

Ratlam Electric Supply and Weaving Co. and Another

Vs

M. P. Electricity Board, Jabalpur

Civil Appeal No. 1496 of 1976

(V. R. Krishna Iyer, R. S. Pathak, O. Chinnappa Reddy JJ)

01.08.1980

JUDGMENT

KRISHNA IYER, J. –

1. We have heard both sides and regret that there has been considerable delay even in the commencement of the trial of a suit for nearly fifteen years and all that has happened is skirmish after skirmish from court to court relating to the plaint and its propriety.
2. The suit is one for compensation on the strength of an alleged aware by the State Government under The Indian Electricity Act by way of compensation for the land taken along with the electricity undertaking by the defendant (the Electricity Board) from the plaintiff who claims to be the owners of the property.
3. Before the trial could commence, an amendment was sought and allowed. A second amendment was sought to be made by an application of January 30, 1974 wherein the plaintiff wanted to set up an agreement by the defendant-Board to pay the sum fixed by the minister. The Board challenged the property of this amendment but the trial Court allowed the amendment. The High Court in revision thought that there was mis-exercise of discretion and refused the amendment. Counsel Shri Kacker, appearing for the appellants, contends that the High Court fell into a grievous error in exercising its power under Section 115 of the Civil Procedure Code in interfering with a mere discretionary order allowing an amendment. Counsel Mr. Mehta supports the order of the High Court and justifies it by seeking to convince us that the trial Court had gone grievously wrong. We must admit that interference with the exercise of discretion by trial Courts in purported revisory jurisdiction should be confined to exceptional cases. Maybe, there may be something to be said in favour of the appellants' grievance on that score, but we desist from examining the matter further because we feel satisfied that prolongation of the trial of the suit by interlocutory battles will be an effective denial of justice, whoever may ultimately win or lose the case. In this view and in exercise of our plenary jurisdiction under Article 136 of the Constitution we think it right to issue two directions to the trial Court. Here we may also mention that counsel on both sides feel, speaking for themselves that the directions that we propose to make are just and fair having regard to the interests of both parties but that they could not formally commit themselves to such directions by consent because they have had no opportunity to consult their respective parties. Nevertheless we proceed to make the order in exercise of the court's jurisdiction under Article 136.
4. There are two essential questions which fall for determination. Firstly, the question of title of the plaintiff disputed by the defendant, must be decided. In case the appellant fails to establish title to their property the question of compensation in his favour does not arise and the suit will have to be

dismissed. On the other hand, if the plaintiff's title is affirmed he is entitled to compensation and it is not for a public body like the Electricity Board to take up pleas in bar of enforcement of the relief of compensation even assuming there is legal merit in such pleas. Therefore, the second question that will have to be decided by the trial Court, in the event of the title of the plaintiff being found in his favour, is the reasonable compensation payable to the plaintiff on account of the land taken by the Board on the date such land was taken over by the Board. The court certainly should determine this issue and need not be bogged down by what the Minister did, what the Electricity Board accepted or not and what the State government on a later occasion choose to do. It is fair to hold that if the plaintiff has any right, title or interest he must be paid reasonable compensation and a civil court is the best agency to determine compensation. In this view we direct the trial Court to decide two substantial questions : (a) whether the plaintiff has any right, title or interest to the land taken over by the Electricity Board and (b) if the finding on issue (a) is in favour of the plaintiff, what is the reasonable compensation payable to the plaintiff as on the date of taking of the land. On the basis of these two findings the court will pass a decree. It is represented by both sides that they will cooperate in an oral disposal of the suit and having regard to the fact that the suit has been pending for fifteen years, we direct, in the interests of justice, that the suit shall be disposed of and judgment pronounced before December 31, 1980. The parties will be allowed to lead evidence and raise their contentions on the two questions we have formulated, understood that in a pedantic manner but in a comprehensive sense. We may also make it clear that compensation is not necessarily in terms of the Land Acquisition Act but mainly governed by the Indian Electricity Act under which the take over of the undertaking was effected. We direct the parties to bear their costs throughout these proceedings

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