

A U.P. STATE SUGAR CORPORATION LTD.
v.
STATE OF U.P. AND ORS.

AUGUST 29, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Land Acquisition Act, 1894 :

C *Public Corporations—Acquisition of land—Exemption of part of land for enjoyment of property—Alternative land in lieu of exempted land—Directions regarding.*

D Land measuring 2.40 acres was the subject matter of acquisition. In this appeal the question is whether a portion out of the said land measuring 2.18 acres should be exempted from acquisition entitling the appellant-
E Corporation to retain the same for convenient and comfortable enjoyment of the property. It was agreed between the appellant-Corporation and the Respondent- Parishad that the said land measuring 2.18 acres adjoining the appellant's General Manager's residence would be exempted from acquisition and in lieu thereof the appellant-Corporation would give 2.74
F acres of land. However, the respondent-Parishad submitted a proposal to acquire the 2.74 acres land offered by the appellant-Corporation but not for deletion of 2.18 acres of land.

Allowing the appeal of the Appellant-Corporation, this Court

F HELD : The appellant and respondent are two public corporations. The appellant-Corporation is also serving the public purpose. The land is needed by them for convenient enjoyment of the residence and the staff quarters. The respondent-Parishad is acquiring land for urban development; it would also become a part of its duty to see that the appellant-
G Corporation should have comfortable enjoyment of properties for its officers and staff. The respondent-Parishad is directed to submit, within three months from the date of this order, a proposal for the state Government to withdraw the proposed acquisition to the extent of 2.18 acres of land and instead acquire land as offered by the Corporation. The State Government shall accordingly issue the required notifications within a
H period of two months thereafter. [153-G-H; 154-B-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 407 of 1986. A

From the Judgment and Order dated 3.10.85 of the Allahabad High Court in C.M.W.P. No. 13855 of 1983.

G.D. Agarwal, O.P. Rana, Gopal Jain, Mukul Mudgal, P.N. Gupta and Pramod Dayal for the appearing parties. B

The following Order of the Court was delivered :

The short point in this appeal, which was not argued in the High Court, is whether the appellant is entitled to retain the land to the extent of 2.18 acres out of Survey Nos. 41/1 and 41/2. The Collector himself had written a letter on December 7, 1985 to the Secretary to the Government stating that a portion of the land of plot Nos. 41/1 and 41/2 measuring 2.18 acres out of total 2.40 acres adjoining the General Manager, U.P. State Sugar Corporation's residence, which is the subject matter of the acquisition, was yet to be developed. Leaving apart mere 3 metres of land around General Manager's residence would be highly inconvenient. The matter was examined in the meeting of the District Officer Shri Atul Kumar Gupta, the General Manager of the appellant, and the Executive Engineer of the respondents-Avam Evam Vikas Parishad ('Parishad', for short). It was decided in the said meeting that in exchange of the acquired land, 2.18 acres of land, the appellant would give an extent of 2.74 acres of land in plot No. 41/4. The Parishad was directed to send a proposal to acquire the land of plot No. 41/4 and also exemption of the land to the extent of 2.18 acres of land adjoining the General Manager's residence. The Parishad, by its letter dated February 14, 1983 submitted proposal to acquire the land in plot no. 41/4, But not for deletion of 2.18 acres of land in plot Nos. 41/1 and 41/2. This would clearly indicate that ground survey was conducted in consultation with the respective officers and found that deletion of 2.18 acres of land in survey Nos. 41/1 and 41/2 was necessary for convenient and comfortable enjoyment of the property by the appellant-Corporation. C D E F G

After all, these are two public corporations and the appellant is also serving the public purpose. The land is needed by them for convenient enjoyment of the residence and the staff quarters. The Parishad is acquiring land for urban development; it would also become a part of its duty to see that the appellant-Corporation should have comfortable enjoyment of H

A properties for its officers and staff.

B The appellant has submitted before us a plan, marking the land in yellow which is necessary for it to enjoy the land and which needs to be exempted from acquisition. We find the request is genuine. We, therefore, direct the Parishad to submit, within three months from today, a proposal for the State Government to withdraw the proposed acquisition to the extent of 2.18 acres of land in plot Nos. 41/1 and 41/2 and instead acquire land of plot No. 41/4, shown in red in the plan, as offered by the Corporation. The State Government is directed to issue required notifications within a period of two months thereafter.

C The appeal is accordingly allowed. No costs.

T.N.A.

Appeal allowed.