

CASE NO.:
Appeal (civil) 6220 of 1999

PETITIONER:
Satluj Jal Vidyut Nigam Ltd. & Anr.

RESPONDENT:
Sangh Dass & Anr.

DATE OF JUDGMENT: 05/01/2005

BENCH:
Shivaraj V. Patil & B.N. Srikrishna

JUDGMENT:
J U D G M E N T

Srikrishna, J.

The appellant-corporation a Government company established for the purpose of establishing hydel power projects in Himachal Pradesh, impugns the judgment of the Division Bench of the High Court of Himachal Pradesh directing it to grant certain benefits under the Resettlement and rehabilitation scheme formulated by the corporation to the first respondent.

The first respondent was in possession of land to the extent of 11.4 bighas in Khasra Nos. 982, 984, 989 & 990 in village Jhakri, Tehsil Rampur Bushehr, District Shimla. According to the first respondent he had purchased the said land from one Raj Kumar Rajinder Singh, who was the original owner, on 21.8.1965. There was a dispute between the said Raj Kumar Rajinder Singh and the State Government as to whether certain large tracts of land including the land in question had vested in the State Government under the provisions of the Himachal Pradesh abolition of Big Landed Estates Act and Land Reforms Act, 1953, which came into effect on 26.1.1955. During the pendency of that dispute the first respondent claimed that he had been issued a Patta and given possession on 21.8.1966. According to the first respondent, although a sale deed/Patta was executed it could not be registered since there was prohibition against registration of documents during that period. The Patta itself recited: "if for some reason the land vests in the State Government, in that eventuality the above mentioned persons i.e. Respondents herein, will pay the compensation to the Government of Himachal Pradesh. Hence this is written so that it is handy at the right time". The issue as to whether the land in question had vested in the State Government by reason of section 27 of the Act XV of 1954 was settled by this Court by its judgment dated September 17, 1969 in Civil Appeal Nos.1186 to 1191 of 1966, by which this Court held that the vesting under sub-section (1) of section 27 takes place immediately on the commencement of the Act, that thereafter under sub-section (3) compensation had to be paid to the land owner in accordance with provisions mentioned therein and that under sub-section (4) the State Government shall transfer the rights of ownership to a tenant in possession and cultivating the land only on payment of compensation. Since certain other questions had not been decided by the High Court, the appeals were allowed and the decision of the Judicial Commissioner was set aside and the case was remanded to the High Court for decision on the other questions which had not been decided.

On 5.3.1998 a Notification was issued under section 4(1) of the Land Acquisition Act by which the land in question was sought to be

acquired. The Land Acquisition Collector made an award under the provisions of the said Act. The compensation calculated by the Collector was deposited by the appellant-Corporation and was disbursed to the first respondent. An amount of Rs.6,55,718 was paid over to the first respondent pursuant to the award. It is the case of the appellant-Corporation that under the Patta dated 21.8.1965 the first respondent had to pay back the said amount to the State Government, but had failed to do so.

On 27.11.1991 the Board of Directors of the appellant-Corporation formulated a scheme for Resettlement and rehabilitation of persons whose land had been acquired for the benefit of the Corporation. The Resolution pertaining to the said scheme reads as under :

"The Board discussed at length and approved the plan for Resettlement and Rehabilitation of persons being displaced due to construction of NJPC at indicated below:

a) To allot developed agricultural land, to each family, who is rendered landless, equivalent to the area acquired or 5 bighas, whichever is less. This 5 bighas would include any land left with the family after acquisition. This would be done only after the certificate of his having become landless is submitted duly signed by Sub-Divisional Magistrate, Rampur.

b) To provide a house with a building up plinth area of 45 sqm. to each landless family whose house is acquired alternatively to pay Rs. 45,000/- to each landless family, whose house is acquired, and constructs his house at his own cost, with a plinth area of 45 sqm. or more. In case of such persons constructs less than 45 sqm. plinth area, then the amount to be given will be worked out in direct proportion to the area of house constructed vis-'-vis Rs.45,000/- as the cost of 45 sqm.plith area.

c) To provide water supply, electricity, street light and approach paths in the rehabilitation colonies at project cost.

d) To provide transportation at project cost for physical mobilization of all the displaced families, as soon as the houses get constructed premises/shops allotted to any oustee on preferential basis shall be utilized by the oustee for his bonafide use only.

e) To provide suitable employment to one members of each displaced family according to his capability and qualifications subject to availability of vacancies. However, persons who are allotted shops would not be eligible for benefit of employment and vice-versa.

f) To incur the estimated expenditure of Rs.184 lacs on rehabilitation (Annexure VIII of the Rehabilitation Plan) against an ad hoc provision of Rs.18 lacs in Detailed Project Report (September, 1986 price level)."

The first respondent applied to the Sub-Divisional Magistrate, Rampur, who had been appointed as Resettlement and Rehabilitation Officer, for issuance of 'landless certificate'. Such a certificate was issued by the SDM to the first respondent. On the strength of the said certificate the first respondent called upon the appellant-Corporation to make available to him the benefits under the Resettlement and rehabilitation scheme. The appellant, however, refused to do so on the ground that the respondent herein was not the real owner of the land which had been acquired. The first respondent moved to the High Court under Article 226 of the Constitution by way of a writ petition being CWP No.1783/96. He pointed out in the petition that he had continued to be in possession of the land and was earning his livelihood from it; that his entire land has been acquired for the benefit of the appellant-Corporation; since there was an objection raised with regard to his right to receive the compensation, the Land Acquisition Collector referred the matter to the District Judge, Rampur under section 30 of the Land Acquisition Act for determining his entitlement; the District Judge Rampur held that the first respondent was entitled to claim the entire amount of compensation deposited in the Court; that inasmuch as the entire land held by the first respondent had been acquired for the benefit of the appellant-Corporation, the respondent was entitled to the benefits flowing from the Resettlement and rehabilitation scheme which was not being made available to him. The respondents opposed the prayer made in the petition and inter alia contended that the first respondent was not really the owner in possession of the land in question and he had no title to the land.

The High Court noticed that the District Judge had found that the first respondent was entitled to claim compensation in respect of the 11.4 bighas of land in its award. The Sub-Division Officer, Rampur had certified that the entire land in possession of the first respondent had been acquired for the Hydro Electric project and that there was no more land remaining with him. There was also a certificate issued by the Patwari of the concerned area certifying that the first respondent had constructed his house on the land in question. The High Court, in the circumstances, allowed the writ petition.

Hence, this appeal.

The learned counsel for the appellant attempted to raise the issue as to whether the title of the land in question had vested in the State Government. In our view it is not necessary for us to enter into this controversy. Nor, are we impressed by the reliance placed on the undertaking in the Patta to the effect that if ultimately it is held that the land belongs to the State Government the first respondent would be liable to pay the compensation to the State Government. That is a matter between the said Raj Kumar Rajinder Singh, the State Government and the first respondent. The writ petitioner was before the High Court only for claiming his rights flowing from the Resettlement and rehabilitation scheme. The High Court justifiably took the view that it was not open to the present appellant to challenge the ownership of the first respondent especially when he had been paid the compensation for acquisition of the land under the orders of the District Judge, Rampur.

In our judgment the view taken by the High Court is correct and needs no interference. The whole purpose of the Resettlement and Rehabilitation scheme was to ensure that families rendered landless by the acquisition of land were made available some benefits apart from the compensation payable under the provisions of the Land Acquisition Act. There does not seem to be any doubt that the first respondent fulfilled all the requirements under the Resettlement and Rehabilitation Scheme formulated by the Resolution of the Corporation dated 27.11.1991.

In these circumstances, we are of the view that the High Court

was justified in concluding that, irrespective of the dispute between the State Government and the said Raj Kumar Rajinder Singh, the first respondent was entitled to the benefits flowing from the Resettlement and Rehabilitation Scheme

We see no merit in the appeal, which is hereby dismissed. The dismissal of this appeal shall be without prejudice to the rights of the State Government with regard to its dispute with the said Raj Kumar Rajinder Singh on the issue of vesting of the land.
No costs.

JUDIS