

Manubhai Jehtalal Patel And Anr. vs State Of Gujarat And Ors. on 27 September, 1983

Equivalent citations: AIR1984SC120, [1984]56COMPCAS85(SC), (1984)1GLR45, 1983(2)SCALE979, (1983)4SCC553, AIR 1984 SUPREME COURT 120, 1983 UJ (SC) 905, (1984) 1 GUJ LR 45, (1984) GUJ LH 25, 1983 (4) SCC 553, (1984) 2 CIVLJ 139, (1984) 56 COMCAS 85

Bench: A. Varadarajan, D.A. Desai, O. Chinnappa Reddy

ORDER

1. These appeals by certificate arise from the decision of the High Court of Gujarat in Special Civil Application No. 46 of 1966 and connected petitions. The certificate was granted under unamended Article 133(1)(c). The substantial question of law of general public importance which appealed to the High Court to grant certificate was about the vires of Sections 4, 5A and 6 of the Land Acquisition Act 1894.

2. Vires of Section 4 were examined by this Court in *Bai Malionahu etc. v. State of Gujarat and Ors.* AIR 1979 SC 515 and it was held that Section 4 was intra vires the Constitution. In reaching this conclusion this Court referred to the two earlier decisions of this Court on the subject and held that Section 4 was intra vires the constitution. Nothing was made out to depart from this view. The reasons which weighed with this Court to uphold the validity of Section 4 would mutatis mutandis apply to the challenge to the vires of Section 5A and 6 of the Land Acquisition Act. We accordingly hold the Section 5A and 6 of the Land Acquisition Act are intra vires the Constitution. In fact that disposes of the certificate.

3. However, Mr. Gopal Subramaniam learned Counsel for the appellants in all these appeals raised two other contentions. The first contention canvassed by him on behalf of the appellants is that the Gujarat State Road Transport Corporation is a company within the meaning of the expression in the Companies Act as well as in part VII of the Land Acquisition Act and this being an acquisition for a company it was obligatory to comply with the provisions contained in part VII as well as Company Acquisition Rules and that admittedly having not been done, the acquisition is contrary to law, illegal and invalid. Land is indisputably acquired for the benefit of Gujarat State Road Transport Corporation which is a company. Even where land is acquired for a company, the State Government has the power to acquire land for a public purpose from the revenue of the State. In other words, this is an acquisition for public purpose with contribution from the State revenue. The State is acquiring land to carry out public purpose with the instrumentality of the Gujarat State Road Transport Corporation. It is not an acquisition for a company with the funds exclusively provided by the company which would attract part VII of the Land Acquisition Act. In our opinion, the High Court is right in reaching the conclusion that neither part VII of the Land Acquisition Act nor the Company Acquisition Rules would be attracted. Therefore, we are in agreement with the conclusions

reached by the High Court.

4. The last contention of Mr. Gopal Subramaniam is that the contribution from the public exchequer in the amount of Re. 1/- which enabled the High Court to hold that it was an acquisition for a public purpose for a company is in fact illusory and therefore, it cannot be said that the power to acquire land has been exercised by the State Government for a public purpose. In *Somvanti v. State of Punjab and Ors.* a contribution of Rs. 100/- from the public exchequer was held sufficient to come to the conclusion that the acquisition is for a public purpose with the aid of State fund. It is not correct to determine the validity of acquisition keeping in view the amount of contribution but the motivation for making the contribution would help in determining the bonafide of acquisition. Further in *M. Malimabu's case* contribution of Re. 1/- from the State revenue was held adequate to hold that acquisition was for public purpose with State fund. Therefore the contribution of Re. 1/- from public exchequer cannot be dubbed as illusory so as to invalidate the acquisition.

5. These were all the contents in these appeals and as we find no merit in any of them the appeals, fail and are dismissed with no order as to costs.