

**SUPREME COURT OF INDIA**

U.P. Avas Evam Vikas Parishad

Vs.

Ram Chandra Agarwal

C.A.No.9596 of 2003

(G.S.Singhvi and Dr.B.S.Chauhan JJ.)

21.09.2010

**ORDER**

1. This appeal is directed against order dated 18.5.2001 of the Division Bench of the Allahabad High Court whereby it disposed of the writ petition filed by respondent No.1 with a direction to the Housing Commissioner to provide funds for payment of additional compensation to the respondent with a further direction to the Land Acquisition Officer to pass appropriate order on the application filed by respondent No.1 for payment of such compensation.

2. By notification dated 20.12.1969 issued under Section 29 of the Uttar Pradesh Avas Avam Vikas Parishad Adhiniyam, 1965 (for short, 'the 1965 Act'), the Government of U.P. proposed acquisition of a huge chunk of land for Ghazipur-Bastauli Bhumi Vikas Avam Griahsthan Yojna, Lucknow. Final declaration under Section 32 of the 1965 Act was published on 9.7.1972 and possession of the land was taken some time in March, July and September, 1973.

3. By an award dated 22.3.1975, the Special Land Acquisition Officer applied belting system for payment of compensation and fixed market value of the acquired land falling in first belt at Rs.1.03 per sq.ft. For the land falling in the second and the third belt, market value was fixed at 66 paisa per sq.ft. and 33 paisa per sq.ft. respectively. He also awarded Rs.24,687.20 for the trees and existing constructions. The Nagar Mahapalika Tribunal, Lucknow to whom the matter was referred under Section 18 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') passed an award dated 16.3.1984 whereby market value of the acquired land was substantially enhanced.

4. After amendment of the Act in 1984, the respondent submitted application dated 21.11.1984 before the Special Land Acquisition Officer for payment of additional compensation in terms of Section 23(1-A). He repeated this request by filing another application on 26.6.1991. For the next about 20 years, the Housing Commissioner of the appellant, the Special Land Acquisition Officer and Additional District Magistrate (Land

Acquisition) exchanged correspondence on the issue of payment of additional compensation to the respondent, which was calculated as Rs.65,56,065/-. However, as the amount was not paid to the respondent, he filed Writ Petition No.8(L/A) of 2001. The High Court took cognizance of the correspondence exchanged between the functionaries of the State and the Housing Commissioner of the appellant and disposed of the writ petition by a rather cryptic order, the last paragraph of which reads as under:

“As the question involved in the present Writ Petition is too trivial to drag on unnecessarily, hence we dispose of this writ petition with a direction to the Housing Commissioner to provide necessary funds as asked for by the Additional District Magistrate [Land Acquisition], within a period of six weeks. The Land Acquisition Officer thereafter will pass appropriate orders on the application of the petitioner for payment of the compensation and if the same is due, will pay the same to the petitioner in accordance with law.”

5. When the appeal was taken up for hearing on 14.9.2010, it was brought to the notice of the Court that additional compensation has already been paid to other land owners under Section 23(1-A) of the 1894 Act. Thereupon, the Secretary of the appellant was directed to appear in-person along with records relating to payment of additional compensation.

6. In compliance of the aforesaid order, Mr. Mishri Lal Paswan, Secretary, U.P. Avas Evam Vikas Parishad, has appeared in person. We asked him to clarify as to why additional compensation has been paid to other land owners without going into the issue of their entitlement to receive such compensation, but he could not give satisfactory reply, a phenomenon which is not unusual in the functioning of the bureaucracy of the country.

7. We have heard Mr. Dinesh Dwivedi, learned senior counsel appearing for the appellant and Mr. Pallav Sishodia, learned senior counsel appearing for respondent No.1 and are convinced that the order under challenge is liable to be set aside because the High Court disposed of the writ petition without deciding the entitlement of respondent No.1 to get additional compensation in terms of Section 23(1-A) of the Act as amended in 1984.

8. The appeal is accordingly allowed. The impugned order is set aside and the matter is remitted to the High Court for fresh disposal of the writ petition filed by the respondent. The parties may file supplementary affidavits within four weeks from today. They shall be free to raise all points/issues before the High Court.

9. Since the acquisition is of the year 1969, we request the High Court to decide the writ petition within a period of six months from the date of receipt/production of a copy of this order.