

(1953) 11 GAU CK 0003
In the Gauhati High Court
Case No : Civil Rules No's. 11 and 12 of 1953

Maniruddin Ahmed

APPELLANT

Vs

Chunilal Dharamchand and Others

RESPONDENT

Date of Decision : 27-11-1953

Acts Referred:

Assam Land (Requisition and Acquisition) Act, 1948 — Section 3
Constitution of India, 1950 — Article 226, 227

Citation : (1953) 11 GAU CK 0003

Hon'ble Judges : Ram Labhaya, J;Deka, J

Bench : Division Bench

Advocate : T.N. Phukan and S.K. Ghose, for the Appellant; S. Sarma and R.K. Goswami, Jr. Govt. Advocate for Respondent Nos. 2 and 3, for the Respondent

Judgement

Ram Labhaya, J.—This order shall dispose of Civil Rules Nos. 11 and 12 of 1953.

2. Maniruddin Ahmed is the Petitioner in Civil Rule No. 11 of 1953. He has petitioned for relief under Articles 226 and 227 of the Constitution of India. His case is that he is an assistant in the office of the Deputy Commissioner at Tezpur. He is a landless person. The Deputy Commissioner of Darrang requisitioned 2 Kathas and 13 Lechas of land in the Tezpur Town belonging to Messrs. Chunilal Dharamchand (Respondent No. 1) in order to provide him with accommodation. The land was requisitioned u/s 3 of the Assam Land (Requisition and Acquisition) Act as amended by order dated 24-4-52. Respondent No. 1 whose land was requisitioned preferred an appeal to the Government of Assam which vacated the order requisitioning the land by their order of 12th September, 1952.

In that order, it was observed that Maniruddin Ahmed was a tenant under Messrs. Chunilal Dharamchand for about 12 years and that a quarrel had arisen between them and therefore the land was requisitioned. It was found that there was no public purpose justifying the requisitioning of the land.

3. In Civil Rule No. 12 of 1953, Bepin Chandra Chakravarty is the Petitioner. He

has also invoked the jurisdiction of the Court under Articles 226 & 227 of the Constitution. His case is that he is a displaced person from East Pakistan. He is a legal practitioner who was forced to leave his home in East Pakistan with his family and migrated to the State of Assam.

The Deputy Commissioner of Darrang by his order, dated 26-5-52 requisitioned 2 Kathas of land belonging to Messrs. Chunilal Dharamchand (Respondent No. 1) to provide accommodation for him u/s 3 of the Assam Land (Requisition and Acquisition) Act. This order was appealed, from and the appeal was also disposed of by the same order by which the appeal against Maniruddin Ahmed was disposed of. The two appeals of Chunilal Dharamchand were heard together. It would appear from the order that the facts of the case of Bepin Chandra Chakravarty have not been stated in the order though the appeal against him has been disposed of by that very order.

4. It is clear from the order that Maniruddin Ahmed and Bepin Chandra Chakravarty were represented when the appeals of Messrs. Chunilal Dharamchand, now Respondents were heard and disposed of.

5. The two petitions made to this Court have no chance of success. It was held first in--"Hanumanbax Agarwalla v. Sub-divisional Officer Sibsagar" AIR 1952 Gau 115 (A) and then in-- The Assam Company Ltd. Vs. The State of Assam and Others, that the proceedings under the Assam Land (Requisition; and Acquisition) Act are administrative in character.

In- The Assam Company Ltd. Vs. The State of Assam and Others, after a careful consideration of the provisions contained in the Act, it was laid down that both the original and. the Appellate proceedings under the Act were administrative in character, and they could not be regarded as judicial or quasi-judicial order. It was further held that orders passed under the Act being administrative in nature could only be questioned if the authority passing them exceeded its jurisdiction or that it was shown that they were made mala fide.

The orders being administrative, the only question is whether jurisdiction has been exceeded by the Appellate authority or whether its order is vitiated by a mala fide exercise of jurisdiction. There is no allegation about mala fide. So far as the question of jurisdiction is concerned, there can be no manner of doubt that the Appellate authority had the jurisdiction to determine whether to requisition the land or not as an appeal is expressly provided for by Section 3. That jurisdiction of the Appellate authority is co-extensive with that of the original authority. No juridical approach is contemplated but the Appellate authority can come to its own conclusion as to the necessity of requisitioning land for the purposes mentioned in the Section. The Appellate authority in this case has come to the conclusion that there is no public purpose necessitating the requisition. The finding is one of fact.

Mr. Phukan has urged that there has been some misapprehension as to the significance of the expression "public purpose". He contends that requisitioning

of land even for an individual may be for a public purpose. While this possibility may not be disputed, the question whether requisitioning of land for an individual is for a public purpose or not would depend on the circumstances of each case. The question may be purely of law or fact or it may be one of mixed law and fact. In any case, it is a question which the Appellate authority had undoubted jurisdiction to determine. Any error in the decision of the Appellate authority whether of law or fact would be an error committed in the exercise of jurisdiction. It would not be a case of a decision which is outside its jurisdiction.

The impugned order therefore must be found to be within the jurisdiction of the Appellate authority. There would thus be no justification for interfering with it under Article 226 of the Constitution. Article 227 has no application to the facts of this case. The petitions must therefore fail and are dismissed. We make no order as to costs. The Rules are discharged.

Deka, J.

6. I agree.