

Manubhai Jehthalal Patel And Another

Vs

State of Gujarat and Others

Civil Appeals Nos. 1841-1846 of 1970

(D. A. Desai, A. Varadarajan, O. Chinnappa Reddy JJ)

27.09.1983

ORDER

1. These appeals by certificate arise from the decision of the High Court of Gujarat in Special Civil Application No. 46 of 1966 and connected petitions. The certificate was granted under unamended Article 133(1)(c). The substantial question of law of general public importance which appealed to the High Court to grant certificate was about the vires of Sections 4, 5-A and 6 of the Land Acquisition Act, 1894.
2. Vires of Section 4 were examined by this Court in *Bai Malimabu v. State of Gujarat* [AIR 1978 SC 515 : (1978) 2 SCC 373] and it was held that Section 4 was intra vires the Constitution. In reaching this conclusion this Court referred to the two earlier decisions of this Court on the subject and held that Section 4 was intra vires the Constitution. Nothing was made out to depart from this view. The reasons which weighed with this Court to uphold the validity of Section 4 would mutatis mutandis apply to the challenge to the vires of Sections 5-A and 6 of the Land Acquisition Act. We accordingly hold the Sections 5-A and 6 of the Land Acquisition Act are intra vires the Constitution. In fact that disposes of the certificate.
3. However, Mr. Gopal Subramaniam learned counsel for the appellants in all these appeals raised two other contentions. The first contention canvassed by him on behalf of the appellants is that the Gujarat State Road Transport Corporation is a company within the meaning of the expression in the Companies Act as well as in Part VII of the Land Acquisition Act and this being an acquisition for a company it was obligatory to comply with the provisions contained in Part VII as well as Company Acquisition Rules and that admittedly having not been done, the acquisition is contrary to law, illegal and invalid. Land is indisputably acquired for the benefit of Gujarat State Road Transport Corporation which is a company. Even where land is acquired for a company, the State Government has the power to acquire land for a public purpose from the revenue of the State. In other words, this is an acquisition for public purpose with contribution from the State revenue. The State is acquiring land to carry out public purpose with the instrumentality of the Gujarat State Road Transport Corporation. It is not an acquisition for a company with the funds exclusively provided by the company which would attract Part VII of the Land Acquisition Act. In our opinion, the High Court is right in reaching the conclusion that neither Part VII of the Land Acquisition Act nor the Company Acquisition Rules would be attracted. Therefore, we are in agreement with the conclusions reached by the High Court.
4. The last contention of Mr. Gopal Subramaniam is that the contribution from the public exchequer in the amount of Re 1 which enable the High Court to hold that it was an acquisition for a public purpose for a company is in fact illusory and therefore, it cannot be said that the power to acquire

land has been exercised by the State Government for a public purpose. In *Somavanti v. State of Punjab* [(1963) 2 SCR 774 : AIR 1963 SC 151 : (1963) 33 Com Cas 745] a contribution of Rs. 100 from the public exchequer was held sufficient to come to the conclusion that the acquisition is for a public purpose with the aid of State fund. It is not correct to determine the validity of acquisition keeping in view the amount of contribution but the motivation for making the contribution would help in determining the bona fides of acquisition. Further in *Malimabu case* [AIR 1978 SC 515 : (1978) 2 SCC 373] contribution of Re 1 from the State revenue was held adequate to hold that acquisition was for public purpose with State fund. Therefore the contribution of Re 1 from public exchequer cannot be dubbed as illusory so as to invalidate the acquisition.

5. These were all the contents in these appeals and as we find no merit in any of them the appeals, fail and are dismissed with no order as to costs.

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