

Town & Country Development Authority

Vs

Sitaram Choudhary and Others

Civil Appeal No. 1517 of 1982

(S. C. Agarwal, S. Saghir Ahmed JJ)

31.03.1998

ORDER

1. Jabalpur Town & Country Development Authority, appellant herein, is an authority established under Section 38(1) of M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973. It is the successor to the Jabalpur Town Improvement Trust (hereinafter referred to as "the Trust") which was a body corporate established under the provisions of the M.P. Town Improvement Trust Act, 1960 (hereinafter referred to as 'the Act'). In exercise of the power conferred under the Act, the Trust framed a scheme known as the Land Acquisition, Land Development and Housing Scheme No. 11 for development of site for housing accommodation in Jabalpur. The Government of Madhya Pradesh by order dated 22-4-1968 granted sanction to the said Scheme under Section 51 of the Act. The Scheme, as sanctioned, was published in the M.P. Gazette dated 27-9-1968. The said Scheme covers the lands of Respondents 1 to 7. On 9-3-1973, the Trust issued a notification under Section 68 of the Act with a view to implement the Scheme as sanctioned by the State Government on 22-4-1968. After the said notification, the State Government issued a notification dated 28-12-1973 under Section 70 whereby the State Government sanctioned the acquisition of total land covered under Scheme No. 11 measuring 57.448 hectares by the Trust for the Scheme. Thereafter the notification dated 13-8-1976 was issued by the Trust under Section 71(1) of the Act wherein it was stated that the Trust had decided to acquire the lands mentioned in the Schedule to the said notification for its Scheme No. 11 which had been sanctioned by the State Government and the necessary sanction for acquisition of the land had also been obtained under Section 70 of the Act. Amongst the lands mentioned in the Schedule to the said notification were included the lands of the respondents in Khasras Nos. 15 and 16. Feeling aggrieved by the said notifications dated 9-3-1973, 28-12-1973 and 13-8-1976 as well as the Scheme, published on 27-9-1968, Respondents 1 to 7 filed the writ petition in the High Court of Madhya Pradesh which has given rise to this appeal. By the said writ petition, the respondents challenged the validity of the notification dated 22-3-1968 as published in the Gazette dated 27-9-1968 regarding sanctioning of the Scheme as well as the notifications dated 9-3-1973, 28-12-1973 and 13-8-1976. The said writ petition was disposed of by the High Court of M.P. by the impugned judgment dated 15-10-1981. The High Court has rejected the contention urged by the respondents assailing the validity of the Scheme and has upheld the Scheme as sanctioned by the State Government. The High Court was, however, of the view that the notification dated 9-3-1973 was invalid inasmuch as in the said notification it is not stated that the Trust intends to acquire the land specified therein as (required by Section 68(1) of the Act. Since the High Court was of the view that the notification dated 9-3-1973 had not been validly issued, the High Court held that the subsequent notifications dated 28-12-1973 and 13-8-1976 could not be upheld. The High Court has, therefore, set aside the notifications dated 9-3-1973, 28-12-1973 and 13-8-1976. Feeling aggrieved by the said judgment of the High Court, the appellant has filed this appeal.

2. Shri U. N. Bachawat, the learned Senior Counsel appearing for the appellant, has submitted that the High Court was in error in holding that the notification dated 9-3-1973 had not been validly issued under Section 68 of the Act, inasmuch as in the said notification, it is not stated that the Trust intends to acquire the lands. The submission is that the High Court has not correctly construed the word "sampadan" used in the said notification and has wrongly proceeded on the basis that the said word does not mean "to acquire". In support of this contention Shri Bachawat has invited our attention to the meaning of the word "sampadan" in various dictionaries.

3. Under the Act, after the improvement scheme has been framed by the Trust, the same has to be submitted to the State Government for its sanction. Section 51 empowers the State Government to sanction the scheme with or without modification or to refuse to sanction or return for reconsideration the improvement scheme submitted to it under Section 50 of the Act. Section 68(1) requires that a notice of acquisition of land shall be published if in the opinion of the Trust the land is required by the Trust for a scheme sanctioned under Section 51 and that the Trust intends to acquire such land. Under sub-section (2) of Section 68, the owner of the land which has been notified under sub-section (1) or any other person interested therein may object to the acquisition of such land within 80 days after the publication of the notice. Sub-section (3) of Section 68 requires that every objection under sub-section (2) shall be made to the Trust in writing and the Trust shall give the objector an opportunity of being heard in person or by a duly authorised agent or pleader and after hearing all such objections and making such further enquiry as being necessary, the Trust may take such decision as it may think fit. Section 69 lays down that if the Trust has decided to acquire the land it shall apply to the State Government for sanction to acquire such land together with record of the proceedings held by it under sub-section (3) of Section 68 and the report containing a summary of the objections and its decision thereon. Under Section 70, the State Government, on receipt of an application under sub-section (1) of Section 69 may after such enquiry as it may deem necessary sanction the acquisition of land by the Trust if it is satisfied that the acquisition is in public interest. Under sub-section (1) of Section 71, after the acquisition of land is sanctioned by the State Government under Section 70, the Trust may acquire such land by publishing in the Gazette a notice stating that it had decided to acquire the land and has obtained the sanction of the State Government for the acquisition thereof. Under sub-section (2), it is prescribed that when a notice under sub-section (1) is published in the Gazette, the land shall on and from the date of such publication vest absolutely in the Trust, free from all encumbrance.

4. In the present case, the short question that falls for consideration is whether the notification dated 9-3-1973 can be regarded as having been issued under Section 68(1) of the Act. It is not disputed that the said notification makes a reference to Section 68 of the Act. It also states that it is being issued in order to implement Scheme No. 11 which has been sanctioned by the State Government vide notification dated 22-4-1968 under Section 51 of the Act. It also makes a reference of 142.40 acres of land and refers to the survey numbers in which the lands of Respondents 1 to 7 are situate. The said notification which is in Hindi is giving an indication about the intention of the Trust in this regard using the word "sampadan". According to the High Court, the word "sampadan" does not mean "acquisition" and that it only means "execution". The High Court has observed that the word acquisition is normally translated as "bhu-arjan" and that is the word which has been used in the notification of the State Government dated 28-12-1973 issued under Section 70 of the Act.

5. In Sanskrit-English Dictionary by Sir Monier Williams, (1956 Edn.) at p. 1172, the word "sampad" has been defined to mean "attainment, acquisition, possession, enjoyment, advantage, benefit, etc." The word "sampadan" has been defined to mean "procuring, bestowing, accomplishing, carrying out; n, the act of procuring or bestowing, bringing about, carrying out,

accomplishing, effecting, making, etc." So also in V. S. Apte's Sanskrit-English Dictionary (Vol. III), 1959 Edn., one of the meanings assigned to the word "sampad" is "acquisition" and one of the meanings assigned to the word "sampadan" is "acquiring". In the Prashashan Shabd Kosh issued by the Government the word "acquire" has the same meaning as "sampadan". This would show that the word "sampadan" was used in the notification dated 9-3-1973 as meaning "to acquire". Having regard to the fact that in the said notification it is expressly stated that it was being issued under Section 68 and that it has been issued in order to implement the Scheme which was sanctioned by the State Government vide notification dated 22-4-1968 under Section 51 and in the notification reference has been made to 142 acres of land including the lands of the respondents, it must be held that the word "sampadan" has been used in the said notification to mean that the Trust intends to acquire the lands mentioned therein. The notification dated 9-3-1973 was, therefore, issued as per the requirements of Section 68(1) of the Act.

6. We are, therefore, unable to uphold the impugned judgment of the High Court taking the view that the notification dated 9-3-1973 cannot be regarded as a notification issued under Section 68 of the Act since it does not state that the Trust intends to acquire the land. Once the notification dated 9-3-1973 is held to be validly issued under Section 68(1) of the Act, the subsequent notifications dated 28-12-1973 and 13-8-1976 have to be upheld because no infirmity has been found in those notifications.

7. In the result the appeal is allowed, the impugned judgment of the High Court is set aside and the writ petition filed by Respondents 1 to 7 is dismissed. No order as to costs.