

PETITIONER:
SHAZIABAD SHEROMANI SAHKARI AVAS SAMITILIMITED & ANR. ETC.

Vs.

RESPONDENT:
STATE OF U.P. & ORS. ETC.

DATE OF JUDGMENT 31/01/1990

BENCH:
MISRA RANGNATH
BENCH:
MISRA RANGNATH
SAWANT, P.B.
RAMASWAMY, K.

CITATION:
1990 AIR 645 1990 SCR (1) 203
1990 SCC (1) 583 JT 1990 (1) 128
1990 SCALE (1) 151

ACT:

Land Acquisition Act, 1894: ss.4(1) & 17(1)--Land acquired by cooperative housing societies prior to notification in favour of Ghaziabad Development Authority--Validity of.

HEADNOTE:

The appellant cooperative societies consisting of 1739 low paid Government servants had acquired certain land in Ghaziabad for the purpose of providing residential accommodation to their members. Subsequently, the said land was notified for acquisition under ss. 4(1) and 7(1) of the Land Acquisition Act for the Ghaziabad Development Authority. Representations made by the appellants under s. 5A of the Act were rejected.

In the writ petitions, filed under Article 226 of the Constitution, it was contended for the appellant societies that the Development Authority constituted by the State for the same purpose should not have been permitted to acquire the said land to their prejudice, and that there was no justification for depriving them of their right to representation under s. 5A of the Act. The High Court dismissed the writ petitions.

Allowing the appeals by special leave, the Court,

HELD: 1. The members of the appellant societies should not be denied residential accommodation for which they had taken effective steps before the acquisition for the Ghaziabad Development Authority was notified. [205G]

2.1 Keeping in view the number of eligible members, the total area which they had acquired and entrusted to the societies for construction, the capacity of the members to pay for the construction now charged by the Development Authority, the need for planned development of the area and all other relevant facts, it would be sufficient if each one of them was provided with an area of 80 sq. yards. [205G-H; 206A]
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2.2 High rise construction for the poor sections of the society would not be convenient. If the double storey construction with an area of 80 sq. yards is adopted about 20

acres of land, inclusive of land for laying of the roads and other requirements contemplated under the development scheme, would be necessary. For convenience and adjustment two more acres of land shall be made available to the societies to be shared by amicable adjustment by them. Thus, from the acquisition notification 22 acres of land shall stand deleted and shall be released in accordance with the extent indicated for each of the societies. The identification of the land to be so released shall be made within four weeks from the date of pronouncement of the order by mutual arrangements. The order of release bearing appropriate description to follow and sketch maps to be signed by the parties. [206D; 207C-E]

3. The development charges for sewerage, electricity, road connections and the like shall be provided to the Development Authority at the rate of Rs.100 per sq. yard and internal development shall be done by the societies themselves. In raising the construction, the bye-laws and regulations of the Development Authority shall be strictly followed, (207G)

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 992997 of 1990.

From the Judgment and Order dated 30.8. 1988 of the Allahabad High Court in W.P. Nos. 12572 of 1984. 6512/85, 12574/84, 17966/180. 12152,84 and 12159 of 1984.

K.K. Venugopal, S.N. Misra, Rajinder Sachhar, Soli J. Sorabjee, V.M. Tarkunde, S.S. Ray, O.P. Rana, Govind Mukhoti, P.C. Kapur, B.P. Sahu, P.N. Misra, Krishna Pd., B.P. Singh, A.K. Goel. J.M. Khanna, Ms. Shafali Khanna, S. Markandeya, Ashok Sharma, G.S. Gift Rao, Mrs. C. Markandeya, W.A. Nomani, G. Seshagiri, S.K. Mehta, Aman Vachher, Atul Nanda, N.D. Tyagi, Raju Ramachandran, D. Pillai, Raja Ram Agarwal, Sanjay Parekh, S.N. Mira and A.K. Goel for the appearing parties.

The Judgment of the Court was delivered by

RANGANATH MISRA, J. We have heard counsel for the parties at considerable length but piece meal spread over a number of days. Special Leave granted
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Five cooperative societies with membership of Government servants mostly of the lower strata filed six separate writ petitions before the Allahabad High Court challenging the Notification under section 4(1) and section 17(1) of the Land Acquisition Act (1 of 1894) on several grounds. The principal contentions before the High Court were two-fold: (1) the cooperative societies consisting of the low paid Government servants having acquired the land for the purpose of providing residential accommodation to their members, the Ghaziabad Development Authority constituted by the State of Uttar Pradesh for the same purpose should not have been permitted to acquire the said land to their prejudice; and (2) there was no justification for depriving the petitioners of their right to representation under section 5A of the Acquisition Act in the facts and circumstances of the case.

The High Court by a common judgment dated 30th August, 1988, dismissed the writ petitions by negating the several contentions raised on behalf of the petitioners. It may be pointed out that on behalf of the Neelam Sahakari Awas Samiti Ltd. two writ petitions were filed while each of the other four societies had filed one writ petition. That is how six Special Leave Petitions were filed before this Court

and have now been converted into appeals on grant of leave.

Ghaziabad, within the State of Uttar Pradesh, virtually bordering Delhi is located at a distance of 28 kilometers from the New Delhi Railway Station in the trans Jamuna area. It has of late become, apart from being a Railway junction, an industrial area as also an agglomeration sufficiently developed to call it a township. A Master Plan has been drawn up for the area and some portions have been developed while the lands of the five cooperative societies have not yet been improved on account of the pendency of this group of cases.

In course of the hearing of these appeals we were satisfied about the genuineness of the grievance advanced on behalf of the members through their respective cooperative societies and took the view that the members of the cooperative societies should not be denied residential accommodation for which they had taken effective steps before the acquisition for the Development authority was notified. We took into consideration the total number of members as also the number of eligible members; the total area which the members had acquired and entrusted to the cooperative societies for construction; the capacity of the members to pay for the construction now charged by the Development authority; the need of planned development of the area.; and all other relevant facts and circumstances placed by all the parties before

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us and formed the opinion that it would be sufficient to meet the requirement of members of these societies if each one of them was provided with a plot limited to an area of 80 square yards.

Total members entitled to allotment are 1739. Whether it should be individual plots or double storeyed construction should be permitted was seriously debated before us but we have come to the ultimate conclusion that instead of single storey construction double storey constructions would be convenient and economical. The interest of the members represented by their respective cooperative societies and the nature of the housing complex contemplated by the Development authority have to be kept in view and the ultimate decision, keeping the interest of both, has to be taken. Counsel for the Development authority had canvassed before us that instead of confining construction of flats to two storeys, the normal pattern of five or six storeys could be adopted. High-rise construction for the poor section of the society would not be convenient--in old age many would have movement problem; many of the necessities for living would be difficult to secure. We have, therefore, decided that the construction must be confined to two storeys only and the members of their respective societies shall make their own adjustment of the ground floor and 1st floor allotments. About 20 acres of land would be necessary if the double storey construction with an area of 80 square yards is adopted. Society-wise particulars are provided below:

S. No.	Name of cooperative society	Total members entitled to allotment	Area in acres
1.	Sarkari Karamchari Evam Mitregan Sahakari Awas Samiti Ltd.	230	2.54
2.	Kendriya Karamchari Evam Mitregan Sahakari Awas Samiti Ltd.	523	5.77
3.	Ghaziabad Shiromani Sahakari Awas Samiti Ltd.	298	3.29

4.	Neelain Sahakari Awas Samiti Ltd.	245	2.70
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5.	Asha Pushpa Vihar Sahakari Awas Samiti Ltd.	443	4.87
1739	19.17		
	Members entitled	1739	
	Total area	19.17 acres (rounded to 20 acres)	

This area of 20 acres is inclusive of land for laying of the roads and other requirements contemplated under the development scheme. For convenience and adjustment we are of the view that two more acres of land be made available to the five cooperative societies to be shared by amicable adjustment by them. Thus from the acquisition Notification 22 acres of land shall stand deleted and shall be released in accordance with the extent indicated for each of the five cooperative societies. The identification of the land to be so released shall be made within four weeks from the date of pronouncement of the order by mutual arrangement. We direct that when the land shall be so identified, the order of release from acquisition by appropriate description of the land shall be made; sketch maps showing the identified land shall also be signed by parties to avoid future litigation and made over to each of the societies.

We commend that all the five cooperative societies may form themselves into a federation for the purpose of ensuring appropriate development of the area and sharing either in common or by division the 2.83 acres of extra land which is directed to be released from acquisition.

It has been agreed that development charges for sewerage, electricity, road connections and the like shall be provided by the Development authority @ Rs. 100 per square yards and internal development shall be done by the societies themselves. In raising the construction, the bye-laws and regulations of the Development authority shall be strictly followed. We hope and trust that the Development authority shall extend its cooperation in every manner to the societies to effectuate the directions made by us. We look forward to the fulfillment of the dreams of each of the members of the society in the matter of having a residential accommodation.

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As soon as the lands are identified and sketch maps are delivered as directed above the interim orders made by this Court shall stand dissolved.

The appeals are disposed of without any order for costs.

P.S.S.

Appeals allowed.

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