
(1955) 05 KL CK 0003
In the High Court Of Kerala
Case No : A.S. No. 496 of 1954

Narayanan R. Padmanabha Pillai

APPELLANT

Vs

Travancore-Cochin State and another

RESPONDENT

Date of Decision : 04-05-1955

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1955 Ker 270

Hon'ble Judges : Koshi, C.J;Kumara Pillai, J

Bench : Division Bench

Advocate : T.S. Krishnamoorthi Iyer, for the Appellant;

Final Decision : Dismissed

Judgement

Koshi, C.J.—This is an appeal from an order of Sankaran J. dismissing O.P. No. 60 of 1953, filed by the appellant and two others to quash certain land acquisition proceedings initiated by the State. There was a companion petition, O.P. No. 59 of 1953 and the learned Judge heard and disposed of the two petitions by a common order dated 1-2-1954. The facts of the two cases are set out as follows in the first two paragraphs of the order appealed against:

Both these petitions are filed under Art. 226 of the Constitution and they are directed against the proceedings initiated by the State for the acquisition of a plot of land, 13 acres 49 cents in extent and situated in Aroor Pakuthy, Shertallai Taluk. The acquisition was sanctioned by Government Order GPA-10-2969/51/Fd. dated 10-6-1952. The plot proposed to be acquired consists of a compact area made up of small plots comprised in different survey numbers belonging to different owners. The first petitioner in O.P. 59 claims to be the owner of one such plot in 85 cents comprised in Survey No. 410/a-5-2 of Aroor Pakuthy. The first petitioner in O.P. 60 has similarly put forward a claim in respect of another plot of 2 acres 30 cents comprised in Survey No. 415/9 of the same Pakuthy.

Both these petitioners had filed petitions objecting to the proposed acquisition of

land and praying that their plots may be excluded from the scope of the acquisition proceedings. After inquiring into the objections raised by them and after due consideration of all the relevant points, Government came to the conclusion that the order for acquisition must stand. Accordingly the objection petitions were recorded by the Government Order D. Dis. 2969/51/Fd., dated 27-2-1952, and the prior order for the acquisition of the lands was directed to be carried out.

Accordingly the declaration as contemplated by S. 6, Land Acquisition Act, Act 11 of 1089 of Travancore, was published in the Government Gazette dated. 3-3-1953. The Notification and also the Government Order dated 10-6-1952 sanctioning the acquisition of a plot of 13 acres and 49 cents inclusive of the plots involved in these two petitions, are sought to be avoided by the petitioners. The 2nd petitioner in O.P. 59 is having his residence on the property mentioned in that petition.

It is stated that he has been residing in this property for the last 60 years and that he has no other abode of his own. Petitioners 2 and 3 in O.P. 60 are similarly having their residence on the property involved in that petition. They are stated to have been residing in that property for the last 50 and 10 years respectively.

The land in question has been ordered to be acquired under the provisions of the Land Acquisition Act, and in furtherance of a housing scheme formulated and approved by Government. The scheme is intended to provide houses and house-sites for the poor, homeless and landless people of the State, on an organised and systematic basis. This work is contemplated to be carried out through co-operative societies formed under the direction and supervision of Special Officer appointed by Government.

The landless and the houseless fisher-folk in the coastal areas of the State form a class of people intended to be benefited by the housing scheme sponsored by Government. The Valas at Aroor come under this category and the land proposed to be acquired is intended to be given as house-sites to these fishermen on a co-operative basis.

2. Various objections to the acquisition proceedings were urged before the learned Single Judge but he repelled them all and dismissed the two petitions with costs. The two petitioners in O.P. 59 and petitioners 2 and 3 in O.P. 60 have submitted to the order. Petitioner 1 in O.P. 61 has thought it fit to take the matter in appeal.

The memorandum of appeal covers almost all the grounds urged before the learned Judge, but at the hearing before us the learned Counsel for the appellant confined the attack to one ground viz., that the proceedings in question offended the provisions of Art. 14, Constitution of India. The affidavit the appellant filed in support of his application formulated the objection under this head thus:

8(i) The tarwad of petitioner 1 owns properties comprising an extent of 2 acres

78 cents. There are 33 members in the tarwad. If partition is effected each member will be getting property comprising an extent of nearly 8 1/2 cents. Petitioner 1 possesses no other properties wherein he can construct a building. He does not own any building. Further, petitioners 2 and 3 do not own any property or houses. As such the decision of the Government to provide houses to the Valas of Aroor to the detriment of the petitioners 1 to 3 offends Art. 14, Constitution of India and is therefore void.

Sankaran J. met the objection in the following terms in para 10 of his order:

It is also difficult to see how the acquisition in the present case is a violation of Art. 14 of the Constitution which states that the State shall not deny to any person equality before the law or the equal protection of the laws. Since it has already been found that the acquisition is for a public purpose it cannot be said that the acquisition is meant merely to benefit particular individuals to the prejudice of the owners of the property.

When a particular property is needed for a public purpose, it necessarily follows that the owner of the same has to surrender it for such public purpose and has to be satisfied with compensation by way of value of the property. The law governing such acquisition is applicable to all citizens alike. But the necessity for the enforcement, of the law will arise only as against such citizens whose land may be needed for any specified public purpose.

At the same time it is clear that such citizens cannot legitimately complain that such acquisition amounts to a denial of equality before the law or the equal protection of the laws so far as they are concerned. The fact that some of the petitioners who are in permissive occupation of the property proposed to be acquired will be deprived of their homestead cannot also be said to result in a denial of equality before law or the equal protection of the laws.

Such personal inconveniences in the case of acquisition of lands for public purposes are inevitable. The landless persons who are deprived of their homestead as a result of the acquisition can in their turn expect to be benefited in due time by the extension of the housing scheme sponsored by Government.

3. We are in entire agreement with the above view. The petitioner gets compensation from the State for his land and it is for him, if so advised, to seek to acquire other land with the funds so obtained. Further to what Sankaran J. has said tax repelling the argument we desire to point out another aspect of the question.

4. Neither before Sankaran J. nor before (sic) did the appellant contend that the Travancore Land Acquisition Act (11 of 1089) under which the proceedings were initiated, or any part thereof, had become void by virtue of the provisions of the Constitution. The contention that there was no proper compliance with the provisions of the Land Acquisition Act was found against by the learned Judge and the contention was not sought to be repeated before us. The attack is

therefore now confined to a particular administrative act.

When the charge of violation of equal protection is confined to such an act, the attack cannot succeed unless it be established that it was a hostile act directed against the complainant in other words, when the law under which the action is taken is good law and the act complained of has been done in good faith within the limitations imposed by the law and for the purpose of carrying out the objects of the law, the act will be protected unless there is evidence of "mala fides" in the application of the law.

See - The State of West Bengal Vs. Anwar Ali Sarkar, . In the present case there is no sufficient allegation of "mala fides, much less any proof whatever therefor. It is for the appellant to show that the act was "mala fide" and he has failed in that.

5. The dismissal of the petition was, therefore, in our opinion, absolutely right. It follows that the appeal must fail, and we dismissed it with costs. Advocate's fee Rs. 100/- only.