

Mahant Durga Dass

Vs

State of Punjab and Others

Civil Appeal No. 297-A of 1978

(V. R. Krishna Iyer, R. S. Pathak JJ)

06.03.1980

JUDGMENT

KRISHNA IYER, J. –

1. In this appeal by special leave, Shri V. C. Mahajan appearing for the appellant has challenged the compulsory acquisition of land on three grounds. He contends that his objections, statutorily permitted under Section 36 to 40, have not been considered and in that view the further proceedings are banned in law. Secondly, he urges that the property is acquired is a 'samadhi' or a shrine and in the event of any religious shrine being acquired, the Punjab State has framed standings, in particular Standing Order No. 28, which prescribes certain exercise before taking over of such lands having regard to the sentiment attached by communities to such sanctified places. The third contention is that the Town Improvement Trust, which is the acquiring body, has no jurisdiction to acquire land outside the municipal limits and that in this case the land acquired from the appellant party spills over beyond the municipal limits.

2. Shri Soli Sorabjee appearing for the respondent-Trust, refutes these three contentions. No objections have been received by the Trust, according to him, and so no questions of considering them arises. Secondly, it is argued, that the actual 'samadhi' is not sought to be acquired and, therefore, there is no reason to comply with the formula under the standing orders. Lastly, it is stated that the whole land acquired falls within the municipal limits.

3. The High Court after hearing the arguments dismissed the writ petition under Article 226 in limine. Having heard submissions on either side we think that a fair course to be adopted by the statutory body concern, without seriously prejudicing the rights of the appellant, may well be to maintain provisionally the order of acquisition of the scheme subject to the directions that we make. We use the work 'provisionally' advisedly because we are not upsetting the order of acquisition or the further steps taken. Nevertheless, the interests of justice may well be met if, Improvement Trust (respondent) hears the objections of the appellant in terms of Section 36-40 of the Punjab Town Improvement Act, 1922. The objections which the appellant has, are already at page 23 of the paper book, that is, Annexure 'A' to the special leave petition. These objections will be considered by the Chairman of the Improvement Trust within three weeks from today after notice to the appellant. To avoid further complications, we fix March 20, 1980 as the date on which the appellant directly or through counsel will appear before the Chairman of the Trust in support of his objections and, thereafter, the Chairman considering the merits of the objections, will pass appropriate orders, modifying the acquisition or canceling the acquisition or otherwise making any suitable adjustments with reference to the acquisition. We make it clear that this is with substantial reference to the land of the appellant only.

4. Similarly, in regard to the objection based upon paragraph 9 of the Standing Orders which relate to religious property sought to be acquired, the Chairman will consider that objection also on the same date we have indicated earlier and pass an appropriate order. He will take note of legal and fictional aspects of the matter and come to a decision. Likewise, the third question as to whether any part of the land of the appellant falls outside the municipal limits, will also be decided by the Chairman after applying his mind to the relevant public documents and if need be by a local inspection.

5. He will dispose of the entire matter, as we have stated earlier, expeditiously and will see that such relief as may equitably be needed is given to the appellant if otherwise justified by the circumstances. Until the decision of the Chairman the appellant will not be dispossessed of his land. With these directions we dispose of the appeal.

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