

SUPREME COURT OF INDIA

H.S.I.D.C.

Vs.

Pran Sukh & Ors.

C.A.No. 6515 of 2009

(Vikramjit Sen and Prafulla C.Pant,JJ.,)

12.10.2015

JUDGMENT

Vikramajit Sen,J.,

1.This Appeal by way of motion in Curative Petition Diary No. 231 of 2014 in Civil Appeal No. 6515 of 2009 challenges the Order dated 12.6.2014 of the Deputy Registrar by which the Curative Petition was ‘lodged’ under Order XVIII Rule 5 as well as Order X Rules (3) & (4) of the Supreme Court Rules, 1966.

2. The matter concerns acquisition of land by the State of Haryana for the benefits of Haryana Industrial and Infrastructure Development Corporation Limited (hereinafter referred to as “HSI IDC”). The Applicant namely Manesar Industries Welfare Association is an Association of the beneficiaries of the acquisition of land, who having entered into an agreement with HSI IDC, which allots plots to its members for valuable consideration. The compensation for the acquired land was enhanced by the High Court by relying on a Sale Deed executed by two private and independent companies. HSI IDC had unsuccessfully challenged the Judgment of the High Court before this Court, which upheld it vide Judgment dated 17.8.2010.

3. The Applicant contends that it discovered that the aforementioned transaction relied upon by the High Court was allegedly not a genuine transaction because those two companies were under a common management and they had inflated the consideration/sale price in the Sale Deed in connection with a contemplated joint venture with a company of the USA, and that the Applicant had duly informed HSI IDC about that position. Considering that the liability of the members of the Applicant is commensurate with the amount of compensation, since the price fixed for beneficiaries was tentative subject to revision of the compensation to the landowners, the Applicant filed a curative petition. This Curative Petition was found to be not maintainable by the Registry. The Counsel of the Applicant had essayed to explain how the Curative Petition was maintainable and requested the Registry to list it before Court. However, the petition was not listed and that refusal remains unchallenged, inter alia on the ground that the enabling step to preferment of a Curative Petition is the Review Petition.

4. Meanwhile, HSIIDC filed a Review petition before this Court, calling attention to the allegation that the said two companies had inflated the price of the land in the Sale Deed for oblique motives. The Review was dismissed on 13.1.2011 inter alia because HSIIDC had not brought forward any documents or evidence to substantiate its allegation. In that Review petition, IMT Industrial Association, an association similarly situated as the Applicant, filed application for getting itself impleaded. The application came to be rejected in view of that Association and its members being beneficiaries of the acquisition, and therefore having no locus standi and because the application was misconceived. The Review itself was dismissed.

5. HSIIDC filed another set of Review; this time along with documents to substantiate its assertion of manipulation by the said two companies. Those documents have been considered and analysed threadbare by this Court in the Review. This Court also considered the additional materials adduced by the landowners to show that there has been a steep rise in the prices of the nearby lands. The Review was dismissed on 2.7.2012.

6. The Applicant has filed the instant and the second Curative Petition on grounds of violation of principles of natural justice, which petition has also been found to be not maintainable. The Registry has refused to list it on the ground of non-filing of Review Petition prior to the Curative Petition in accordance with the dictum laid down by the Constitution Bench in *Rupa Ashok Hurra vs. Ashok Hurra*¹ the relied upon paragraphs of which are reproduced –

51. Nevertheless, we think that a petitioner is entitled to relief ex debito justitiae if he establishes (1) violation of the principles of natural justice in that he was not a party to the lis but the judgment adversely affected his interests or, if he was a party to the lis, he was not served with notice of the proceedings and the matter proceeded as if he had notice, and (2) where in the proceedings a learned Judge failed to disclose his connection with the subject-matter or the parties giving scope for an apprehension of bias and the judgment adversely affects the petitioner.

52. The petitioner, in the curative petition, shall aver specifically that the grounds mentioned therein had been taken in the review petition and that it was dismissed by circulation. The curative petition shall contain a certification by a Senior Advocate with regard to the fulfilment of the above requirements.

7. We find the Curative Petition misconceived and vexatious for the reasons rightly recorded by the Registry. It is also pertinent that the rejection of the previous Curative Petition by the Registry has not been assailed by the Applicant and the factual situation has not changed at all. Mr. Anand has sought to contend that there is a change in circumstances since more than one Review Petitions has already been filed and dismissed and, therefore, no useful purpose will be served by Applicant filing its own Review Petition. The outcome is aforegone conclusion for the reason (a) the Applicant is similarly placed as the other Association which was found not to have locus standi and (b) the grounds for review were the same. The Applicant was throughout aware of the ongoing proceedings before this Court, yet it did not

take any action towards getting itself impleaded as a party in the proceedings, perhaps knowing very well the outcome of such application in the light of fate of that of the IMT Industrial Association and the futility in assailing the prevailing position. In any case, it cannot plead violation of principles of natural justice. The documents and the grounds it is seeking this Court to ventilate have already been heard and analysed by this Court, which cannot be raked up again and again and yet again by means of a Curative Petition.

8. The objections raised by the Registry are correct and are upheld. These proceedings are brought to a close, but by imposing costs on the Applicant, quantified at ? One lac, payable to the Supreme Court Legal Services Authority. However these costs are suspended, but will become immediately payable and recoverable in the event that the Applicant or any of its members initiates any further litigation in this Court pertaining to the present subject matter.

Judgment Referred.

¹(2002) 4 SCC 0388