

U. P. Avas Evam Vikas Parishad and Others

Vs

Udai Ram (Dead) Through Lrs. and Another

Civil Appeals No. 2409 of 1997 with Nos. 2411, 2412, 2410 and 2413-15 of 1997

(K. Ramaswamy, G. T. Nanavati JJ)

17.03.1997

ORDER

1. Delay condoned. Leave granted.
2. We have heard the counsel on both sides. These appeals by special leave arise from the judgment of the Division Bench of the Allahabad High Court, made on 2-5-1996 in FA No. 757 of 1986 and batch.
3. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") was published on 9-5-1970. The Land Acquisition Officer passed his award on 28-3-1980. The respondents claimed a reference under Section 18. The District Judge enhanced the compensation to Rs. 14 per sq. yd. by his award and decree dated 15-5-1985. The reference court also applied the provisions of Amendment Act 68 of 1984 and granted enhanced benefits under the Amendment Act. The appellant-Parishad claimed that the Amendment Act is not applicable since the proceedings were initiated under the U.P. Avas Evam Vikas Parishad Act under which special procedure has been prescribed for determination of compensation. The High Court has rejected the contention and awarded compensation at the rate of Rs. 28.35 per sq. yard. Thus these appeals, by special leave.
4. We need not go into the merits of the manner of determination of the compensation. The question is one of applicability of the provisions of the Amendment Act 68 of 1984. Though there is a difference of opinion in *Gauri Shankar Gaur v. State of U.P.* ((1994) 1 SCC 92), subsequently this Court has considered the question in *Satya Pal v. State of U.P.* ((1997) 9 SCC 117) with regard to the determination of compensation. This Court has upheld the same in *U.P. Avas Evam Vikas Parishad v. Pushpa Lata Awasthi* ((1995) 3 SCC 117) and in *U. P Avas Evam Vikas Parishad v. Hakim Singh* ((1997) 9 SCC 607).
5. The learned counsel for the respondents sought to contend that there was a reference against the difference of opinion as to the applicability of the Amendment Act either by incorporation or by reference to a three-Judge Bench. In view of the fact that subsequent judgments have accepted that the Amendment Act is only by reference and not by incorporation, the Amendment Act has no application. It is then contended, relying upon the judgment in *Nagpur Improvement Trust v. Vithal Rao* ((1973) 1 SCC 500) that payment of compensation under the Adhinyam different from the Act is violative of Article 14. The ratio therein has no application to the fact-situation in these cases. That was a case where the vires of the Act itself was challenged under Article 226. In this case that question has not arisen because these appeals arose under reference under Section 18 of the Act.
6. The appeals are accordingly allowed. The orders of the High Court to the extent of application of

the Amendment Act 68 of 1984 stand set aside. Solatium shall be paid @ 15% on the enhanced compensation, interest at 6% a under the Schedule and clause 15 of the Schedule to the Adhiniyam. The appellant is directed to pay the amounts within six months from the date of the receipt of this order. No costs.

CAs Nos. 2414-2415 of 1997 @ SLPs (C) Nos. 7204-05 of 1997 [CCs Nos. 2797 and 2889 of 1997]

7. Delay condoned.

8. Leave granted.

9. Following the above judgment, these appeals are dismissed. No costs.