

Hukam Chand And Ors. vs Union Of India (Uoi) And Ors. on 10 December, 1987

Equivalent citations: AIR1988SC408, JT1987(4)SC611, (1988)93PLR620, 1987(2)SCALE1459, 1988SUPP(1)SCC464, 1988(1)UJ384(SC), AIR 1988 SUPREME COURT 408, 1988 SCC (SUPP) 464, (1987) 4 JT 611 (SC), 1988 (1) UJ (SC) 384, 1987 5 JT 611, (1988) 2 CURLJ(CCR) 126, 1988 RAJLR 19, (1988) 1 PUN LR 620, 1988 93 PUN LR 620, (1988) 2 LANDLR 3, (1988) 1 CURCC 988, (1988) 34 DLT 66

Author: Ranganath Misra

Bench: G.L. Oza, Ranganath Misra

JUDGMENT

Ranganath Misra, J.

1. These are two writ applications under Article 32 of the Constitution, the first petition is by 174 persons while the second one is by 143. The petitioners in either application claim to be members of the Scheduled Caste belonging to the economically backward section of society. They claim to be residents of a cluster of villages included within the panchayat of Nasirpur located within the Union Territory of Delhi, not far away from the urbanized areas. On 25.2.1984, the Gaon Sabha resolved to grant certain lands vested in it to the petitioners and some other persons for residential purposes on the footing that they were members of the Scheduled Caste belonging to the backward section of the society and did not have residential accommodation. In spite of the decision taken in the Gaon Sabha the lands were not allotted. A writ petition was filed before the Delhi High Court by 13 persons challenging the decision to allot the lands. The High Court by its order of February 1, 1985, dismissed the petition; yet the resolution was not implemented. In the meantime these properties were sought to be acquired and on 18.9.1984 a notification under Section 6 of the Land Acquisition Act was made. Petitioners have come before this Court asking for quashing the notification of acquisition in regard to these properties and for a direction to the respondents who are the authorities of the Delhi Administration and the Pradhan of the Gaon Sabha to give effect to the resolution of 25.2.1984. There is no dispute that the land was vested in the Gaon Sabha.

2. However, soon after the resolution for allotment was made there was a spate of petitions against the proposal to allot the lands and respondents 1 to 4 were moved by different people. It was contended in those petitions that the Gaon Sabha of Nasirpur was having land in Nasirpur as also in village Sagarpur but Sagarpur was a nonresident revenue estate. The Gaon Sabha land was small in area and was not sufficient to meet the requirements of the community which required play-ground, cattle-ground, grazing land, grave yard, hospitals, schools etc. Gaon Sabha land was intended for

meeting the common needs of the the community and if there was any surplus land that only was available for distribution for purposes like the one in the resolution. It was further stated that the Pradhan purporting to implement the 20-Point Programme had, without authority and propriety, misled the officers and obtained the resolution which should not be implemented. Acquisition proceedings on one side and objections of this nature on the other and the attempt to restrain the resolution by going to the High Court cumulatively stood in the way of its implementation. Even in this Court an attempt was made on behalf of the objectors to intervene with a view to resisting the relief claimed.

3. The Pradhan, respondent No. 5, has filed an affidavit fully supporting the claim of the petitioners while the official respondents have filed affidavits indicating the facts relevant to the matter.

4. Soon after the writ petition was filed, the Court was informed on behalf of respondents 1 to 4 that the Lt. Governor, respondent No. 1, had appointed a Committee to examine the matter and implement the resolution after such examination. Delhi Administration seems to have fixed a criteria for allotment of house sites within the Union Territory and the same are as given hereunder:

(1) The applicant should not be in possession of any land or house site either in his own name or in the name of his family members dependant upon him or should be in possession of inadequate housing as determined by the Deputy Director (Panchayat). Priority in allotment of house sites should, in any case, go to those not in possession of land or house sites.

(2) Monthly income of the applicant should be less than Rs. 750/- per month.

(3) Applicant should be a resident of the concerned village for a period of four to five years.

(4) The area of the plot allotted should not exceed 120 sq. yards.

The opposition to the proposed allotment is mainly on account of the fact that the allottees or proposed allottees are not residents of the concerned village where the land is located. Nasirpur Panchayat comprises of several villages and in its are included, inter alia, Sagarpur and New Nangal Raya. Some of the residents of village Nangal Raya have been accommodated in the matter of allotment. Similarly residents of some other villages within the Gaon Panchayat are also proposed to be allotted house sites. The principle adopted by the Delhi Administration, as indicated above, is a guideline and it is difficult to hold that there can be no variation. Small adjustments, particularly for providing accommodation to the homeless in the economically backward classes has to be permitted so that the purpose may be fulfilled and the objective is achieved. We have not been able to accept the stand that the benefit proposed cannot be extended to the residents of the villages within the Panchayat. The remaining three requirements in the guidelines seem to be in order and no grievance was made against applying the same

5. this Court was told almost two years back that the Lt. Governor had set up a Committee to implement the resolution. Several adjournments had been taken with a view to giving final shape to it but the matter has not yet been finalised mainly on account of the fact that the dispute relating to residential requirement could not be resolved and the pressing objection of others to exclude on the ground of residence has stood in the way. Now that we have clarified that residence within the panchayat may be taken as satisfying the requirement, the main objection would no more be available to be pressed. Ration cards and voters list are the usual type of evidence looked for in support of the claim of residence. There may also be other materials to satisfy the authorities for determining as to whether the requirement of residence is satisfied.

6. Growth of population and influx thereof into urban areas have among other reasons been making life competitive. The process of such competition excludes the acceptability of the concept of live and let live. Everyone becomes self-centered and does not bother about others in the community. The National Capital suffers a greater hazard in this direction. It was only the other day that the Minister stated in Parliament that the average influx was to the tune of a hundred thousand persons per year. It was only the other day that the Minister stated in Parliament that the average influx was to the tune of a hundred thousand persons per year. It is time that appropriate attention is devoted to the matter so that the city limits are not required to be limitlessly extended. Those who have been living for ages in the neighbouring revenue villages in the non-urban areas are also entitled to consideration and protection as citizens and it is the obligation of Government to extent the umbrella of guarantees and protections to them too. We see no reason as to why these lands should be subjected to acquisition, particularly when it is proposed to be utilised for housing some of the under-privileged and the economically backward section of community. The acquisition proceedings shall thus stand quashed.

7. The Committee appointed by the Lt. Governor must now be activated. If there be any residents of the village where the land is located, coming within the guideline for allotment of land, they should have priority and in regard to the remaining land the allotment should be on the basis of guidelines and our interpretation of the requirement of residence. We direct the respondents to give full effect to our order and complete the allotment on the basis indicated above within three months from the date of communication of the order to the Lt. Governor. We hope and trust that as Administrator of the Union Territory, the Lt. Governor would give effect of this direction in a time bound frame.

8. The writ petitions are allowed. There would be no order for costs.