

(1955) 09 P&H CK 0008

In the Punjab And Haryana At Chandigarh

Case No : Writ Application (Civil) No. 143 of 1955

Tilak Ram Wadhwa Mal and Others

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 05-09-1955

Acts Referred:

Constitution of India, 1950 — Article 31
Land Acquisition Act, 1894 — Section 4

Citation : AIR 1956 P&H 83

Hon'ble Judges : Bhandari, C.J.;Khosla, J

Bench : Division Bench

Advocate : K.L. Gosain, for the Appellant; S.M. Sikri, A.G., for the Respondent

Final Decision : Dismissed

Judgement

Khosla, J.—This, is a petition under Article 226 of the Constitution filed on behalf of a number of persons whose lands are being acquired by the Punjab Government for the rehabilitation of persons displaced from their lands by the building of the Bhakra Hydro Electric Works.

2. The petitioners' case is that the action of the Punjab Government is "mala fide" and In any case the rehabilitation of persons whose lands have been acquired for a public purpose cannot be said to be a public purpose.

3. The facts briefly are that the building of the Bhakra Hydro Electric Works necessitated the acquisition of large areas of land. As the result of this acquisition thousands of persons were displaced. The Advocate-General informed us that as many as 30,000 people had to move out of their villages and the Government had therefore to make provision for them elsewhere. The Government accordingly issued a notification on 22-11-1954 under the Land "Acquisition Act whereby they announced their intention of acquiring the area of eleven villages including the village of the petitioners.

The first area of land to be acquired was the land of the petitioners. It is stated

on behalf of the petitioners (but the allegation is denied by the learned Advocate-General) that the Government have abandoned their intention of acquiring the remaining land on the representation of the villagers of those lands. The fact, however, remains that the original notification in respect of all the eleven villages is still in force and the Advocate-General has stated that the land of these villages will be acquired gradually as it is needed for the rehabilitation of persons who are being successively displaced from their original lands for the Bhakra Hydro Electric Scheme.

4. The main contention of Mr. Kundan Lal Gosain who appears on behalf of the petitioners is that it is iniquitous to take the land of one person in order to rehabilitate another. He says that it may be a public purpose to acquire the land which is needed for the Bhakra Scheme but it cannot be a public purpose to give the land of the petitioners to those persons who have been displaced from Bhakra. Otherwise, he says this procedure could be continued "ad infinitum" and the lands of other people will have to be acquired in order to rehabilitate the petitioners and those people in turn would have to be provided for elsewhere and so on.

We are not, however, concerned with how far this process can be continued though I should say that it would be improper to carry it beyond the second stage, and where Govt. wishes to rehabilitate displaced persons they should do so with a certain amount of circumspection. By this I mean" simply that the lands of only those persons will be chosen who will not be completely thrown out. That regard has been paid to this circumstance is clear from the reply of the Department.

The petitioners are absentee landlords. They live in Ferozepore and they have other means of livelihood. They will get compensation according to the provisions of the Land Acquisition Act and they will therefore not be in the position of displaced agriculturists.

5. I can see nothing illegal or unjust in the Government taking steps to rehabilitate persons who have been displaced as the result of the Bhakra Scheme. These villagers have been living on the land and cultivating it for generations. They have no other means of livelihood. Their lands were required for the Bhakra Scheme. To give them monetary compensation would not solve the problem of their livelihood.

It will not be possible for them to buy lands near their homes. Nor indeed would they find it possible to live together as a corporate body. They would have to wander in different directions and to distant places. Friends and relatives would be separated and their economy would suffer adversely. The only way in which they could be adequately provided for was to acquire land in the near vicinity of their original home and to resettle them on that land.

This is exactly what the Punjab Government are proposing to do. They have issued a notification in respect of eleven villages and they hope to acquire land in

order to resettle the Bhakra people as and when the need arises. It is quite clear to me that such an object is a public purpose and that it cannot be placed on the same footing as the transfer of land from one individual to another. It was held by a Division Bench of this Court in -- "Gurdial Kaur v. The State" AIR 1952 Pun 55 (A) that

"to rehabilitate a number of persons who are dispossessed of their agricultural lands for the purpose of the construction of the new capital is a public purpose."

The Court was considering action taken by the Punjab Government under the East Punjab Requisitioning of Immovable Property (Temporary Powers) Act, 1948. The lands of certain villagers were acquired for the capital project and these persons were rehabilitated by giving land which was requisitioned from other people. The Court held that this was a public purpose.

6. In -- "The State of Bombay Vs. Bhanji Munji and Another, their Lordships of the Supreme Court were considering the case of a house being requisitioned for a Government servant. It was held that this was a public purpose. Bose J. observed-

"In the present set of cases (there were three individual cases before the Court) there is proof of a public purpose. It is given in the affidavits made on behalf of the State and in the subsequent orders just quoted, namely to house the homeless. At that time the housing situation in Bombay was acute, largely due to the influx of refugees.

Questions of public decency, public morals, public health and the temptation to lawlessness and crime, which such a situation brings in its train, at once arose; and the public conscience was aroused on the ground of plain humanity. x x x It was necessary therefore for Government to take more drastic steps and in doing so they acted for the public weal. There was consequently a clear public purpose and an undoubted public benefit."

7. It may be argued with certain measure of plausibility that to rehabilitate one or two or half a dozen persons who are displaced by the acquisition of their land should not be done by acquiring the lands of other private individuals and that to do so would not amount to a public purpose. But in the present case as many as thirty thousand persons have to be provided for.

It cannot be denied that the Bhakra Hydro Electric Scheme is a public purpose and the inevitable result of achieving this public purpose is to displace thirty thousand persons. The State is responsible for their welfare and to throw thirty thousand persons to the mercy of their own resources would not only be unjust but would be shirking the duty imposed upon the State. Monetary compensation would mean nothing to them for in some cases they would get a very small amount which would not enable them to buy land elsewhere and to acquire a new home.

The best solution of this problem will naturally be to move them "ex masse" and

give them all land in the same place, but the next best thing is to acquire the land of other people in the near vicinity and to give it to them. If such other people have other means of livelihood they have no real cause for grievance.

8. I would therefore hold that the acquisition of the petitioners' land was for a public purpose and the petitioners cannot challenge this acquisition. I would therefore dismiss this petition with costs.

Bhandari, C.J.

9. I agree.