
(1986) 06 RAJ CK 0003

In the Rajasthan High Court

Case No : Civil Writ Petition No. 151 of 1984

Rajesh Ahuja and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 16-06-1986

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1986) WLN 338

Hon'ble Judges : A.K. Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ashok Kumar Mathur, J.—This writ petition is directed against the order of demand dated 26th October, 1983 (Ex.8) and the order dated 4th February, 1982 (Ex.5) where by the competent authority under the Rajasthan Urban Land (Ceiling and Regulation) Act, 1976 (here in after referred to as the Act of 1976) has acquired the excess land held by the petitioners.

2. There is land situated in the Jodhpur at Gorau House, Near Air Force. One Ram Swaroop executed will on 16th August, 1974 in favour of the petitioners in respect of Immovable properties owned and possessed by him. On 9th October, 1976 Ram Swaroop filed return-as required u/s 6 (1) of the Act of 1976 before the respondent No. 4. The respondent No. 4 conducted a survey and the surveyor submitted his report on 17th October, 1979 before the respondent No. 4. The respondent No. 4 prepared the draft statement as required u/s 8 of the Act of 1976. There after notice under was served on the petitioners and a detailed reply was submitted on behalf of the petitioners. Various objections were raised in the reply. The respondent No.2 after hearing both the parties declared the open land measuring 3972.00 sq. yds. situated at Jodhpur Gorau House being excess vacant land of the prescribed limit and therefore same may be acquired. Thereafter a notice Ex. 6 was issued by the Government in exercise of its power u/s 34 of the Act of 1976 for revising the order dated 4th February,

1982 passed by the Competent Authority, Jodhpur. The petitioners filed reply to this notice Ex. 7. There after the State of Rajasthan vide Ex. 8 set aside the order of the competent authority and remanded the case back to the competent authority to determine the same in the light of the order Ex.8. Aggrieved against this order the petitioner has filed the present writ petition.

3. The learned Counsel for the petitioners submits that u/s 34 of the Act of 1976 no time limit has been prescribed for revising the order by the State Government, therefore Section 34 is ultra vires to the Article 14 of the Constitution. He further submits that the decision given by the authorities on merit is not on consonance with the provisions of the Act. Both the submissions raised by the learned Counsel are without any substance. So far as question of validity of Section 34 is concerned, simply because a time limit has not been prescribed there by and it cannot be said to be illegal and ultra vires of Article 14 of the Constitution. It is for the Legislature to prescribe its limit for exercising power by the Government. The Legislature has conferred this revisionary power on the Government and has not prescribed any limit then this court cannot sit over the wisdom of the Legislature. Since a power has been conferred on the State that itself is a built in guarantee enwilled against its arbitrary or illegal exercise of the powers. Normally it is expected that the power conferred on a higher authority like the Government, it will be exercised sparingly in appropriate cases. Thus, to say that time limit has not been fixed that will not render the provision in the Act illegal or violative of Article 14 of the Constitution. Thus, this submission of the learned Counsel is overruled.

4. Next the learned Counsel for the petitioners submitted that the power has been conferred on the Government and same has been exercised by the Deputy Secretary to the Government therefore such exercise of the power is bad. This submission is also without any basis. The power has been conferred on the Government and the same has been exercised by the Government, which is clear from the order, this has been exercised by the Deputy Secretary to the Government in the Finance Department. Under the Rules of Business such power can be delegated and same has been delegated in the Finance Department and the Deputy Secretary of the Government as delegatee of the Government has exercised this, therefore no exception can be taken to this.

5. Lastly the learned Counsel has submitted that the revisional order dated 11th October, 1983 is bad because the revisional authority has not properly exercised the discretion. This contention of the learned counsel is also not well founded. It is clear that the petitioners have two plots of land. Both the plots are said to be vacant, therefore, there is no question of saying that it is not open land since there was no building or dwelling unit existing on it. The petitioner is entitled on 1600 sq. yard of the vacant land and remaining land should have been acquired by the Government and since same was not done, therefore, the case was remanded back to the competent authority and the competent authority was directed to rehear the petitioners and pass a proper order. I think the revisional

authority has properly appreciated the matter and remanded the matter back to the competent authority to re-consider the matter in the light of the facts which have come on record. Thus, I think the revisional authority has rightly exercised the discretion and remanded the case back to the competent authority for its adjudication.

6. In the result, I do not find any merit in this writ petition. It is dismissed. No order as to costs.