

Ghaziabad Sheromani Sahkari Avas Samiti Limited and Others

Vs

State of U. P. and Others

Civil Appeal No. 992-997 of 1990

(Ranganath Misra, P.B. Sawant, K. Ramaswamy JJ)

31.01.1990

JUDGMENT

RANGANATH MISRA, J. -

1. We have heard counsel for the parties at considerable length but piecemeal spread over a number of days. Special leave granted.
2. Five co-operative societies with membership of government servant mostly of the lower strata filed six separate writ petitions before the Allahabad High Court challenging the Notification under Section 4(1) and Section 17(1) of the Land Acquisition Act (1 of 1894) on several grounds. The principal contentions before the High Court were two-fold : (1) the cooperative societies consisting of the low paid government servants having acquire the land for the purpose of providing residential accommodation to their members, the Ghaziabad Development Authority constituted by the State of Uttar Pradesh for the same purpose should not have been permitted to acquire the said land to their prejudice; and (2) there was no justification for depriving the a petitioners of their right to representation under Section 5-A of the Acquisition Act in the facts and circumstances of the case.
3. The High Court by a common judgment dated August 30, 1988, demised the writ petitions by negating the several contentions raised on behalf of the petitioners. It may be pointed out that on behalf of the Neelam Sahakari Awas Samiti Ltd. two writ petitions were filed while each of the other four societies had filed one write petition. That is how six special leave petitions were filed before this Court and have now been converted into appeals on grant of leave.
4. Ghaziabad, within the State of Uttar Pradesh, virtually bordering Delhi is located at a distance of 28 kilometres from the New Delhi Railway section in the trans-Jamuna area. It has of late become, apart from being a railway junction, an industrial area as also on agglomeration sufficiently developed to call it a township. A Master Plan has been drawn up for the area and some petitions have been developed while the lands of the five cooperative societies have not yet been improved on account of the pendency of this group cases.
5. In course of the hearing of these appeals we were satisfied about the genuineness of the grievance advanced on behalf of the members through their respective cooperative societies and took the view that the members of the cooperative societies should not be denied residential accommodation for which societies should not be denied residential accommodation for which they had taken effective steps before the acquisition for the Development Authority was notified. We took into consideration the total number of members as also the number of eligible members; the total area which the members had acquired and entrusted to the cooperative societies for construction; the capacity of the

members to pay for the construction now charged by the Development Authority; the need of planned development of the area; and all other relevant facts and circumstances placed by all the parties before us and formed the opinion that it would be sufficient to meet the requirements of the members of these societies if each one of them was provided with a plot limited to an area of 80 square yards.

6. Total members entitled to allotment are 1739. Whether it should be individual plots or double-storied construction should be permitted was seriously debated before us but we have come to the ultimate conclusion that instead of single storey construction double storey constructions would be convenient and economical. The interest of the members represented by their respective cooperative societies and the nature of the housing complex contemplated by the Development Authority have to be kept in view and the ultimate decision, keeping the interest of both, has been taken. Counsel for the Development Authority had canvassed before us that instead of confining construction of flats to two storeys, the normal pattern of five or six storeys could be adopted. High rise construction for the poor section of the society would not be convenient - in old age many would have movement problem; many of the necessities for living would be difficult to secure. We have, therefore, decided the construction must be confined to two storeys only and the members of their respective societies shall make their own adjustment of the ground floor and first floor allotments. About 20 acres of land would be necessary if the double storey construction with an area of 80 square yards is adopted. Society wise particulars are provided below :

#Sl. Names of cooperative society Total members AreaNo. entitled to acres in allotment  
1. Sarkari Karmachari Evam Mitregan Sahakari Awas Samiti Ltd. 230 2.542.  
Kendriya Karmachari Evam Mitregan Sahakar Awas Samiti Ltd. 523 5.773.  
Ghaziabad Shiromani Sahakari Awas Samiti Ltd. 298 3.294.  
Neelam Sahakari Awas Samiti Ltd. 245 2.705.  
Aha Pushpa Vihar Sahakari Awas Samiti Ltd. 443 4.87  
1739  
19.17  
Members entitled 1739  
Total Area 19.17 acres (rounded to 20 acres)###

7. This area of 20 acres is inclusive of land for laying of the roads and other requirements contemplated under the development scheme. For convenience and adjustment we are of the view that two more acres of lands be made available to the five cooperative societies to be shared by amicable adjustment by them. Thus from the acquisition notification 22 acres of land shall stand deleted and shall be released in accordance with the extent indicated for each of the five cooperative societies. The identification of the land to be so released shall be made within four weeks from the date of pronouncement of the order by mutual arrangement. We direct that when the land shall also be signed be made; sketch maps showing the identified land shall also be signed by parties to avoid future litigation and made over to each of the societies.

8. We commend that all the five cooperative societies may from themselves into a federation for the purpose of ensuring appropriate development of the area and sharing either in common or by division the 2.83 acres of extra land which is directed to be released from acquisition.

9. It has been agreed that development charges for sewerage, electricity, road connections and the like shall be provided by the Development Authority @ Rs. 100 per square yard and internal development shall be done by the societies themselves in raising the construction, the bye laws and regulations of the Development Authority shall be strictly followed. We hope and trust that the Development Authority shall extend its cooperation in every manner to the societies to effectuate the directions made by us. We look forward to the fulfillment of the dreams of each of the members of the society in the matter of having a residential accommodation.

10. As soon as the lands are identified and sketch maps are delivered as directed above the interim orders made by this Court shall stand dissolved.

11. The appeals are disposed of without any order for costs.

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