

**(1982) 10 AHC CK 0073**

**Allahabad High Court**

**Case No:** Civil Misc. Writ Petition No's. 2975 and 2976 of 1980

State of U.P. and Another

APPELLANT

Vs

Bhagwat and Another

RESPONDENT

---

**Date of Decision:** Oct. 13, 1982

**Acts Referred:**

- Constitution of India, 1950 - Article 226
- Urban Land (Ceiling and Regulation) Act, 1976 - Section 10(1), 2, 26, 6(1)

**Hon'ble Judges:** R.B. Lal, J

**Bench:** Single Bench

**Advocate:** V.B. Upadhya, for the Appellant;

**Final Decision:** Dismissed

---

### **Judgement**

R.B. Lal, J.

These are two writ petitions Under Article 226 of the Constitution. The State of U.P. has prayed for quashing two judgments of the learned District Judge, Meerut dated 14-1-80. Since both these writ petitions raised a common question for consideration, these are being disposed of by a common judgment.

2. Sri. Bhagwat Respondent No. 1 in writ petition No. 2975 of 1980 gave a notice to the Competent Authority on 26-5-79 u/s 26 of the Urban Land (Ceiling and Regulation) Act, 1976 (briefly the Act) intimating that he intended to sell 4-bigha area of plot No. 96 situated in village Bachola, Tehsil and District Meerut. The Competent Authority observed that the land of village Bahchola was ear-marked for agriculture, green-belt and extractive industries in the master-plan and, therefore, in view of Section 2(o) Explanation (c), the land proposed to be sold could not be taken as land which was mainly used for the purpose of agriculture. It also observed that the applicant had not filed a statement u/s 6(1) of the Act and proceedings u/s 10(1) of the Act had not been completed. The authority, therefore, declined to accord

permission for selling the land.

3. Sri. Bhagwat filed an appeal in the Court of the District Judge Meerut. The learned District Judge observed that the land in question was entered in the revenue records as agricultural land and was being actually used for agriculture. In the master-plan, the land of the village had been indicated for the purposes of Agriculture, green-belt and extractive industries. There was no division in the master-plan indicating that the plot in question was meant for extractive industries. He also observed that the land in question could not be treated as "vacant land" for the purpose of the Act because it was land mainly used for the purpose of agriculture. The learned District Judge, therefore, observed that the land did not come within the purview of the Act and there was no need to move an application u/s 26 of the Act. The application u/s 26 was not maintainable. He, therefore, dismissed the appeal.

4. Sri. Sukhbir Singh, Respondent No. 1 in the other writ petition gave a notice u/s 26 of the Act to the Competent Authority on 19-4-79 indicating his intention to sell a number of agricultural plots measuring 10 bighas 16 biswas situated in village Salarpur Jalalpur. The Competent Authority declined to give permission to Sukhbir Singh for the same reasons for which permission was not granted to Bhagwat. Sukhbir Singh also appealed to the learned District Judge, Meerut. The learned District Judge made the same observations and held that there was no question of moving an application u/s 26 of the Act and the application was not maintainable. He, therefore, dismissed the appeal.

5. The State has not felt satisfied by the proposition of law laid down by the learned District Judge in the two appeals and has, therefore, filed these writ petitions.

6. Notices to the Respondents in the two writ petitions were sent by registered post A.D. and service had been taken sufficient on them under Chapter VIII Rule 12 of the Rules of the Court. The Respondent No. 1 have not appeared in person or through counsel and have not filed any counter-affidavit.

7. I have heard the learned Standing Counsel at some length.

8. Only one submission has been made by the learned Counsel in these writ petitions. He has urged that since the two villages were shown in the master-plan as falling in the zone set apart for agriculture, green-belt and extractive industries. The plots in respect of which the two Respondents were seeking permission u/s 26 of the Act, should have been treated as land which was not mainly used for the purpose of agriculture and, therefore, the same should have been held as "urban land" within the meaning of Section 20 of the Act. It will be convenient to set out the relevant portions of the definition of "urban land" occurring in Section 2(o):

(0) "urban land" means:

(i) any land situated within the limits of the urban agglomeration and referred to as such in the master-plan; or

(ii)...

but does not include any such land which is mainly used for the purpose of agriculture.

Explanation-For the purpose of this clause and Clause (q)-

(A)...

(B)....

(C) Notwithstanding anything contained in Clause (B) of this Explanation, land shall not be deemed to be mainly used for the purpose of agriculture if the land has been specified in the master-plan for a purpose other than agriculture.

9. The facts are not in dispute in these cases. The plots were entered in the revenue records as agricultural land since before the relevant date and they were being actually used for agriculture. In the master-plan, the two villages in which the plots were situated were shown in the zone ear-marked for agriculture, green-belt and extractive industries. The master-plan did not contain a further sub-division showing as to which particular plots of the aforesaid two villages were ear-marked for extractive industries.

10. The learned District Judge had given sufficient time to the State to show if the plots in question had been specified in the master-plan for a purpose other than agriculture but no material was produced to clarify this point thus, the position was that in the master-plan it was generally shown that the areas of the two villages were meant for agriculture, green-belt and extractive industries.

11. The effect of Clause (C) of the Explanation is that the land which is in fact, mainly used for the purpose of agriculture, shall not be deemed to be mainly used for such a purpose if it has been specified in the master-plan for a purpose other than agriculture. The term "land" occurring in Sub-clause (i) of Clause (o) means a particular piece of land or plot and it is with respect to such a piece of land or plot that it has to be determined if the various requirements of Clause (o) are fulfilled so as to bring it within the purview of the definition of "urban land". For the purpose of application of Clause (C) of the Explanation it must be shown that the piece of land or plot has been specified in the master-plan for a purpose other than agriculture. The use of the word specified in Clause (C) is also significant and it also indicates that the user shown in the master-plan must clearly relate to the piece of land or plot in question. If in a master-plan a particular area consisting of a number of plots is shown for a purpose other than agriculture, it may be said that each plot, which is comprised in the area, has been specified for a purpose other than agriculture. But if the master-plan generally shows a big area for purposes of agriculture, green-belt and extractive industries, it cannot be said that any particular plots have been specified for a particular purpose or for a purpose other than agriculture. In such a case the requirement of Clause (C) of the Explanation cannot be said to have been

fulfilled in respect of a particular piece of land or plot so as to take it out of the category of land mainly used for the purpose of agriculture. This is precisely the position in the instant case. The areas of the two villages were generally shown for the aforesaid three purposes and, therefore, it could not be said that the plots in question of the two Respondents were specified, in the master-plan for a purpose other than agriculture. These plots could not, therefore, be treated as "urban land" because they fulfilled other requirements of the land which is mainly used for the purpose of agriculture. As a logical corollary the plots in question could not be treated as vacant land for purpose of Clause (q) of Section 2 of the Act.

12. For the above reasons, the contention of the learned Standing Counsel that the plots in question were not to be treated as "land" which is mainly used for the purpose of agriculture, is not well founded and cannot be accepted.

13. In the result, these writ petitions have no merit and are accordingly dismissed. No order as to costs as the Respondents have not appeared.