

(1994) 11 AHC CK 0084

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 9585 of 1983

Tapesa and Others

APPELLANT

Vs

Tahsildar,Bansdih,Ballia and Another

RESPONDENT

Date of Decision : 15-11-1994

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Rural Development (Requisitioning of Land) Act, 1948 — Section 2(2),
3, 4

Citation : (1994) 11 AHC CK 0084

Hon'ble Judges : R.A.Sharma, J and M.Katju, J

Final Decision : Allowed

Judgement

M. Katju, J.—This writ petition had been admitted on 581983 and notice was issued to the respondents. The petition was filed after serving notice on the learned standing counsel who represented the respondents. Since then a long period has expired but no counteraffidavit was filed by the respondents and hence we are disposing of this writ petition finally treating the allegations in the petition to be correct.

2. The petitioners claim to be tenureholders of plot Nos. 488, 489, 222, 460, 509, 459 and 200 situate in village Dhir Chhapra and plot Nos. 279 and 271 situate in village Bhoj Chhapra, Pargana Kharid, Tahsil Bansdih, district Ballia. For constructing a Bundh the irrigation authorities had requisitioned a lot of land of the two villages. The petitioners received under Section 3/8 of the U.P. Rural Development (Requisitioning of Land) Act, 1948 by which they were directed to hand over possession of the said plots within one week. True copies of the notice are Annexures 1A, 1B and 1C to the writ petition. In these notices it is stated that the aforesaid land is required for making constructions and the petitioners were directed to hand over possession within a week on receipt of the notices. The notices also mentioned that they can give written objections within three day"s.

3. The petitioners have alleged that the impugned notices are wholly illegal and without jurisdiction as according to them requisitioning of the land for the purposes of construction of Bundh is not public purpose within, the meaning of the said expression in the Act.

4. Learned counsel for the petitioners has invited our attention to the definition of "public purpose" in the Act. This definition contained in Section 2(2) of the Act reads as follows : .

?(2) "Public purpose means for and in connection with any of the following objects, that is to say

(i) making, enlarging or deepening of tanks for purposes of irrigation;

(ii) composting of village" refuse or preparation of any other form of manure ;

(iii). construction of guls for irrigation ;

(iv) plant nurseries ;

(v) any other objection which the State Government may, after publication in the Gazette and after considering any objection or suggestion which may be .received by notification in the Gazette, declare essential for the development of agriculture or improvement of the life of community in rural areas.

5. A perusal of the said definition shows that the construction of Bundh is not a public purpose within the meaning of the Act. Hence, in our opinion the notice were wholly without jurisdiction and consequently the said notice (Annexures 1A, 1B and 1C to the petition) were hereby quashed. The petition is accordingly allowed. No order as to costs.