

The Punjab National Bank

Vs

Union of India and Another

Civil Appeal No. 1837 (N) of 1967

(K. K. Mathew, A. Alagiriswami JJ)

27.02.1974

JUDGMENT

MATHEW, J. -

1. This Appeal, by special leave, is against an order passed by the High Court of Delhi refusing to grant a certificate to the appellant under Article 133(1)(c) of the Constitution to appeal to this Court.
2. The High Court had dismissed in limine a writ petition filed by the appellant challenging the validity of the proceedings under the Land Acquisition Act for acquiring the property in question. The appellant thereafter applied to the High Court for a certificate under Article 133(1)(c). The High Court dismissed the application.
3. The appellant filed a petition for special leave against the order dismissing the writ petition as also another against the order refusing to grant the certificate.
4. This Court dismissed the petition for leave to appeal against the order dismissing the writ petition, but granted special leave to appeal against the order refusing to grant the certificate.
5. As already stated, the application to the High Court for grant of certificate was made only under Article 133(1)(c). But, in the petition for leave to appeal before this Court, it was stated :

That the petitioner-Bank filed an application being S.C.A. No. 104 of 1967 under Article 133 of the Constitution of India for grant of certificate for appeal to the Supreme Court.

And, in the statement of the grounds for the petition for leave to appeal, it was stated :

... the amount of value of the subject matter of dispute in the High Court and still in dispute in appeal in this Hon'ble Court was and is not less than Rs. 20,000 and the petitioner was entitled to the certificate under Article 133(1)(a) of the Constitution of India ... in any case, the judgment, decree or final order of the Hon'ble High Court ..... involved directly or indirectly some claim or question respecting property of the amount or value of more than Rs. 20,000 and the petitioner was entitled to certificate under Article 133(1)(b) of the Constitution of India as of right.

6. The statement that the appellant filed an application under Article 133, without specifying the clause under which the application was made, was, to say the least, misleading. The ground in the petition for leave to appeal referred to above would suggest that the application to the High Court

for certificate was made not only under Article 133(1)(c), but also under Article 133(1)(a) or alternatively under Article 133(1)(b). In other words, the statement in the special leave petition that the application was made to the High Court for a certificate under Article 133, without specifying the sub-clause under which it was made, coupled with the statement in the ground in the special leave petition that the appellant was entitled, as a matter of right, to a certificate under Article 133(1)(a) or (b) was calculated to mislead the Court, or, at any rate, was likely to mislead the Court, in the absence of any statement that the appellant applied to the High Court only under Article 133(1)(c) and the High Court refused to grant the certificate only under that sub-clause. It is very doubtful whether this Court would have granted special leave to appeal, if this Court had been told that the application for grant of certificate to the High Court was made under Article 133(1)(c). When this Court rejected the application for special leave to appeal against the order dismissing the writ petition, it is very problematical whether it would have granted special leave to appeal against the order refusing to grant a certificate under Article 133(1)(c), if the Court had been apprised of the fact that the application for certificate to the High Court was made only under that sub-clause.

7. This Court has been very strict in its requirement that, in a petition under Article 136, the applicant should state all material facts which have a bearing on the question of the exercise of the discretion, correctly. And, if any statement is made in the petition which has a bearing on its maintainability, and which is calculated or likely to mislead, the Court would revoke the order granting special leave (see the decision in *Rajabhai Abdul Rehman Munshi v. Vasudev Dhanjibhaji Mody* ((1964) 3 SCR 480 : AIR 1964 SC 345 : (1964) 2 SCJ 196).

8. In dealing with an application for special leave, this Court takes the statement of fact and grounds of fact contained in the application at their face value and it would be unfair to betray the confidence of this Court by making statements which are untrue or misleading (see the decision in *Hari Narain v. Badri Das* ((1964) 2 SCR 203 : AIR 1963 SC 1558 : (1964) 1 SCJ 51).

9. In the circumstances of the case, we have no hesitation in acceding to the prayer of the respondents to revoke the order granting special leave to appeal.

10. In the result, we revoke the order granting special leave and dismiss the appeal with costs.

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