

SUPREME COURT OF INDIA

Mahesh Yadav

Vs.

Sardar Patel Memorial College

S.L.P.(C) No.13731 of 2003

(P. K. Balasubramanyan, R. C. Lahoti CJI. and G. P. Mathur JJ.)

14.09.2004

JUDGMENT

P. K. Balasubramanyan, J.

1. Leave granted.

2. The dispute centres around 4 acres of land out of the total area of 18.40 acres situated in Mauza Hajipur Makhdumpur, P.S. 114, Khata No. 63, Khasra No. 539. It appears that in the year 1978, this 4 acres of land was leased out to Sardar Patel Memorial College (hereinafter referred to as "the College"), an educational institution. It is stated at the Bar by the learned counsel for the College that initially this college was an affiliated college but later on it has been taken over by the State Government. The fact remains that on the leased land the College intended to raise construction which was obstructed to by certain persons.

3. The College sought for police aid being given so as to peacefully raise the construction. That aid was provided, but later on withdrawn. The College filed a writ petition registered as CWJC No. 3999 of 2002. A learned Single Judge of the High Court formed an opinion that so long as the lease in favour of the College stood valid and was not recalled or cancelled, till then the College could not be prevented from carrying on its lawful activities on the land. By order dated 29.10.2002, the learned Single Judge directed a writ to issue commanding the State Government through its officers to provide police protection to the petitioner-College and to see that its construction activity proceeds ahead in accordance with law and if the College has been dispossessed from any part of the land in its possession by unauthorised persons, then the possession is restored from such third parties to the petitioner-College.

4. It seems that one Mahesh Yadav had sought for intervention at the hearing of the writ petition. The High Court formed an opinion that the intervention was uncalled for and was at the instance of a person who was just an intermeddler having no interest in the property.

5. The same Mahesh Yadav filed a writ petition purporting to be a public interest litigation on behalf of Sri Baba Mani Ram Das Ji Akhara Nayas Samiti. The affidavit in support of the

writ petition was filed by this very Mahesh Yadav. That public interest litigation has been directed to be dismissed by the High Court making adverse observations on the conduct of Mahesh Yadav as writ petitioner.

6. Mahesh Yadav filed a letters patent appeal against the judgment dated 29.10.2002 by the learned Single Judge. That letters patent appeal has been directed to be dismissed.

7. Feeling aggrieved by the dismissal of the purported public interest litigation as also the letters patent appeal, these two appeals by special leave have been filed.

8. Having heard the learned counsel for the parties, we are satisfied that both the appeals are devoid of any merit and liable to be dismissed. Nothing has been brought on record to show the status of Sri Baba Mani Ram Das Ji Akhara Nayas Samiti and its interest in the land. Though there are averments made showing some interest of the Samiti in the land, but they are all oral and not supported by any documentary evidence. In our opinion, no fault can be found with the view taken by the High Court that so long as the lease in favour of the College stands its peaceful enjoyment, and that too in accordance with law, cannot be permitted to be obstructed by anyone else. If there was any illegality or irregularity in the grant of lease in favour of the College and if on that account the lease is liable to be cancelled, then in that regard the High Court has not recorded any finding. So also if the two appellants before us have any right in the land capable of being upheld under the civil law, then the remedy of filing a civil suit in that regard is not taken away by the judgments of the High Court.

9. We find no fault with the view taken by the High Court. Both the appeals are dismissed.