
(1978) 12 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No's. 1509 and 1510 of 1977

Punjab State Warehousing Corporation, Chandigarh

APPELLANT

Vs

Shangara Singh and Others

RESPONDENT

Date of Decision : 20-12-1978

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 50, 50(2)

Citation : AIR 1979 P&H 118 : (1979) 1 ILR (P&H) 324

Hon'ble Judges : S.S. Sandhawalia, C.J;S.C. Mital, J;Prem Chand Jain, J

Bench : Full Bench

Judgement

Prem Chand Jain, J.—This judgment of ours would, dispose of Civil Revision No. 1509 of 1977 and 1510 of 1977 as common question of law arises en both these petitions.

2. The land of Shangara Singh and other respondent, who were the landowners, was acquired. The Collector gave an award determining the compensation to which the landowner ere found entitled to Dissatisfied from the award, Shangara Singh and others, made an application under S. 18 of the Land Acquisition Act (hereinafter referred to as Act) requiring the Collector to make a reference to the Court. During the pendency of the reference before the Court the Punjab State Warehousing Corporation (hereinafter referred to as Corporation) made an application praying that the Corporation be impleaded as a party and be permitted to appear and defend the case and to lead evidence. The application was opposed on behalf of the landowners. The learned Additional District Judge, Amritsar, vide his order dated 16th of August, 1977, dismissed the application of the Corporation. Feeling aggrieved from the order of the learned Additional District Judge, Amritsar, the Corporation has preferred the present revision petition.

3. The learned single Judge before Whom she petition was placed for preliminary hearing, issued notice of motion, The landowners put in appearance in response to the notice of motion. B. S. Dhillon, J. who was seized of the matter. at the

motion hearing stage, found that the point involved in the petition deserved to be "decided by a larger Bench and consequently the reference was made. That is how the matter has, been placed before us.

4. The only contention advanced by Mr. C. B. Goel, learned counsel for the petitioner was that the Corporation had a right to and defend the case before Court in the proceedings, which were initiated on reference and that the learned Additional District Judge acted illegally and with material irregularity in disallowing the prayer of the Corporation In that respect. Reliance in support of his contention was placed on S. 50(2) of the Act.

5. On the other hand, Mr. Grewal, learned counsel for the respondents contended that the provisions of S. 50(2) of the Act tire not applicable to the Corporation as it did not fall within the definition of "Company", that the Corporation had no right to claim that if should be permitted to defend the case and lead evidence, and that the order of the learned Additional District Judge, Amritsar, was. perfectly legal.

6. Section 50 of the Act reads as under:

(1) Where the provisions of this Act are put in force the purpose of acquiring land at the cost of any fund controlled or managed by a local authority by of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company,

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear f and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under S. 18."

7. The expression "Company" has been defined in the Act in S. 3(e). The said definition is in the following terms:--

"The expression "company, means a company.. registered under the Indian Companies Act, 1882, or under the English Companies Acts, 1862 to 1890,or incorporated by an Act of Parliament of the United Kingdom or by an Indian law or by Royal Charter or letters Patent, and includes a society registered under the Societies Registration Act, 1912; or any other law relating to Co-operative Societies for the time being in force in any State."

8. In order to decide whether the Corporation is or is not a Company within the meaning of the Act, it appears to, be necessary to refer to some of the provisions of the Warehousing, Corporation Act, 1962 (hereinafter referred to as Corporation Act) under which the Corporation has been constituted.

9. Section 3(1) provides that with effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Central Government shall establish a Corporation by the name of the Central

Warehousing Corporation which shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and may, by the said name, sue and be sued.

10. Section 4 makes a provision about the authorised share capital and the description of the share-holders. Section 5 provides that the shares of the Corporation shall be guaranteed by the Central Government as to the repayment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the Central Government, by notification published in the official Gazette, at the time of the issue of the shares.

11. Section 6 makes a provision as to how the management of the Corporation is to be carried out. S. 7 tells us the manner in which the Board of Directors is to be constituted. Section 8 talks of the disqualification for office of the Director of the Corporation and S. 9 prescribes the ***** in which a Director from office can be removed.

12. Next section to which a reference may be made is S. 18 which forms part of Chapter III relating to the State Warehousing Corporations. Under this Section, the State Government, with the approval of the Central Warehousing Corporation, is given the power to establish a Warehousing Corporation for the State.

13. Section 19 talks of the authorised capital of the State Warehousing Corporation and the manner in which the capital is to be subscribed by the share-holders. Section 20 makes provision as to how the management of a State Warehousing Corporation is to be carried out; S. 21 talks of the disqualifications of the Director and S. 22 provides the procedure for the removal of the Directors.

14. Section 26 requires the Corporation to prepare before the Commencement of each year, a statement of programme of its activities during the forthcoming year as well as a financial estimate in respect thereof.

15. Section 30 prescribes the procedure for the disposal of the profits and S. 34 provides voting right to a share-holder.

16. Adverting now to the merits of the case, the first question which calls for decision is whether the Warehousing Corporation established under S. 3(1) of the Corporation Act is a Company within the meaning of S. 3(e) of the Acquisition Act or not.

17. The answer of the aforesaid question, in my view, is not far to seek and is available from the judgment of their Lordships of the Supreme Court in *Valjibhai Muljibhai Soneji and Another Vs. The State of Bombay (Now Gujarat) and Others*, wherein the State Transport Corporation which was incorporated by an "Indian Law" was held to be a Company within the meaning of S. 3(e) of the Land Acquisition Act.

18. However, the difficulty has arisen in view of a judgment of the Division Bench

of this Court in Raja Ram Baru Ram and Others Vs. State of Punjab and Others, , wherein the Food Corporation of India, though incorporated by an "Indian Law" was held not to be ***** Company within the meaning ***** 3(e) of the Acquisition Act, and the judgment in Valjibhai's case was distinguished. The observations of the Division Bench, in this respect, which appear at p. 368 of the report, read as under:--

"In order to bring an artificial person within the four corners of "Company," as defined in the Act, two conditions must be fulfilled viz:--

- (i) It should be a Company as understood in ordinary law, and
- (ii) It should be registered under any of the statutes mentioned in. clause (e) of S. 3 of the Act, or incorporated by an Indian law.

The Food Corporation of India (referred to, as. the Corporation in this judgment) has, no doubt, been incorporated by the Food Act,. which is an Indian Law and, therefore, it is beyond dispute that the second ingredient of the statutory definition of "Company" contained in the Act stands satisfied in this case. In Valjibhai Muljibhai Soneji and Another Vs. The State of Bombay (Now Gujarat) and Others, , Mudholkar, J., was mainly dealing with the second ingredient of S. 3(e) of the Act while deciding, whether the Bombay State Transport Corporation, established under the Road Transport Corporation Act, 1950, was or was not a Company within the meaning of that provision. It was held that the State Transport Corporation was a Corporation incorporated by an "Indian Law." The question whether State Transport Corporation. satisfied the first ingredient of S. 3(e) or not was neither raised, nor decided in the Bombay case. In view of the provisions of the Road Transport Corporations Act, 1950, it was rightly assumed in that case that the Bombay State Transport Corporation was a juristic person which would in ordinary parlance be called a Company....."

From the aforesaid observations, it is evident that the learned Judges formulated two conditions which were to be satisfied before any juristic person could be brought within the definition of Company in S. 3(e) of the Act.

19. Mr.-C. B. Goel, learned counsel for the petitioner challenged the correctness of decision in Raja Ram's case and submitted that condition" (i) enumerated by the learned Judges was not pre-requisite for bringing any juristic person within the definition of Company; that the only necessary condition that was required to be fulfilled was condition (ii) as formulated by the Bench and that the judgment in Valjibhai's case was wrongly distinguished.

20. After giving my thoughtful consideration to the entire matter, I find myself in agreement with the contention of the learned counsel for the petitioner. The Corporation in this case has been incorporated by an "Indian Law" and is fully covered by the provisions of S. 3(e) of the Act. To me, it is quite evident that the word "Company" has been used in S. 3(e) for facility of reference or for purposes of description and by the. user of this word, condition (i). has not become as one

of the essential requirements to be fulfilled before any juristic person could fall within the definition of "Company" as given in S. 3(e) of the Act. From the bare reading of Section 3(e) of the Act, there does not appear to be any basis for the formulation of condition (i). In the Act the definition of the word "Company" has been given and for the purpose of interpretation, it is always safe and proper to advert to the provisions of the statute and not to have recourse to the dictionaries, as has been held by their Lordships of the Supreme Court in Commissioner of Income Tax (Central), Calcutta Vs. Moon Mills Ltd., wherein it has observed thus (at p. 880):--

"All this discussion by us was necessary to dispel the inferences drawn from dictionaries and reports of cases from England and Ireland, but the safest guide, as always, is the statute itself which is being considered.

21. Moreover, with utmost respect, I am unable to agree with the reasoning adopted by the learned Judges of the Division Bench in Raja Ram Baru Ram and Others Vs. State of Punjab and Others, in distinguishing the judgment of the Supreme Court in Valjibhai's case AIR 1963 SC 1890 :--

22. In Valjibhai's case, the question, with which we are faced in the instant case, was directly involved, and on consideration of the statutory provisions of the Road Transport Corporation Act, 1948, which are closely analogous with the provisions of the Corporation Act, the learned Judges held that the State Transport Corporation, having been incorporated by an "Indian Law" fell within the definition of S. 3(e) of the Land Acquisition Act.

23. Thus, in view of my aforesaid discussion, I hold that the view taken by the learned Judges in Raja Ram Baru Ram and Others Vs. State of Punjab and Others, that condition (i) had also to be satisfied before taking the benefit of S. 3(e) of the Land Acquisition Act, does not lay down the correct law and goes counter to the judgment of the Supreme Court in Valjibhai Muljibhai Soneji and Another Vs. The State of Bombay (Now Gujarat) and Others,). I am, therefore, constrained to overrule Raja Ram's case on the specific point. I further hold that the Warehousing Corporation satisfies the condition (ii) as it has been incorporated by an Indian law and, thus falls within the definition of S. 3(e) of the Land Acquisition Act.

24. This brings me to the next question as to what is the right of the Company in the proceeding on reference taken by the learned counsel, did not press his prayer that the petitioner be permitted to be impleaded as a party under Order 1, rule 10 of the Code of Civil procedure. The only relief which the learned counsel claimed was that the petitioner should be permitted to appear and adduce evidence for the limited purpose of determining the amount of compensation. This relief was not opposed by Shri Grewal, learned counsel for the respondents. Even otherwise, in view of the Act, the petitioner is entitled to this relief.

25. No other point was urged.

26. For the reasons recorded above, I allow this petition; set aside, the impugned order of the learned Additional District Judge, Amritsar and permit the State Warehousing Corporation, Chandigarh to appear and adduce evidence, if necessary, for the purpose of determining the amount of compensation. In the circumstances of the case, I make no order as to costs.

27. The parties through their learned counsel have been directed to appear before the learned Additional District judge, on 22nd of January, 1979.

S.C. Sandhawalia, C.J.

28. I agree.

S.C. Mital, J.

29. I agree.

30. Petition allowed.