Supreme Court of India
Smt. Sneh Prabha Etc vs State Of U.P. & Anr on 15 November, 1995
Equivalent citations: 1996 AIR 540, 1996 SCC (7) 426
Author: K Ramaswamy
Bench: Ramaswamy, K.

PETITIONER:
SMT. SNEH PRABHA ETC.

Vs.

RESPONDENT:
STATE OF U.P. & ANR.

DATE OF JUDGMENT15/11/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
PARIPOORNAN, K.S.(J)

CITATION:
1996 AIR 540 1996 SCC (7) 426
JT 1995 (8) 267 1995 SCALE (6)393

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T K. Ramaswamy. J.

C.A. No.1869 of 1981 The State of Uttar Pradesh got published in the State Gazette the notification issued under Section 4 [1] of the Land Acquisition Act, 1894 [for short, "the Act"] on July 16, 1960, acquiring 287 acres of land in Ghaziabad for planned development by the Improvement Trust, Ghaziabad [for short, "the Trust"]. The appellant had purchased 1.9 and 2.9 bighas of land under sale deed dated March 15, 1961 and 1.9, 2.4 and 1.16 bighas of land on March 27, 1961 constituting a total extent of 4 acres 3025 square yards from the erstwhile owner of the land. The Stat Government issued on August 13, 1962 what is known as "Land Policy" in which it was stated that the lands falling within the limits of Ghaziabad Municipality may be acquired in the first instance, under the Act; that the Trust should make external development of the entire area and also internal development in certain categories of cases the details whereof are mentioned in the Schedule appended thereto and directed that "lease out the plotted area to the persons from whom the land

was acquired by charging premium which shall be equal to the compensation payable for the acquisition plus the cost of both external and internal development. The lessee may be given the right to sub-lease the plot and thereby earn profits on their lands. They divided the land owners into three categories, viz., [1] those who held an area of less than 2 acres of land, [2] those who held an area of more than 2 acres but less than 20 acres of land and [3] those who held an area of 20 or more acres of land, at one place. In paragraph 6 it was stated that "those in category No. [2] may be given an option either to accept cash compensation for their land under the Land Acquisition Act or to get back 40% of their land as developed plotted area after paying the cost of external and internal development. In the latter case, the premium will be compensation payable for the land."

In furtherance thereof, the appellant had appellant had applied on May 10, 1963 for allotment of the plot and also got herself registered with the Trust on November 25, 1968 seeking allotment of the land under the Land Policy. The appellant also, after being informed of her need to redeposit the compensation amount she received from the Land Acquisition Officer on September 12, 1969, and deposited the same with the Trust on July 31, 1970. The appellant claimed that she was allotted 7957 square yards of land in Sector 12, viz., Chander Nagar but when she sought registration of the lease deed in her favour on June 27, 1972 she was informed to supply a copy of the sale deed of the land purchased by her vide communication dated April 18, 1974. By letter dated May 6, 1974, the Trust informed her that since she had purchased the land after notification under Section 4 [1] had already been published, she was not eligible for allotment and accordingly the Trust had returned the amount deposited by her by a cheque dated June 3, 1974. Thereafter, the appellant filed Miscellaneous Writ Petition No.4517 of 1974 in the Allahabad High Court which was dismissed on November 29, 1977.

When the matter was heard on August 29, 1995 by this Court, it transpired that after the policy was issued, the State Government issued two G.Os. dated December 8, 1971 and June 2, 1972 providing guidelines for implementation of the Land Policy. We, therefore, directed the counsel for the State as well as the Trust to produce the copies of the orders. Accordingly, they came to be filed. G.O. No.342 dated December 8, 1971 addressed by the Deputy Secretary to the Trust indicates in paragraph 2 that the persons who had purchased the land which would fall under the notification, after the publication of the notification for the acquisition of land under the Act, may not be given any benefit under the Land Policy. Paragraph 3 provides that the benefit of the Land Policy may also not be given to the persons who although had submitted their applications for the benefits under the Land Policy well before the prescribed date but had filed their suits in the courts for stay orders against the acquisition of land and had obtained the orders of the courts to stop the activities of the acquisition of land. Other clauses of the said G.O. dated December 8, 1971 are not relevance and hence omitted. In G.O. No.1802 dated June 2, 1972, it was further clarified that the orders mentioned in para 3 of earlier G.O. No.342 dated December 8, 1971 will apply only to those persons who had filed suits in the courts in the acquisition of the land after December 8, 1971. Para 2 further states as under:

> "I am also to state that those persons may be given benefit of the land policy who have applied within time for taking benefit of land policy and in whose cases orders have been passed to give benefit of the land policy and with whom agreements have

been entered into, although they have purchased the land after the issue of Notification under section 4 of the Land Acquisition Act."

Shri G.L. Sanghi, learned senior counsel appearing for the appellant contended that the owner of the land is entitled under the policy for the allotment of the land in terms of three categories enumerated in the Land Policy. Admittedly, the appellant falls in category [2]. Had the owner claimed under the Land Policy, the Trust would be enjoined to allot the land in terms of the Policy with a right to the owner to sub-lease the same. In consequence, it makes little difference if the subsequent purchaser steps into the shoes of the owner and lays claim for allotment. The only condition which disables the appellant as owner or successor in interest is as provided in paragraph 3 of G.O. No.342 dated December 8, 1971. Since she does not fall in that category, the appellant is entitled to the allotment under paragraph 2 of G.O. No.1802 dated June 2, 1972. Therefore, the appellant is entitled to the allotment of the land covered under category [2] as a matter of right since she had land to an extent of below 20 acres and above 2 acres. On the approved lands, she was entitled to allotment of the 40 per cent of the developed land. She alternatively contended that though on the date of the notification she was not the owner, subsequently she became the owner. She had duly registered her application with the Trust. Therefore, in terms of paragraph 2 of the G.O. dated June 2, 1972, she is entitled to the allotment of the land as she had already applied within the time and orders had been passed to give effect to the Land Policy. Agreements, though unregistered, had already been entered into and she had purchased the land after the publication of the notification under Section 4 [1] of the Act.

Though at first blush, we were inclined to agree with the appellant but on deeper probe, we find that the appellant is not entitled to the benefit of the Land Policy. It is settled law that any person who purchases land after publication of the notification under Section 4 [1], does so at his/her own peril. The object of publication of the notification under Section 4 [1] is notice to everyone that the land is needed or is likely to be needed for public purpose and the acquisition proceedings points out an impediment to anyone to encumber the land acquired thereunder. It authorizes the designated officer to enter upon the land to do preliminaries etc. Therefore, any alienation of land after the publication of the notification under Section 4 [1] does not bind the Government or the beneficiary under the acquisition. On taking possession of the land, all rights, titles and interests in land stand vested in the State, under Section 16 of the Act, free from all encumbrances and thereby absolute title in the land is acquired thereunder. If any subsequent purchaser acquires land, his/her only right would be subject to the provisions of the Act and/or to receive compensation for the land. In a recent judgment, this Court in Union of India vs. Shri Shivkumar Bhargava & Ors. [JT 1995 (6) SC 274] considered the controversy and held that a person who purchases land subsequent to the notification is not entitled to alternative site. It is seen that the Land Policy expressly conferred that right only on that person whose land was acquired. In other words, the person must be the owner of the land on the date on which notification under Section 4 [1] was published. By necessary implication, the subsequent purchaser was elbowed out from the policy and became disentitled to the benefit of the Land Policy.

Para 2 of the G.O. No.1802 dated June 2, 1972 also does not come to the aid of the appellant. This order is not in supersession of earlier Land Policy or G.O. No.342 dated December 8, 1971. It would

appear, as pointed out in the impugned judgment of the High Court, that a special case had arisen in respect of three co-owners whose "strip of land remained outside allotment". To relieve hardship to them, a clarification was sought for by the letter dated February 14, 1972 by the Trust. In response thereto, this G.O. dated June 2, 1972 came to be issued. It clearly envisages three conditions, viz., [i] benefits of the Land Policy may be given to those who have applied within time to avail of the benefit of the Land Policy; [ii] orders have been passed to give benefit of the Land Policy; and [iii] the agreements have already been entered into; in other words, lease deeds were executed in favour of the allottees. Although they purchased the land after the issue of the notification under Section 4 [1], the benefits would be given to them. It is seen that it is not a general policy nor is it in supersession of the earlier policy but is a classificatory one. In other words, it intends to deal with only limited collateral contingent circumstance.

In this case, though the appellant had applied within time to avail of the benefits of the Land Policy and she was asked to deposit the compensation received for the land acquired, the Trust was not in know of the fact that the appellant had purchased the land after the publication of Section 4 [1] notification. When the appellant sought for execution of the lease deed she was called upon to produce her title deed which, when produced, disclosed that she had purchased the land after Section 4 [1] notification was published. In other words, she fell into the main part of the general land policy and G.O. No.342 dated December 8, 1971. Thereby, there is no order passed in her favour to extend the benefits of the Land Policy nor was any agreement to lease the said land in her favour was entered into and registered although she purchased the land after the notification under Section 4 [1] was published. It would thus be clear that the appellant had not fulfilled all the conditions mentioned in paragraph 2 of the G.O. No.1802 dated June 2, 1972.

It is next contended that having given the benefit to the persons mentioned in the impugned G.Os. denial thereof to the appellant is an invidious discrimination violating Article 14 of the Constitution. It is seen that the benefit was given only to three co-owners whose land formed part of a particular strip of land and the excess thereof obviously was not capable of use or inconvenient to proper use by the owner of the leased land. As a special case, benefit was given to them. The consistent policy has been that a person who purchased the land, after Section 4 [1] notification was published, becomes disentitled as she was not the owner as on the date on which the notification under Section 4 [1] was published, as indicated in the Land Policy itself. It was reiterated in paragraph 2 of G.O. No.342 dated December 8, 1971. It would thus be seen that no discrimination, much less invidious discrimination, was meted out to the appellant. Even if a benefit is wrongly given in favour of one or two, it does not cloth with a right to perpetrate the wrong and the court cannot give countenance to such actions though they are blameworthy and condemnable. Equality clause does not extend to perpetrate wrong nor can anyone equate a right to have the wrong repeated and benefit reaped thereunder.

Considered from this perspective, we are of the opinion that the appellant is not entitled to the benefits of the Land Policy. The High Court rightly did not extend the benefits to the appellant. Hence our interference under Article 136 of the Constitution is not warranted.

The appeal is accordingly dismissed but, in the circumstances, without costs.

C.A. No.4549 of 1984 For the reasons given in the above appeal, this appeal also stands dismissed.