
(1998) 08 SC CK 0004

In the Supreme Court Of India

Case No : Civil Appeal No's. 5480 of 1995 and 3648 and 3649 of 1998

State of Haryana

APPELLANT

Vs

Jai Singh and Others

RESPONDENT

Date of Decision : 06-08-1998

Acts Referred:

Constitution of India, 1950 — Article 31A

Citation : (1999) 121 PLR 322

Hon'ble Judges : K. T. Thomas, C.J;S. S. M. Quadri, J;M. M. Punchhi, J

Bench : Full Bench

Final Decision : Allowed

Judgement

M.M. Punchhi, C.J.—Civil Appeal No. 5480 of 1995- This appeal at the instance of the State of Haryana is directed against the judgment and order of a Full Bench of the Punjab & Haryana High Court dated 18th January, 1995 reported in Jai Singh and Ors. v. State of Haryana and Ors., (1995-1)109 Punjab Law Reporter 614 .

2. We need not stretch the canvass wide matching with the lengthy judgment of the Full Bench as it itself has summed up the main controversy in para 60 of its judgment. The said paragraph is worth reproduction:

"In view of the observations cited above, Section 2(g)(4) and 2(g)(6) of the Act of 1961 describes that land reserved for common purposes under Consolidation of Holdings Act, 1948 by application or pro rata cut to the holdings of the land owners within their ceiling limits as Shamlat Deh under the Act of 1961 and since these lands have been vested in the Panchayat the action is in violation of Article 31A. Since definitions by Section 2(g)(4) and 2(g)(6) are so intermingled that no part can be segregated and held ultra vires and these sections having categorically transgressed the powers of the State for acquisition of land without compensation, these provisions cannot stand the test of constitutionality. It is a piece of colourable legislation. Violation of Article 31A is so manifest that it

leaves no manner of doubt. I am of the considered view that Section 2(g)(4) and 2(g)(6) are void being violative of Article 31A of the Constitution of India. Writ of mandamus is, therefore, issued restraining the State of Haryana from enforcing the provisions of Section 2(g)(4) and 2(g)(6) of the Act of 1992."

3. We are afraid that the Full Bench has over-looked certain essentials of Article 31A of the Constitution, the relevant extract of which is reproduced hereinafter:

"31-A. Saving of laws providing for acquisition of estates, etc.- (1) Notwithstanding anything contained in Article 13, no law providing for -

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14 or Article 19.

Provided

Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof."

4. We have made a thorough search in the judgment under appeal in order to discover whether any finding was recorded by the High Court that the land sought to be affected by the legislative measure under challenge was within the ceiling limit of each of the respective proprietors and was in each's personal cultivation, be it factually or legally. That there is no such finding is conceded to by the learned counsel for the parties. Unless such finding was recorded in clear terms, the legislative measure could not have been struck down on the anvil of Article 31A of the Constitution. In this view of the matter, we would rather have a complete decision from the High Court on the subject and therefore, necessarily, have to effect a remand to it; other questions not being adverted to and leaving those questions to the High Court to be re-affirmed or otherwise.

5. As a result, we allow this appeal, set aside the impugned judgment of the High Court and remit the matter back to it for re-decision of the question focused as also others as indicated above.

Civil Appeals No. 3648 and 3649 of 1998 arising out of SLP (C) Nos. 17544 of 1995 and 2620 of 1996.- Leave granted.

The writ petition before the High Court were disposed of in terms of the decision of the Full Bench in *Jai Singh and Ors. v. State of Haryana and Ors.*, (1995-1)109 Punjab Law Reporter 614 . Parties were left to approach the

Collector concerned for redressal of individual grievances. The said decision has been upset by us today in Civil Appeal No. 5480 of 1995 and a remand has been effected.

In the light thereof, these appeals too are allowed and the matters are remitted back to the High court for a fresh decision in terms therewith.