

Supreme Court of India

State Of Manipur And Another vs Humdung Victims Of Development ... on 6 December, 1994

Equivalent citations: AIR 1995 SC 1865, JT 1998 (8) SC 439, (1998) 9 SCC 335

Bench: N Venkatachala, S Sen

ORDER

1. These appeals are by the State of Manipur and another, by special leave, and are directed against the common Judgment and Order dated 2-2-1993 made in Civil Rule No.1331/90/1/ 91 and Original Decree Nos. 4 to 7 of 1984 by the Imphal Bench of the Gauhati High Court.

2. When, (i) mini cement factory with an approach road, (ii) Imphal-Ukhrul road and (iii) Nungshangkong mini, Hydro Electricity Power Project had to be constructed within the area of Hundung village, only lands required for construction of mini cement factory with an approach road and of the Nungshangkong mini Hydro Electricity Power Project were proposed to be acquired under the Land Acquisition Act, 1894,-the Act. However, on completion of such acquisition, necessary awards under the Act for payment of compensation to the owners of acquired lands, it is said, were made by the Collector-Land Acquisition officer, concerned. Those owners of lands, not being satisfied with the amounts of compensation awarded to them under the respective awards, it is also said, had got their references under the Act brought Up before the Civil Court and sought for grant of enhanced amounts of compensation for their acquired lands. But, it appears, that the Civil Court, which did not grant them the enhanced compensation sought from it, rejected the references. Aggrieved by rejection of their references by the Civil Court, the owners of the acquired lands, it appears, appealed before the Gauhati High Court, questioning the awards' made by the Civil court, by filing appeals-Original, Decree Nos. 4-7 of 1984, when these appeals were pending decision before the High Court, a Writ Petition, Civil Rule No. 1331/90/1/91, it appears, came to be filed, by the Respondent-Organisation, by way of public interest litigation, seeking from the High Court a direction to the appellants to grant compensation in respect of lands which were utilized in the construction of the Imphal-Ukhrul road lying within the land area of Hundung village even though such land was not acquired. Direction for grant of compensation for lands utilised in the construction of Imphal-Ukhrul road, had been sought in that Writ Petition, among other reliefs, on the plea that those lands were in occupation of some Tangkhul Nagas, as their owners. However, the method resorted to by the High Court of Gauhati to dispose of that Writ Petition is to club it along with other original decree cases, i.e., statutory appeals-Original Decree Nos. 4 to 7 of 1984 and dispose of all of them together by a common Judgment and order. It is that common Judgment and order which is now appealed against in the present appeals, is stated at the outset.

3. No doubt, by the common Judgment and Order of the High Court under appeals, certain enhanced compensation is ordered to be paid by the appellants for the lands which had been acquired Under the Act, according to the directions given thereunder. Though directions given by the High Court for payment of enhanced compensation in respect of the lands acquired under the Act do not Conform to the requirements of law, Shri Altaf Ahmad, the learned Addl. Solicitor General did not wish to question the sustainability of the same and Very rightly, having regard to the fact the beneficiaries of such enhanced compensation would be Naga Tribals and the amount involved in each case would be meagre. Even, as regards directions given by the High Court for

payment of certain compensation to 22 Naga Tribals in respect of lands alleged to be in their cultivation and utilised by the State for construction of Imphal-Ukhrul road, lying within the area of Hundung village, he did not feel so much concerned, having regard to the impecunious circumstances of the beneficiaries, as was rightly expected Of him representing the Union Government. However, he sought to assail the sweeping findings recorded in para 25 of its Judgment by the High Court that (i) there is no government khas land in the hill areas of Ukhrul: (ii) the ownership of land situated in hill villages of Manipur vests in the villagers; (iii) the Naga Tribals do not hold the land Under the pleasure of the Government purporting to act on the Judicial Commissioner's views said to have been expressed in the case of Luitang Khullakga and Ors. v. Deputy Commissioner of Manipur and Ors., which read thus: 25. We are here concerned with Hill areas of Ukhrul sub-division (now district) which are inhabited by the Tangkhul Nagas who belongs to the Scheduled Tribes of Manipur. In AIR 1961 Manipur 31, Luitang Khullakga and Ors. v. Deputy Commissioner of Manipur and Others, the learned Judicial Commissioner held that there is no government Khas land in the hill areas of Ukhrul. The ownership of land situated in hill villages at Manipur vests in the villagers. They do not hold the land under the pleasure of the Government. It was held that if land is to be acquired for public purpose from the villager of hill village, provision of Acquisition Act must be followed. We have gone through the above Judgment and we are of the view that the findings of the learned Judicial Commissioner are correct and the decision rendered in this case still holds the field and we are entirely in agreement with the findings in the aforesaid case. In view of what has been discussed above, we do not accept the submission of the learned Govt. Advocate in this regard.

4. According to him on the basis of findings in paragraph, which could not have been recorded by the High Court in the absence of appropriate issues raised in a properly constituted suit with necessary parties, proper pleadings filed, and acceptable evidence adduced proceeded to hold that 22 persons who were not parties in the writ petition were owners of land where Imphal-Ukhrul road was constructed, by stating in paragraph 26 of its Judgment thus:

26. The Deputy Commissioner has also submitted the list of land owners who have been affected by the construction of the Imphal-Ukhrul road in response to the direction given by this Court on 28-11-91. The list shows that there are 22 persons whose paddy fields have been affected by the construction of the said road. It is also admitted by the respondent No. 2 in the affidavit that the construction of the road has had indirect effects. Admittedly land has been taken away from the owners and fields have been damaged as a result of construction of the Imphal-Ukhrul road, but till today no steps have been taken for payment of compensation to the land owners.

5. What is stated by the High Court in paras 25 and 26 above, has undoubtedly led the High Court to give in its Judgment and Order, the directions, which run thus:

(c). Compensation to be paid to the 22 (twenty two) persons whose fields had been affected by the construction of Imphal-Ukhrul road as per assessment made by the respondent No. 3.

(d) Compensation for loss of pisciculture and also loss of yield of paddy as a result of construction of Imphal-Ukhrul road and construction of Mini-hydro Electricity Project at Nungshangkong be paid

to the affected persons, as per list and assessment made by the respondent No. 3 (vide pages 391-395).

6. Thus, the High Court in addition to the directions given for payment of compensation for the lands which had been acquired, has also given directions for payment of compensation in respect of lands which had not been acquired.

7. The learned Additional Solicitor General, having regard to the fact that 22 persons and other persons, who would be entitled to get compensation under the said directions of the High Court are Naga Tribals, as stated earlier, did not insist on such directions being set aside. However, he reiterated that the High Court had acted illegally in directing grant of compensation in a Writ Petition in respect of lands which had been used for construction of the Imphal-Ukhrul road within Hundung village land area, as if they had been acquired under the Act and the amount of compensation payable for them was the subject of appeal before it. The sweeping findings recorded by the High Court in paragraphs 25 and 26 of its Judgment, he submitted, since could not have been recorded by the High Court in a Writ Petition not even filed by the concerned parties need to be set aside, as otherwise they could cause damage to the interest of the Government in that they will have the effect of making the Government lose its rights in all the lands in hill areas, when such rights were not so established by the parties claiming such rights and when Government was not heard in such matter. Submissions of the Additional Solicitor General, in our view, merit acceptance, for the reasons given by him in support of such submissions, inasmuch as, the High Court has dealt with the matter in a casual way. Therefore, whatever is stated by the High Court in paragraphs 25 and 26 of its Judgment as regards the ownership of lands in Hill areas calls to be set aside as unwarranted statements made by the High Court. We want to make it, however, clear that in a writ proceeding initiated before a High Court, it is neither permissible nor desirable for the High Court to go into the disputed question of title to immovable properties when such properties were not the subject of the acquisition under the Act. It may be possible for private parties to acquire title in respect of Government Khas land, by adverse possession, where it is allowed by law. But, when a High Court holds all Government Khas lands in Hill areas belong to private parties in a writ proceeding, on certain assumptions, such holding cannot be allowed to stand and should be set aside. That is why, we set aside the findings on ownership of lands recorded by the High Court, in paragraphs 25 and 26 of its Judgment.

8. Yet the learned Counsel appearing for the respondents realising the infirmities in the holdings of the High Court found in paragraphs 25 and 26 of its Judgment pleaded that 22 persons who are found to have been adversely affected by the construction of Imphal-Ukhrul road and are made to get compensation by the Judgment of the High Court must be allowed to get the same, since the learned Additional Solicitor General also had no serious objection for those persons obtaining the compensation ordered to be paid to them. We think the plea made by the learned Counsel for the respondents in the facts and circumstances of the case warrants our acceptance inasmuch the learned Additional Solicitor General, has fairly said that he has no objection to payment of compensation to all the persons concerned according to the directions of the High Court.

9. In the result, we set aside the findings recorded by the High Court in paragraphs 25 and 26 of its Judgment under appeal as regards the Government Khas lands in the hill areas of Ukhrul and of their ownership vesting in hill villagers at Manipur and of the ownership of lands utilised for Imphal-Ukhrul road, at the same time confirming the directions of the High Court with regard to payment of compensation awarded in terms of paragraph 36 of the Judgment and order and dispose of these appeals accordingly, with no order as to costs.