



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO(S). _____ OF 2024
(Arising out of SLP (C) No(s). 20422 of 2019)**

SUNEETA DEVI

....APPELLANT(S)

VERSUS

AVINASH AND OTHERS

....RESPONDENT(S)

JUDGMENT

Mehta, J.

1. Leave granted.
2. Matter was called twice but no one appeared on behalf of the respondents.
3. The instant appeal has been filed by the appellant being aggrieved by the order dated 3rd July, 2019 passed in Writ-C No. 15225 of 2019, by the High Court of Judicature at Allahabad whereby the writ petition preferred by the respondent Nos. 1, 2 and 3 herein was allowed and the resolution/proposal dated 2nd September, 2018 issued by the Land Management Committee and

its approval dated 17th September, 2018 by the State authorities was quashed.

4. Brief facts relevant and essential for disposal of the instant appeal are that a primary school situated in the village Mai Kharagpur, tehsil Lalganj, district Azamgarh was found to be falling on the proposed alignment of the National Highway and accordingly, the same was demolished by the National Highways Authority of India (for short 'NHAI') for the purposes of construction of the highway.

5. The villagers requested the NHAI to construct new primary school in the village which was accepted by the NHAI. The Land Management Committee issued a proposal identifying and providing a plot of land in the village for the construction of the new primary school and forwarded the same for approval to the State authorities vide communication dated 2nd September, 2018. The proposal was accepted by the Sub-Divisional Officer, Lalganj (for short 'SDO') vide order dated 17th September, 2018 and NHAI started construction of the school.

6. In order to challenge the said proposal, respondent Nos. 1 and 2 herein i.e. Avinash and Ram Jee filed a writ petition in the Allahabad High Court styling it to be a Public Interest Litigation

being PIL No. 4648 of 2018. It is relevant to mention here that in this PIL, no such assertion was made that the plot of land in question had ever been allotted to the private respondents being the writ petitioners in the PIL. The said PIL came to be dismissed by the Division Bench of the Allahabad High Court vide order dated 27th October, 2018 observing that whatever steps had been taken by the authorities being the members of the Gram Sabha, the objection thereto by the respondents was nothing but an attempt to interfere in public work. It was also held that no public interest was involved in the petition.

7. The respondent Nos. 1, 2 and 3 herein did not rest satisfied with the rejection of their PIL and preferred Writ-C No. 10806 of 2019 challenging the proposal dated 2nd September, 2018 praying to restrain the NHAI authorities from constructing the primary school on the Plot No. 821M in village Mai Kharagpur.

8. Writ-C No. 10806 of 2019 preferred by the respondent Nos. 1, 2 and 3 was held to be not maintainable and came to be dismissed by the Division Bench of the Allahabad High Court vide order dated 18th April, 2019 observing that since the dispute related to landed property, it could not be adjudicated upon by High Court in exercise of powers conferred under Article 226 of the

Constitution of India and liberty was granted to the writ petitioners (respondent Nos. 1, 2 and 3 herein) to avail appropriate relief by filing a civil suit before the Civil Court in accordance with law.

9. Concealing the factum of filing the aforesaid two writ petitions, the respondents Nos. 1, 2 and 3 herein, preferred yet another writ petition being Writ-C No. 15225 of 2019 in the Allahabad High Court assailing the validity and legality of the resolution/proposal dated 2nd September, 2018 of the Land Management Committee and its approval by SDO vide order dated 17th September, 2018.

10. It may be mentioned that a pertinent declaration was made by the respondent Nos. 1, 2 and 3 herein, the original writ petitioners in Writ-C No. 15525 of 2019 that the petition which they had filed in the High Court, was the first writ petition of its kind.

11. The High Court seems to have proceeded in hot haste and immediately on the first listing of the writ petition, the standing counsel for State of U.P. was summoned and directed to obtain instructions. The matter was posted to the very next day i.e. 3rd July, 2019 and without issuing notice to the other respondents

including the appellant herein, who was an impleaded respondent in the writ petition, and merely taking note of the oral submissions of the standing counsel, the writ petition was allowed by order dated 3rd July, 2019 holding that disputed plot No.821M vested in the allottees(original writ petitioners being respondent Nos. 1, 2 and 3 herein) and the Land Management Committee or SDO had no right to reserve this land for construction of a primary school. The resolution dated 2nd September, 2018 and the approval by the SDO dated 17th September, 2018 were declared to be illegal and were set aside.

12. The respondent before the High Court is in appeal before this Court seeking to assail the order dated 3rd July, 2019.

13. A stay was granted by this Court on the operation of the impugned order. Counter affidavit has been filed on behalf of the private respondents (respondent Nos. 1, 2 and 3 being original writ petitioners) and the same is taken on record. However, when the matter was taken up for hearing, no one appeared to contest the matter on behalf of these respondents.

14. Learned counsel representing the appellant made an emphatic statement that the school in question has already been constructed and is operational on the disputed plot of land which

was a government land. He urged that factum of filing of two earlier writ petitions with similar prayers was concealed by respondent Nos. 1, 2 and 3 herein, while filing writ petition being Writ-C No. 15225 of 2019. Furthermore, the appellant being the impleaded respondent in the writ petition, was never heard by the High Court because the writ petition was allowed without issuing any formal notice.

15. We have given our thoughtful consideration to the submissions made at bar and have gone through the material available on record.

16. On a perusal of the admitted facts as emanating from record, we are persuaded to hold that the impugned order passed by the High Court smacks of arbitrariness and perversity. The writ petition filed claiming title on the disputed plot of land was taken up in hot haste and was allowed without issuing formal notice to all the respondents. Even the State authorities were not given proper opportunity of filing a counter. The standing counsel was instructed to appear without any formal notice being issued and was given a single day's opportunity to present the factual report. Based on the factual report and noting the oral submissions of the standing counsel, the writ petition came to be allowed by the High

Court quashing the proposal dated 2nd September, 2018 and approval by SDO dated 17th September, 2018. The manner in which the proceedings were undertaken indicates that the High Court was keen on not allowing the respondents therein to be heard in the writ proceedings. The original writ petitioners-respondent Nos. 1, 2 and 3 herein had apparently made false and misleading averments in the opening para of the Writ-C No.15225 of 2019, that no previous writ petition had been filed craving similar relief. As a matter of fact, the writ petition deserved rejection with exemplary costs because as noted above, the factum of filing of the previous two writ petitions was concealed by the respondent Nos. 1, 2 and 3-original writ petitioners. The writ petition was manifestly tainted on account of concealment of material facts. Even in the counter affidavit filed in the present case, the respondent Nos. 1, 2 and 3-original writ petitioners have not disputed that the factum of filing of the previous two writ petitions not being disclosed while filing the Writ-C No. 15225 of 2019.

17. However, since no one has appeared to defend the matter on behalf of the respondent Nos. 1, 2 and 3-original writ petitioners, we refrain from imposing cost in the matter.

18. In the wake of discussion made hereinabove, the impugned order dated 3rd July, 2019 passed by the learned Single Judge of High Court of Judicature at Allahabad is found to be suffering from patent illegality, perversity and having been passed in sheer violation of principles of natural justice and hence, the same is quashed and set aside.

19. The appeal is accordingly allowed.

20. Pending application(s), if any, shall stand disposed of.

.....J.
(B.R. GAVAI)

.....J.
(SANDEEP MEHTA)

New Delhi;
March 11, 2024