

(2001) 03 SC CK 0116

In the Supreme Court Of India

Case No : Civil Appeal No. 1795 Of 2001 With Contempt Petition (C) No. 156 Of 2000 In Slp (C) No. 1228 Of 1999, Cas Nos. 1796 Of 2001 And 1797 Of 2001

Draupadi Devi Dharmada Trust

APPELLANT

Vs

Daya Shankar and Others

RESPONDENT

Date of Decision : 13-03-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 3(f), 4(1), 5(A), 6

Citation : (2002) 4 ALT 15 : (2002) 4 AWC 3029 Supp

Hon'ble Judges : U. C. Banerjee, J;G. B. Pattanaik, J;B. N. Agrawal, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

G.B. Pattanaik, U.C. Banerjee and B.N. Agrawal, JJ.—Delay condoned.

2. Substitution allowed.

3. Leave granted.

4. The judgment of the Division Bench of the Allahabad High Court in C.M.W.P. No. 6055 of 1998 is under challenge in these batch of appeals, one filed by the Trust for whom the acquisition of the land is meant, second by the State and the third by the land-owner himself. By virtue of a notification issued u/s 4(1) of the Land Acquisition Act dated 16.8.1996, the land in question had been acquired for the purposes of construction of a building of a college called "Smt. Draupadi Devi Kanya Degree College. Khajanl, Gorakhpur. The notification u/s 6 of the Land Acquisition Act was issued on 17.4.1997 and acquisition having been made by taking recourse to the emergency provisions. Section 5(A) was dispensed with. The Land Acquisition Collector passed an Award on 19.7.1997 and took possession of the land on the self - same date. The Trust for whom the land had been acquired, had appeared before the Land Acquisition Collector making grievances as to the value of the land and ultimately the Special Land Acquisition

Collector reduced the valuation of the land. The owner of the land filed the writ petition in Allahabad High Court challenging the acquisition in question on the ground that the acquisition was not for any public purpose. This contention of the owner of the land, however, did not find favour with the High Court and in the impugned judgment, the said contention has been rejected. The High Court, however, came to the conclusion that the Trust for whose benefit the land is being acquired cannot be held to be 'a person interested' and, therefore, did not have any locus to approach the Land Acquisition Collector in the matter of determination of the valuation of the land. With this conclusion the Award having been set aside and the earlier determination made by the Land Acquisition Collector upheld, the Trust has preferred the appeal before us. The State also assails the said judgment of the Allahabad High Court. The owner of the land assails the conclusion of the Allahabad High Court that the acquisition was for a public purpose.

5. So far as the conclusion of the High Court that the Trust for whose benefit the land is being acquired is not a person interested' is concerned, the said conclusion is contrary to the judgment of this Court in the case of M/s. Neyvely Lignite Corpn. Ltd. Vs. Special Tahsildar (Land Acquisition), Neyvely and others, . It has been categorically held in the said judgment that the beneficiary for whom the land is going to be acquired must be held to be a person interested inasmuch as it is that beneficiary who would be required to pay the necessary funds for the acquisition in question. In view of the authoritative pronouncement of this Court in the aforesaid judgment, the conclusion of the Division Bench of the Allahabad High Court to the contrary stands set aside. Necessarily, therefore, the Award passed by the Special Land Acquisition Officer has to be upheld.

6. So far as the contention of the claimant is concerned, namely, whether the acquisition is for a public purpose, the learned counsel places reliance on the definition of "public purpose" in Section 3(f) as substituted by Land Acquisition (U. P. Amendment) Act XXII of 1954. According to the learned counsel, the aforesaid definition makes it crystal clear that an acquisition for having a college would not be a public purpose. We are unable to accept this contention of the learned counsel appearing for the owner of the land, inasmuch as the definition of the expression "public purpose" is an inclusive one and is not an exhaustive one. It is too late in the day to contend that an acquisition for having college in an area will not be a public purpose. We see no force in the aforesaid contention of the learned counsel appearing for the owner of the land. In this view of the matter, the appeal filed by the State as well as by the Trust are allowed while the appeal filed by the claimants/owners of the land stand dismissed.

7. In view of the above, the contempt petition stands dismissed.