

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 6746 OF 1999

U.P.PARENTS ASSOCIATION & ORS

Appellant (s)

VERSUS

S.K.BHARGAVA & ORS

Respondent(s)

(With office report)

WITH Civil Appeal NO. 6747 of 1999 (With office report)

Civil Appeal NO. 6836 of 1999 (With office report)

WITH

Cont.Pet.(Civil)324/2003 in CA.6747/1999

WITH Cont.Pet.(Civil)483/2004 in CA 6747/1999

Date: 22/02/2005 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE ARUN KUMAR

For the parties: Mr.P.P. Rao, Sr.Adv.

Mr. R.P. Gupta,Adv.

Mr.S.L. Gupta, Adv.

Mr.Sushendra K.Chauhan, Adv.

Mr. Prashant Kumar,Adv.

Mr.S.Wasim A.Qadri, Adv.

St.of U.P.

Mr.R.K. Dubey, Adv.

Mr. Mohd. Saud, Adv.

Mr. Kamlendra Mishra, Adv.

UPON hearing counsel the Court made the following

J u d g m e n t

No orders on contempt petitions.

The appeals are partly allowed in terms of the signed judgment.

NON-REPORTABLE.

(Sheetal Dhingra)

Court Master

(Vijay Dhawan)

Court Master

[Signed judgment is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.6746 OF 1999

U.P.PARENTS ASSOCIATION & ORS

Appellant (s)

VERSUS

S.K.BHARGAVA & ORS

Respondent(s)

WITH C.A.No.6747/1999, C.A.No.6836/1999

WITH Cont.Pet.(Civil)324/2003 in CA 6747/1999

WITH Cont.Pet.(Civil)483/2003 in CA 6747/1999

J U D G M E N T

B.P. SINGH,J.

These three appeals have been preferred by the, the U.P. Parents Association and

Ors., State of Uttar Pradesh and by the Management of the City Montessori School, Lucknow

impugning the judgment and order of the High Court of Allahabad, Lucknow Bench dated 26th

May, 1998 in Writ Petition No.112 (MB) of 1980 whereby the acquisition in question relating to land measuring about 23,000 sq.ft.was quashed by the High Court.

The facts of the case are that a notification under Section 4 of the Land Acquisition

Act, 1894 [hereinafter referred to as 'the Act'] was issued by the State Government proposing to

acquire the land in question for the benefit of the City Montessori school. The said notification

was followed by a notification under Section 6 of the Act. The notifications were challenged on

the ground that the acquisition should not be made in favour of and for the benefit of a private

school, and in any event, the procedure under Chapter VII of the Act ought to be followed. It was

stated that the writ petition had been filed by Shri S.K. Bhargava, alleged tenant of a portion of

the land in question to circumvent the decree of eviction passed against the school which was the

tenant of the entire land. The aforesaid contentions of the respondents herein were upheld by the

High Court and the acquisition was quashed. Against the impugned order of the High Court,

these three appeals have been preferred.

While these appeals were pending in this Court, the Government proposed to act

under Section 48 of the Act and to de-notify the land from acquisition. This Court granted time

to the State of Uttar Pradesh to do so by its order dated 21st September, 2004, which reads as

follows:

"It was stated to us that the State Government was proposing to de-notify the area occupied by the Respondents from out of the total land acquired. Even though decision has been taken, till date the de-notification has not taken place. We grant one final opportunity and adjourn these Appeals for three months to enable the Government to de-notify the area occupied by the Respondents. In the event if it is not de-notified by the next date, the Chief Secretary to remain present in this Court personally."

Thereafter, the State of Uttar Pradesh has issued notification dated 5th November, 2004 and has

sought to de-notify the land in question measuring 6000 sq.ft.in exercise of power conferred under

Section 48(1) of the Land Acquisition Act, 1894 as amended in 1984.

The effect of the aforesaid notification is that 6000 sq.ft.of land which formed part of

the land and which was in possession of the respondent S.K.Bhargava, who claimed to be a tenant

in respect thereof, stands released from acquisition. So far as the remaining land is concerned, the

respondents have no objection to this Court affirming the notifications acquiring the aforesaid

land in question and setting aside the impugned judgment and order of the High Court to that

extent.

It was submitted on behalf of the appellants that there are good grounds to set aside

the judgment of the High Court because the facts of the case disclose that the owner of the la

nd

accepted compensation in respect of the land in question and, therefore, respondent S.K.

Bhargava had no locus to challenge the acquisition, he being only a tenant claiming a right under

the owner of the land. At best he could have claimed apportionment of compensation under the provisions of the Act.

It is not necessary for us to go into this contention and other contentions urged in

support of the plea that the acquisition was valid, since the respondents concede that acquisition

in respect of the acquired land, except land measuring about 6000 sq.ft. which has been released in

exercise of power under Section 48(1) of the Act, may be upheld.

Accordingly, we partly allow these appeals and set aside the judgment and order of

the High Court quashing the acquisition in so far as it relates to the land measuring about 17000

sq.ft. of which possession was taken by the Government, and which does not include that part of

the land measuring about 6000 sq.ft. which is the subject matter of the notification issued under

Section 48(1) of the Act.

We have not expressed any opinion on the validity of the notification issued under

Section 48 of the Act and this order will not prevent any interested person from challenging that

notification, if so advised.

Thus, these appeals are partly allowed and the impugned judgment and order in so

far as it relates to the lands measuring about 17000 sq.ft., is set aside.

No orders on contempt petitions.

.....J.
(B.P. SINGH)

.....J.
(ARUN KUMAR)

New Delhi

February 22, 2005.