

(2011) 09 CHH CK 0003
In the Chhattisgarh High Court
Case No : Writ Petition C. No. 5114 of 2011

Bhimsen Agrawal

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 02-09-2011

Acts Referred:

Companies Act, 1956 — Section 397
Constitution of India, 1950 — Article 226, 302
Evidence Act, 1872 — Section 124
Motor Vehicles Act, 1939 — Section 47
National Highways Act, 1956 — Section 3A
Penal Code, 1860 (IPC) — Section 499

Citation : (2011) 09 CHH CK 0003

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hon"ble Shri Satish K. Agnihotri, J.—By this petition, the petitioner seeks to challenge the legality and validity of the order dated 10-6-2011 (Annexure - P/1) passed by the Sub Divisional Officer (Revenue), Bilaspur.

2. Learned counsel appearing for the petitioner submits that the petitioner is the owner of land bearing khasra No.300 measuring 2630 sq.mt. at National Highway No.200 in village Bhojpuri, Patwari Halka No.8, Tahsil Bilha, District Bilaspur. Pursuant to the advertisement dated 26-3-2008 of the Bharat Petroleum Corporation Limited, the petitioner applied for Retail Outlet over the land in question. After considering all the aspects of the matter, by order dated 1-11-2010 (Annexure - P/3) letter of intent was issued in favour of the petitioner. After receipt of the same, an agreement was executed between both the parties. Subsequently, the petitioner invested huge amount for establishment of retail out.

3. According to the petitioner, on 31-1-2011, a notification was published by the Government of India u/s 3A of the National Highway Act, 1956 thereby declaring its intention to acquire certain land including the land of the petitioner for

buildings (widening/four/six laning etc.) and invited objections from the interested persons. On 18-2-2011 the petitioner raised his objection before the Sub Divisional Officer, which was dismissed by order dated 10-6-2011. Learned counsel submits that according to the master plan, the proposed establishment of toll plaza exactly coming upon the land of the petitioner. The same can be shifted from the present proposed place to other place without any technical and/or financial problem, but the said fact has not been considered by the respondent authorities. Thus, this petition.

4. Ms. Fouzia Mirza, learned Assistant Solicitor General appearing for the Union of India/respondents No.1, 3 & 6 and Shri Shashank Thakur, learned Panel Lawyer appearing for the State/respondents No.2 & 5, submit that the petitioner has filed an objection and the same has duly been considered and decided. The petitioner has not shown any infirmity in the decision passed by the authorities on the objection except that where the toll plaza is proposed, agricultural lands are situated owned by several persons including the petitioner.

5. Ms. Fouzia Mirza & Shri Shashank Thakur further submit that the National Highway and establishment of toll plaza are in accordance with the approved plan and the toll plaza is established in the public interest, which cannot be shifted from one place to other place at the instance of the petitioner, who is having the petrol pump near the land in question.

6. I have heard learned counsel appearing for the parties, perused the pleadings and the documents appended thereto. It appears that the petitioner for the purpose of having sufficient area for the petrol pump, operated by him, has made an objection. The objection with regard to agricultural lands appeared to be sham. Admittedly, the construction of road as well as establishment of toll plaza has to be in accordance with the plan. It is not the case of the petitioner that he has any objection to the master plan or with regard to infirmity in acquisition of land or payment of compensation to the petitioner. It is further not the case of the petitioner that the establishment of toll plaza is over the land wherein the petrol pump is situated. According to the petitioner, the proposed toll plaza is adjacent to the concerned petrol pump.

7. It is well established proposition of law that private interest yields to larger public interest. In the case on hand, establishment of toll plaza and construction of road, in accordance with the plan, sub-serves the larger public interest, thus, private interest of the petitioner can be ignored.

8. In T.M.A. Pai Foundation and Others v. State of Karnataka and Others, the Supreme Court observed as under :

274. To appreciate the contention and concern, it will be necessary to unravel the connotation of those expressions. They are not technical words, so they have to be understood like any other ordinary English words. The expression "public interest" means: of concern or advantage to people as a whole; the meanings of that expression are given in the Law Lexicon, 2nd Edn., Reprint 2000, at p. 1557

as follows:

Public interest means those interests which concern the public at large.

Matter of public interest `does not mean that which is interesting as gratifying curiosity or love of information or amusement; but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected" (per Campbell, C.J., R. v. Bedfordshire, E and B, 541, 542).

The expression `public interest" is not capable of precise definition and has not a rigid meaning and is elastic and takes its colour from the statute in which it occurs, the concept varying with the time and state for society and its needs. Thus what is `public interest" today may not be so considered a decade later. State of Bihar v. Kameshwar Singh [Companies Act (1 of 1956), Section 397].

That which concerns welfare and rights of the community or a class thereof (Section 124, Indian Evidence Act and Article 302, Constitution).

The words `public interest" in Section 47 mean interest of the public which uses the stage carriage and not the public in general. Mohd. Raihan v. State of U.P. AIR 595 (Motor Vehicles Act, 1939, Section 47).

A subject, in which the public or a section of the public is interested, becomes one of public interest. Kuttysankaran Nair v. Kumaran Nair, AIR p. 165 [Penal Code (1860), Section 499, Exception 1].

The expression "interest of the nation" means something which concerns or is of advantage to the nation. "Public interest" is a very wide expression, so also the national interest; their correct meaning has to be ascertained in the context in which they are used.

9. In T.N. Godavarman Thirumulpad (87*) v. Union of India and Others, the Supreme Court observed that a larger public interest has to be the guiding principle and not the present interest of user agency only.

10. In view of foregoing, I do not find nay illegality or infirmity in the impugned order passed by the Sub Divisional Officer. The same is just & proper and does not warrant any interference of this Court.

11. As an upshot, the writ petition is shorn of merit and is accordingly dismissed at the motion stage.