

DAYA RAM
v.
RAGHUNATH & ORS.

JUNE 15, 2007

[DR. ARIJIT PASAYAT AND S.H. KAPADIA, JJ.]

U.P. Zamindari Abolition Act, 1950—s. 198(4)—Land allotted by Government—Allotment challenged—Allotment cancelled and cancellation approved by revisional authority—Writ Petition challenging cancellation allowed without indicating any reasons—On appeal, held : Absence of reasons rendered the judgment of High Court not sustainable—Hence, matter remitted to High Court for fresh consideration—Land Laws and Agricultural Tenancy.

Judgment—Reasons—Requirement of—In the judgment/order—Held : Reasons introduce clarity in an order—They substitute subjectivity by objectivity—It is an indispensable part of sound judicial system—One of the salutary requirements of natural justice in spelling out reasons—Principles of Natural Justice.

Respondent No.1 was allotted the plot in dispute by Sub-Divisional Magistrate. Appellant (a co-villager) filed a complaint u/s 198(4) of U.P. Zamindari Abolition Act, 1950 on the grounds that the land was earlier used as a passage to a temple; that respondent No.1 was not a landless person and that the procedure prescribed for allotment was not followed and thus the allotment was illegal. Collector cancelled the allotment on the ground that due procedure for allotment was now followed. A revision petition against the order of Collector was dismissed. Writ Petition was allowed by Single Judge of High Court by a non-reasoned order. Hence the present appeal.

Partly allowing the appeal and remitting the matter back to High Court, the Court

HELD : 1. Single Judge of High Court has not indicated any basis for interfering with the orders of the Collector and the Commissioner. The only reason appears to be by reference to the Annex. SA5 filed along with the supplementary affidavit, which shows that the plot does not connect in any manner the road which goes to the Mandir, rather it is on the backside of the

A road. The basic question was about the eligibility of the respondent no.1 for allotment of the land. The specific stand before the authority was that respondent no.1 was not a landless person and, therefore, he was not entitled to be allotted any land. There is no reference to this aspect in the order.

[Paras 6 and 7] [1041-H; 1042-A-B]

B 2.1. Reasons introduce clarity in an order. Plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court's judgment not sustainable. [Para 8] [1042-C]

C *Breen v. Amalgamated Engineering Union, (1971) 1 All E. R. 1148 and Alexander Machinery (Dudley) Ltd. v. Crabtree, (1974) LCR 120, referred to.*

D 2.2. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reasons is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance.

[Para 9] [1042-D-G]

F CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2900 of 2007.

From the Final Judgment and Order dated 11.09.2003 of the High Court of Judicature at Allahabad, U.P. in W.P. 1004 of 2003.

Sanjay Mani Tripathi, Abhay Mani Kamal Kant Tripathy and Rameshwar Prasad Goyal for the Appellant.

G Shrish Kumar Misra, Anish Kumar Gupta, Deep Shikha Bharati and Rita Gupta for the Respondents.

The Judgment of the Court was delivered by

H DR. ARIJIT PASAYAT, J. 1. Leave granted.

2. Challenge in this appeal is to the order passed by learned Single Judge of the Allahabad High Court allowing the writ petition filed by respondent no.1. A

3. Background facts as projected by the appellant are as follows:

On 16.9.1983 the Sub-Divisional Magistrate, Maharajganj allotted the disputed plot No.1734 bearing area of 0.053 hectare in the name of respondent no.1. The appellant, a co-villager, noticed that the land was earlier being used as a passage to Kali Mandir and that respondent no.1 was not entitled to be allotted any land by the Government. The procedure prescribed for allotment of land was not followed. As respondent no.1 was not a landless person, the allotment in his favour was illegal. Appellant filed a petition before the District Magistrate, Maharajganj under Section 198(4) of the U.P. Zamindari Abolition Act, 1950 (in short the 'Act'). The District Magistrate on receiving the complaint called for the allotment file and on examination found that due procedure was not adopted and was done clandestinely. By order dated 7.11.2002, the Collector cancelled the allotment and further directed that the land be taken over by the Gaon Sabha. Aggrieved by the said order respondent no.1 had filed a revision petition before the Commissioner, Gorakhpur, in which the respondent no.1 took the plea that order passed by the Collector, Maharajganj, is illegal as there was no report called from the Lekhpal and no spot inspection was done. The Commissioner dismissed the revision petition on the ground that the same was not maintainable. In January 2003, the respondent no.1 filed a writ petition No.1004/2003 before the High Court. The primary stand taken was that there was delay in filing the application under Section 198 (4) of the Act by the appellant. Initially the High Court issued notice. Appellant filed his counter-affidavit. Learned Single Judge by order dated 11.9.2003 by a practically non-reasoned order allowed the writ petition. The said order is the subject-matter of challenge. B C D E F

4. In support of the appeal, learned counsel for the appellant submitted that since the order is non-reasoned and no discussion has been made as to why the orders passed by the Collector and the Commissioner were to be interfered with, the order cannot be maintained. G

5. Learned counsel for the respondent no.1 on the other hand submitted that the order does not suffer from any infirmity.

6. We find that the learned Single Judge has not indicated any basis for interfering with the orders of the Collector and the Commissioner. The only H

A reason appears to be by reference to the Annexure SA5 filed along with the supplementary affidavit, which shows that the plot bearing no.735 does not connect in any manner the road which goes to the Kali Mandir, rather it is on the backside of the road.

B 7. The basic question was about the eligibility of the respondent no.1 for allotment of the land. The specific stand before the authority was that respondent no.1 was not a landless person and, therefore, he was not entitled to be allotted any land. There is no reference to this aspect in the order.

C 8. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court's judgment not sustainable.

D 9. Even in respect of administrative orders Lord Denning M.R. in *Breen v. Amalgamated Engineering Union*, (1971) 1 All E.R. 1148 observed "The giving of reasons is one of the fundamentals of good administration". In *Alexander Machinery (Dudley) Ltd. v. Crabtree*, (1974) LCR 120 it was observed: "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reasons is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance.

G 10. Above being the position, we set aside the impugned order of the High Court, remit the matter to it for fresh disposal. We make it clear that we have not expressed any opinion on the merits of the case. The appeal is allowed to the aforesaid extent with no order as to costs.

H K.K.T.

Appeal partly allowed.