

PETITIONER:
KRISHI UTPADAN MANDI SAMITI

Vs.

RESPONDENT:
MOTI LAL & ORS

DATE OF JUDGMENT: 21/11/1997

BENCH:
G.T. NANAVALI, S.P. KURKUKAR

ACT:

HEADNOTE:

JUDGMENT:

THE 21ST DAY OF NOVEMBER, 1997

Present:

Hon'ble Mr. Justice G.T. Nanavati

Hon'ble Mr. Justice S.P. Kurdukar

O.P. Rana, Sr. Adv. Pradeep Misra, T. Mahipal, Advs. with him for the appellant
Janak Singh Tomer, Adv. for K.K. Gupta, Adv. for the Respondents.

J U D G E M E N T

The following judgment of the Court was delivered.
NANAVALI, J.

Leave granted.

Heard leaned counsel for the parties.

The only ground on which the High Court allowed the writ petition filed by the respondents challenging the attempt to acquire their lands in plot No. 2611 of village Kashai was that the said plot was not notified for acquisition and, therefore, it was not open to the State Government to deprive the appellants of the said lands or to interfere with their possession. It is true that while issuing notification under Section 4 on 2.6.1978 the State Government committed a mistake in stating the name of the village in which the said plot is situated. In the said notification it was described as a plot of village Bankat whereas really the said plot is situated in village Kashai. Realizing this mistake the State Government had issued a corrigendum dated 27.11.1978 which was published in U.P. gazette on 16.12.1978 and thereby the said mistake was corrected by stating that what was sought to be acquired under Section 4 notification was 0.91 acres of land of plot No. 2611 of village Kashai. It was because of the negligence of the State Government that the said fact was not brought to the notice of the High Court. However, in view of this corrigendum it cannot be disputed that 0.91 acres of land out of the said plot was notified for acquisition by the State Government. The declaration made under Section 6 was also required to be read accordingly. It was, therefore, not proper for the High Court to declare that no part of plot No. 2611 of village Kashai was notified for acquisition and to grant an injunction restraining the State from taking

over possession of the respondents' lands. On this limited ground we allow this appeal, set aside the order passed by the High Court and hold that the State Government had notified 0.91 acres of land of plot No. 2611 of village kashai for acquisition offer the benefit of the appellant-samiti. We, however, make it clear that as the only point which was considered by the High court, was whether the lands of the respondent were notified for acquisition or not, it will be open to the respondents to take any appropriate action on any other ground, if it is available to them as respondents have been dragged to this Court because of the negligence of the State Government and the appellant-samiti, the appellant is directed to pay to the contesting respondents Rs. 5,000/- by way of cost of this appeal even though they have succeeded in this appeal.

JUDIS