortunate feature in the present acquisition proceedings, in so far as the Government, having given sanction to the

trustee for selling the land in public auction and thereby augmenting the income of the temple, had to change its mind soon after, at the instance of

the University to give approval for the initiation of land acquisition proceedings in respect of the same land for the purpose of building staff quarters

for the Annamalai University. But there is this redeeming feature, namely, that the people who have bid at the auction and made deposits of large

amounts have not obtained sale deeds from the trustee of the temple and therefore there has been no actual transfer of title from the trustee to these

people. Secondly, if at the time of passing the award in the land acquisition proceedings the price realised at the sale at private auction is also taken

into consideration for determining the quantum of compensation, it cannot be held that the religious institution of which the petitioner is a trustee will

stand to lose by the alteration of the procedure for disposal of the land by public auction, its proceedings for the acquisition of the land for the

alleged purpose of erecting staff quarters for the University. There is no basis therefore for the apprehension entertained by the petitioner that by

changing the manner of disposal of the land by public auction into land acquisition proceedings at the instance of a body like the University, the

petitioner-institution may stand to lose financially.

6. Learned Counsel for the petitioner, Sri K. E. Rajagopalachari referred to a decision of the Supreme Court in *State of West Bengal and Others*

and *Ramakrishna Mission, Howrah Vs. P.N. Talukdar and Others* and *Abdul Kadar Laskar and Others*, , for the view that acquisition for staff

quarters for an institution like the present, will" not be a public purpose to which the provisions of the Land Acquisition Act can be applied. He

referred in particular to the observations in that judgment in paragraph 13 where the Supreme Court observed that while acquisition of land for

putting up by a hostel building and a playground obviously meant for the students-studying at an educational institution run by the Ramakrishna

Mission at Calcutta,, can be viewed as being directly useful to a section of the public, namely, the students of the institution, so far as staff quarters

are concerned, they are meant for occupation by the individual members of the staff. Therefore the Supreme Court declined to accept the

argument that an individual member of the staff must also be held to be a section of the public, and that therefore staff quarters will be useful to the

public. The Supreme Court also observed that if such a view is to be taken, it would reduce the idea of what is useful to or what is used by a

section of the public, to absurdity

7. The above decision was given in the context of Section 40 (1) (b) of the Land Acquisition Act found in the Land Acquisition Manual, Part VII

dealing with acquisition of land for companies. In that section the Act has used the words ""that acquisition is needed for the construction of some

work, and that such work is likely to prove useful to the public """. The words ""likely to prove useful to the public "" found in that section are

important, and we have to view the Supreme Court decision cited above as explaining the scope of these specific words, and not as dealing with

the interpretation of the words ""public purpose"" found in Section 4 (1) of the Act. Admittedly this is not a case falling under Part VII dealing with

acquisition of land for companies. The Annamalai University is not a company. The respondent seeks to support the acquisition only u/s 4 (1) as

having been made for a public purpose. It is only when the acquisition is made under Part VII for a company, that one has to resort to the more

restricted language used in Section 40 (1) (b), namely, ""likely to prove useful to the public."" It is in this context of the restricted words thus

employed in Section 40 (1) (b), that the Supreme Court seems to have expressed the opinion that the use of the quarters proposed to be put up on

the acquired land by the staff of the educational institution will not fall within the scope of Section 40 (1) (b), which refers to the acquired land

being likely to prove useful to the public. When we have to interpret the word ""public purpose"" found in Section 4(1) of the Act the approach will

have to be from a larger and more comprehensive angle, without being narrowed down to the restricted words used in Section 40 (1) (b). That this

should be the proper approach has been laid down by the Supreme Court in the decision in *R.K. Agarwalla and Others Vs. State of West Bengal*

and *Others*, , where at page 999 the Supreme Court observed that the expression "public purpose" has been used in a generic sense including

any purpose in which even a fraction of the community may be interested or by which it may be benefitted. The same decision observes that when

"public purpose" has to be construed for the purpose of Section 6, it has to be read in a restricted sense when the acquisition is for a company. In

the latter event the public purpose must be limited according to the restricted language used in Part VII of the Act. Consequently it appears to me

that this is a case where the acquisition not being for a company but for an educational institution, namely, a University, the proper way of

construing the expression, "public purpose" must be to take its meaning in the generic sense, and not in the restricted sense applicable to

acquisition for companies when the language used in Section 40 (1) (b) may have to be applied in the manner laid down in *State of West Bengal*

and *Others* and *Ramakrishna Mission, Howrah Vs. P.N. Talukdar and Others* and *Abdul Kadar Laskar and Others*, .

8. On the other hand, there are a series of decisions which deal with the expression "public purpose" from the broader point of view mentioned

above. Instances of such decisions are *N. Vajrapuri Naidu and Another Vs. The New Theatres Carnatic Talkies Ltd.*, , where at page 289 the

Supreme Court has referred to the observations of the Judicial Committee in *Hamabai Framjee v Secretary of State* (1914) L R. 42 IndAp 44 :

(1914) 28 M.L.J. 179, where the Privy Council extracted with approval the judgment of Batchelor, J.:

General definitions are, I think, rather to be avoided where the avoidance is possible and make no attempt to define precisely the extent of the

phrase "public purposes" in the lease; it is enough to say that in my opinion, the phrase whatever-else it may mean, must include a purpose, that is,

an object or aim, in which the general interest of the community as opposed to the particular interest of individuals, is directly and vitally concerned.

9. The Supreme Court thereafter added:

And it is well that no hard and fast definition was laid down for the concept of "public purpose" has been rapidly changing in all countries of the

world. The reference in the above quotation to " the general interest of the community", however, clearly indicates that it is the presence of this

element in an object or aim which transforms such object or aim into a public purpose.

A Bench of this Court in *Vijrapuri v. N.T.C. Talkies Ltd.* I.L.R.(1959) Mad. 997 : (1959) 2 M.L.J 113 has referred to several previous decisions

including the Supreme Court decision just now referred to and laid down the following broad principles for understanding the scope of the

expression " public purpose":

...an acquisition can be for a public purpose, even though all the members of the public do not take the benefit, but only a section of it takes the

benefit; public purpose in an acquisition may be served even though the acquisition is for the benefit of particular members of the public, provided

the object of acquisition advances a public purpose. In this category may be included advancement of public prosperity, public welfare and the

convenience of the public.

In the present case in the sale effected by the petitioner about 8 or 9 members of the University staff seem to have taken part and succeeded in

making the highest bids for the plots. But the plots thus acquired would become their private property and will descend to their heirs and which

they can alienate. On the other hand the proposed acquisition will not benefit any specified number of individuals (who may happen to be teachers

of the Annamalai University), in the sense that an absolute right is conferred on them to the houses which they can alienate or pass on to their

descendants. The benefit thus conferred by the acquisition is on the teaching staff of the University who form a section of the public, however small

it may be, they are still a defined section of the public, who happened to be at any given moment engaged in teaching the students of the University.

The object of the acquisition is clearly to provide such teaching staff with quarters which are proximate to the University campus. The connected

file which I perused shows that the Revenue Divisional Officer made a report that the lands in question are in close proximity to the University area

and will therefore enable the teaching staff to go conveniently from their residence to the place of teaching. In this sense the acquisition serves a

public purpose, namely, the purpose of enabling the teaching staff to live in close

proximity to the University campus, and afford to them the necessary convenience. Though the teachers for the time being may be benefitted by the acquisition, the benefit to the University by such acquisition as well as the students studying in the institution though remote is nevertheless real. In a decision of the Bombay High Court in *Municipal Corporation of Bombay Vs. Ranchordas Vandravandas*, , it was held that building of quarters for municipal servants must be held to be a measure likely to promote public convenience and the acquisition of lands for that purpose was held to fall within the scope of the Land Acquisition Act. I am therefore satisfied that the attack made on the present acquisition on the basis of the decision in *State of West Bengal and Others and Ramakrishna Mission, Howrah Vs. P.N. Talukdar and Others and Abdul Kadar Laskar and Others*, , which was a decision exclusively confined Part VII of the Act cannot be supported. On the other hand the authorities support the view that a purpose of the present kind can be clearly viewed as a public purpose within the meaning of Section 4 in the larger and more generic sense of that term.

10. I have already indicated that though there is what may appear to be a certain unfortunate feature in the acquisition, namely, giving up an approval given by one Department of the Government dealing with Religious Endowments for selling the lands in public auction and adopting the principle of land acquisition after approval to such acquisition by another Department of the Government, in substance this change of procedure may not lead to any loss to the petitioner-institution or loss to the teaching staff of the University who have successfully bid at the auction. If proper principles are borne in mind, when compensation is fixed at the time of passing the award the institution which the petitioner represents may not stand much to lose. So far as the members of the University staff who have purchased at the auction are concerned they also may not stand to lose because they could occupy the quarters as members of the University staff as long as they are members of the staff.

11. With these observations the writ petition is dismissed. No order as to costs.