

Mangal Oram & Ors vs State Of Orissa & Anr on 20 January, 1977

Equivalent citations: 1977 AIR 1456, 1977 SCR (2) 666, AIR 1977 SUPREME COURT 1456, 1977 2 SCC 46, 1977 (1) SCJ 485, 1977 2 SCR 666, 1977 U J (SC) 177, ILR 1977 CUT 490

Author: Hans Raj Khanna

Bench: Hans Raj Khanna, Ranjit Singh Sarkaria, Jaswant Singh

PETITIONER:
MANGAL ORAM & ORS.

Vs.

RESPONDENT:
STATE OF ORISSA & ANR.

DATE OF JUDGMENT 20/01/1977

BENCH:
KHANNA, HANS RAJ
BENCH:
KHANNA, HANS RAJ
SARKARIA, RANJIT SINGH
SINGH, JASWANT

CITATION:
1977 AIR 1456 1977 SCR (2) 666
1977 SCC (2) 46

ACT:

Land acquisition--Land acquired "for development of industries namely establishment of a steel plant and allied and ancillary industries"--Establishing Rourkela Steel Plant and a civil township around it, whether outside the definition of words "development of industries" in ss, 2(c) and 3(1)---Orissa Development of Industries, Irrigation, Agriculture, Capital construction and resettlement Displaced Persons (Land Acquisition) Act of 1948 Act XVIII of 1948) read with Notification dated 20-2-54, '

HEADNOTE:

Section 2(c) of the Orissa Development of Industries, Irrigation, Agriculture, Capital construction and Resettle-

ment of Displaced persons (Land Acquisition) Act, 1948 (Act XVIII of 1948), defines development of industries to mean and include the construction of Hirakund Dam and other dams and reservoirs, Hydro Electric Projects and such other schemes or property as the State Government may by a notification specify in this behalf. By a notification dated 20th February, 1954 it was stated that "the project for the establishment of a steel plant and allied and ancillary industry in the block of villages round about Rourkela shall be included within the meaning of the expression "development of industries" as defined in cl.s(c) of the Act.

By notification dated 22nd February, 1954 and 9th February, 1955 82 sq. miles of land was acquired for the "development of industries, namely establishment of steel plant and allied and ancillary industries". The above land vested absolutely in the State Government free from all encumbrances on the dates of the above notifications. The writ petitions filed by some owners of some of the acquired lands challenging the validity of the acquisition were dismissed in limine.

In appeal to this Court, the appellants contended (a) the State Government was not competent to acquire the land in question under the Act for the establishment of a steel plant as it cannot be said to be for the purpose of the development of industry; (b) the acquired land could only be used for the steel plant and ancillary industries and not for a civil township; (c) the transfer of 3.21 acres of land by the Railway authorities long after 14 years of the acquisition to the Notified Area Committee for construction of taxi-stand, busroad etc. in and around the Railway Station is bad.

Dismissing the appeals to this Court,

HELD: (1) In the face of the notification dated 20th February, 1954 and 2(c) of the Orissa Development of Industry, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisition) Act 1948, the establishment of steel plant and ancillary industries at Rourkela answers to the definition of development of industries as given in the Act.

[668 G-H]

ClauseSection 2 confers wide powers on the State Government to notify any scheme or project as it may consider appropriate for the development of industries and there is nothing in that clause that the scheme or project can be the subject matter of a notification must be similar to Hirakund Dam or other dams or reservoirs or hydro electric projects. [669 A-B]

(2) The contention that the acquired land could only be used for the steel plant and ancillary industries and not for the civil township is devoid of force. A township is a necessary adjunct and concomitant of a big steel plant. The establishment of a steel plant necessarily

postulates the construc-
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tion of residential quarters for the workmen, shopping areas, schools, hospitals, post-offices etc. The fact therefore that part of the land which was acquired has been used for civil township would not affect the validity of" the acquisition of the land. [669 C-D]

(3) There is no principle of law by which a valid, compulsory acquisition stands void because long later the requiring authority diverts it to a public purpose other than the one stated in the declaration. In the instant case, the transfer of 3.21 acres of the land by the Railways is to the Notified Area Committee who is the appropriate body to construct and maintain the link roads, bus and taxi stands and shop surrounding the Railway Station. The land is not being used for a purpose extraneous from that for which the land was initially acquired. [669 G-H. 670 A-B]

Gulam Mustafa & Ors. v. State of Maharashtra & Ors. [1976] I SCR 875 applied.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 1237 and 1238/72.

From the Judgment and Order dated 8-11-71 of the Orissa High Court in O.J.C. Nos. 339 and 385 of 1968. AND Civil Appeal No. 1730 of 1973.

Appeal by Special Leave from the Judgment and Order dated the 26th February, 1973 of the Orissa High Court in O.J.C. No. 130 of 1973.

Gobind Das, (Mrs.) S. Bhandare, M.S. Narasimhan, A. K. Mathur, A.K. Sharma and (Miss) Malini Paduval for the Appellants in all the appeals.

D.P. Singh and G.S. Chatterlee for Respondent No. 1 in CAs. 1237-38/72.

Santosh Chatterjee and G.S. Chatterjee for Respondent No. 2 in C.As. 1237-38/72.

B. Parthasarathi for Respondents 1, 3, and 4 in CA 1730/73. L.N. Sinha, Sol. Gen. of India and Vinoo Bhagat for Respondent 7 in CA 1730/73.

Nemo for Respondents 2, 5, 6. in C.A. 1730/73. The Judgment of the Court was delivered by KHANNA, J. This judgment would dispose of three civil appeals Nos. 1237 and 1238 of 1972 and 1730 of 1973 against the judgment of Orissa High Court. The first two appeals have been filed on certificate, while the third appeal has been filed by special leave.

We may first deal with civil appeals 1237 and 1238. On February 22, 1954 a notification was issued under sub-section (1) of section 3 of the Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (Orissa Act XVIII of 1948) (hereinafter referred to as the Act) by the Government of Orissa for the acquisition of 78 square miles of land for the "development of industries, namely, establishment of a steel plant and allied and ancillary industries". The steel plant mentioned in the notification subsequently came to be known as the Rourkela steel plant. Another notification was issued on February 9, 1955 for the acquisition of further four square miles of land for the above purpose. It may be mentioned that according to section 5 (1) of the Act, when a notice of acquisition is served or is published under section 4, the land shall vest absolutely in the State Government free from all encumbrances on the date the notice is served or published in the gazette. The appellants, who were owners of some of the acquired lands, filed writ petitions before the High Court challenging the validity of the acquisition. The High Court dismissed both the petitions. In appeal before us, Mr. Gobind Das on behalf of the appellants has contended that the State Government was not competent to acquire the land in question under the Act for the establishment of a steel plant. Our attention is invited in this connection to sub-section (1) of section 3 of the Act which provides inter alia that whenever it appears to the State Government that it is necessary or expedient to acquire speedily any land for the purpose of the development of industry, a notification to that effect shall be published in the gazette stating the area and the boundaries of the land proposed to be acquired. The argument of Mr. Gobind Das is that the acquisition of the land for the establishment of a steel plant cannot be said to be for the purpose of the development of the industry. It is not denied by the learned counsel that a steel plant constitutes an industrial undertaking and that the object of establishing a steel plant is not different from the purpose of the development of the industry as ordinarily understood. It also cannot be disputed that Rourkela steel plant constitutes a big milestone in the industrial development of the country. The contention of Mr. Gobind Das, however, is that the words "development of industries" have a limited meaning as defined in the Act and the establishment of a steel plant cannot be considered to be for development of industries. The definition of "development of industries" has been given in section 2(c) of the Act. According to the definition, development of industries means and includes the construction of the Hirakud Dam and other dams and reservoirs, Hydro-Electric Projects and such other schemes or projects as the State Government may by notification from time to time, specify in this behalf. We have already mentioned above that the first notification for the acquisition of land was issued on February 22, 1954. Two days before that notification, on February 20, 1954 the Governor of Orissa issued a notification in pursuance of clause (c) of section 2 of the Act. In that notification, it was stated that the project for the establishment of a steel plant and allied and ancillary industries in the block of villages round about Rourkela shall be included within the meaning of the expression "development of industries", as defined in clause (c) of section 2 of the Act. In the face of this notification, we are of the opinion that the establishment of the steel plant and ancillary industries at Rourkela should be held to answer to the definition of "development of industries", as given in the Act. We are unable to sub-

scribe to the submission of Mr. Gobind Das that the schemes and projects which could be the subject-matter of a notification under section 2(c) must be such as are similar to Hirakud Dam or other HydroElectric projects. Clause (c) of section 2 confers wide powers on the State Government

to notify any scheme or project as it may consider appropriate for the development of industries and we find nothing in that clause that the scheme or project which can be the subject matter of a notification must be one similar to Hirakud Dam or other dams or reservoirs or hydro-electric projects.

It is then argued by Mr. Gobind Das that part of the lands which were acquired for the purpose of steel plant and ancillary industries are being used as a civil township. It is contended that the acquired land could only be used for the steel plant and ancillary industries and not for a civil township. This contention is equally devoid of force. The establishment of a steel plant necessarily postulates the construction of residential quarters for the workmen to be employed in the plant. In addition to that, lands would be needed for shopping areas, for schools for the children of the employees, for play-grounds, for hospitals and for residential quarters of persons opening their shops catering to the needs of the employees of the steel plant. Lands would likewise be needed for post offices, banks, clubs, parks, cinemas, roads, police stations as also for cremation and burial of the dead. Land would also be needed for a variety of other purposes and civic amenities. A township is a necessary adjunct and concomitant of a big steel plant. The fact, therefore, that part of the land which was acquired has been used for civil township would not, in our opinion, affect the validity of the acquisition of the land. In civil appeal 1237 of 1972, Mr. Gobind Das has also advanced an argument that possession of the land was not taken from the appellant. We, however, find that the judgment of the High Court shows that no such contention was advanced before the High Court when the writ petition giving rise to this appeal was argued. In the circumstances, we are not inclined to permit the appellant to raise this contention for the first time in appeal before us. Civil appeal 1730 of 1973 arises out of writ petition to challenge the validity of a notification dated March 19, 1958 under section 4 of the Land Acquisition Act for the acquisition of 31.06 acres of land for expansion of rail facilities to serve the steel plant at Rourkela. A writ petition to challenge this notification was filed on February 3, 1973. The contention which was advanced before the High Court and has been repeated before us with a view to challenge the validity of the acquisition of this land is that fourteen years after the acquisition of the land, the railway authorities for whom the land was acquired have transferred 3.21 acres of land to the Notified Area Committee, Rourkela. The above submission, in our opinion, is without merit. According to the affidavit filed on behalf of the respondents, the above mentioned area is sought to be transferred to the Notified Area Committee because the Notified Area Committee is the appropriate body to construct and maintain the link road, bus and taxi stands and shops surrounding the railway station. The averments contained in the affidavit thus go to show that 3.21 acres of land is not being used for a purpose extraneous from that for which the land was initially acquired. Apart from that, we find that this Court has recently held in the case of *Gulam Mustafa & Ors. v. State of Maharashtra & Ors.* (1) that there is no principle of law by which a valid, compulsory acquisition stands voided because long later the requiring authority diverts it to a public purpose other than the one stated in the declaration.

All the three appeals consequently fail and are dismissed but in the circumstances without costs. Appeals dismissed.