

Thomas John and ors. Vs. Revenue Divisional Officer, Chengannur and ors.

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SooperKanoon Citation : sooperkanoon.com/719554

Court : Kerala

Decided On : Apr-10-1984

Reported in : AIR1984Ker239

Judge : K. Bhaskaran, Ag. C.J. and; M.P. Menon, J.

Acts : [Land Acquisition Act, 1894](#) - Sections 4 and 6

Appeal No. : W.A. No. 155 of 1984

Appellant : Thomas John and ors.

Respondent : Revenue Divisional Officer, Chengannur and ors.

Advocate for Pet/Ap. : H. Sivaramakrishna Iyer and; Elizabeth Mathai Idiculla, Advs.

Disposition : Appeal dismissed

Judgement :

Bhaskaran, Ag. C.J.

1. This writ appeal is directed against the judgment dated 11-1-1984 in Order P. No. 273 of 1984-L. The writ petition was for the issue of a writ of certiorari for quashing the proceedings for the acquisition of 7 cents of land mentioned in the writ petition. There is also a prayer in the writ petition not to evict the petitioners from the land in question. The learned Judge in the judgment under appeal found

that the petitioners did not question the bona fide character of the acquisition, but only wanted that their land should not be acquired and some other land which according to them is more suitable should be acquired. What the counsel for the appellants submitted before us is that it is actually the landlord under whom the petitioners are tenants in shop building who is behind the acquisition and therefore land acquisition proceedings are vitiated by mala fides. We find it difficult to agree with this reasoning advanced by the counsel for the appellants. Mala fides of the land acquisition authorities has to be clearly distinguished from the alleged mala fides of the land owner or the landlord.

2. The counsel also relied on the decision of the Supreme Court in *State of Punjab v. Gurdial Singh*, AIR 1980 SC 319. That was a case where a particular plot was chosen to be acquired for a public purpose way back in 1962. In 1971, the Government under the pressure of an M.L.A. sought to acquire the land of the respondents before the Supreme Court. There, on the facts and circumstances of the case, Krishna Iyer, J., who spoke for the Bench, observed :

'By these canons, it is easy to hold that where one of the requisites of Section 4 or Section 6, viz., that the particular land is needed for the public purpose in view, is shown to be not the goal pursued but the private satisfaction of wreaking vengeance if the moving consideration in the selection of the land is an extraneous one, the law is derailed and the exercise is bad.'

In this case, the appellants-petitioners have no case that what was chosen originally has been given up and a new site has been sought to be acquired yielding to the pressure of an influential person; this decision, therefore, is clearly not applicable.

The result is that the writ appeal is dismissed in limine.