

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 14209/2023

(Arising out of impugned judgment and order dated 03-07-2023 in Writ-C No. 21078/2023 passed by the High Court of Judicature at Allahabad)

AKHIL BHARAT SARVA SEVA SANGH & ANR.

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(IA No.126704/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.126707/2023-EXEMPTION FROM FILING O.T.)

Date : 17-07-2023 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Prashant Bhushan, AOR  
Mr. Anurag Tiwary, Adv.  
Ms. Alice Raj, Adv.

For Respondent(s) Mr. Amrish Kumar, AOR  
Mr. Tushar Mehta, Solicitor General  
Mr. Rajat Nair, Adv.  
Mrs. Swati Ghildiyal, Adv.  
Mr. Ashok Panigrahi, Adv.  
Mr. Navanjay Mahapatra, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Heard Mr. Prashant Bhushan, learned senior counsel appearing for the petitioners. Also heard Mr. Rajat Nair, learned counsel appearing for respondent Nos. 3 and 4 - the Railway Authorities.

2. The petitioners are claiming title over land purchased through three registered sale deeds on 15.05.1960, 09.05.1961 and 20.05.1970 respectively. The concerned sale deeds were executed by

the Divisional Engineer of the Railways. The petitioners have then raised construction on the said land. In between, the petitioners had also let out a portion of the land to the *Gandhi Vidya Sansthan*. At some stage, there was order for dissolution of the said *Sansthan* and direction was issued for reconstituting their Managing Committee.

3. This led to filing of a writ petition before the High Court by the petitioners. The said case was disposed of on 16.05.2023 wherein direction was issued to the District Magistrate to examine the relevant records and reach a conclusion regarding ownership of the concerned properties.

4. In the meantime, the petitioners have filed OS No.522 of 2023 before the Civil Judge, Varanasi seeking declaration of title and permanent injunction amongst other reliefs, in respect of the very same properties.

5. The District Magistrate, Varanasi after hearing the petitioners and on perusal of the records, site map, land plan and map provided by the Railway Authorities in his 26.06.2023 order noted that the concerned land was purchased by the Railways from the Defence Department in the year 1941 for valuable consideration. Furthermore, there has never been any policy of selling land to private organisation or person by the Railways. The District Magistrate also opined that only with prior approval of the Railway Board, excess land with the railways can be disposed of through public auction. With such finding, the District Magistrate on 26.06.2023 held that the petitioners have completely failed to

prove ownership over the properties as they could not furnish any authentic evidence/records to confirm the genuineness of the concerned sale deeds, referred earlier.

6. When the adverse decision of the District Magistrate was challenged before the High Court, the Division Bench of the High Court declined to grant any relief to the petitioners by observing that their suit is pending and if they are aggrieved by the demolition notice which in the meantime was issued against them by the Railway Authorities, they can move injunction application in the pending suit.

7. Assailing the legality of the 03.07.2023 decision of the Division Bench of the High Court, Mr. Prashant Bhushan, the learned Senior Counsel would firstly submit that when the petitioners had acquired the properties through registered sale deeds several decades earlier, the view taken by the District Magistrate on title was not warranted. Moreover, the decision should have been limited to the area let out to the *Sansthan* and not the entire area owned by the petitioners. It is then argued that the District Magistrate has no authority to decide on the title of any property. The learned counsel would also submit that immediately after the adverse declaration by the District Magistrate holding the petitioners to be not the title holders of the properties in question, the Railways have immediately issued the demolition notice which have deprived the petitioners from availing legal remedies.

8. On the other hand, learned counsel appearing for the Railways argue that the petitioners despite ample opportunity by the District Magistrate, failed to produce any of the registered sale deeds on the basis of which they claim title over the concerned land. It is also submitted that the original institutions are not pursuing the cause of the organization and some third party is pursuing the litigation. According to the respondents, the petitioners Suit i.e. OS No.522 of 2023 is pending without any progress and the petitioners are yet to move any injunction application. That apart they have not challenged the High Court's 16.05.2023 direction directing the District Magistrate to determine the ownership of the property.

9. As can be noticed, the decision of the District Magistrate is based upon the direction given by the High Court on 16.05.2023 in Writ-C No.29975 of 2007. The said direction of the High Court remains unchallenged till date. In these circumstances, the action taken by the District Magistrate on the strength of the High Court order, cannot be faulted.

10. The 26.06.2023 decision of the District Magistrate, *inter alia*, is based on the fact that the concerned sale deeds were not produced. In any case only by public auction Railway land can be alienated and that too with approval of the Railway Board. The Divisional Engineer never had any authority to sale Railway land to the petitioners.

11. Insofar as the High Court's direction relating to the area let out by the petitioners to the *Sansthan*, it may be noted that the

land leased out and the larger parcel of land, were all obtained by the petitioners, through same process on the basis of the three sale deeds. Therefore, segregated declaration of title may not be warranted since the petitioners are claiming ownership over the entire land. However, the petitioners have failed to produce the concerned sale deeds before the District Magistrate. They also did not bring forth any other material to support their claim. A suit however is filed by them for the very same area and the same is pending.

12. Considering all the above and the factual scrutiny that is needed to resolve the issue which is possible only in a suit, we see no reason to entertain the Special Leave Petition and the same stands dismissed. However, it is made clear that the observations made in this order is only for the purpose of the Special Leave Petition and the same should have no bearing on the merit of the contentions to be advanced in the Civil Suit (OS No.522 of 2023) pending before the Court.

13. With the above, the case stands dismissed without any order on cost.

14. Pending application(s), if any, shall stand closed.

(NITIN TALREJA)  
COURT MASTER (SH)

(KAMLESH RAWAT)  
ASSISTANT REGISTRAR