

(1970) 08 SC CK 0050

In the Supreme Court Of India

Case No : Civil Appeal No. 361 Of 1970

Patel Premji Jiva by Lrs.

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 20-08-1970

Acts Referred:

Gujarat Agricultural Produce Markets Act, 1963 — Section 10(2)

Citation : (1971) 3 SCC 815

Hon'ble Judges : K. S. Hegde, J;J. C. Shah, J;A. N. Grover, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

J.C. SHAH, J.-In exercise of the powers under Section 4 of the Land Acquisition Act 1 of 1894, the Government of Gujarat notified for acquisition an area of land in the town of Gondal, for a public purpose. Enquiry was under Section 5-A of the Land Acquisition Act and thereafter on May 11, 1966, a notification was published under Section 6 of the Act declaring that the land was needed for a public purpose. It was stated in the notification "and whereas the Government of Gujarat is satisfied after considering the report of the Deputy Collector under sub-section (2) of Section 6-A of the Land Acquisition Act 1 of 1894 that the said land is needed to be acquired at the expense of a local body, i.e. Agricultural Produce Markets Committee, Gondal, for the purpose specified in Column 4 of the Schedule hereto, it is hereby declared under the provisions of Section 6 of the said Act that the land is required for the purpose specified in Column 4 of the Schedule hereto; and in Column 4 of the Schedule the purpose specified was for New Market Yard at Gondal".

2. The appellant moved a petition before the High Court of Gujarat challenging the validity of this notification. It was urged in support of the petition that the Agricultural Produce Markets Committee not being a "local authority" within the meaning of Section 6 of the Land Acquisition Act, the Government of Gujarat was not competent to acquire the land under the Land Acquisition Act.

3. Section 6 of the Land Acquisition Act, by the first sub-section provides for making a declaration that the land is needed for a public purpose. There are two provisos to that section of which the second is relevant:

"Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenue or some fund controlled or managed by a local authority."

4. The expression "local authority" is not defined in the Land Acquisition Act. But by the General Clauses Act 10 of 1897 the expression "local authority" is defined as meaning "a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with, the control or management of a municipal or local fund". By virtue of Section 10(2) of the Gujarat Agricultural Produce Markets Act, 1963, the market committee is a local authority within the meaning of the Bombay General Clauses Act. A local authority being by virtue of Section 3(26) of the Bombay General Clauses Act, 1904, a body which is entrusted by Government with control or management, inter alia, of a local fund, there is no scope for the argument that the market committee constituted under Gujarat Agricultural Markets Act, 1963, is not a local authority within the meaning of Section 6 of the Land Acquisition Act.

5. The appeal therefore fails and is dismissed with costs.