

A Y. SATYANARAYAN REDDY

v.

MANDAL REVENUE OFFICER, A.P.
(Civil Appeal No. 2432 of 2002)

B AUGUST 28, 2009

[B.N. AGRAWAL, G. S. SINGHVI AND AFTAB ALAM, JJ.]

C *Andhra Pradesh Land Grabbing (Prohibition) Act, 1982*

– *Permission to land grabber to continue in possession of the*

D *land on payment of its market value – Held: Land grabber cannot be permitted to continue in illegal possession of the land on payment of compensation equal to its market value.*

E *Constitution of India, 1950 – Article 136 – Dismissal of*

F *SLP in limine – Does not amount to clear affirmation of High Court order.*

G *Precedent – Dismissal of SLP in limine – Does not constitute a binding precedent.*

H *Respondent-Officer filed an application before Land Grabbing Tribunal alleging that the appellant had grabbed a Government land. Appellant admitted that the land described in the application was Government land, but sought its assignment in his favour on the ground that the land, around it were owned by him. Tribunal directed the appellant to give possession of the land to the respondent-Officer. On appeal, Special Court remitted the matter to Tribunal to ascertain as to whether the land was required for any public purpose and what was the market value of the land. Tribunal ascertained the market value, but held that it could not be assigned to appellant as it might be required for some public purpose. On appeal against the order, Special Court held that the land would be assigned to the appellant as he is having lands,*

surrounding the land in question it was in his possession A
for a long time. He was held to be entitled to possession
on payment of market value of the land as compensation.
High Court set aside the order of Special Court holding
that neither Tribunal nor Special Court had the authority
to determine market value nor could they direct the
owner of the land, to receive such amount from land
grabber in lieu of his continued possession. They also
did not have the authority to determine as to whether the
land was required for public purpose. Hence the present
appeal. C

Dismissing the appeal, the Court

HELD: 1.1. The land in question undeniably belongs to the Government and the appellant has been held to be "land grabber" within the meaning of section 2(d) of A.P. Land Grabbing (Prohibition) Act, 1982. In view of the objects and reasons of the Act, it should not be open to the Tribunal or the Special Court constituted under it, to allow a 'land grabber' to continue in possession over the Government land on payment of its market value as compensation would amount to breaking open an escape-hatch to denude the Act of its very object and purpose. [Paras 13 and 15] [880-B; 881-C-D] E

1.2. From the plain and unambiguous language of Section 8(7) of the Act, it is impossible to deduce that it empowers and authorises the Tribunal or the Special Court to allow the 'land grabber' to continue in his/her illegal possession of the land on payment of its market value to the land owner. The compensation envisaged by the provision is not for continued illegal possession in future, but for wrongful possession of the grabbed land by the "land grabber" in the past. In case compensation is awarded it would be recoverable, along with the cost of re-delivery, as arrears of land revenue in case the owner of the land is the Government. [Para 17] [882-B-C] H

- A 1.3. The wrong notion that the Special Courts have the power and authority to decline restoration of possession of the grabbed land in favour of its owner and in lieu of restoration of possession direct the 'land grabber' to make payment of compensation equal to its market value has its roots in an earlier judgment of the High Court, i.e. *C.P. Roy's case**. In the case of CP Roy, the High Court completely misread Section 8(7) and gave it a meaning completely opposite to what is said in it. [Para 22] [884-F]
- C *C.P. Roy vs. Special Court, under A.P. Land Grabbing Act and Anr., 2000(3) ALD 766 (D.B.),* disapproved.
- 2. Even though Special Leave Petitions from the High Court judgment in CP Roy and two other Special Leave Petitions were also similarly dismissed by this Court, the same were dismissed *in limine*. In one of the cases though the SLP was dismissed *in limine*, the question of law was kept open. It is well-settled that the dismissal of a Special Leave Petition *in limine* does not amount to a clear affirmation of the High Court decisions and it does not constitute any binding precedent. [Para 24 and 25] [885-B-E]
- F *Workmen vs. Board of Trustees of the Cochin Port Trust, (1978) 3 SCC 119; Indian Oil Corporation Ltd. vs. State of Bihar (1986) 4 SCC 146; Supreme Court Employees' Welfare Association vs. Union of India, (1989) 4 SCC 187; CIT vs. Shree Manjunatheaware Packing Products and Camphor Works, (1998) 1 SCC 598; P. Nallammal and Anr. Vs. State, (1999) 6 SCC 559; UP State Road Transport Corporation vs. Omaditya Verma and Ors. (2005) 4 SCC 424,* relied on.
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Case Law Reference:

2000 (3) ALD 766 (D.B.) disapproved. Para 21

(1978) 3 SCC 119	relied on	Para 25	A
(1986) 4 SCC 146	relied on	Para 25	
(1989) 4 SCC 187	relied on	Para 25	
(1998) 1 SCC 598	relied on	Para 25	B
(1999) 6 SCC 559	relied on	Para 25	
(2005) 4 SCC 424	relied on	Para 25	

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2432 of 2002.

From the Judgment & Order dated 29.6.2001 of the High Court of Andhr Pradesh at Hyderabad in W.P. No. 21506 of 1997.

D. Bharathi Reddy, D. Ramakrishna Reddy for the Appellant.

I. Venkatanarayanan, Manoj Saxena, T.V. George for the Respondent.

E The Judgment of the Court was delivered by

F AFTAB ALAM, J. 1. This appeal arises from a proceeding under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (hereinafter referred to as 'the Act'), and the appellant seeks to challenge the order passed by the Andhra Pradesh High Court setting aside the order of the Special Court holding the appellant entitled to continue in possession over the government land under his unauthorised occupation on payment of Rs.15,50,000/- (being the market value of the land, determined by the Court, as on the date of the order), as compensation, within 2 months from the date of its order.

G 2. What perhaps led to the grant of leave for this appeal and what obliges us to dispose it of by writing a proper judgment is an earlier decision by the Andhra Pradesh High Court that

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A took a view contrary to the view taken in the present judgment and order coming under appeal. Otherwise, the matter does not seem to merit much consideration by this Court.

3. The Mandal Revenue Officer, Saroornagar Mandal,

B District Ranga Reddy (Respondent in this appeal) filed an application (LGOP No. 317 of 1988) before the Land Grabbing Tribunal-cum-District Judge, Ranga Reddy stating that the appellant had unauthorisedly encroached upon 1 Acre and 21 Guntas of Government land in Sy.No.86 of village Lingojiguda

C at Saroornagar Mandal. It was further stated that the land in question was covered by G.O.Ms. No.1122 dated 21/6/1961 and the land in the Lingojiguda village was mentioned at Serial No.16 in Annexure 4 of 'list of villages' falling under Urban spread area where assignment is totally prohibited under G.O.Ms. No.1409 dated 19/8/1978. It was also stated that the

D land in question was meant for public purpose. The respondent made the prayer before the Tribunal to declare the appellant as "land grabber" and direct his eviction.

4. The appellant filed his counter in which he admitted that

E the land forming the subject-matter of the proceeding was Government land. He, however, took the plea that the land in question was surrounded from all sides by his land and he was, therefore, eligible to seek assignment of the area under his occupation in terms of G.O.Ms. No.1406 dated 25/7/1958. He

F further stated that in regard to that piece of land he had instituted a suit for declaration of title and perpetual injunction which was pending adjudication.

5. In the first round the Tribunal found and held that the land forming the subject-matter of the proceeding was in fact

G Government land and the appellant was in its unauthorised occupation. It, accordingly, directed the appellant to hand over possession of the land to the respondent. In appeal, however, the Special Court remanded the matter to the Tribunal asking it to consider whether or not, the disputed land was required

H for any public purpose. Further, in case it was not required for

any public purpose what would be its market value, on the date of the order, having regard to the nature of its use? A

6. In the second round the Tribunal, by its order dated 6 March, 1996, found and held that the land forming the subject-matter of the proceeding could be used for providing house sites to weaker sections and it was, therefore, required for public purpose. It further observed that allowing the appellant to continue in possession of the disputed land on payment of compensation would defeat the purpose of providing house sites to the weaker sections. However, as required by the Special Court, the Tribunal proceeded to determine the market value of the land and fixed its value, as on the date of the order, at Rs.10 lakhs per Acre. In light of its findings, the Tribunal held that the disputed land could not be assigned to the appellant who was a "land grabber" and he was liable to hand over possession of the disputed land to the respondent. Hence, the Tribunal once again allowed the petition filed by the respondent and directed the appellant to hand over possession of the land to the Government authorities within two months from the date of the order failing which the Mandal Land Revenue Officer would be free to take possession of the disputed land. E

7. In appeal, the Special Court upheld the finding that the disputed land was Government property. It however, did not agree with the Tribunal that the land was required for any public purpose. The Special Court then stated the premise that it was open to the Court to deny restoration of possession of the grabbed land to its owner (in this case the State Government) and in lieu of possession levy compensation on the "land grabber", in case it was satisfied that the grabbed land was not required for any public purpose. The Special Court observed that the appellant was having his lands almost around the land in question and though he had not acquired title by adverse possession, it had been in his possession for a long time. The land forming the subject-matter of the proceeding was required by the appellant for the beneficial enjoyment of his other H

A properties, Sy. Nos.84, 85, 87 and 88. Accordingly, the Special Court allowed the appellant's appeal vide order dated 24 September, 1996 and gave the following direction:

B "Accordingly, in the event of the appellant depositing the sum of Rs.15,50,000/- within two months from today in this Special Court, the appellant is entitled to continue in possession of the same failing which the concerned Revenue Divisional Officer is directed to take delivery of the schedule land and intimate compliance to this Special Court. Accordingly, the appeal is ordered. No costs."

C 8. The Mandal Revenue Officer challenged the order of the Special Court before the Andhra Pradesh High Court in W.P. No. 21506 of 1997.

D 9. A division bench of the High Court, hearing the writ petition, framed the following two issues for consideration, arising in light of the rival contentions:

E 1. Whether the Land Grabbing Tribunal or the Special Court constituted under the A.P. Land Grabbing (Prohibition) Act, is empowered to determine the market value of the grabbed land and direct the complainant before it to receive such market value from the land grabber in lieu of the grabbed land?

F 2. Whether the Land Grabbing Tribunal or the Special Court has the power to examine the question as to whether a particular grabbed land is required for public purpose or not?

G 10. On a detailed consideration of the different provisions of the Act, the High Court answered the first issue as follows:

H "Having regard to our above discussion, we have no hesitation to hold that the Land Grabbing Tribunal or the Special Court constituted under the provisions of the Act except having the competency of determining the

compensation to be paid to the land owner by the land grabber for wrongful possession, has no power or authority to determine the market value of the grabbed land and direct the land owner to receive such market value from the land grabber in lieu of the grabbed land to be retained by the land grabber." A B

It answered the second issue as follows:

"Neither the scheme of the A.P. Land Grabbing (Prohibition) Act, 1982 nor the provisions contemplated thereunder, empower the Land Grabbing Tribunals or Special Court, to go into the question as to whether a particular land is required for public purpose or not, which domain is exclusively vested with the competent Government" C

11. We have carefully gone through the High Court judgment coming under appeal and we find no infirmity in it. On the contrary we are in full agreement with the view taken by the High Court. D

12. The counsel for the appellant, however, submitted that the Tribunal and the Special Court were fully competent to hold, in an appropriate case, that the "land grabber" could remain in possession of the land on payment of its market value as compensation. In other words, the Tribunal or the Special Court could ask the Government to accept the market value of the grabbed land as compensation instead of restoring the Government's possession over the grabbed land. The learned counsel contended that the view taken by the High Court that the Tribunal or the Special Court did not have the power or authority to determine the market value of the grabbed land and direct the land owner to accept the value of the grabbed land as compensation in lieu of restoration of possession was contrary to law. In support of the contention, apart from an earlier judgment of the High Court (which was not cited before the Bench hearing the present matter!), he relied upon section E F G H

A 8(7) and certain guidelines framed under section 17-B and put in the schedule to the Act.

B 13. Before proceeding to examine the provisions referred to by the learned counsel, we may note that the land in question undeniably belongs to the Government and the appellant has been held to be "land grabber" within the meaning of section 2(d) of the Act.

C 14. The Act has a 'Statement of Objects and Reasons' that spells out in detail the necessity for the enactment. It will be useful to reproduce it here in full:

"An Act to prohibit the activity of land grabbing in the State of Andhra Pradesh and to provide for matters connected therewith.

D Whereas there are organised attempts on the part of certain lawless persons operating individually and in groups, to grab, either by force or by deceit or otherwise, lands (whether belonging to the Government, a local authority, a religious or charitable institution or endowment, including a wakf, or any other private persons) who are known as "land grabbers"

E And whereas such land grabbers are forming bogus co-operative housing societies or setting up fictitious claims and indulging in large scale and unprecedented and fraudulent sales and lands belonging to the Government, a local authority, a religious or charitable institution or endowment including a wakf, or private persons, through unscrupulous real estate dealers or otherwise in favour of certain sections of the people resulting in large accumulation of unaccounted wealth and quick money to land grabbers;

F And whereas, having regard to the resources and influence of the persons by whom, the large scale on which and the manner in which, the unlawful activity of land

grabbing was, has been or is being organised and carried on in violation by law by them, as land grabbers in the State of Andhra Pradesh, and particularly in its urban areas, it is necessary to arrest and curb immediately such unlawful activity of land grabbing;

And whereas public order is adversely affected by such unlawful activity of land grabbers."

15. In view of the afore-stated objects and reasons of the Act, to contend that it should be open to the Tribunal or the Special Court constituted under it to allow a "land grabber" to continue in possession over the Government land on payment of its market value as compensation would amount to breaking open an escape-hatch to denude the Act of its very object and purpose.

16. Bearing this in mind let us examine the provisions of Section 8(7) of the Act, relied upon by the appellant. Section 8 deals with the procedure and power of Special Courts and its sub-section (7) reads as follows:

"(7) It shall be lawful for the Special Court to pass such order as it may deem fit to advance the cause of justice. It may award compensation in terms for wrongful possession of the land grabbed which shall not be less than an amount equivalent to the market value of the land grabbed as on the date of the order and profits accrued from the land payable by the land grabber to the owner of the grabbed land and may direct re-delivery of the grabbed land to its rightful owner. The amount of compensation and profits, so awarded and cost of re-delivery, if any, shall be recovered as an arrear of land revenue in case the Government is the owner, or the decree of a Civil Court, in any other case to be executed by the Special Court:

Provided that the Special Court shall, before passing an order under this sub-section, give to the land grabber

A an opportunity of making his representation or of adducing evidence, if any, in this regard, and consider every such representation and evidence."

B 17. From the plain and unambiguous language of the sub-section it is impossible to deduce that it empowers and authorises the Tribunal or the Special Court to allow the "land grabber" to continue in his/her illegal possession of the land on payment of its market value to the land owner. The compensation envisaged by the provision is not for continued illegal possession in future, but for wrongful possession of the grabbed land by the "land grabber" in the past. In case compensation is awarded it would be recoverable, along with the cost of re-delivery, as arrears of land revenue in case the owner of the land is the Government.

C D 18. To us the meaning of the section 8(7) is quite clear and we find that the provision is capable of only one meaning. But the counsel for the appellant submitted the opening sentence of the sub-section, "It shall be lawful for the Special Court to pass such order as it may deem fit to advance the cause of justice" made the meaning of the provision quite vague and its correct meaning was required to be understood with reference to the guidelines in the Schedule to the Act. In this regard he referred to section 17-B that reads as under:

E F "17-B. *Guidelines for interpretation of Act*:- The Schedule shall constitute the guidelines for the interpretation and implementation of the Act."

G 19. He then took us to the Schedule and placed before us a passage from clause 5 reading as under:

H "... In order to advance the cause of justice, the Special Tribunal is empowered to mould the relief. It can award not only compensation in terms of money but also award profits accrued from the land and direct restoration of land to the rightful owner. In case compensation and

profits are awarded to the Government, in order to ensure quick recovery the provisions of Revenue Recovery Act are made applicable..." A

20. We are completely unable to see how the above passage can support the contention being advanced on behalf of the appellant. It is clear to us that the above passage says something quite opposite to what is contended by the appellant. The learned counsel laid stress on the opening sentence of the guideline, according to which the Tribunal was "empowered to mould the relief". The sentence is not to be read in isolation, but along with what follows it and in light of the provisions of the Act as contained in section 8(7) that is already noted above. B

21. It appears that this patently wrong notion that the Special Courts have the power and authority to decline restoration of possession of the grabbed land in favour of its owner and in lieu of restoration of possession direct the "land grabber" to make payment of compensation equal to its market value has its roots in an earlier judgment of the High Court, on which great reliance was placed by the appellant, in *C.P. Roy vs. Special Court, under A.P. Land Grabbing Act and Anr.*, 2000 (3) ALD 766 (D.B.). In that case a Division Bench of the High Court, in paragraph 56 of the judgment, made the following observation. C

"56. Section 8 of sub-section 7 of the Land Grabbing Act give powers to the Special Court that in case where it is found that the land has been grabbed, in order to see justice is done, can call upon the grabber to *compensate the State by paying the market price and also damages in lieu of handing over possession*. But before fixing the market value, an opportunity shall be given to the person aggrieved to make a representation or adducing evidence to determine the correct value. The said section is extracted herein: D

"It shall be lawful for the special court to pass such orders E

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- A as it may deem fit to advance the cause of justice. It may award compensation in terms *for wrongful possession* of the land grabbed which shall not be less than an amount equivalent to the market value of the land grabbed as on the date of the order and profits accrued from the land
- B payable by the land grabber to the owner of the grabbed land and may direct re-delivery of the grabbed land to its rightful owner. The amount of compensation and profits, so awarded and cost of re-delivery, if any, shall be recovered as an arrear of land revenue in case the Government is the owner, or the decree of a Civil Court, in any other case to be executed by the Special Court:

Proviso to sub-section 7 of Section 8 reads as follows:

- D "Provided that the special court shall before passing an order under this sub-section, give to the land grabber an opportunity of making his representation or of adducing evidence, if any, in this regard, and consider such representation and evidence." "

E (emphasis added)

- F 22. From the portion of the High Court judgment highlighted above, it is clear that the High Court substituted the words "for wrongful possession", as appearing in section 8(7) for "in lieu of handing over possession" of the lands grabbed and thereby gave a meaning that is exactly opposite to what is envisaged under the section. We have no hesitation in holding that, in the case of *CP Roy*, the High Court completely misread section 8(7) and gave it a meaning completely opposite to what is said in it.

- G 23. Learned counsel submitted that Special Leave Petitions from the High Court judgment in *CP Roy* [SLP (C) Nos. 4397-4400 of 2000] were filed before this Court but those were all dismissed. He produced before us a copy of the order dated 9/2/2001 from which it appears that the Special Leave

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Petitions were dismissed *in limine*. The order reads as follows: A

"We do not find any justifiable reason to entertain these petitions. The Special Leave Petitions are, therefore, dismissed"

24. The counsel submitted that two other Special Leave Petitions were also similarly dismissed by this Court and produced copies of two other orders before us. In one of the orders dated 26/3/99 in SLP (C) Nos. 4567-4568/97, though the SLP was dismissed *in limine*, the question of law was kept open. B

25. It is well-settled that the dismissal of a Special Leave Petition *in limine* does not amount to a clear affirmation of the High Court decision and it does not constitute any binding precedent. (See : *Workmen vs. Board of Trustees of the Cochin Port Trust*, (1978) 3 SCC 119; *Indian Oil Corporation Ltd. vs. State of Bihar*, (1986) 4 SCC 146; *Supreme Court Employees' Welfare Association vs. Union of India*, (1989) 4 SCC 187; *CIT vs. Shree Manjunathaware Packing Products & Camphor Works*, (1998) 1 SCC 598; *P. Nallammal & Anr. vs. State*, (1999) 6 SCC 559; *UP State Road Transport Corporation vs. Omaditya Verma & Ors.*, (2005) 4 SCC 424) C

26. In light of the discussions made above, we find no merit in the appeal, it is, accordingly, dismissed, but with no order as to costs. D

K.K.T. E

Appeal dismissed. F