

Daulat Sitaram Kodone & Others

v.

State of Maharashtra & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE G.S. SINGHVI HON'BLE MR. JUSTICE V.
GOPALA GOWDA

C. A. No. 6361 of 2013 (Arising out of SLP (C) No. 31367 of 2011) | 06-08-2013

1. Leave granted.

2. Till March, 1997 the Appellants were residents of Village Sawargaon, Taluka Pauni, District Bhandara, Maharashtra. Their land got submerged in Gosikhurd irrigation project. They were declared as project affected persons under the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (for short, 'the Act') and were allotted residential plots in Village Pagora. However, due to lack of basic amenities in the area they could not construct the houses.

3. In the 29th meeting of the Governing Council of Vidarbha Irrigation Development Corporation, Nagpur (for short, 'the Corporation') held on 13.12.2006 it was resolved that the project affected persons who do not want plots of land may be given a compensation of Rs.50,000/-.

4. In furtherance of the aforesaid resolution, the Appellants surrendered the plots and they were given compensation of Rs.50,000/- by executing separate agreements.

5. After two years and a half, the Governing Council of the Corporation decided that the project affected persons of Village Sawargaon would be paid a total sum of Rs.1,006.55 lakhs towards compensation. The Appellants represented for payment of higher compensation on the ground that 272 project affected persons were paid compensation at the rate of Rs.3,70,055/-. The representations of the Appellants were rejected by the competent authority and

the writ petition filed by them was dismissed by the Division Bench of the High Court by recording the following observations:

The case of the Petitioners is that now the other villagers of village Sawargaon are now receiving higher compensation/amount than what was paid to the Petitioners in the year 2006-2007 and hence their names should again be included in the list of project affected persons and they also are entitled to higher compensation. In this background the Petitioners seek the aforesaid reliefs. We do not find any legal right in the Petitioner to claim the relief sought by this petition. In pursuance of the decision/resolution of the State Government dated 13.12.2006 the Petitioners entered into an agreement with the State Government and accepted the amount of Rs.50,000/- from the State of Maharashtra and gave up their right in the plots allotted to them entered into between the parties, it is clear that the Petitioners have agreed that they would not make any further claim after accepting a sum of Rs.50,000/- from the State. In such circumstances, merely because the other villagers from village Sawargaon are receiving higher sum after lapse of a period of four years the Petitioners cannot seek to include their names in the list of project affected persons once again and to claim higher compensation on the ground that higher compensation is now being paid to the other villagers who had not entered into any agreement with the State of Maharashtra. The case of the Petitioners and the other villagers of village Sawargaon fall in two different classes. The Petitioners having accepted the amount of Rs.50,000/- in pursuance of the government resolution of the year 2006 are now disentitled from claiming higher compensation on the ground the other villagers of Sawargaon are receiving higher compensation as they had not entered into an agreement with the State Government at the relevant time.

6. Although the Appellants and the Respondents have not given the total area of the land acquired for implementation of the project, there is no substantive dispute between the parties that other similarly situated persons were paid higher compensation instead of residential plots.

7. Mrs. Madhavi Diwan Learned Counsel representing Respondent Nos. 1, 2 and 3 relied upon the agreement executed by the Appellants and argued that they cannot seek higher compensation after more than three years of the allotment of plots and the mere fact that higher compensation was paid to other

landowners cannot entitle them to seek mandamus for grant of similar relief. She further argued that the agreements executed by the Appellants with the State Government are binding on them and they cannot seek indirect modification of the terms of agreement.

8. In the first blush, the argument of Mrs. Diwan sounds attractive but on a deeper consideration we do not find any merit in it because the agreements entered into between the Appellants and the State of Maharashtra were unreasonable and unconstitutional apart from being violative of Section 23 of the Contract Act which lays down that any contract which is opposed to public policy is void. In *Central Inland Water Transport Corporation Ltd. and Anr. v. Brojo Nath Ganguly and Anr.*, AIR 1986 SC 1571 a two-Judge Bench invoked the theory of unconscionable contract and the contract opposed to public policy and struck down the rule which empowered the employer to terminate the services of even a permanent employee without holding any inquiry or giving action-oriented notice by equating the same with 'Henry VIII Clause'.

9. By applying the ratio of the aforesaid judgment to the facts of this case we hold that the High Court was not right in refusing to direct the Corporation and other official Respondents to pay compensation to the Appellants at par with other landowners and the Division Bench of the High Court committed serious error by dismissing the writ petition.

10. In the result, the appeal is allowed, the impugned order is set aside and it is declared that the Appellants are entitled to compensation at the rate of Rs.3,70,055/-, as was done in the cases of other project affected persons. The official Respondents are directed to pay the balance amount of compensation to the Appellants within a period of three months from today.