

Shri Guru Singh Sabha (Regd.)

Vs

Defence Colony Welfare Association and Others

Civil Appeal No. 892 of 1992 (Arising out of Slp (C) No. 8139 of 1991)

(B. P. Jeevan Reddy, M. N. Venkatachaliah JJ)

24.01.1992

ORDER

1. Shri Guru Singh Sabha, a registered society, seeks special leave to appeal to this Court from the order dated March 22, 1991, of the High Court of Delhi made in Civil Writ No. 2208 of 1983. The order of the High Court was an order common to Civil Writ No. 2399 of 1983 as well. The said Civil Writ No. 2208 of 1983 was filed by the Defence Colony Welfare Association, the first respondent herein and Civil Writ No. 2399 of 1983 was filed by the "Defence Colony Shri Sanatan Dharma Sabha (Regd.)". This appeal is confined to the order of the High Court in so far as it pertains to the order made in Civil Writ No. 2208 of 1983. The other petition of the Sanatan Dharma Sabha, i.e., Civil Writ No. 2399 of 1983, was dismissed by the High Court and that is not the subject-matter here.
2. We have heard Shri M. S. Gujral, learned senior counsel for the petitioner; Shri V. C. Mahajan, Shri K. Lahiri and Shri G. L. Sanghi, learned senior counsel for the respondents. Special leave is granted.
3. The Defence Colony in New Delhi as planned by the Land and Development Office has set apart a plot of land of about 6 acres in Block C intended for an Officers' Club. It would appear that this plot was bifurcated and portions thereof allotted to several allottees, viz. the Jain Yoga Kendra; a school; and the Defence Colony Welfare Association. The Welfare Association is using the plot for purposes of its club.
4. The proceedings before the High Court relates to a plot of an extent of 0.50 acres which was a part of the said Block C and described as "half acre situated in between Nagina Yoga Sadhana Kendra and Defence Colony Welfare Association Club on Chetna Marg, Defence Colony". This plot was allotted to the appellant on a temporary basis by the Land and Development Officer for purposes of its religious and spiritual activities. An order in this behalf was made on September 19, 1983. It seems that the appellant-Sabha had in fact entered upon possession of the land even earlier to this order and had put up a temporary structure thereon and had been using it. The permission granted by the Land and Development Officer was initially for a period of six months which, admittedly, expired on March 19, 1984.
5. The grievance of the Defence Colony Welfare Association and the said Sanatan Dharma Sabha in the two petitions filed by them in the High Court was that the appellant which had been temporarily allotted this land for a period of six months from September 19, 1983 had continued to usurp the land even after the expire of the term. The contention of the Defence Colony Welfare Association was that this plot was meant for a public park and recreational purposes in the Zonal Development

Plan and that the said Association had in fact developed the same into a children's park. It was alleged that the Association was forcibly dispossessed of this land under the colour of the said temporary allotment. In civil Writ No. 2208 of 1983 from which this appeal arises the Defence Colony Welfare Association made a prayer of the quashing of the order of allotment dated September 19, 1983 and for a direction to the Land and Development Officer, Government of India, to evict the appellant, resume possession and to apply the land for the intended legitimate user.

6. The Shri Sanatan Dharma Sabha in its writ petition had prayed that the plot in question be directed to be allotted to it. The High Court, as stated earlier, rejected the Sanatan Dharma Sabha's claim observing :

"... In our opinion, as indicated hereinabove, this land cannot be allotted to any one. The land is meant for park and/or for recreational purposes.

We, therefore, dismiss Civil Writ No. 2399 of 1983..."

7. We are not concerned with this part of the order arising out of Civil Writ No. 2399 of 1983 of Shri Sanatan Dharma Sabha in these proceedings.

8. So far as Civil Writ No. 2208 of 1983 is concerned, the High Court allowed the prayer of the Defence Colony Welfare Association and made an order in the following terms :

"We...allow Civil Writ No. 2208 of 1983 and direct respondents 1 and 2 to take possession of the land in question measuring half acre situated in between Nagina Yog Sadhana Kendra and Defence Colony Welfare Association Club on Chetna Marg, Defence Colony, New Delhi, and we further direct the said respondents to use the said land for purposes, as specified in the Zonal Development Plan, either themselves or through a governmental or municipal agency within 8 weeks till there is a valid amendment to the Zonal Development Plan.

In view of the fact that the temporary allotment in favour of Shri Guru Singh Sabha made on September 19, 1983, has already come to an end by efflux of time, it is not necessary to issue any formal orders for quashing the said allotment. The other prayers of Shri Guru Singh Sabha cannot be allowed."

9. The appellant-Shri Guru Singh Sabha assails this order in this appeal.

10. Shri Gujral made an impassioned plea that the order of the High Court has done the appellant less than justice and that the directions for its summary eviction treating it as some kind of an usurper clearly ignore the assurances extended by government to the Sabha from time to time, Shri Gujral, while admitting that the period of the initial allotment had expired on March 19, 1984, however, urged that thereafter on the persistent requests and representations of the appellant, the government was convinced of the bona fides and the reasonableness of appellant's claim for allotment of an alternative plot of land and evinced a clear intention - and communicated the same to the appellant - in the matter of allotment of a suitable alternative plot to the appellant for purposes of its spiritual and religious activities. Shri Gujral relied upon certain communications from government to the appellant in this behalf. He urged that the upshot of these orders and communications of the government is that they not only generate a legitimate expectation in the appellant but had also ripened into an enforceable entitlement to the allotment of such alternative plot of land. Shri Gujral stated that government had also permitted appellant to continue in

possession of the present plot till such alternative plot was allotted.

11. Shri Gujral referred to the letter No. J. 13015/1/82-LD[DOIV] dated November 22, 1984 from the Desk Officer (Lands) addressed to the President - appellant-Sabha. That letter, in turn, refers to a meeting said to have been held earlier that day in which it was proposed that an alternative plot measuring 0.60 acres would be allotted to the appellant. The letter says :

"With reference to the meeting held on November 22, 1984 in the room of Shri I. Chaudhuri, Joint Secretary, Ministry of Works and Housing in which Shri M. Shankar, Director (Lands), Ministry of Works and Housing, Shri R. S. Chadha, Deputy Land & Development Officer and Shri B. R. Dhiman, Desk Officer were present.

It would be appreciated if you confirm that the land measuring about 0.60 acre at site to be demarcated subsequently by the Land Development Office out of a plot measuring about 1.576 acres is acceptable."

Shri Gujral further relied upon the minutes of a meeting held on July 7, 1986 at which the representatives of the appellant and respondent 1 were present and wherein certain agreement was reached between the appellant and respondent 1. The minutes of the meeting say :

"Admiral S. N. Kohli stated that he had been given to understand by appropriate authorities that they were prepared to allot a suitable plot of land from the area of the primary school bounded by Chetak Vithi in the East, Arjan Marg on the West, Varun Marg in the North and Municipal Road in the South to the Sabha provided the latter were agreeable.

In the light of the above, and as a measure of goodwill the representatives of the Sabha expressed their willingness to accept the suggested plot provided the land in question was allotted to them permanently for the construction of a building for the purpose as already projected by the Sabha to the Government. After the land use of the said plot was suitably changed and physical possession of the plot handed over to G.S.S., G.S.S. would then vacate 0.5 acre plot which is presently in their possession."

Admiral Kohli referred to therein was the President of the Defence Colony welfare Association.

12. Shri Gujral also placed reliance on the letter dated October 9, 1986 from the Under Secretary, Government of India, Ministry of Urban Development, to the appellant in which it was categorically mentioned :

"As you are already aware the question of allotment/regularisation of land in favour of Shri Guru Singh Sabha, Defence Colony, has been under consideration of the government for quite some time. It has been decided in principle to allot alternative land measuring about 0.5 acres out of the land in possession of the Delhi Administration for school purposes. Terms and conditions for allotment of land will be conveyed to the Institution after change of land use has been finalised after observance of due formalities whereafter Guru Singh Sabha will have to vacate the land in their occupation at present."

13. The authenticity and the contents of these documents are not disputed before us by the respondents. These communications of the government, referred to and relied upon by Shri Gujral, are reasonably susceptible of the inference that there was a firm commitment on the part of the government to allot an alternate plot of 0.50 acres "out of the land in possession of the Delhi Administration for school purposes". They also imply that appellant's liability to vacate the plot in its present occupation would arise after such alternative allotment.

14. Union of India has filed a common counter to the present proceedings as well as to the proceedings in SLP (C) Nos. 9634-35 of 1991. To the extent the averments relating to the present proceedings go, the counter virtually pleads some kind of helplessness. There seem to be rival claims for allotment and apparently government has not been able to make up its mind and take an appropriate decision.

15. The available land for purposes of allotment is said to be of an extent of 0.7 acres. It would appear that there are three claimants for allotment. The first, of course, is the appellant - Shri Guru Singh Sabha. The second is Shri Sanatan Dharma Sabha. The third is Arya Pradeshak Pratinidhi Sabha. In his counter, the Deputy Land and Development Officer says :

"Keeping in view the demands of the three religious institutions the matter was examined in depth by the government and it was decided to accommodate all the three religious institutions but it could be possible only after effecting change of land use as in the original layout plan of the Defence Colony, no plots were earmarked for institutional purposes. After exploring the various possibilities and discussions with the Defence Colony Welfare Association as well as Guru Singh Sabha and other religious institutions as well it was finally decided after spot inspection and consultation with Delhi Administration and other technical authorities that these institutions can be accommodated on a plot of land measuring about 0.7 acres by taking out area from the primary school which is holding area much in excess of the prescribed norm for allotment of school sites as per master plan. Accordingly, the change of land use was processed after following prescribed procedure and change of land use was effected from school to religious to accommodate three religious institutions by allotting area measuring 0.5 acre and 500 sq. yds. each respectively to Guru Singh Sabha, Sanatan Dharma Sabha and Arya Pradeshak Pratinidhi Sabha.

The proposed site has been agreed to and not objected by any of the institutions from locational point of view but representations from Arya Pradeshak Pratinidhi Sabha and Defence Colony Welfare Association were received requesting for allotment of equal area of land to the three religious institutions.

The matter was considered further and it was decided to allot an area measuring 0.5 acre out of 0.7 acre to Guru Singh Sabha and the request of the Arya Pradeshak Pratinidhi Sabha and Sanatan Dharma Sabha were to be examined after getting application in the prescribed form."

16. After explaining these difficulties, the counter proposes to transfer this otherwise legitimate administrative function to the Court. At para 12, the counter says :

"In view of the above change of land use of the two acres has been effected by the government with a view to accommodate the requirement of the three religious

institutions. As the three institutions are not coming to any agreed solution, the government will abide by the directions of the Court, if any given, with regard to allotment of land to the three institutions or any of them. However, if Hon'ble court directs allotment of land to Guru Singh Sabha in that case further direction will be required for vacation of the existing occupied area measuring 0.5 acre by the Guru Singh Sabha within a specified period....."

17. We must, however, decline to adjudicate the rival claims in view of the fact that the other two claimants are not before us. What we can examine in the present case is the legitimacy of the appellant's claim on which it requires to be observed that there is a definite commitment on the part of the government to allot 0.5 acre to the appellant. Having regard to the assurance implicit in the communications from time to time to the appellant it is, perhaps, too late in the day for the government to say that no such right or interest was created.

18. The extent of land now available is stated to be 0.7 acre roughly corresponding to 3360 sq. yds. 0.5 acre to which the appellant lays claim on the basis of the earlier assurances works out to about 2420 sq. yds. This leaves only about 940 sq. yards to satisfy the possible claims of other claimants if the Government chooses to recognise and grant them. Shri Mahajan for the Union of India submitted that any reasonable allotment that the Court may indicate against the appellant's claim would be acceptable to and acted upon promptly by government.

19. We have discussed with the learned counsel present in court the order that commends to us as reasonable in regard to the claim of the appellant. We asked the appellant whether as against its claim for 2420 sq. yds. it would accept lesser extent of 1500 sq. yds. Appellant expressed its willingness to accept this extent of 1500 sq. yds. in full satisfaction of all its claims. We were also left with the impression that the learned counsel also find this proposal just and reasonable in the circumstances.

20. We accordingly direct the government to allot a plot of an extent of 1500 sq. yds. to the appellant out of the land referred to in the letter dated October 9, 1986. The actual demarcation shall be made on the spot by the Land and Development Office and the appellant put in possession of 1500 sq. yds. within a period of three months from today. Upon such allotment and delivery of possession, the appellant shall vacate the extent of land of 0.50 acre now occupied by it within 4 weeks from delivery to it of the alternative plot of 1500 sq. yds. Shri Gujral submitted that there should be no need for any direction for resumption of possession of the present plot as appellant would give an undertaking to vacate and yield up the land under its occupation within four weeks from the date of the delivery of the alternative plot of 1500 sq. yds. The terms of the allotment of the alternative plot, price to be paid and other conditions as to the user etc., shall be determined by the government and shall be accepted by the appellant. We may observe that the allotment that we indicated is the minimum of 1,500 sq. yds., and this order may not be treated as coming in the way if the government desire - can afford - to be more generous.

21. The appeal is disposed of accordingly. No costs.

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