

SUPREME COURT OF INDIA

Hazarat Ali

Vs.

Special Land Acquisition Officer

C.A.No.5530 of 2002

(B.N. Agrawal and G.S. Singhvi JJ.)

01.04.2009

ORDER

1. Heard learned counsel for the parties.

2. By an order dated 8.02.1972, Special Land Acquisition Officer, Saundatti, allotted plot no. 749, Block Nos. 1-2 of Rampura village District Belgaum, State of Karnataka, to the appellant by treating him as displaced person. After one month and twenty eight days, the concerned officer passed order dated 30.03.1972 whereby he revised the allotment and allotted plot no. 749 to respondent no.2 - Imamsab Mohamadsab Dupadal and one Fakiramma wife of Meerasah Pinjar. The appellant did not challenge the allotment made in favour of respondent no.2 and Fakiramma but, after more than twenty years, the Special Officer passed order dated 9.7.1992 whereby he cancelled the allotment made in favour of respondent no.2 and Fakiramma on the ground that respondent no.2 is residing at Betageri in Dharwad district and no document was produced in support of his eligibility as displaced person.

3. Respondent no.2 challenged order dated 9.7.1992 in Writ Petition No. 6484/1999, which was allowed by the learned Single Judge on 22.2.2000 on the ground that there was no tangible reason for cancellation of the allotment after twenty years and that too without affording opportunity of hearing to the allottee and making an inquiry. The Division Bench of the High Court dismissed the writ appeal preferred by the appellant and confirmed the findings recorded by the learned Single Judge for invalidation of order dated 9.7.1992.

4. In our view, when the order of cancellation was quashed on the ground that the same was passed without giving notice to respondent no.2, the learned Single Judge ought to have given liberty to the concerned authority to pass fresh order in accordance with law. His failure to do so has caused prejudice to the appellant herein. The Division Bench too committed the same error by not leaving it open to the concerned officer to pass fresh order. Accordingly, the appeal is allowed in part, impugned orders are modified and it is made clear that the concerned officer shall be free to pass fresh order in accordance with law after giving reasonable opportunity of hearing to the affected persons. No costs.