

PETITIONER:
STATE OF WEST BENGAL

Vs.

RESPONDENT:
SMT. MAYA DUTTA & ORS.

DATE OF JUDGMENT: 03/04/1997

BENCH:
K. RAMASWAMY, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:
Present:

Hon'ble Mr. Justice K. Ramaswamy
Hon'ble Mr. Justice D.P. Wadhwa

Tapas Ray, Sr.Adv. and Rathin Das, Adv. with him for
the appellant

D.K. Nag, Parijat Sinha and N.R. Choudhary, Advs. for
the Respondents.

The following Order of the Court was delivered:

O R D E R

This appeal by special leave arises from the judgment of the learned single Judge of the Calcutta High Court, made on May 18, 1981 dismissing the Civil Order No.1453/81.

Smt. Maya Datta had purchased 1065 sq. ft. of land under sale deed dated February 19, 1976, after the Urban Land (Ceiling of Regulation) Act, 1976 (for short the "Act") had come into force, from Bangrur Land Development Corporation Ltd., a private agency. She also had purchased some other properties with which we are not concerned. She applied for permission under Section 27(2) of the Act for sale of the building constructed on the land. Though the competent authority had refused permission under Section 27(3) of the Act, on appeal under Section 33, the appellate authority granted her permission which was questioned by the State in the revision. The High Court dismissed the same. Thus, this appeal by special leave.

It is not clear whether Bangur Land Development Corporation Ltd., a private agency was in possession of excess vacant land under the Act. The primary question that required to be decided by the competent authority and the appellate authority was : whether the said agency was within the ceiling limit computing the land in question alienated to Smt. Maya Datta. If it were to be held that the said agency was in possession of the land within the ceiling limit, necessarily, the sale made in favour of Smt. Maya Datta in question is in accordance with the law. In that perspective, whether Smt. Maya Datta was within the ceiling limit or not is not material. The permission, therefore, for alienation is required to be granted in the light of the law laid down by this Court in Maharao Sahib Shri Bhim Singhji Vs. Union of India & Ors. [(1981) 1 SCC 1661]. Therefore,

the purchase and grant of permission to Smt. Maya Datta, to that extent become valid. However, it is left open to be considered by the competent authority whether the alienation of the land in question to Smt. Maya Datta, is subject to decision by the competent authority that Bangur Land Development Corporation Ltd. was within the ceiling limit equally of Maya Datta. In the event of the competent authority deciding that the Bangur Land Development Corporation Ltd. was in excess of the ceiling limit to the extent of land sold by that authority to the respondent, Smt. Maya Datta would be required to be computed as part of the holding of Bangur Land Development Corporation Ltd. and the purchaser from Maya Datta is also bound by it, equally of Maya Datta. Hence, appropriate action is required to be taken against the said agency.

With this finding, the appeal is, disposed of. No costs.