
(1997) 01 AHC CK 0041

Allahabad High Court

Case No: C.M.W.P. No. 3264 of 1987

Bafati Ansari

APPELLANT

Vs

State of U.P. and
Others

RESPONDENT

Date of Decision: Jan. 8, 1997

Acts Referred:

- Uttar Pradesh Rural Development (Requisitioning of Land) Act, 1948 - Section 12, 2(2)

Citation: (1997) 01 AHC CK 0041

Hon'ble Judges: V.P. Goel, J; Ravi S. Dhavan, J

Bench: Division Bench

Advocate: V.B.L. Srivastava, for the Appellant;

Final Decision: Allowed

Judgement

Ravi S. Dhavan and V.P. Goel, JJ.

The Petitioner, Bafati Ansari, resident of Village and Post Office Tari Khas, District Varanasi, has filed the present petition on the action which has been taken by the Respondents to requisition part of his Bhumidhari land in plot No. 138. An area of .20 dismal has been requisitioned by the Tehsildar/Requisitioning Officer, Varanasi, under the provisions of U.P. Rural Development (Requisitioning of Land) Act, 1948, U.P. Act No. 27 of 1948. There is no issue between the Petitioner and the Respondents, as the counter-affidavits of the Respondents are on record, that the purpose for which the land has been requisitioned is for a bye-pass, that is, a road. The Respondents, in unison, have not disputed the facts asserted by the Petitioner.

2. In the counter-affidavit of Awadhesh Mani Tripathi. Tehsildar, Varanasi, it is accepted in paragraph 5 that the land has been requisitioned for the purposes of a proposed bye-pass. The aspect that the land was requisitioned for a proposed bye-pass is reiterated in paragraph 13 of this counter-affidavit.

3. In the counter-affidavit which has been filed by one Surendra Singh, Junior Engineer (Civil), P.W.D., Varanasi, it is accepted that the purpose for requisitioning part of the land of the Petitioner is for a bye-pass. Paragraph 9 mentions that the land is being requisitioned for the construction of a road.

4. Thus, on facts there is issue that the land which is being requisitioned for a public purpose by using powers under the U.P. Rural Development (Requisitioning of Land) Act, 1948, does not fall within any of the purposes referred to under the expression "public purpose" in Sub-clause (2) of Section 2 of the Act, aforesaid. Agriculture is the theme of public purpose, if powers are to be utilised under the aforesaid Act for requisitioning any land. The provisions of the Act also reveal that if the State Government were to come to the conclusion and review its order on grounds that grave injustice has been done to a party, then the land must be in a state to be reconveyed. A provision for review is mentioned in the Act, aforesaid, u/s 12.

5. In totality of the circumstances as the powers have been misutilised to requisition the land of the Petitioner inconsistent with the expression "public purpose" as is referred to in the Act, the action of the Respondents is not only in error, but illegal. In the circumstances, the order of the Respondent No. 3, dated 17th January, 1987, Annexure 1 to the writ petition is quashed.

6. The petition succeeds with costs.