**SUPREME COURT OF INDIA**

Rishi Pal Singh and Others

Vs

Meerut Development Authority and Another

Appeal (Civil) 1288 of 2006, (Arising Out of Slp (C ) No.18358 of 2004) With Civil Appeal No. 1289 of 2006 (Arising Out of Slp(C ) No.19956 of 2004), Civil Appeal No. 1290 of 2006 (Arising Out of Slp(C) No. 14250 of 2004), Civil Appeal No.1291 of 2006 (Arising Out of Slp(C ) No.19778 of 2004) and Civil Appeal No.1292 of 2006 (Arising Out of Slp (C ) No.777 of 2005

(Arun Kumar and R.V. Raveendran, JJ)

24.02.2006

**JUDGMENT**

**ARUN KUMAR, J.**

Leave granted in all these Special Leave Petitions.

These appeals are directed against the judgment of the High Court whereby the High Court set aside the judgment of the Reference Court passed under Section 18 of the Land Acquisition Act and remanded the case to the Reference Court for fresh determination of the market value of the acquired land.

Briefly, the facts are that a large tract of land was acquired vide a notification dated 14th August, 1987 under Section 4 of the Land Acquisition Act. The acquired land falls within the municipal limits of the city of Meerut (U.P.). The Special Land Acquisition Officer (SLAO) noted the potentiality of the acquired land for purposes of building activity in his award dated 22nd February, 1990. He however, fixed the market value of the acquired land at Rs.30/- per square yard. A

reference under Section 18 of the Act at the instance of the claimants was decided by the learned District Judge, Meerut vide judgment dated 23rd November, 2002. The claimants were claiming compensation at the rate of Rs.270/- per square yard. The District Judge however, determined the rate of compensation as Rs.126/- per square yard besides the statutory benefits. Both the parties i.e. the claimants as well as the respondent, Meerut Development Authority appealed against the said judgment of the Reference Court in the High Court of Allahabad. The appeals filed by the Meerut Development Authority were decided by the impugned order which is similar in all the five appeals before us. The cross appeals of the claimants are said to be still pending in the High Court.

Learned counsel for the appellant argued that there was no reason for the High Court to remand the matter to the Reference Court for fresh determination of the market value of the land specially in view of the fact that the learned District Judge while deciding the reference under Section 18 of the Act had taken into consideration all relevant factors and after full discussion had arrived at the figure of Rs.126/- per sq.yard. Neither party sought any opportunity to lead fresh or further evidence. According to the learned counsel, the High Court ought to have decided the case on the basis of material already on record and the High Court being the appellate court was required to reappraise the evidence and decide the matter accordingly. More so if in pursuance of the impugned order the reference Court was to make fresh determination, the parties would have right of appeal to the High Court against such an order. In order to avoid this extra burden on the parties as well as on the court, it would have been more appropriate that the High Court should have decided the matter itself rather than remand it to the Reference Court. We may note here that before this Court also neither party expressed any desire to lead further evidence. The case had to be decided simply on basis of material already on record.

On merits the learned counsel submits with reference to the impugned judgment of the High Court that only two reasons have been given by the High Court for setting aside the order of the Reference Court and remanding the case back to it. First reason is that exemplars relied upon by the Reference Court are of small plots of land whereas the acquisition is of a large tracts of land i.e. about 180 acres. The second reason given in the impugned judgment for remand is that exemplars filed by the acquiring authority i.e. appellants before us, were not considered by the Reference Court. The learned counsel for the appellants has taken us through the judgment of the Reference Court to show that both the reasons given by the High Court in its impugned order are factually incorrect. With respect to the first reason, that is, exemplars of small plots have been taken into consideration by the Reference Court, in the first instance our attention was invited to some judgments of this Court to urge that there is no absolute bar to exemplars of small plots being considered provided adequate discount is given in this behalf. Thus there is no bar in law to exemplars of small plots being considered. In an appropriate case, specially when other relevant or material evidence is not available, such exemplars can be considered after making adequate discount. This is a case in which appropriate exemplars are not available. The Reference Court has made adequate discount for taking the exemplars of smaller plots into consideration. It appears that the attention of the High Court was not drawn to this part of the judgment of the Reference Court which has resulted in the High court completely overlooking the relevant discussion in the judgment of the Reference Court. Regarding the second point that exemplars of the appellant before us were not taken into consideration, again, the High Court is factually wrong and this mistake appears to have resulted from the fact that the judgment of the Reference Court was not properly brought to the notice of the High Court. The Reference Court has referred to the exemplars of the acquiring authority but has observed that since they have not been proved on record, they cannot be looked into. The learned counsel for the

acquiring authority was unable to say that this observation of the Reference Court was factually incorrect nor he could show that the exemplars filed by his client had been proved on record. In fact we requested him to show these exemplars to us. He completely ignored our request. Therefore, we find nothing wrong in the Reference Court ignoring the exemplars said to have been filed by the acquiring authority.

From the above, it is clear that the High Court judgment was passed in a mechanical manner without properly appreciating the judgment of the Reference Court. The appeal before the High Court was the first appeal and the High Court, in our view, ought to have examined the impugned judgment and the material on record before setting it aside. Both the reasons given for setting aside the judgment of the Reference Court are factually incorrect.

The learned counsel for the appellant strongly urged before us that we should decide the appeals on merits specially in view of the fact that long delay has already taken place and the land owners are being deprived of the compensation due to them on account of compulsory acquisition of their land. However keeping in view the fact that the cross appeals of the land owners are still pending in the High Court and the High Court being the Court of first appeal in such matters which ought to give its findings based on appreciation of evidence, we are persuaded to remand the matter to the High Court for decision on merits. The impugned judgment of the High court setting aside the order of the Reference Court is hereby quashed. The High court will hear and decide these appeals as well as the cross appeals of the claimants afresh in accordance with the law as early as possible. Any observation made in this judgment need not influence the judgment of the High Court on merits. The appeals are disposed of in above terms.