

## **Municipal Corporation Of The City Of ... vs Kishan Lal And Ors. on 4 May, 1965**

**Equivalent citations: AIR1966SC207, AIR 1966 SUPREME COURT 207, 1966 JABLJ 1, 1965 2 SCWR 1119, 1965 MPLJ 987, 1966 SCD 179, 1966 (1) SCJ 566**

**Author: Raghubar Dayal**

**Bench: K. Subba Rao, Raghubar Dayal, R.S. Bachawat**

### **JUDGMENT**

Raghubar Dayal, J.

1. This appeal, by special leave, is against the order of the High Court of Madhya Pradesh, allowing the writ petition of the respondent and quashing certain notifications and an order of the Land Acquisition Officer, Jabalpur.

2. The appellant, the Municipal Corporation of the City of Jabalpur, hereinafter called the Corporation, applied to the Land Acquisition Officer, Jabalpur, for acquiring certain land in March 1959. It had power to acquire land under the provisions of Section 291 of the City of Jabalpur Corporation Act, 1948 (C. P. and Berar Act III of 1950), hereinafter called the Act, for carrying out any of the purposes mentioned in Chapter XXIII of Part VI of the Act, which deals with improvement schemes relating to lands, buildings and streets.

3. The respondent was served with a notice issued to him by the Land Acquisition Officer. He filed an objection questioning the validity of the acquisition proceedings on various grounds. The objection was dismissed by the Land Acquisition Officer by order, dated June 22, 1960, one of the orders which has been quashed by the High Court. The other notifications quashed were issued in view of certain other provisions of the Act. The first of these is the notification dated June 12, 1956, purporting to be issued under Section 277 (1) (B) (i) of the Act. Another is the notification dated July 26, 1956, under Section 281 (1) of the Act and the third was a notification issued by the Government of Madhya Pradesh on January 7, 1959, in pursuance of the provisions contained in Section 285 (1) (a) and (b).

4. The order of the High Court quashing the various notifications and the order of the Land Acquisition Officer is based on the ground that the first notification dated 12, 1956, was invalid as the Chief Executive Officer of the Corporation had no power under the Act to prepare an improvement scheme known as the 'Lay Out Behind the Telegraph Workshop Scheme' of the Corporation, as the scheme was not for any of the purposes mentioned in Section 277. Section 277

empowers the Chief Executive Officer, with the approval of the Corporation, to draw up a notification stating that the Chief Executive Officer shall make an improvement scheme of the area to which the resolution relates and naming the place where a map of the area may be seen at all reasonable hours and to publish the notification in the mode prescribed and to proceed to make a draft improvement scheme and to submit the same to the Improvements Committee for approval. The purposes for which the improvement scheme can be prepared are mentioned in Clauses (A) and (B) of Sub-section (1). Clause (A) mentions three purposes for the improvement scheme and one of these is mentioned in Sub-clause (c) and is the necessity to provide for the construction of buildings for the accommodation of the poorer and working classes. Clause (B) authorizes the preparation of an improvement scheme when the Chief Executive Officer considers it expedient to form new or to alter existing streets including bridges, causeways and culverts in any part of the city for the purposes mentioned in that clause, one of the purposes being to provide building sites for the expansion of the city.

5. The first notification, dated June 12, 1956, purported to be issued under Section 277 (1) (B) (i). The respondent contested its validity on the ground that the purpose behind the impugned scheme was not the forming of new or the altering of existing streets under Clause (B) and that, therefore, the notification was bad.

6. The appellant appears to have seen the force in the contention for the respondent and tried to support the validity of the scheme on the ground that it had been framed to provide for the construction of buildings for the accommodation of the poorer and working classes. The precise scheme was not produced before the High Court. It was, however, there conceded that the scheme envisaged making available to persons of the middle class either plots for house building or houses built by the Corporation at a cost of Rs. 7,500 each. The High Court also referred to the note of the Chief Executive Officer in his memorandum, dated November 17, 1957 to the State Government to the effect that the area proposed to be acquired under the scheme would be developed, laid out and sold to public on no loss and no profit system. On the basis of this note and the concession made for the appellant, the High Court held that the purpose of the impugned scheme was not to provide for the construction of buildings for the accommodation of the poorer and working classes and, on that ground, quashed the impugned notifications of the Land Acquisition Officer.

7. The order of the High Court has been challenged in this Court on two grounds. One is that the purpose of the impugned scheme was to provide for the construction of buildings for the accommodation of the poorer and working classes and the other is that Clause (B) of Sub-section (1) provided for the making of an improvement scheme for the purposes of providing building sites for the expansion of the City. We do not agree with either of the contentions.

8. The relevant portion of Clause (B) of Sub-section (1) would read:

"If it appears to the Chief Executive Officer for the purpose of providing building sites for the expansion of the City or of.... or of.... or of.... it is expedient to form new or to alter existing streets including bridges, causeways and culverts, in any part of the City, the Chief Executive Officer may with the previous approval of the Corporation,

which shall not be given unless the Corporation is satisfied of the sufficiency of its resources, draw up a notification stating that the Chief Executive Officer proposes to make an improvement scheme and the area to which the resolution relates and naming the place where a map of the area may be seen at all reasonable hours."

This clause does not authorise the making of the improvement scheme for the purpose of providing building sites for the expansion of the city but provides for the making of such a scheme if it is expedient, for the purpose of providing building sites for the expansion of the city, to form new or to alter existing streets in any part of the city. The impugned scheme is not for forming new or altering existing streets for the purpose of providing building sites for the expansion of the city but is for acquiring land to develop plots and then to sell the plots or to sell the plots with buildings constructed on it to the public.

9. The impugned scheme was rightly held by the High Court to be not for the purpose of constructing buildings for the accommodation of the poorer and working classes. We do not agree with the contention for the appellant that the middle classes or the public capable of purchasing houses costing about Rs. 7,500 could come under the expression 'poorer and working classes'. The expression has acquired a special meaning. Webster's New World Dictionary defines 'middle class' as the social class between the aristocracy or very wealthy and the working class, or proletariat: owners of small businesses, professional and white-collar workers, well-to-do farmers, etc. It defines 'working class' to mean workers as a class, especially industrial worker's as a class; proletariat. The word 'poor' means lacking material possessions; having little or no means to support oneself; needy; impoverished. The expression 'poorer and working classes' contemplated by Sub-clause (c) of Clause (A) of Sub-section (1) Section 277 refers to such indigent and working people who need accommodation and cannot on their own make arrangements for reasonable accommodation. Such a construction of the expression finds support from the fact that Sub-clause (c) speaks of the necessity to provide for the construction of buildings for the accommodation of the poorer and working classes and not of the necessity of merely providing them with plots to construct buildings or to sell them buildings erected on the land acquired. We are of opinion that the impugned scheme cannot be said to be one for the purpose of constructing buildings for the accommodation of the poorer and working classes.

10. We hold that the High Court was right in holding that the Chief Executive Officer was not competent to notify the making of an improvement scheme which led to the impugned scheme and in quashing the first notification, dated June 12, 1956 and the subsequent notifications which would necessarily be invalid as they refer to the scheme whose origin was not justified by the provisions of the Act and the order of the Acquisition Officer as there could be no valid acquisition proceedings when the notifications were bad.

11. The result is that the appeal fails and is dismissed with costs.