

Ramappa and ors. Vs. State of Karnataka and ors.

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Court : Karnataka

Decided On : Sep-06-2005

Reported in : 2005(6)KarLJ189

Judge : S.R. Nayak and ;C.R. Kumaraswamy, JJ.

Acts : [Land Acquisition Act, 1894](#) - Sections 3, 17 and 17(4); [Societies Registration Act, 1860](#)

Appeal No. : Writ Appeal No. 2994 of 2005

Appellant : Ramappa and ors.

Respondent : State of Karnataka and ors.

Advocate for Def. : B. Veerappa, Govt. Adv.

Advocate for Pet/Ap. : Basavaraj Godachi, Adv.

Disposition : Appeal dismissed

Judgement :

S.R. Nayak, J.

1. The writ petitioners being aggrieved by the order of the learned Single Judge dated 23rd June, 2005 passed in W.P. No. 43345 of 2002 have preferred this writ appeal. In the writ petition, the land acquisition proceedings were assailed. The

two grounds urged before the learned Single Judge while assailing the validity of the land acquisition proceedings were the following.--

(i) the purpose for which the land is sought to be acquired is not a 'public purpose'; and

(ii) that there was no warrant or urgency to invoke the urgency clause under Section 17 of the [Land Acquisition Act, 1894](#) (for short, 'the Act').

The learned Single Judge having not found merit in either of the two contentions has dismissed the writ petition by the order under appeal.

2. We have heard the learned Counsel for the appellants.

3. The learned Counsel for the appellants would reiterate the above two contentions which were urged before the Single Judge, before us also. A Division Bench of this Court in *Rajendrababu and Anr. v. State of Karnataka and Ors.* 1992(1) Kar. L.J. 542 (DB): ILR 1992 Kar. 13 (DB), dealing with the meaning of the term public purpose has opined that the definition of the term 'public purpose' is inclusive definition, it is illustrative and not exhaustive and takes in other purposes also for public benefit. The Court has also opined that great discretion and elasticity vested in the State Government in the matter of invocation of its eminent domain power in acquiring the land for public purposes.

4. The term 'public purpose' is defined under Section 3(f) of the Act. It reads as follows.--

'(f) the expression 'public purpose' includes--

(i) the provision of village-sites, or the extension, planned development or improvement of existing village sites;

(ii) the provision of land for town or rural planning;

(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of

securing further development as planned;

(iv) the provision of land for a corporation owned or controlled by the State;

(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;

(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government, or by any authority established by Government for carrying out any such scheme, or with the prior approval of the appropriate Government, by a local authority, or a society registered under the [Societies Registration Act, 1860](#), or under any corresponding law for the time being in force in a State, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State;

(vii) the provision of land for any other scheme of development sponsored by Government, or, with the prior approval of the appropriate Government, by a local authority;

(viii) the provision of any premises or building for locating a public office,

but does not include acquisition of land for companies'.

5. If we understand the definition of the term 'public purpose' keeping in mind what the Division Bench of this Court has observed in the case of *Rajendrababu*, referred to *supra*, in the back drop, by no stretch of imagination it could be said that the purpose for which the land is sought to be acquired is not a public purpose. It is needless to state that if the disposal of the corpses is not effectively and hygienically done, it would threaten the health of the community. In modern age, particularly in urban areas, the disposal of the dead assumes significance and importance and it has a direct impact on the health of the community. Therefore, the proposal to acquire the land for burial ground, it cannot be said, is not for the public purpose.

6. This takes us to the next contention of the learned Counsel for the appellant that there was no warrant or urgency for the State to invoke urgency clause under Section 17 of the Act. The Supreme Court in the case of Union of India and Ors. v. Praveen Gupta and Ors. : AIR 1997 SC170 , has opined that the decision of the State with regard to urgency is an administrative decision and is a matter of subjective satisfaction and that satisfaction could not lightly be interfered with by the Court. Further, the Supreme Court in Chameli Singh and Ors. v. State of Uttar Pradesh and Anr. : AIR 1996 SC1051 , dealing with urgency clause in Section 17 of the Act has opined that the opinion formed by the State Government with regard to invocation of urgency clause under Section 17 of the Act is entitled to great weight and consideration unless vitiated by mala fide or colourful exercise of power. If the State wants to acquire the subject land for establishing a burial ground to meet the exigency, it could not be said that there was no warrant or urgency to invoke urgency clause enacted in Sub-section (4) of Section 17 of the Act. Therefore, the second contention urged by the learned Counsel is not acceptable to us.

In the result, the writ appeal fails and it is accordingly dismissed. No costs.

Learned Government Advocate is permitted to file memo of appearance within four weeks.