

Krishi Upaj Mandi Samiti

Vs

Ashok Singhal and others

Civil Appeal No. Nil of 1991 (arising out of), Special Appeal Petn. No. 15562 and 15563 of 1990

(M. N. Venkatachaliah, N. M. Kasliwal JJ)

25.03.1991

JUDGMENT

1. In the Special Leave Petition 15562 of 1990 the appellant, the Krishi Upaj Mandi Samiti, Laxmi Ganj, Lashkar Gwalior, assails the correctness of the Judgment dated 2-2-1990 of the High Court enhancing in the land owners' appeal the compensation in respect of lands acquired for purpose of the appellant.
2. Special Leave Petition 15563 of 1990 is directed against the order dated 21-9-1990 by which the High Court dismissed the application for a Review' of the said judgment dated 2-2-1990 preferred by the appellant.
3. In view of the order we make on the main appeal arising out of the judgment dated 2-2-1990, S. L. P. No. 15563/1990 becomes infructuous and is dismissed accordingly.
4. We have heard learned counsel on both sides on S. L. P. 15562/1990. Delay is condoned and Special Leave granted. The acquisition was not for purposes of the Government but for the benefit of the appellant which, as a statutory-body, was a distinct entity. The Land Acquisition Officer under his award made under Section 11 of the Land. Acquisition Act, 1894 ('Act) determined the market-value of the acquired lands at Rs. 500/- per bigha and awarded compensation accordingly. Respondents not having accepted the award sought for reference to the Civil Court and in the proceedings of reference the Additional District Judge enhanced the compensation to Rs. 1,000/- per bigha. In the first appeal at the instance of the claimant-land-owners the High Court made a further enhancement of the compensation to Rs. 2,000/- per bigha.
5. The principal contention of the appellants that the acquisition not having been for the Government itself but for a statutory authority it was incumbent upon the Court of Reference as also the High Court in the appeal to issue notice to the appellant before considering the claim of the land owners for enhancement of the compensation. It is not disputed before us that the provisions of the 'Act' which require the service of notice to the body for whose benefit the acquisition is made are attracted to this case and that such notice was not served on the appellant and the appellant has had no opportunity of being heard. Faced with this position learned counsel for the respondent-land owners fairly submitted that the judgment under appeal be set aside and the matter remitted to the High Court for a fresh disposal after affording an opportunity to the appellant of being heard in the matter. In view this submission, the judgment dated 2-2-1990 of the High Court in Appeal No. 24/78 is set aside and the appeal remitted to the High Court for a fresh disposal in accordance with law after affording a hearing to the appellant. Appellant will enter appearance in the appeal within 2 weeks from today without the requirement of any further notice being served on it separately in this

behalf. We also make it clear that as there is material to infer that appellant had accepted and was satisfied with the award of the Additional District Judge though no notice was served on the appellant in those proceedings it shall not be open to the appellant to assail the correctness of the enhancement made by the Court of Reference. That is the reason why we have not set aside the Award of the Court of Reference. We request the High Court to dispose of the appeal within four months from today.

6. One other thing remains to be considered. It would appear that pursuant to the enhancement of the compensation made by the High Court from Rs. 1,000/- per bigha to Rs. 2,000/- per bigha the enhanced amount has come to be deposited in the Court of Reference. During the pendency of the appeal in the High Court the Reference Court shall cause the amount to be invested in a fixed deposit in a nationalised bank initially for a period of 6 months to be renewed thereafter if the appeal is not in the meantime disposed of. Ultimately, the payment or apportionment, as the case may be, of the amount shall bide the decision in the appeal as well as in the dispute pertaining to the question of appointment inter se among the claimants which is stated to be pending separately. The appeal is disposed of accordingly. No costs.

Order accordingly.

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