
(2016) 07 SC CK 0048

In the Supreme Court Of India

Case No : Civil Appeal No.6409 of 2016 (Arising out of SLP(c) No.24324 of 2008)

M/s. Bharat Fabricators & Others

APPELLANT

Vs

SPL. Court Under A.P. Land Grabbing (Prohibition) Act &
Others

RESPONDENT

Date of Decision : 15-07-2016

Acts Referred:

Citation : (2016) 165 AIC 35 : (2016) AIR(SCW) 3337 : (2016) AIRSC 3337 :
(2016) AllSCR 1544 : (2016) 118 ALR 462 : (2016) 5 AndhLD 1 : (2016) 3
ApexCourtJudgments(SC) 257 : (2016) 3 ARC 525 : (2016) 3 CivilLJ 834 :
(2016) 6 JT 556 : (2016) 4 KCCR 398 : (2016) 3 Law

Hon'ble Judges : Pinaki Chandra Ghose and Amitava Roy, JJ.

Bench : Division Bench

Advocate : M/s. Lawyer S. Knit & Co, Advocate, for the Appellant; Anil Kumar
Tandale, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Pinaki Chandra Ghose, J.—Leave granted in both the matters.

2. These appeals, by special leave, are directed against the judgments and order dated 30.04.2007 and 29.10.2007 passed by the High Court of Andhra Pradesh at Hyderabad in W.P. No.25273 of 1999 and Review W.P. Misc. Petition No.26665 of 2007, respectively, whereby the High Court has dismissed the writ petition as also the Review Petition filed by the appellants herein.

3. The brief facts of the case are that Respondent No.3 herein, namely, Shirish Dhopeswarkar, originally filed O.P. No.552 of 1988 before the Special Tribunal, Ranga Reddy District, against eight persons, including the Cooperative Industrial Estate Limited, Balanagar, Hyderabad, for declaration of title in respect of schedule property and for recovery of the same by declaring Respondent Nos.1 to 7 therein as land grabbers. The said application was allowed by the Special Tribunal. However, the claim for compensation was dismissed. Out of seven contesting respondents in the said application, Respondent Nos.1, 2 & 5 to 7 filed

an appeal before the Special Court (L.G.A. No.37 of 1993) assailing the order of the Special Tribunal.

4. The applicant of O.P. No.552 of 1988 also filed an appeal (L.G.A. No.43 of 1993) qua that part of the order where under his claim for compensation was dismissed. Both the appeals were heard together and by means of a common order dated 29.04.1994, the Special Court set aside the judgment of the Special Tribunal and remitted the matter back for fresh disposal, giving liberty to the parties to adduce evidence.

5. Thereafter, further evidence was adduced on either side and after conducting fresh enquiry, the Special Tribunal again allowed the petition declaring Respondent Nos.1 to 7 before it as land grabbers and directed them to deliver vacant possession of the land to the applicant. However, the applicant's claim for compensation was negated. The contesting Respondent Nos.1, 2 & 5 to 7 again filed an appeal before the Special Court (L.G.A. No.21 of 1998) and the applicant filed cross-objections. The Special Court by its judgment dated 27.09.1999 dismissed the appeal as also the cross-objections.

6. The appellants herein, who were not parties either before the Special Tribunal or before the Special Court, filed a writ petition before the High Court of Judicature of Andhra Pradesh, being Writ Petition No.25273 of 1999, for a declaration that the orders of the Special Tribunal as well as the Special Court are not applicable to their industrial units, maintaining that they had been in peaceful possession and occupation of the plots in dispute for the last more than 50 years, and Respondent No.3, who was allotted a plot of land, on lease, by the Government for establishing industrial units, obtained another plot of land to an extent of 3000 Sq. Yds. and by initiating land grabbing proceedings against others, in collusion with the respondents, wanted to grab the lands of the appellants without impleading them. The said writ petition was dismissed by the High Court on 30.04.2007.

7. The appellants thereafter filed a review petition before the High Court which was also dismissed. However, the appellants were granted three months' time to vacate the premises. Aggrieved by the dismissal of the writ petition and subsequently, dismissal of the review petition, the appellants have approached this Court.

8. The appellants have assailed the judgment of the High Court on two main grounds:- firstly, that the appellants were not parties to the entire proceedings before the Special Tribunal and the Special Court and further the orders were obtained without hearing and impleading them; and secondly, that the Special Tribunal and the Special Court did not adhere to the mandatory requirement of taking cognizance and providing opportunity to the interested parties in issuing notice as per third proviso to Section 7(4) of the Land Grabbing Act read with Rules 7, 8 & 9 and calling of the verification report from the Tehsildar under Rule 6.

9. In our considered opinion, the Special Tribunal as well as the Special Court returned a concurrent finding that the land in question was allotted to Respondent No.3 by Respondent No.2 society. The two reports independently made by Commissioner Advocate as well as the Assistant Director were correctly relied upon by the two forums below and was upheld by the High Court. Once the title of Respondent No.3 was firmly established, the appellants were duty bound to rebut these evidences and establish their title and possession. The appellants miserably failed to lead any evidence as to their title and only one evidence as to their possession was proved which related to the year 1989 and nothing subsequent was shown to prove the possession of the appellants. Moreover, if the stand of the appellants is perused carefully they have not been clear with their stand on their title.

10. Another aspect which the High Court categorically dealt with was that of suppression of facts by the appellants. The appellants claim that they were not a party to the proceedings before the Special Tribunal and the Special Court. However, upon perusal of the case records it is established that the appellants were not alien to the proceedings under the Land Grabbing (Prohibition) Act, 1982. Appellant No.4 himself filed I.A. No.300 of 1994 before the Special Court to be impleaded as a party. Also in I.A. No.285 of 1994, appellant Nos.1 and 2 were sought to be impleaded as party. The counsel for the appellants in their writ petition before the High Court as well as in their Review Petition vehemently argued that they were not party to the proceedings. However, the fact of filing of the above two applications was suppressed which was a deliberate act on the part of the appellants. The High Court was, therefore, correct in concluding that the appellants did not come before the Court with clean hands.

11. The second contention is non-compliance of the procedure as envisaged in the Act and the Rules framed subsequently. We are afraid that this ground must also fail. The High Court has at great length discussed the legal provisions which do not require repetition. However, it is concluded that the plea of non-compliance of the procedure has no effect on the merits of the case and is therefore of no consequence in the facts and circumstances of the case. The appellants have failed to implead themselves before the Special Court even when the fact of pendency of the case was known to them. The ground of procedural lacunae must fail as well being taken at a belated stage and on that basis, the appellants cannot be allowed to assail the substantive adjudications and the findings arrived at concurrently by the three forums below.

12. The present appeals therefore must fail and we are not inclined to interfere with the decision arrived at by the High Court which is based on a correct analysis of facts and law and rendered in the rational exercise of its discretion. These appeals are accordingly dismissed.