

ALLAHABAD HIGH COURT

Mahavir

Vs.

State, (Allahabad)

Civil Misc. Writ No. 6077 of 1978

(N.D. Ojha and R.R. Rastogi, JJ.)

25.09.1978

JUDGEMENT

N.D. Ojha, J.

1. The only point which has been urged by counsel for the petitioners in this writ petition is that the Mandi Samiti for which the land is being acquired is a company within the meaning of the Land Acquisition Act and since the procedure prescribed under the said Act for acquisition for a company has not been followed, the proceedings for acquisition are illegal.

2. Having heard learned counsel we are of opinion that there is no substance in this submission. Section 12 of the U.P. Krishi Utpadan Mandi Adhiniyam, 1964 (U.P. Act No. XXV of 1964) which received the President's assent on October 24, 1964, prescribes for establishment and incorporation of a Committee for every market area. The Committee is to be called the Mandi Samiti. Sub-Section (2) of Section 12 provides that the Committee shall be deemed to be a local authority for the purposes of Land Acquisition Act, 1894 and any other law for the time being in force.

3. Counsel for the petitioners placed reliance on *Valjibhai Miljibhai Soneji v. State of Bombay* ¹ In that case the question arose whether the State Transport Corporation was a local authority within the meaning of the Land Acquisition Act. The learned Attorney General placed reliance on Section 29 of the State Road Transport Act, 1950 which provided that the Corporation shall for all purposes be deemed to be a local authority. It was held (at pp. 1894-95) :

"No doubt, that is so. But the definition contained in this Act cannot override the definition contained in the General Clauses Act of 1897

which alone must apply for construing the expression occurring in a Central Act like the Land Acquisition Act unless there is something repugnant in the subject or context. Though land acquisition is now in the concurrent list and, therefore the State can legislate, the Bombay Act not having received the President's assent cannot prevail against the meaning of the expression 'local authority' in that Act. No repugnancy is pointed out."

In the instant case, in view of Sub-section (2) of Section 12 of the U.P. Krishi Utpadan Mandi Adhiniyam there is apparent repugnancy. If the definition of 'local authority' as contained in the General Clauses Act is taken into consideration the Mandi Samiti will not be a local authority. On the other hand, if Section 12(2) of the U.P. Krishi Utpadan Mandi Adhiniyam is taken into consideration it would be a local authority. In the instant case, unlike the Bombay State Road Transport Act, the U.P. Krishi Utpadan Mandi Adhiniyam, as has already been pointed out above, has received the assent of the President. In this view of the matter notwithstanding the definition of 'local authority' contained in the General Clauses Act the Mandi Samiti or the Committee would be a 'local authority' for the purposes of Land Acquisition Act and as such acquisition for such a Committee cannot be treated as acquisition for a company.

4. No other point has been pressed.

5. In the result, the writ petition fails and is, accordingly, dismissed.

Writ petition dismissed.

Cases Referred.

1. (AIR 1963 SC 1890)