SUPREME COURT OF INDIA

City and Industrial Development Corporation of Maharastra Ltd.

Vs.

Damodar Khemchand Talreja

C.A.No.2729 of 1999

(Doraiswamy Raju and P.Venkatarama Reddy JJ.)

04.03.2003

JUDGMENT

P. Venkatarama Reddi, J.

1. The appellant in both these appeals is City and Industrial Development Corporation of Maharashtra Limited - a Government Company designated as Special Planning Authority for the development of notified area known as New Nasik. The proceedings for acquisition of vast extent of land were initiated during the year 1982 in one case and in 1975 in another casse under the provisions of Maharashtra Regional Town Planning Act, 1966 read with the Land Acquisition Act. The present appeals, which we are concerned with, relate to award of compensation for portions of the said land belonging to the respondents. The compensation was determined by the Reference Court zone-wise. In Civil Appeal No. 2729/1999, the appeal filed by the State against the award of the Reference Court was dismissed upholding the determination of the market value by the Reference Court. At the same time, the High Court held that the claimants shall be entitled to get the benefits envisaged by Section 23(1A), 23(2) and 28 of the Land Acquisition Act as added/amended by Central Act 68 of 1984. In Civil Appeal Nos. 2730-2731 of 1999, the appeal filed by the claimant against the order of the Reference Court was partly allowed by enhancing the compensation to a certain extent. The appeal filed by the State was dismissed. There also, the benefits under Section 23(1A), 23(2) and 28 as amended were made available to the claimants.

2. Strangely enough, the judgment of the High Court in each of these cases in the main appeals against the awards of the Reference Court have not been questioned at all before this Court. The orders questioned in this Court are those dismissing the appellant's application for impleadment and review filed after he disposal of the appeals. The impugned order in Civil Appeal Nos. 2730-2731 of 1999 reads as follows:

> "Heard learned Counsel for the parties.
>
> The applications were filed int wo groups of First Appeals. One group was disposed of on 19-20/4/93. The other was disposed of on 24-27/1/97. The applicant is praying

for impleadment and for review of those orders. It is not possible to implead the applicant in these First Appeals which are alredy disposed of and consider granting of review.

Civil application disposed of accordingly."

An identical order was passed on the same date, i.e., on 22.12.1998 in the other matter covered by Civil Appeal No. 2729 of 1999.

3. The question of law formulated in the S.L.Ps. is "whether the provisions of Section 23(1A), 23(2) and 28 of the Land Acquisition Act, 1894 as introduced by land Acquisition (Amendment) Act No. 68 of 84 are applicable for determining the compensation payable in respect of land acquired under the *Maharashtra Regional and Town Planning Act, 1966* ?"

4. THe contention of the appellants is that the acquisition under the Maharashtra Regional Town Planning Act is unaffected by subsequent amendments to the Land Acquisition Act and the provisions in vogue at the time of enactment of M.R.T.P. Act in regard to solatium, interest and other monetary benefits relatable to compensation should alone be taken into account. However, this contention was not raised before the High Court even in the main appeals. As simillar issue was pending consideration in Civil No. 4394 of 1997, leave was granted by this Court. That appeal has been disposed of today.

5. Strictly speaking, the question which has been raised in the S.L.P. does not arise for consideration at all inasmuch as the main judgment of the High Court in the concerned appeals has not been questioned. Not even a ground is raised in the S.L.P. as to how the impugned order dismissing the impleadment petitions and the prayer for review is contrary to law or legally unsutainable. Even a copy of Civil Application and the counter if any filed therein has not been filed along with the S.L.P. or in he paper book. The reason given by the High Court in dismissing the Civil Applications seems to be unexceptionable.

6. The question of deciding the point of law raised by the appellants does not stritly arise for consideration in view of what is mentioned above. In any case, that issue stands concluded against the appellants in the judgment which we have pronounced today in Civil Appeal No. 4394 of 1997.

7. In the course of arguments, a contention was raised that the appellant-corporation at whose instance the application was made, is a necessary party and it should have been impleaded in the proceedings before the Statutory authorities and the Courts. Relying on the decision in 1993(1) SCC, Page 608, it is contended that the failure to make the requisitioning body as a party vitiates the acquisition. This point was not specifically raised in the S.L.P. We are not in a position event to know the averments made in the I.A. filed in Civil Application and the counter filed therein. We are saying this because the learned counsel for the respondents has stated in the course of arguments and written submissions that the appellant was well aware of the Reference proceedings and even oral and documentary evidence was produced by the appellant. It is further stated that the appellant deposited the amount decreed and also

instructed the Government Pleader to file the appeals. The appellant itself did not choose to file the appeal though it was open to it to do so. It is, therefore, contended that long after the disposal of the appeal by the High Court, the bogey of prejudice is sought to be raised and the S.L.P. has been preferred apparently for the reason that the issue regarding the statutory benefits under the amended L.A. Act was pending consideration in another matter. The learned counsel for the appellent has not been in a position to rebut what the respondents' counsel has stated.

8. For various reasons noted above, we connot , at the stage, allow the appellant to raise the point that it was not made a party, especially when we are not in a position to say that any prejudice had occured to the appellant. In any case, the only question of law raised in appeals having been decided against the State, no further considertion needs to be given to these appeals.

9. The appeals are therefore dismissed without costs.