

SUBHASHGIR KHUSHALGIR GOSAVI AND ORS.

v.

SPECIAL LAND ACQUISITION OFFICER AND ORS.

MARCH 18, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Land Acquisition Act, 1894 : Section 4(1).*

*Land Acquisition—Notification—Validity of.*

*Maharashtra State—Land situated in area reserved for residential purpose—Acquisition for extension of bus stand and depot—Writ—Challenge to acquisition—Dismissal by High Court—Interference by Supreme Court held not called for—Acquisition of land being in public interest exercise of power by State held not arbitrary—Contention that acquisition is not in public interest because of congestion—Rejection of.*

*Maharashtra Regional Town Planning Act, 1966 : Section 54 Land acquisition—Change of use—Notification for.*

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5192 of 1996.

From the Judgment and Order dated 7.11.94 of the Bombay High Court in W.P. No. 4190 of 1994.

U.R. Lalit and Uday U. Lalit for the Appellant.

R.S. Hegde, K.R. Nagaraja, A.M. Khanwilkar, R.B. Masodkar and D.M. Nargolkar for the Respondents.

The following Order of the Court was delivered :

Leave granted. Heard both the parties.

This appeal by special leave arises from the order made on November 7, 1994 in W.P. No. 4190 of 1994 by the Division Bench of the Bombay High Court dismissing the writ petition *in limine*. It related to the challenge to the notification issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') acquiring the land in question for extension of S.T. Bus stand and depot in Pandharpur in Maharashtra State. It is no doubt true Pandhar-

pur is one of the ancient and renowned temple town of Lord Vithoba to which all the devotees from several parts of the States, in particular of Karnataka, Andhra Pradesh and Maharashtra congregate particularly in Ashadhamas. It is the case of the appellant that due to traffic congestion it would not be feasible to extend the existing S.T. Bus stand and the depot in the congested area which gets reflected from the orders passed by the municipality, the recommendation made by the District Collector and also the resolutions passed by the municipality in that behalf. It is also the case of the appellant that under Section 54 of the Maharashtra Regional Town Planning Act, 1966 unless the user is changed by proper notification, the land which is reserved for residential purpose cannot be used for commercial purpose. Therefore, the acquisition in question is bad in law.

The only question is : whether the impugned notification is bad in law ? Extension of the bus stand obviously is a public purpose and, therefore, it *per se* cannot be said to be bad in law. It is true as pointed out by the Collector and the representation dated August 8, 1986 made in that behalf by some people that there is congestion and acquisition is not in public interest. But it is for the Government to take a decision and it is not for the Court to decide as to which place is more convenient. Since the Government has taken a decision that acquiring the land for extension of the bus stand and bus depot is in the public interest, it cannot be said that the exercise of the power is arbitrary.

It is contended by Shri U.R. Lalit, learned senior counsel that when large congregation of lakhs of people come thronging the temple town of Lord Vithoba, instead of relieving the congestion by shifting the existing bus stand bus depot to some place in the out-skirts of city, extension itself will add to the congregation. Though the argument may be plausible and attractive, we cannot go into that question. It is for the Government to take a decision and it is not for this Court to give any finding in that behalf. The Government did take contra decision. It is equally true that the area was reserved for residential purpose. It is not the case that they are establishing the bus stand in the residential area for the first time. In fact bus stand is already existing and acquisition was only for extension of the existing bus stand. Under these circumstances, we do not find that there is any justification warranting interference.

The appeal is accordingly dismissed. No costs.

Appeal dismissed.