

Satish Sabharwal and Others

Vs

State of Maharashtra and Others

Civil Appeals Nos. 256 of 1985 and 4875 of 1984

10.03.1986

ORDER

1. These cross appeals arise out of the judgment dated August 24, 1984 delivered by the High Court of Bombay in Writ Petition No. 4232 of 1983. The High Court by its judgment upheld the order dated November 25, 1983 passed by the Government of Maharashtra cancelling the permission granted by the Additional Collector, Thane to the petitioners on April 5, 1982 to use the land bearing Survey Nos. 70, 44, 42, 40/2, 41 and 45 situate in Bhiwandi for non-agricultural purpose of abattoir, meat processing and cold storage. The High Court however while upholding the impugned order dated November 25, 1983 directed the Government of Maharashtra to pay to the petitioners compensation for the cost incurred by them in setting up the project of abattoir, meat processing and cold storage up to October 7, 1983 being the date when the show-cause notice was issued by the State Government for cancellation of the permission. The State of Maharashtra was aggrieved by that part of the judgment which directed the State Government to pay compensation to the petitioners while the petitioners were aggrieved by that part of the judgment which upheld the impugned order dated November 25, 1983. The State of Maharashtra therefore preferred CA 4875/84 with special leave obtained from this Court while the petitioners obtained special leave to appeal and preferred CA 256/85. Whilst these cross appeals were pending before this Court the proceedings continued before the High Court for quantifying the amount of compensation payable by the State Government to the petitioners under the judgment of the High Court. Two reputed firms of Chartered Accountants namely, Batliboi & Purohit and Haribhakti & Co. were appointed by the government to advise and assist them in the quantification of the amount of compensation and after holding a detailed inquiry, they submitted a report and this report was filed by the State Government in Court. The High Court on the basis of this report made by the two firms of Chartered Accountants and after hearing objections to the report from both sides, passed an order dated July 3, 1985 holding that the cost incurred by the petitioners up to October 7, 1983 amounted to Rs 3,42,12,179.73 and after deducting the value of the machinery removed by the petitioners since October 7, 1983 the total compensation payable by the State Government to the petitioners came to Rs 3,22,51,538.90. This order made by the High Court was also assailed in the two cross appeals before us.

2. We may point out that the petitioners had obtained overdraft facility from the Punjab National Bank and interest was payable by them to the Punjab National Bank on the amount of the overdraft loan. Since the amount of the overdraft loan borrowed by the petitioners had gone into the project and therefore formed part of cost of the project, the amount of the overdraft loan together with interest payable to October 7, 1983 was taken into account in arriving at the figure of Rs 3,22,51,538.90 as the amount of compensation payable to the petitioners. Since the State of Maharashtra contended in the appeal preferred by them that no amount was payable by the State Government to the petitioners by way of compensation, the Punjab National Bank which has

interest in supporting the judgment of the High Court filed Transfer Petition No. 1 of 1986 and appeared to contest the appeal of the State Government in order to protect its rights.

3. We have heard the learned advocates appearing on behalf of the petitioners, the State Government and the Punjab National Bank at great length. We are of the view that the judgment dated August 24, 1984 passed by the High Court is correct and C.A. No. 4785 of 1984 passed by the High Court is correct and C.A. No. 4785 of 1984 filed by the State of Maharashtra must be dismissed. Civil Appeal No. 256 of 1985 preferred by the petitioners must also be dismissed to the extent that it challenges the judgment of the High Court upholding the impugned order dated November 25, 1983 and directs payment of compensation by the State Government to the petitioners for the cost incurred by the petitioners on the project up to October 7, 1983. We uphold the view taken by the High Court that a sum of Rs 3,22,51,538.90 is payable by the State Government to the petitioners by way of compensation. But admittedly this amount of compensation has been calculated as on October 7, 1983. The High Court has not taken into account interest for the period subsequent to October 7, 1983 and has stated that "the petitioners are always at liberty to request Hon'ble the Supreme Court to award interest on the costs after October 7, 1983 till payment. We express no opinion in the matter". It is obvious that the petitioners are entitled to interest on the costs for the period subsequent to October 7, 1983, since they have suffered loss by reason of the failure of the State Government to pay the amount of compensation which, on the view taken by the High Court and affirmed by us, was payable by the State Government to the petitioners as on October 7, 1983. We therefore direct the State Government to pay to the petitioners interest payable to the Punjab National Bank at the actual rate charged by the Bank from October 8, 1983 until payment. So also the State Government shall pay to the petitioners interest @ 15% per annum on the sum of Rs 1,47,64,302 representing the petitioners' own funds invested in the project and such interest shall be calculated from October 8, 1983 up to payment. The State Government shall also pay to the petitioners as and by way of security, insurance and site maintenance charges a sum of Rs 25,000 per month from October 8, 1983 up to the date when the land, building machinery and equipment of the petitioners are taken over by the State Government against payment of compensation. We have taken the rate of Rs 25,000 per month since this rate has been suggested by the two firms of Chartered Accountants appointed by the State Government.

4. We are making this order disposing of the two civil appeals and transfer case, since any delay in disposal of these cases would mulct the State Government in payment of further compensation by way of interest and security insurance and site maintenance charges. We shall give our reasons for making this order in due course.

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