

Supreme Court of India

H.M.T. House Building ... vs M. Venkataswamappa And Others on 21 February, 1995

Equivalent citations: AIR 1995 SC 2253, 1995 (2) SCALE 69, (1995) 3 SCC 128

Author: N Singh

Bench: J Verma, N Singh, S Bharucha

ORDER N.P. Singh, J.

1. The connected Appeal Nos. 3011-19 of 1995 (arising out of S.L.P. (C) Nos. 11482-90 of 1991) H.M.T. House Building Co-op. Society v. Syed Khader and Ors. have already been disposed of by a reasoned judgment. The reasons given for dismissing the said appeals are equally applicable in the facts and circumstances of the present case. Accordingly, these special leave petitions filed on behalf of the same House Building Co-operative Society are dismissed. No costs.

2. In the appeals Nos. 3011-19/95 arising out of SLP (C) Nos. 11482-90 of 1991, after the dismissal of the appeals a direction has been given that as a result of the quashing of the land acquisition proceedings including the notifications in question, the possession of the land shall be restored to the respective land owners irrespective of the fact whether they had challenged the acquisition of their lands or not. A further direction has been given that on restoration of the possession to the land owners, they shall refund the amounts received by them as compensation or otherwise in respect of their lands. We issue a similar direction even in this case. The petitioner, the respondents and the State Government including all concerned authorities/persons shall implement the aforesaid directions at an early date.

Special Leave Petition (C) Nos. 12104-07, 12600-03, 13150-80, 18297-300 of 1991.

Vyalikaval House Building Co-Operative Society Ltd. Petitioner v.

Narayana Reddy and Ors. Etc. Etc. Respondents 3, Lands on basis of the notifications issued under Sections 4(1) and 6(1) of the Land Acquisition Act, had been acquired for the petitioner-House Building Society, treating the said acquisition to be for a public purpose. No order of the State Government as required by Section 3(f)(vi) granting prior approval for acquisition of the lands in question for the housing scheme of the petitioner-society has been produced. The petitioner society had also entered into an agreement with the contractor more or less on the same terms and conditions as was in the case of H.M.T. House Building Cooperative Society, assuring that the lands in question shall be acquired on basis of the notification issued by the State Government under Sections 4(1) and 6(1) of the Act. The High Court in its impugned judgment has given details of the allegations made against the petitioner society regarding collection of huge amounts from different applicants for site who were not even members of the society and how the society had entered into an agreement with agents, who with their influence have got the lands acquired. The High Court has also referred to an advertisement issued by the petitioner society inviting persons who want to have mansions in the city of Bangalore. It also gave the name and address of a representative at Dubai. On basis of the aforesaid materials, the High Court has come to the conclusion that the Society itself was not a bona fide House Building Society. The High Court has also recorded a finding that the notifications under Sections 4(1) and 6(1) of the Act had been issued at the instance of the agents

appointed by the petitioner society, to whom huge amounts had been paid for influencing the Government to issue the aforesaid notifications. Mr. Ramaswamy, appearing for the petitioner society purported to distinguish this case on facts from the case of H.M.T. House Building Co-operative Society. But according to us, the facts of the present case are similar to the case of H.M.T. House Building Co-operative Society and there is no scope to interfere with the order of the High Court, quashing the notifications under Sections 4(1) and 6(1). Accordingly, the special leave petitions filed on behalf of the petitioner society are dismissed. No costs.

4. In the appeals arising out of SLP (C) Nos. 11482- 90 of 1991, after the dismissal of the appeals a direction has been given that as a result of the quashing of the land acquisition proceedings including the notifications in question, the possession of the land shall be restored to the respective land owners irrespective of the fact whether they had challenged the acquisition of their lands or not. A further direction has been given that on restoration of the possession to the land owners, they shall refund the amounts received by them as compensation or otherwise in respect of their lands. We issue a similar direction even in this case. The petitioner, the respondents and the State Government including all concerned authorities/persons shall implement the aforesaid directions at an early date.

Special Leave Petition (C) Nos. 13114 and 13339 of 1991 Amarjyothi House Building Co-Operative Society Ltd. Petitioner v.

State of Karnataka and Ors. Etc. Respondents

5. These special leave petitions have been filed on behalf of the petitioner Amarjyothi House Building Co-operative Society Ltd. for setting aside the judgment of the High Court, quashing the notifications under Sections 4(1) and 6(1) of the Land Acquisition Act, acquiring lands for the petitioner society. From the judgment of the High Court, it appears that this society also had entered into an agreement with a developer who had assured to get the lands in question acquired in accordance with the provisions of the Act. Petitioner society paid huge amount to the said developer for the said object. In this case also there is no order of the State Government, granting prior approval for acquisition of the lands in question, as required by Section 3(f)(vi) of the Act. The High Court has also referred to the Report of Mr. G.V.K. Rao, about the bogus members. According to the finding, the Society had admitted 4,050 bogus members. As such, there is no scope for taking a view contrary one which we have taken while disposing of the appeals Nos. 3011-19/95 (arising out of S.L.P.(C) Nos. 11482-90 of 1991) filed on behalf of the H.M.T. House Building Co-operative Society. These special leave petitions are accordingly dismissed. No costs.

6. In the appeals Nos. 3011-19/95 arising out of SLP (C) Nos. 11482-90 of 1991, after the dismissal of the appeals a direction has been given that as a result of the quashing of the land acquisition proceedings including the notifications in question, the possession of the land shall be restored to the respective land owners irrespective of the fact whether they had challenged the acquisition of their lands or not. A further direction has been given that on restoration of the possession to the land owners, they shall refund the amounts received by them as compensation or otherwise in respect of their lands. We issue a similar direction even in this case. The petitioner, the respondents

and the State Government including all concerned authorities/persons shall implement the aforesaid directions at an early date.

Special Leave Petition(C) Nos. 12032-37 of 1991 The Bangalore City Chickpet House Building Co-Operative Society Ltd., Petitioner v.

Venkamma @ Venkatamma and Ors. Respondents

7. These special leave petitions have been filed for setting aside the judgment of the High Court, quashing the notifications under Sections 4(1) and 6(1) of the Land Acquisition Act, on the ground that the said notifications had been issued at the instance of the agents, appointed by the petitioner society. The High Court has also referred to the agreement entered into by the petitioner and the said middle-man, who had undertaken to get the lands in question acquired. The agent had undertaken in the agreement to manage all concerned "at all levels". No order granting prior approval by the State Government for the acquisition of the lands, as required by Section 3(f)(vi) of the Act has been produced. According to us, the facts of the present case are no way different from that of the H.M.T. House Building Cooperative Society, which has been disposed. of by a reasoned judgment. That judgment fully covers the present special leave petitions also. Accordingly, the special leave petitions are dismissed. No costs.

8. In the appeals Nos. 3011-19/95 arising out of SLP (C) NOG. 11482- 90 of 1991, after the dismissal of the appeals a direction has been given that as a result of the quashing of the land acquisition proceedings including the notifications in question, the possession of the land shall be restored to the respective land owners irrespective of the fact whether they had challenged the acquisition of their lands or not. A further direction has been given that on restoration of the possession to the land owners, they shall refund the amounts received by them as compensation or otherwise in respect of their lands. We issue a similar direction even in this case. The petitioner, the respondents and the State Government including all concerned authorities/persons shall implement the aforesaid directions at an early date.

Special Leave Petition (C) Nos. 12535-37 of 1991 Remco (Bhel) House Building Co-Op. Society Ltd. Petitioner v.

Sri Neelakantaiah and Ors. Respondents

9. These special leave petitions have been filed against the judgment of the High Court, quashing the notifications under Section 4(1) and 6(1) of the Land Acquisition Act, on the ground that the notifications had been issued at the instance of the agent, appointed by the petitioner society. The learned Counsel, appearing for the petitioner, could not point out as to how the facts of the present case are different from the facts of the H.M.T. House Building Society, so far this aspect is concerned. He has, however, pointed out that in the present case, an order had been issued by the State Government granting prior approval. In this connection, reference was made to an order dated 9.8.1984 by which it is said that the Government had granted prior approval for the acquisition of the lands in question. According to us, an order dated 9.8.1984 cannot be an order under Section

3(f)(vi) because the definition of 'public purpose' which was introduced by Act 68 of 1984 came in force with effect from 24.9.1984. As such there was no occasion for the State Government to exercise power under Section 3(f)(vi) on 9.8.1984. Any such order must be in terms of Section 39 read with Section 40 of Part VII of the Act, which part is applicable when acquisition of land is made for companies. It is surprising as to how the present House Building Coop. Society was being treated even as a company on 9.8.1984, because the new definition of company was also introduced in Section 3(e) with effect from 24.9.1984. Accordingly, there is no merit in these special leave petitions, which are dismissed. No costs.

10. In the appeals Nos. 3011-19/95 arising out of SLP (C) Nos. 11482-90 of 1991, after the dismissal of the appeals a direction has been given that as a result of the quashing of the land acquisition proceedings including the notifications in question, the possession of the land shall be restored to the respective land owners irrespective of the fact whether they had challenged the acquisition of their lands or not. A further direction has been given that on restoration of the possession to the land owners, they shall refund the amounts received by them as compensation or otherwise in respect of their lands. We issue a similar direction even in this case. The petitioner, the respondents and the State Government including all concerned authorities/persons shall implement the aforesaid directions at an early date.

Special Leave Petition (C) No. 5824-5920 of 1995 State of Karnataka and Ors. Petitioners v.

Narayan Reddy and Ors. Respondents

11. The special leave petition has been filed on behalf of the State of Karnataka against the same judgment of the High Court, quashing the notifications under Sections 4(1) and 6(1) of the Land Acquisition Act, acquiring lands for different House Building Co-operative Societies. The State of Karnataka has purported to justify the issuance of those notifications. Whether the lands in question had been acquired in accordance with law has been examined in detail in the case of H.M.T. House Building Co-operative Society. In view of the reasons given in the said judgment, the special leave petition has to be dismissed. The application for condonation of delay in filing the special leave petition is also dismissed. No cost.

12. In the appeals Nos. 3011-19/95 arising out of SLP (C) Nos. 11482-90 of 1991, after the dismissal of the appeals a direction has been given that as a result of the quashing of the land acquisition proceedings including the notifications in question, the possession of the land shall be restored to the respective land owners irrespective of the fact whether they had challenged the acquisition of their lands or not. A further direction has been given that on restoration of the possession to the land owners, they shall refund the amounts received by them as compensation or otherwise in respect of their lands. We issue a similar direction even in this case. The petitioners and the respondents including all concerned authorities/persons shall implement the aforesaid directions at an early date.