

Union of India and Another

Vs

Babu Singh and Others

Civil Appeal No. 11933 of 1995

(K. Ramaswamy, K. S. Paripoornan JJ)

04.12.1995

ORDER

1. Delay condoned.

2. Leave granted.

3. In view of the fact that Mrs. Naresh Bakshi, learned counsel took notice on behalf of the proposed legal representatives of the deceased Respondents 1, 2 and 9, the relevancy to give the particulars as pointed out by the office no longer subsists.

4. The only question is whether reference under Section 28-A of the Land Acquisition Act, 1894 is maintainable to the land acquired under the Defence of India Act. Initially, an extent of 1230.8 acres of land including the land of the respondents situated in Bhatinda in Punjab State was requisitioned for the purpose of defence of India. Obviously the acquisition was under Section 8 of the Requisitioning and Acquisition of Immovable Property Act, 1952. An arbitrator was appointed under Section 8(3) of the Act. The arbitrator in his award dated 19-1-1985 determined the amount of compensation. Subsequent thereto, a writ petition seeking direction for reference under Section 28-A of the Land Acquisition Act, 1894 as amended by Act 68 of 1984, was filed in the High Court by the respondents.

5. The counsel appearing for the Union of India in the High Court had conceded as mentioned in the impugned order that a reference could be made under Section 28-A and the award could be decided within two months from that date. Assailing that order dated 29-10-1987 of the High Court in the abovesaid writ petition, viz., WP No. 2482 of 1987, this appeal by special leave has been filed.

6. Shri Goswami, learned Senior Counsel appearing for the Union of India contended that Section 28-A has no application to the acquisition of the land under the Requisitioning and Acquisition of Immovable Property Act, 1952. We find force in the contention. Shri Ujjagar Singh, learned Senior Counsel for the respondents, contended that since the counsel appearing for the Union of India has conceded before the High Court, the State is bound by the concession and that, therefore, there is nothing wrong in the order passed by the High Court. It is difficult to accept the contention. It is a case of total lack of jurisdiction since Section 28-A of the Land Acquisition Act has no application when the land is acquired under the Requisitioning and Acquisition of the Immovable Property Act. Therefore, wrong concession made by the counsel does not bind the Union of India in that behalf.

7. The appeal is accordingly allowed. The order of the High Court is set aside and the writ petition stands dismissed. No costs.