SUPREME COURT OF INDIA

Union of India

Vs.

Ranchod

C.A.No.2108-2194 of 2003

(G.P. Mathur and G.S. Singhvi JJ.)

04.12.2007

JUDGMENT

G.P. MATHUR, J.

1. Leave granted in special leave petitions.

2. These appeals, by special leave, have been preferred against the judgment and decree dated 1.9.1999 of Madhya Pradesh High Court by which the appeals filed by the landholders and also by the Union of India were dismissed.

3. The Government of India issued notifications under Sections 4(1) and 6(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the `Act') for acquisition of large area of land (4827.63 hectares) situate in various villages in Tehsil Mhow, District Indore for establishing two firing ranges, namely, Bercha and Hema for the artillery wing of the army. An area of 2917.160 hectares was acquired for Bercha Firing Range and 1910.464 hectares for Hema Firing Range. After receipt of notice under Section 9 of the Act, the landholders submitted objections. The Collector, Indore, after considering the objections of the landholders and making relevant inquiry, gave an Award regarding the compensation which was to be paid to the landholders. The landholders being dissatisfied with the Award of the Collector asked for a reference to be made to the court in accordance with Section 18 of the Act. The reference court after taking into consideration the evidence adduced by the parties gave an Award. It awarded compensation @ Rs.58,000 per hectare for unirrigated and uncultivable land and Rs.88,000 per hectare for irrigated land in Bercha Firing Range. With regard to Hema Firing Range compensation was awarded @ Rs.40,000 per hectare for uncultivable land, Rs.58,000 per hectare for unirrigated land and Rs.88,000 per hectare for irrigated land. The landholders and also the Union of India preferred appeals against the Award of the reference court before the High Court. The High Court decided all the appeals by a common order, which is the subject-matter of challenge in the present appeals. The High Court passed a short order and the relevant part of the judgment dealing with the controversy is reproduced below: -

"5. We would have very much liked to examine the merit of rival contentions, but it would serve the interests of none. It could only prolong the agony of petty land-holders without resulting in the gain to union coffers. Assuming appeals filed by the Union were to be allowed, it could prove futile because compensation amount awarded by reference court stood paid or was in the process of being

paid to land holders under the orders of this court with little or no prospects of its recovery. Similarly if land-holders' plea was to be entertained, it could entail remand to the reference court and protract the proceedings for years on to their disadvantage and detriment. Therefore taking all this into consideration and given regard to the interest of both parties we deem it appropriate to end this litigation in "let be gones be gones" spirit, because adverting to the issues raised by the parties would have opened Pandora's Box resulting in unending litigation causing avoidable hardship and inconvenience more particularly to poor land-holders who have reportedly gone through considerable sufferings during the last 11 years for the sake of National Defence. This is not to shy away from taking the adjudication to logical end but to terminate the litigation to the mutual advantage and benefit of both sides."

4. Learned counsel for both the sides have submitted that the High Court has not at all considered the evidence on record and has decided the appeals by a short and cryptic order which shows a total non application of mind. It has been submitted by learned counsel for the parties that the matter requires fresh consideration in the light of evidence which has been adduced by the parties.

5. Section 54 of the Act, insofar as relevant for the purposes of the present appeals, says that subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award of the Court.

6. Order XLI CPC deals with appeals from original decrees. Order XLI Rule 31 lays down that the judgment of the appellate court shall be in writing and shall state (a) the points for determination, (b) the decision thereon, (c) the reasons for the decision, and (d) where the decree appealed from is reversed or varied, the relief to which the appellant is entitled. This provision has come up for consideration in innumerable occasions and its meaning and scope has been explained. It is not necessary for us to refer to various decisions but we will refer to one of the recent judgments given in G. Amalorpavam and Ors. v. R.C. Diocese of Madurai, [2006] 3 SCC 224, wherein this Court observed as under:-

"The question whether in a particular case there has been substantial compliance with the provisions of Order 41 Rule 31 CPC has to be determined on the nature of the judgment delivered in each case. Non-compliance with the provisions may not vitiate the judgment and make it wholly void, and may be ignored if there has been substantial compliance with it and the higher appellate court is in a position to ascertain the findings of the lower appellate court. It is no doubt desirable that the appellate court should comply with all the requirements of Order 41 Rule 31 CPC. But if it is possible to make out from the judgment that there is substantial compliance with the said requirements and that justice has not thereby suffered, that would be sufficient. Where the appellate court having considered the entire evidence on record and discussed the same in detail, come to any conclusion and its findings are supported by reasons even though the point has not been framed by the appellate court there is substantial compliance with the provisions of Order 41 Rule 31 CPC and the judgment is not in any manner vitiated by the absence of a point of determination. Where there is an honest endeavour on the part of the lower appellate court to consider the controversy between the parties and there is proper appraisement of the respective cases and weighing and balancing of the evidence, facts and the other considerations appearing on both sides is clearly manifest by the perusal of the judgment of the lower appellate court, it would be a valid judgment even though it does not contain the points for determination. The object of the rule in making it incumbent upon

the appellate court to frame points for determination and to cite reasons for the decision is to focus attention of the court on the rival contentions which arise for determination and also to provide litigant parties opportunity in understanding the ground upon which the decision is founded with a view to enable them to know the basis of the decision and, if so considered appropriate and so advised, to avail the remedy of second appeal conferred by Section 100 CPC."

In Girja Nandini Devi v. Bijendra Narain Choudhury, AIR (1967) SC 1124, an observation was made that it is not the duty of the appellate court when it agrees with the view of the trial court on the evidence either to restate the effect of the evidence or to reiterate the reasons given by the trial court. Expression of general agreement with reasons given by the Court decision of which is under appeal would ordinarily suffice.

7. The aforesaid observation in Girja Nandini Devi (supra) is often misunderstood and sometimes the courts while delivering a judgment of affirmance have adopted a shortcut method of not considering the evidence but merely expressing a general agreement with the reasons given by the trial court. This case was considered in Santosh Hazari v. Purushottam Tiwari, [2001] 3 SCC 179, wherein it was observed as below : -

"The appellate court has jurisdiction to reverse or affirm the findings of the trial court. First appeal is a valuable right of the parties and unless restricted by law, the whole case is therein open for rehearing both on questions of fact and law. The judgment of the appellate court must, therefore, reflect its conscious application of mind and record findings supported by reasons, on all the issues arising along with the contentions put forth, and pressed by the parties for decision of the appellate court. The task of an appellate court affirming the findings of the trial court is an easier one. The appellate court agreeing with the view of the trial court need not restate the effect of the evidence or reiterate the reasons given by the trial court; expression of general agreement with reasons given by the court, decision of which is under appeal, would ordinarily suffice (see Girja Nandini Devi v. Bijendra Narain Choudhury). We would, however, like to sound a note of caution. Expression of general agreement with the findings recorded in the judgment under appeal should not be a device or camouflage adopted by the appellate court for shirking the duty cast on it. While writing a judgment of reversal the appellate court must remain conscious of two principles. Firstly, the findings of fact based on conflicting evidence arrived at by the trial court must weigh with the appellate court, more so when the findings are based on oral evidence recorded by the same Presiding Judge who authors the judgment. This certainly does not mean that when an appeal lies on facts, the appellate court is not competent to reverse a finding of fact arrived at by the trial Judge. As a matter of law if the appraisal of the evidence by the trial court suffers from a material irregularity or is based on inadmissible evidence or on conjectures and surmises, the appellate court is entitled to interfere with the finding of fact."

8. In the case in hand the High Court has not referred to even an iota of evidence which was adduced by the parties. There were large number of landholders whose land was acquired and they had filed separate objections under Section 9 of the Act and had separately sought references under Section 18 of the Act. They had separately lead evidence in support of their cases before the reference court. It is not a case where a single case may have large number of parties and the evidence adduced is common for all of them. In the matter of determination of compensation large number of factors have to be seen, namely, nature and quality of land, whether irrigated or unirrigated, facilities for irrigation like existence of well etc., presence of fruit bearing trees, the location of the land, closeness to any road or highway, the evenness of the land, namely, whether its

level is even or there are pits etc., its position in rainy season, namely, whether water gets accumulated in rains, existence of any building or structure and a host of factors having bearing on valuation of the land.

9. The High Court has not at all adverted to even a single piece of evidence and there is absolutely no indication in the judgment as to how it has come to a conclusion that the findings recorded by the reference court require to be affirmed.

10. There being total non-compliance of the mandatory provisions of Order XLI Rule 31 CPC we have no option but to set aside the judgment of the High Court and remand the matter to the High Court for fresh consideration of the appeals.

11. In the result, the appeals are allowed and the judgment and decree dated 1.9.1999 of the High Court is set aside. The appeals (both by the landholders and also by the Union of India) are remitted to the High Court for fresh decision in accordance with law. Parties to bear their own costs.

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12. These appeals, by special leave, have been preferred against the judgment and decree dated 27.6.2000 of Madhya Pradesh High Court.

13. The State Government issued notifications under Sections 4(1) and 6(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the `Act') for acquiring large area of land for a public purpose. After receipt of the notice under Section 9 of the Act the landholders filed objections. The Collector, after consideration of the objections, made an Award awarding compensation @ Rs.12,000 per hectare for dry land and Rs.18,000 per hectare for irrigated land. Feeling aggrieved by the Award the landholders asked for a reference under Section 18 of the Act. The reference court enhanced the compensation and awarded Rs.22,000 per hectare for dry land and Rs.33,000 per hectare for irrigated land. Against the Award of reference court the landholders preferred appeals before the High Court under Section 54 of the Act. The High Court decided the appeals by extremely short and cryptic order and the entire judgment passed by the Division Bench of the High Court, comprising Justice R.D. Vyas and Justice Shambhoo Singh, is reproduced below: -

"These appeals arise out of the similar acquisition proceedings as in the case of First Appeal No. 254/97 and the group decided by this Court in the Division Bench consisting of Justice B.A. Khan and Justice Shambhoo Singh on 01.09.99 are taken together. First appeal No. 134/95 and First Appeal No. 223/96 are taken up for hearing today itself at the request of the parties and disposed of along with the group.

The compensation will be governed by the principle and amount decided in the aforesaid judgment of this Court meaning thereby that the unirrigated lands will be paid Rs.58,000/- per hectare and the irrigated land Rs.88,000/- per hectare as confirmed in the said judgment. The appeals are accordingly disposed off. The Court-fees deposited in the appeal filed by the claimants/land holders shall be returned to them as per the directions in the aforesaid judgment. A copy of this judgment be placed in the connected appeal."

14. The appellant State of Madhya Pradesh preferred a review petition against the aforesaid judgment and decree dated 27.6.2000. In the review petition the High Court took the view that the

case did not fall within the purview of Order 47 Rule 1 of the Code of Civil Procedure and accordingly dismissed the same by a short order of eight lines.

15. Since in the present case the High Court has followed the judgment and decree dated 1.9.1999, which has been quoted above and since we have set aside the said judgment and have remanded the matter to the High Court for fresh consideration, the judgments and decrees under challenge in the present appeals have also to be set aside.

16. The appeals are accordingly allowed and the judgment and decree dated 27.6.2000 and also the order passed in the review petition dated 22.3.2002 are set aside and the appeals are remitted to the High Court for a fresh consideration in accordance with law. Parties to bear their own costs.