

ALLAHABAD HIGH COURT

Secretary of State

Vs

Akbar Ali

(Ryves, C.J. Daniels, J.)

27.02.1923

JUDGMENT

Ryves, C.J. Daniels, J.

1. This appeal arises out of a suit brought by the plaintiffs-respondents, Akbar Ali and Bande Ali, for the recovery of certain land which the Collector purported to acquire on behalf of the Secretary of State for a public purpose under the provisions of the Land Acquisition Act of the year 1894. A notification was duly issued under Section 6 of the Act, stating that the land was required for a public purpose, and, under Section 7 of the Act, the Collector of Etawab was directed to take order for the acquisition of the land. The usual acquisition proceedings under subsequent sections of the Land Acquisition Act followed and, ultimately, the Collector took possession of the land under Section 16 of the Act. Sub-section (3) of Section 6 of the Act declares that a declaration under the section shall be conclusive evidence that the land is needed for a public purpose or for a Company as the case may be. The sole ground on which the suit has been decreed in the Courts below is that, in spite of this declaration, the land was not really needed for a public purpose. It is said that certain land of Bhatele Shiam Behari Lal had been acquired for the purpose of the Islamia School and under an agreement entered into between the Collector of Etawar and Shiam Behari Lal prior to the acquisition the land now in dispute was acquired in order to be given over to Shiam Behari Lal in return for his land which had been acquired. Before, however, the Courts can enter into the question whether the purpose for which the land was acquired was a public purpose or not, it must be found that they have jurisdiction to do this. In fact, the argument of the plaintiffs, which has been accepted by the Courts below is, that Sub-section (3) of Section 6 does not mean what in plain language it says, and that although the Statute declares in so many words: that the declaration is conclusive evidence that the purpose for which the land was acquired was a public purpose, it is nevertheless open to the Courts to go into evidence and adjudicate upon the question whether it was a public purpose or not. In support of this startling proposition reliance is placed on two rulings, the ruling of the Privy Council in the case of Trustees for the Improvement of *Calcutta v. Chandra Kanta Ghosh*¹ and the ruling of a Single Judge of the Calcutta High Court in an original suit Manick Chand

Mahata v. Corporation of Calcutta 66 Ind. Cas. 600 : 48 C. 016. In fact neither of these cases turns on the construction of Section 6 of the Land Acquisition Act. The Privy Council case turns entirely upon the construction of certain sections of the Calcutta Improvement Act and their Lordships expressly say that during the course of the argument their attention was directed to a number of decisions upon various Acts of Parliament giving compulsory powers for the acquisition of land, but that in each case the decision must depend upon the provisions of the particular Act and the purpose for which and conditions under which in such Act land may be compulsorily acquired. This case is no authority on the construction of Section 6 of the Land Acquisition Act. The other case was one in which certain land had been acquired on behalf of the Improvement Trust by the Calcutta Corporation A Notification had been issued under Section 6 of the Act. Mr. Justice Greaves, who decided the case, held that however conclusive a Notification under Section 6 of the Act might be, it did not prevent his enquiring into the question whether the Calcutta Corporation had statutory powers to take steps at all for the acquirement of this land. This decision also, therefore, does not touch the point before us. The language of Section 6 of the Land Acquisition Act is perfectly plain and clearly bars the Courts from enquiring into the question whether the purpose for which land in respect of which a declaration under Section 6 has been issued is a public purpose or not. The appeal must, therefore be allowed and was accordingly allow it and dismiss the suit with costs in all Courts including in this Court fees on the higher scale.

Cases Referred.

156 Ind. Cas. 325 47 C. 500 : 11 L.W. 566 : 38 M.L.J. 511 : 18 A.L.J. 521 : 22 Bom. L.R. 586 : 32 C.L.J. 65 : 24 C.W.N. 881 : 2 U.P.L.R. (P.C.) 98 : 47 L.A. 43 (P.C)