
(1980) 10 AHC CK 0043

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 2045 of 1974

Ram Prakash Gupta

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 01-10-1980

Acts Referred:

United Provinces Rural Development (Requisitioning of Land) Act, 1948 — Section 3

Citation : (1980) AWC 703

Hon'ble Judges : N.D. Ojha, J;B.D. Agarwala, J

Bench : Division Bench

Advocate : Vijay Bahuguna, for the Appellant;

Final Decision : Dismissed

Judgement

N.D. Ojha, J.—An order as well as a notification both dated 11th December, 1973, whereby a plot of land belonging to the Petitioner was requisitioned u/s 3 of the United Provinces Rural Development (Requisitioning of Land) Act, 1948 (hereinafter referred to as the Act) for construction of a road is sought to be quashed.

2. It was urged by counsel for the Petitioner that when the Petitioner's land was sought to be requisitioned for the construction of a road, the purpose for which the land was requisitioned on the face of it, could not be said to be of temporary character and since the Act contemplated requisition for a public purpose of a temporary character alone, the impugned notification was ultra vires. A similar argument was raised before a Full Bench of this Court in Ram Prasad Singh and Others Vs. State of U.P. and Others, and was repelled. It was, inter alia, held that the Act does not impose any limitation on the power of the Requisitioning Authority by making any express or implied provision that the purpose for which the property may be requisitioned must be of a temporary character. In view of the decision in R. P. Singh's case (supra), we find ourselves unable to accept the submission made by counsel for the Petitioner.

3. Counsel for the Petitioner urged that R. P. Singh's case (supra) requires reconsideration.

4. Having given our anxious consideration to this aspect of the matter, we are not inclined to accept even this submission on the basis of the material placed before us by counsel for the Petitioner.

5. It was then urged that the notification was invalid inasmuch as the compensation which is payable under the Act is almost illusory. While elaborating this submission, it was urged by counsel for the Petitioner that the Act was enacted at a point of time when the Government of India Act of 1935 was in force and the only Entry which conferred power on the Provincial Government in this behalf was Entry No. 9 of List 2 of the 7th Schedule which read compulsory acquisition of land. According to counsel for the Petitioner since the provincial legislature had authority to enact only in regard to compulsory acquisition of land the compensation which was to be given to a person whose land was requisitioned under the Act should have been made payable on the same basis as under the Land Acquisition Act. Since this was not so provided in the Act, the compensation payable thereunder was, on the face of it, illusory.

6. We find it difficult to accept this submission either. In *Mahindra Mohan Lahiri and Others Vs. The State of Assam*, a Division Bench of that Court held that the word "acquisition" in Item 9, Sch. 2, List 3, Government of India Act contemplates not only the acquiring of the entire title of the expropriated owner but also taking possession of a right less than the totality of the rights constituting property. Under the Government of India Act taking possession of a right in or over property as well as acquiring of the whole title to the property was regarded as "acquisition" whereas under the Constitution of India, taking possession of a right or rights short of the entire title to property is regarded as "requisition". In *Dwarkanadas Shrinivas of Bombay Vs. The Sholapur Spinning and Weaving Co. Ltd. and Others*, the true concept of the expression "acquisition" was considered in paragraph 27 of the report. It was held that the word acquisition has quite a wide concept, meaning the procuring of property or the taking of it permanently or temporarily. It does not necessarily imply the acquisition of legal title by the State in the property taken possession of. In this view of the matter, it is apparent that the provincial legislature in the exercise of the power conferred on it by Entry 9 of List 2 of the 7th Schedule of the Government of India Act could have enacted in regard to taking possession of property even without acquiring the title in the said property. The Act squarely purports to do the same. On a conspectus of the relevant provisions of the Act it is apparent that the title in the land which is requisitioned, notwithstanding the requisition continues to vest in the owner of the land and it is only the possession of the land which is taken over for a public purpose.

7. In this view of the matter, the submission that since the compensation which is payable under the Act is determined not on the same basis as is determined under the Land Acquisition Act for acquisition of land under the said Act, it is

illusory and the impugned notification is liable to be quashed on that ground cannot be sustained.

8. Lastly it was urged that the purpose for which the land is being acquired namely, the construction of a road cannot be said to be either for development of agriculture or economic condition in rural areas which are the two purposes for which requisition under the Act was contemplated as is clear from its preamble. Firstly it has been asserted in the counter-affidavit that the road in question for which the Petitioner's plot has been requisitioned has been constructed for improvement of economic condition of the rural population. Secondly no material has been placed by the Petitioner to indicate that the construction of the road will have no bearing on the development of the economic condition of the rural area where it is being constructed. It is not the case of the Petitioner that the road is being constructed for any oblique motive by or at the instance of some person having malice against the Petitioner. Further no material has been placed before us which may indicate that no reasonable person could have come to the conclusion that the construction of the road in question was necessary to met a public purpose envisaged by the Act.

9. In the result, we find no merit in this writ petition. It is accordingly dismissed and the interim order dated 10th April, 1974 is vacated. In the circumstances of the case, there will, however, be no order as to costs.