U.P. BHOODAN YAGNA SAMITI, U.P.

v.

BRAJ KISHORE & ORS.

SEPTEMBER 9, 1988

[G.L. OZA AND K. JAGANNATHA SHETTY, JJ.]

U.P. Bhoodan Yagna Act, 1952: Sections 14 and 15—Grant of land to landless persons—To be made in accordance with the Bhoodan Yagna Scheme and the philosophy behind the Bhoodan Movement.

The Respondents, in 1968, obtained grant from Bhoodan Yagna Samiti under section 14 of the U.P. Bhoodan Yagna Act, of various plots of land situated in a village in Kanpur. On the basis of a report submitted by the Tehsildar concerned in 1972, the Additional Collector issued notices to the respondents under the Act, requiring them to show cause as to why the settlement obtained by them should not be cancelled on the grounds, that they did not reside in the village where the plots are situated, that they did not fall under the category of landless persons and that the grants had not been approved by the Government. After considering the objections filed by the respondents, the Additional Collector quashed all the grants made in favour of the respondents.

Against the order of the Additional Collector, the respondents filed writ petitions in the High Court. The High Court held that the respondents were covered by the definition 'landless persons' as they had no land in that village and the district, though they may be traders and paying income-tax and may have properties in the city of Kanpur, and quashed the order passed by the Additional Collector and maintained the grants in favour of the respondents. These appeals are against the said order of the High Court.

On behalf of the appellant, it was contended that the expression 'landless person' has to be interpreted in the background of the law and the philosophy behind the movement which was the basis of the enactment of the law.

Allowing these appeals,

HELD: 1.1 It is now well settled that in order to interpret a law one must understand the background and the purpose for which the law

A was enacted. If one has bothered to understand the common phrase used in the Bhoodan Movement as 'Bhoomihin Kissan' which has been translated into English to mean 'landless persons' there would have been no difficulty. [868F-G]

1.2 At the time when Acharya Vinoba Bhave started his move-
B ment of Bhoodan Yagna our rural society had a peculiar diversity. There were some who owned or had leasehold rights in vast tracks of agricultural lands. And there were those who were working as labourers in the fields and depending on what little they got from their masters. Sometimes they were even bound down to their masters and therefore had to lead a miserable life. It was this problem in rural India which attracted the attention of Acharya Vinoba Bhave followed by
C Shri Jaya Prakash Narain and they secured large donations of land from big land-holders and the scheme of the Bhoodan Yagna movement was to distribute this land to those 'Bhoomihin Kissan' who were living on agriculture but had no land of their own. It was to make this effective and statutory that this law was enacted and in this context it is clear
D that if one had noticed even the slogan of the Acharya Vinoba Bhave's movement or its basis and the purpose, it would have clearly indicated the problem which was to be remedied by this enactment and if this was looked into for the purpose of interpretation of the term 'landless persons' no Court could have come to the conclusion which has been arrived at in the instant case. [866C-F]

E

2. Section 15 provides that all grants shall be made so far as may be in accordance with the scheme of the Bhoodan Yagna. It could not be disputed that Bhoodan Yagna scheme only contemplated allotment of lands in favour of those landless agricultural labourers who were residing in the villages concerned and whose source of livelihood
F was agriculture. In that context only, the expression 'landless person' could be understood as contemplated under section 14. Section 14 was amended in 1975 to substitute the words 'landless agricultural labourers' in place of 'landless persons'. The objects and reasons contained in the Amendment Bill clearly go to show that it was because of such errors committed that it became necessary to make this
G amendment. [864G-H; 865A-B]

Lord Dennings's 'The Discipline of law', pp. 10, 12 and *'Vinoba and His Mission' by Suresh Ram*, referred to.

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos.
H 1866-68 of 1988.

From the Judgment and Order dated 25.7.1986 of the Allahabad High Court in C.M.W.P. Nos. 149, 151 and 172 of 1976. A

R.C. Misra, B.B. Singh for the Appellant.

R.K. Jain, R.K. Khanna and R.P. Singh for the Respondents.

B

The Judgment of the Court was delivered by

OZA, J. These appeals have been filed by the U.P. Bhooden Yagna Samiti, Kanpur against the judgment of the High Court of Allahabad delivered in Misc. Writ Petition No. 149/76, 151/76 and 172/76. By the impugned order the High Court quashed the Order passed By Additional Collector, Kanpur dated 1.1.76 quashing the Pattas granted in favour of the respondent. C

In the month of April and May, 1968 the Petitioner before the High Court i.e. present respondent obtained grant under Sec. 14 of the U.P. Bhoodan Yagna Act in respect of various plots of land situated in D Village Jahangirabad Paragana Ghatampur, District Kanpur from Bhoodan Yagna Samiti on 17.5.1972. Tehsildar Ghatampur submitted a report to Collector, Kanpur and on the basis thereof the Additional Collector, Kanpur issued notices to these respondents under Sections of the U.P. Bhoodan Yagna Act requiring them to show as to why the settlement obtained by them be not cancelled on following grounds: E

> "(i) As the petitioners did not reside in the village where the plots were situated they had obtained the grants fraudulently and by misrepresenting facts.
>
> (ii) As the petitioners did not fall in the category of land- F less persons it was not proper to make the grants in their favour.
>
> (iii) The grants had not been approved by the Government of U.P."

G

After considering the objections filed by the respondents, the Additional Collector came to the conclusion that the Order of the Bhoodan Yagna Samiti settling the land could not be justified as it could only be made in favour of poor landless agricultural labourers and not in favour of persons like the respondents who were quite well off and who reside in the city of Kanpur, owned propery there and carried on H

A business. In his opinion such persons did not fall in the category of landless persons as contemplated under the Act and the grants made in their favour in the year 1968 were irregular and liable to be set aside and on the basis of these reasons the Additional Collector by his order dated 1.1.76 quashed all the grants made in favour of the three respondents against which the writ petitions were filed before the High Court B of Allahabad and by the impugned judgment, the Division Bench of the High Court quashed the order passed by the Additional Collector and maintained the grants in favour of the respondents and against this order of the High Court by grant of leave the present appeals are before us.

C Before the High Court two questions were raised. First was about the jurisdiction of the Additional Collector as under the Act the duties were cast on the Collector to enquire into these matters and therefore on that ground it was contended before the High Court that Additional Collector has no jurisdiction. The other ground which was raised before the High Court was that the view taken by the Additional D Collector is not in accordance with law. So far as the first ground is concerned, even the High Court held against the respondents and before us learned counsel for parties conceded that to that part of the High Court Judgment there is no challenge and this now is not in dispute that the Additional Collector has jurisdiction to enquire into the matter and therefore on that ground it is not necessary for us to E dilate any more.

We are therefore mainly concerned with as to whether the settlement made by the Bhoodan Yagna Samiti in favour of the respondents was in accordance with law or which was not in accordance with law and therefore Additional Collector was right in setting aside those F allotments.

As regards the second question, the facts in this case are not in dispute. The respondents are businessmen residing in Kanpur. It is not in dispute that they have their trade in Kanpur and have properties also and are income tax payers. It is also not in dispute that they are G not agriculturists and they had at the time of allotment nothing to do with agriculture. Apart from it their source of livelihood was not agriculture at all but trade and business. It is also not in dispute that they did not fall into any of the categories of persons depending on agriculture who did not have land in their name. On this ground, it was contended before the Additional Collector that in fact the allotment H was obtained by the respondents by misrepresenting that they are

landless persons and on the basis of this the allotments were made which could not be justified. A

Before the High Court it was contended that Sec. 14 of the U.P. Bhoodan Yagna Act which provides for allotment of land only talks of landless persons. Sec. 14 as it stood in the year 1968 enabled the Samiti to settle the land vested in it with landless persons. Section neither B specifies that such landless persons should also be agricultural labourers nor it provided that they have to be residents of a place in which the concerned lands were located. It was also not provided that the persons must be such whose source of livelihood is agriculture. The High Court on the basis of its earlier decision felt that Section 14 as it stood in 1968 did not provide any one of these qualifying clauses and C therefore the respondents who admittedly had no land in that village and the district, they were covered by the definition of landless persons, in spite of the fact that they may be traders and paying income-tax, may have properties in the City of Kanpur, still the learned Judges of the High Court felt that they fell within the ambit of the definition of landless persons as it stood in 1968 and therefore D settlement made in their favour was justified. High Court relied on Sec. 14 as it stood in 1968. It reads:

> "Grant of land to landless persons—The Committee or such other authority or person as the Committee may, with the approval of the State Government specify either gener- E ally or in respect of any area, may in the manner prescribed, grant lands which have vested in it to the landless persons, and the grantee of the land shall—
>
> (i) where the land is situate in any estate which has vested in the State Government under and in accordance with F Section 4 of the U.P. Zamindari Land Abolition and Reforms Act, 1950, enquire in such land the rights and the liabilities of a sirdar, and
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> (ii) where it is situate in any other area, acquire therein such rights and liabilities and subject to such conditions, G restrictions and limitations as may be prescribed and the same shall have effect, any law to the contrary notwithstanding."

It is not disputed that these allotments were made in accordance with Sec. 14 but had not been approved by the Government and it was even H

A before that the Additional Collector took notice of the complaint and issued notice to the respondents and on the basis of his enquiry he cancelled the allotments made in their favour by the Order in 1976 which has been quashed by the High Court.

It was contended by learned counsel appearing for the petitioner
B (Bhoodan Yagna Samiti) that although Sec. 14 quoted above does not clearly indicate what the law meant by landless persons but in view of the scheme of Bhooden Yagna the movement which Acharya Vinoba Bhave and later Jaya Prakash Narain carried out and the purpose of the movement clearly indicated that when in Sec. 14 allotment was contemplated in favour of landless persons it only meant those landless
C persons whose main source of livelihood was agriculture and who were agriculturists residing in the village where the land is situated and who has no land in their name at that time. It never meant that all those rich persons who are residing in the cities and have properties in their possession but who are technically landless persons as they did not have any agricultural land in their name in the tehsil or the village
D where the land was situated or acquired by the Bhoodan Samiti that it could be allotted in their favour. This was not the purpose or the philosophy of Bhoodan Yagna and therefore it was contended that such a view which has been taken by the learned Judges of the High Court is contrary to law and the interpretation put by the High Court on the language of Sec. 14 could not be justified. It was contended that
E landless person has to be interpreted in the background of the law which was enacted and the movement and the philosophy behind the movement which was the basis of the enactment of this law and it is only in that background that these words 'landless persons' could be properly interpreted.

F It was also contended that if there was any doubt left, Sec. 15 makes the things still clearer. Sec. 15 reads:

> "Grants to be made in accordance with Bhoodan Yagna Scheme—All grants shall be made as far as may be in accordance with scheme of the Bhoodan Yagna."

G

Sec. 15 provides that all grants shall be made so far as may be in accordance with the scheme of the Bhoodan Yagna, and it could not be disputed that Bhoodan Yagna scheme only contemplated allotment of lands in favour of those landless agricultural labourers who were residing in the villages concerned and whose source of livlihood was
H agriculture and who were landless and in that context only the landless

person could be understood as contemplated under Sec. 14. It appears that in 1975 by an amendment in place of 'landless persons' in Sec. 14 'landless agricultural labourers' was substituted and the objects and reasons when this Amendment Bill was moved, clearly go to show that it was because of such errors committed that it became necessary to make this amendment. The Objects and Reasons of the Uttar Pradesh Bhoodan Yagna (Amendment) Act, 1975 reads:

> "Prefatory Note—Statement of Objects and Reasons—The Uttar Pradesh Bhoodan Yagna Act, 1952 provides for distribution of Bhoodan land to the landless persons by the Uttar Pradesh Bhoodan Samiti. It has come to the notice of Government that in certain cases persons other than landless persons have also received by fraud the land donated under the said Act. It has also come to the notice of Government that in many cases, for various reasons, the land vested in the Committee is not actually distributed. It has, therefore, been considered necessary to empower the Collector to cancel the grants received by misrepresentation or fraud, and further, where the committee does not grant the land within a period of three years to authorise him to distribute the land according to the provisions of the Act."

By this Amendment Act in Sec. 14 in place of landless person 'landless agricultural labourers' was substituted, and this clearly shows that it became necessary only because such errors were committed in understanding the meaning of words 'landless persons'.

The rule of interpretation which had been generally accepted in later part of 19th century and the first half of 20th century was that the word should be given its plain ordinary dictionary meaning and it is clear that learned Judges of the High Court in the impugned judgment interpreted the words 'landless persons' on that basis and in so doing they followed their earlier judgment. But if the scheme of Bhoodan Yagna which has to be looked into because of Sec. 15 has been looked into or the purpose of the movement of Bhoodan Yagna which was started by late Acharya Vinoba Bhave and followed by Shri Jaya Prakash Narain was understood, this interpretation would not have been possible.

In India we have yet another problem. The movement and the problems which are debated at all levels is not in the language in which

A ultimately the law to meet those situations was enacted. The Bhoodan Yagna movement used generally a term 'Bhoomihin Kissan' and it is this term which gained momentum and virtually was understood to mean those agricultural labourers whose main source of livlihood is agriculture but who have no lands of their own or who have no lands (agricultural) recorded in their names in the revenue record and it is B this problem of 'Bhoomihin Kissan' that this movement went on to to settle and this Act was enacted to remedy that problem but our draftsman while drafting the law borrowed the phrase 'landless person' in place of 'Bhoomihin Kissan' and this unfortunately led to the present interpretation put by the High Court in the impugned judgment as the High Court followed the rule of interpretation which in my opinion has become obsolete.

C

At the time when Acharya Vinoba Bhave started his movement of Bhoodan Yagna our rural society had a peculiar diversity. There were some who owned or had leasehold rights in vast tracks of agricultural lands whereas on the other hand there were those who D were working on agriculture as labourers in the fields and depending on what little they got from their masters. Sometimes they were even bound down to their masters and therefore had to lead miserable life. It was this problem in rural India which attracted the attention of Acharya Vinoba Bhave followed by Shri Jaya Prakash Narain and they secured large donations of land from big land holders and the scheme E of the Bhoodan Yagna movement was to distribute this land to those 'Bhoomihin Kissan' who were living on agriculture but had no land of their own and it was to make this effective and statutory that this law was enacted and in this context it is clear that if one had noticed even the slogan of the Acharya Vinoba Bhave's movement or its basis and the purpose it would have clearly indicated the problem which was to F be remedied by this enactment and if this was looked into for the purpose of interpretation of the term 'landless persons' no Court could have come to the conclusion which has been arrived at in the impugned judgment.

In this country we have a heritage of rich literature, it is interest- G ing to note that literature of interpretation also is very well-known. The principles of interpretation have been enunciated in various Shlokas which have been known for hundreds of years. One such Shlok (Verse) which describes these principles with great precision is:

H "UPKRAMOP SANHARO ABHYASO UPPURWATTA

FALAM ARTHWADOPPATTI CH LINGAM TATPARYA NIRNAYE" A

This in short means that when you have to draw the conclusion from a writing you have to read it from beginning till end. As without doing it, it is difficult to understand the purpose, if there is any repetition or emphasis its meaning must be understood. If there is any B curiosity or a curious problem tackled it should be noticed and the result thereof must be understood. If there is any new innovation (Uppurwatta) or something new it should be taken note of. Then one must notice the result of such innovation. Then it is necessary to find what the author intends to convey and in what context.

C

This principle of interpretation was not enunciated only for interpretation of law but it was enunciated for interpretating any piece of literature and it meant that when you have to give meaning to anything in writing then you must understand the real meaning. You can only understand the real meaning by understanding the reference, context, the circumstances in which it was stated and the problems or D the situations which were intended to be met by what was said and it is only when you take into consideration all this background, circumstances and the problems which have to be tackled that you could really understand the real meaning of the words. This exactly is the principle which deserves to be considered.

E

When we are dealing with the phrase 'landless persons' these words are from English language and therefore I am reminded of what Lord Denning said about it. Lord Denning in 'The Discipline of Law' at Page No. 12 observed as under:

> "Whenever a statute comes up for consideration it must be F remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity. The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of G Acts of Parliament have often been unfairly criticized. A Judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the judges' trouble if Acts of Parliament were H

A drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears a judge cannot simply fold his hands and blame the draftsmen. He must set to work on the constructive task of finding the intention of Parliament."

B And it is clear that when one has to look to the intention of the Legislature, one has to look to the circumstances under which the law was enacted. The Preamble of the law, the mischief which was intended to be remedied by the enactment of the statute and in this context, Lord Denning, in the same book at Page No. 10, observed as under:

C "At one time the Judges used to limit themselves to the bare reading of the Statute itself-to go simply by the words, giving them their grammatical meaning and that was all. That view was prevalent in the 19th century and still has some supporters today. But it is wrong in principle. The D Statute as it appears to those who have to obey it—and to those who have to advise them what to do about it; in short, to lawyers like yourselves. Now the eccentrics cut off from all that is happening around them. The Statute comes to them as men of affairs—who have their own feeling for the meaning of the words and know the reason why the Act E was passed—just as if it had been fully set out in a preamble. So it has been held very rightly that you can enquire into the mischief which gave rise to the Statute—to see what was the evil which it was sought to remedy."

It is now well settled that in order to interpret a law one must under- F stand the background and the purpose for which the law was enacted. And in this context as indicated earlier if one has bothered to understand the common phrase used in the Bhoodan Movement as 'Bhoomihin Kissan' which has been translated into English to mean 'landless persons' there would have been no difficulty but apart from it even as contended by learned counsel that it was clearly indicated by Sec. 15 G that the allotments could only be made in accordance with the scheme of Bhoodan Yagna. In order to understand the scheme of Bhoodan and the movement of Shri Vinoba Bhave, it would be worthwhile to quote from 'Vinoba And His Mission' by Suresh Ram printed with an introduction by Shri Jaya Prakash Narain and foreword by Dr. S. Radhakrishnan. In this work, statement of annual Sarvodya Confe- H rence at Sevapuri has been quoted as under:

"The fundamental principle of the Bhoodan Yagna movement is that all children of the soil have an equal right over the Mother Earth, in the same way as those born of a mother have over her. It is, therefore, essential that the entire land of the country should be equitably redistributed anew, providing roughly at least five acres of dry land or one acre of wet land to every family. The Sarvodaya Samaj, by appealing to the good sense of the people, should prepare their minds for this equitable distribution and acquire within the next two years at least 25 lakhs of acres of land from about five lakhs of our villages on the rough basis of five acres per village. *This land will be distributed to those landless labourers who are versed in agriculture, want to take to it, and have no other means of subsistence.*"

(Underlining for emphasis by us)

This would clearly indicate the purpose of the scheme of Bhoodan Yagna and it is clear that Sec. 15 provided that all allotments in accordance with Sec. 14 could only be done under the scheme of the Bhoodan Yagna.

In the light of the discussion above therefore, the judgment of the High Court could not be maintained. The appeals are therefore allowed. The judgment of the High Court is set aside and the orders passed by the Additional Collector are restored. Appellant shall be entiled to costs of the appeals, counsel fee Rs.1,500 in each of these three appeals.

G.N. Appeals allowed.