

UNION OF INDIA AND ORS.
v.
SITARAM SHIVHANDRAI GARODIA AND ANR.

NOVEMBER 4, 1996

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

Land Acquisition Act, 1894 :

Land acquired for Railway purpose—Subsequently proposal given up—Eviction of erstwhile owners by the Government—Set aside by the High Court in similar case—Respondents not impleaded—Open to Government to take steps to implead them—Respondents to take such defence as is available.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 14781 of 1996.

From the Judgment and Order dated 11.8.94 of the Bombay High Court in W.P. No. 2705 of 1986.

N.N. Goswamy, S.N. Sikka and D.S. Mehra for the Appellants.

F.S. Nariman, Dr. A.M. Singhvi, Dhruv Mehta, Fazlin Anam, Ms. Monika Mehta and Aman Vachhar for the Respondents.

The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

This appeal by special leave arises from the judgment of the Division Bench of the High Court of Bombay, dated August 11, 1994 made in W.P.No.2705 of 1986.

It is not necessary to dilate upon all the facts concerning the case. Suffice it to state that the respondents have challenged the acquisition of part of the land in Survey No. 249 admeasuring 130 acres 19 Guntas

- A** which the respondent claims to have purchased. It would appear that in the affidavit filed by the Railway, they have given up the proposal for the acquisition of the land for Railway purpose. Under those circumstances, there is no necessity to proceed further with the acquisition. It is then contended by Shri F.S. Nariman, learned senior counsel appearing for the respondents, that in W.P. No. 1003 of 1982 titled *Sitaram Shivchand*
- B** *Garodia and Anr. v. S.V. Gokhale, the Assistant Salt Commissioner and Ors.* the Division Bench of the High Court by order dated April 28, 1983 had allowed the writ petition setting aside the proceedings for summary eviction of them from the land in their occupation with liberty for the Union of India to file a suit to establish their title to the land. When S.L.P.(C) Nos. 8706 of 1984 and 11507-08 of 1983, against the said
- C** judgment were filed, by Order dated March 30, 1987, this Court refused to grant leave. The appellant's attempt to have respondent evicted from the lands stands *concluded subject to the division in the suit*. We are informed that though the appellants have filed Suit No. 670/87 on the original side of the High Court, it is contended that as per the cause title, it would appear that the respondents have not been impleaded as party-defendants.
- D** We need not go into the correctness thereof, since the respondents though *ex facie* are shown to be not parties to the suit; even then, it would be open to the Government to take steps as may be available under law for impleading them as defendants, if not already impleaded, and in such eventuality it would be open to the respondents, to take such defence as is available.

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The appeal is accordingly disposed of. No costs.

G.N.

Appeal disposed of.