

PETITIONER:
MUNICIPAL COUNCIL, KHURAI

Vs.

RESPONDENT:
KRISHI UPAJ MANDI SAMITI, KHURAI AND OTHERS

DATE OF JUDGMENT: 06/08/1998

BENCH:
A.S. ANAND, B.K. KIRPAL, V.N. KHARE

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

This appeal by special leave is directed against the judgment and order of the High Court of Madhya Pradesh at Jabalpur dated 8th January, 1995.

The only question for consideration is whether the respondent/market Committee was liable to pay any compensation to the Municipal Council for the land comprising in Khasra No. 412/2, which was transferred by the Municipal Council to the Market Committee, since that land was earlier also being used for the purpose of the market Committee by the Municipal Council.

The land in question is located in Khasra No.412/2 and measures about 7 acres. It was acquired by the Municipal council under a gift from Seth Mohan Lan for a public purpose, namely - to establish a grain market in the year 1912. This land, alongwith some other land and buildings was transferred to the Market Committee. Appellant demanded compensation for the land and buildings. The Market committee challenged the demand through a writ petition. The writ petition was allowed and the case remanded to the Collector for determination of compensation. The Collector determined compensation for the land and buildings including the land comprising in Khasra No. 412/2. The order of the Collector was successfully challenged by the Market Committee through a writ petition in the High Court.

We have heard learned counsel for the parties and examined the record.

Section 100(1) (g) of the Madhya Pradesh Municipalities Act, 1961 reads thus:-

100. Property vested in Council -
(1) Subject to any special reservation made or to any special conditions imposed by the State Government, all property of the nature hereinafter in this section specified within the limits of the Municipality, shall vest in and be under the control of the Council and with all other property which has already vested, or may

hereafter vest in the Councils shall be held and applied by it as trustees for the purposes of this Act, this is to say -

(g) all lands and/or other property transferred to the Council by the state Government or acquired by gift, purchase or otherwise, for public purpose."

Since, the land in question had been transferred to the Council by way of a gift for a public purpose, that land would be deemed to have vested in the council by virtue of the aforesaid provisions of Section 100 of the Madhya Pradesh Municipalities Act, 1961.

Section 14(1) and (2) of the Madhya Pradesh Agricultural Produce Markets Act, 1960 read thus :-

14. Vesting of the property of local authority in the market committee - (1) The Market committee may require a local authority to transfer any land or building belonging to the local authority, which is situated within the market yard and which immediately before the establishment of the market was being used by the local authority for the purposes of the market, and the local authority shall, within one month of the receipt of the requisition, transfer, the land or building, as the case may be, to the market committee on such terms as may be agreed upon between them. (2) Where within a period of thirty days from the date of receipt of requisition by the local authority under sub-section (1) no agreement is reached between the local authority and the market committee under the said sub-section, the land or building required by the market committee shall vest in the committee for the purposes of this Act and the local authority shall be paid such compensation as may be determined by the Collector under sub-section (4) :

Provided that no compensation shall be payable to a local authority in respect of any land to a local authority in vested in it by virtue of the provisions contained in the enactment relating to the constitution of such local authority without payment of any amount whatsoever for such vesting; Provided further that any party aggrieved by the order of the Collector may, within thirty days from the date of such order, appeal to the State Government."

A plain reading of the first proviso to sub-section (2) of Section 14 of the 1960 Act shows that no compensation is required to be paid to the local authority for transfer of

any land or building which had vested in that local authority, by virtue of the provisions contained in the enactment relating to the constitution of that local authority, without payment of any amount whatsoever for such vesting. The land comprising in Khasra No.412/2 was given as a gift to the local authority i.e. Municipal Council for a public purpose by operation of the provisions of Section 100(1) (g) of the Municipalities Act (supra) and the same vested in the Council under the enactment constituting the local authority. Under the proviso to Section 14(2) of the 1960 Act, the Municipal Council was not entitled to receive any compensation for transfer of such land to the Market Committee. It is not disputed that immediately before the establishment of the Market Committee, that very land was being used by the local authority for the purposes of the market. This being the fact situation, bot on facts and in law, the High Court was perfectly justified in holding that since the land comprising in Khasra No.412/2 had vested in the appellant, it would not be entitled to receive any compensation, since no amount had been spent by the appellant for acquisition of that land, which had been gifted to it for a public purpose. The judgment of the High Court thus calls for no interference. This appeal consequently fails and is dismissed. No costs.