

State of Bihar

Vs

D. N. Singh (dead) by Lrs.

(S. B. Majmudar, S. P. Kurdukar JJ)

13.11.1997

JUDGMENT

S.B.MAJMUDAR, J.

1. We have heard learned counsel for the parties finally in this appeal.

2. This short question is whether the Commissioner exercising power under the proviso to Section 11 of the Land Acquisition Act, 1894 ('the Act' for short), while granting approval to the proposal of the Land Acquisition Collector regarding the award of compensation to the claimants could reduce the suggested amount for different categories of lands sought to be acquired.

3. The High Court relying upon its earlier decision has taken a view that the Commissioner has no such power. It is true that the proviso to Section 11 lays down that no award shall be made the Collector under sub-section (1) of Section 11 of the Act without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf and acting on the said proviso the State of Bihar by notification dated March 13, 1995 had authorised the Commissioner of the Division in such class of cases where the total compensation exceeds Rupees Five Lacs but does not exceed Rupees Fifteen Lacs, to be the authority under the proviso to Section 11(1) of the Act. The High Court's decision cannot be sustained for the simple reason that the view which appealed to the High Court relying upon its earlier decision has been upset by this Court in its decision dated 30th November 1993 rendered in Civil Appeal arising out of S.L.P.(C) No.7637 of 1993. Following the said decision it must be held that the Commissioner could have exercised power under Section 11(1) of the Land Acquisition Act.

4. However, that would not be the end of the matter. Learned counsel for the respondents submitted that according to him, as the lands acquired in this case were about Ac.1.15 gunths, the total award offered by the Collector would not be Rs.5 lacs but would be much less. Therefore, even assuming that the Commissioner had authority to decide the question under the proviso to Section 11(1), if he was not the competent authority he could not have reduced the amount of compensation. Mr. Singh, learned counsel appearing for the State of Bihar, on the other hand, submitted that the award under Section 11(1) is a comprehensive award and, therefore, if number of pieces of lands are acquired by the same notification, the award would be a composite one awarding compensation to different claimants. And if the total amount of compensation offered in such an award exceeds Rs.5 lacs, it would fall within the powers of the authority entrusted with the function of approval under the proviso to Section 11(1) of the Act. Learned counsel for the respondents, on the other hand, submitted that if that was so, then question would arise whether the total compensation computed by the Collector as payable to all the claimants together would work out to more than Rs.15 lacs in which case the Commissioner would not be the competent authority to act under proviso to Section 11(1) of the Act but it would be the State Government as the award would exceed Rs.15 lacs. As

these aspects are not dealt with the High Court, we deem it fit and proper to set aside the order under appeal and remand the proceedings by restoring the writ petition on the file of the High court with a request to proceed further in accordance with law after hearing the parties concerned. We make it clear that we are not expressing any opinion on the merits of the controversies raised before us on this aspect and it will be for the High Court to decide the same on its own in the light of the relevant evidence which may be produced before it. The appeal is allowed accordingly. No costs.