

A

STATE OF ASSAM

v.

JITENDRA KUMAR SENAPATI & OTHERS

February 17, 1981

B

[S. MURTAZA FAZAL ALI AND A. D. KOSHAL, JJ.]

Land Acquisition Act, 1894, sections 23 and 34—Agreement between the parties reduced in writing to accept a specified sum by a specified date two years after the land acquisition—Whether the words “would not make any further claim in regard to compensation” would exclude further claims of interests under the Act.

C

Accepting the State appeal, negating the claim for interest and dismissing the original writ petition, the Court,

D

HELD : The expression “would not make any further claim in regard to compensation” in the agreement dated the 24th February, 1969 was clearly used by the petitioners-respondents not in the sense in which it is used in sections 23 and 34 of the Land Acquisition Act but more comprehensively meaning reimbursement in full satisfaction of their claim in respect of the acquisition. The condition attached by them to the relinquishment of their claim was that the agreed amount must be paid to them before 31st March 1969, which agreement would show that by the acceptance of the quantified sum of Rs. 4,41,202.45 they condoned the delay in payment and also relinquished all future claims to interest. If it were otherwise, the respondents would have expressly reserved their right to claim interest under section 34 of the Act. [853 A-B, D-F]

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1947 of 1970.

From the Judgment and Order dated 17.3.1970 of the Gauhati High Court in Civil Rule No. 1151/69.

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S. N. Chowdhary for the Appellant.

D. N. Mukherjee for Respondent No. 2.

V. S. Desai, B. P. Maheshwari and Suresh Sethi and Miss Asha Jain for the Respondent.

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The Judgment of the Court was delivered by

KOSHAL, J. This is an appeal by certificate granted under sub-clause (a) of clause (1) of article 133 of the Constitution of India by the High Court of Assam and Nagaland against its judgment dated 17th March, 1970 accepting a petition under article 226 of the Constitution of India which arose in the circumstances that follow.

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Land measuring 7.60 acres and situated at Lawshtun, Bishnupur, Shillong, belonged to the 5 respondents when a notification under section 4 of the Land Acquisition Act (hereinafter referred to as the

Act) was published in respect thereof on 27th March 1967. Three days later the possession of the land was taken over by the Collector, United Khasi and Jaintia Hills, Shillong. Proceedings for the award of compensation to the respondents were pending when negotiations took place between the Chief Secretary to the Government of Assam and two of the respondents who agreed to the reduction of the cost of acquisition of the land from Rs. 6,17,683.50 to Rs. 4,63,262.57 (inclusive of cost of establishment and contingency amounting to Rs. 22,060.12). Thereafter the Under Secretary to the Government of Assam in the Home and Political/Department wrote to respondent No. 2 a letter dated 21st February, 1969 detailing the agreement arrived at between the Chief Secretary and the respondents and requesting them—

“to please submit immediately a written document signed by all the co-sharers of the land to the effect that yourself and all other co-sharers are agreeable to accept the L. A. cost of Rs. 4,41,202.45 for land at Bishnupur and that you and your co-sharers will make no further claim for the land thus acquired by Government.”

The respondents lost no time in sending their reply which was dated 24th February 1969 and in which they stated that the delay in payment had caused to them great hardship and that they had agreed to reduce the cost of the acquisition in the course of their discussion with the Chief Secretary whom they had urged “at the same time that the payment should be made immediately.” The reply was signed by all the five respondents and was accompanied by an agreement (also signed by all of them), the text of which may be set out in extense :

“We, all the co-shares interested in the land acquisition case for construction of quarters for Special Branch Staff of Police Department at Lawsohtun, Bishnupur, Shillong, hereby agree in response to the Government Letter No. 356/66/55 dated the 21st February, 1969 to accept the land acquisition cost of Rs. 4,41,202.45P (Rupees four lakhs forty one thousand two hundred and two and forty five paise only) subject to Government making payment within the 31st March, 1969 for our land measuring more or less 7.60 acres at Lawsohtun, Bishnupur, Shillong.

“We further agree that we will make no further claim in regard to compensation for the same land provided actual

A payment is received within the above period of 31st March, 1969.”

The agreement between the parties was reduced by the Collector to an award dated the 25th March 1969 and on the very next day the sum of Rs. 4,41,202.45 was paid to the respondents.

B On 31st March 1969 the respondents made an application to the Chief Secretary claiming interest at the rate of 12½ per cent per annum on the amount last mentioned. As there was no response from the Chief Secretary, the respondents applied to the Collector on 7th July, 1969 requesting him to pay interest on the amount awarded at the rate of 6% per annum for the period from 30th March 1967 to 26th March 1969 under section 34 of the Act which runs thus :

C “When the amount of such compensation is not paid or deposited on or before taking possession of the land, the collector shall pay the amount awarded with interest thereon at the rate of six per cent per annum from the time of so taking possession until it shall have been so paid or deposited.”

D The Collector informed the respondents by a letter dated 31st July 1969 that no action was necessary “at this stage”. It was then that the respondents knocked at the door of the High Court.

E 2. The High Court was of the opinion that the agreement between the parties covered only the amount of “compensation” as described in the various sections of the Act including sections 23 and 34 and that interest had to be paid on such compensation by reason of the statutory requirement enacted in that behalf by section 34. The High Court, therefore, accepted the petition filed before it and held that the Collector was bound to pay to the respondents interest on the amount covered by the award at the rate of 6 per cent per annum from 30th March 1967 (being the date on which the possession of the land was taken over by the Collector) to the date of payment, i.e., 26th March 1969. It directed the Collector to dispose of the petition dated the 7th July 1969 made to him by the respondents in accordance with law.

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G 3. The short point requiring determination by us is whether the agreement arrived at between the parties in February 1969 embraced only the “compensation” within the meaning of that term as used in the Act or covered also the payment of interest under section 34 thereof. Having heard learned counsel for the parties we are of the opinion that the interpretation placed on the agreement by the High Court cannot be sustained and that the respondents are not entitled to any interest on the sum already paid to them.

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4. Although it is true that in the agreement dated the 24th February 1969 which the respondents signed and sent to the Government along with their letter of that date they stated that they would not make any further claim in regard to "compensation", but that expression, in our opinion, was clearly used by them not in the sense in which it is used in sections 23 and 34 of the Act but more comprehensively, meaning re-imbursement in full satisfaction of their claim in respect of the acquisition. That this was so was made clear in the letter addressed to them by the Under Secretary in which he expressly stated that—

"you and your co-sharers will make no further claim for the land thus acquired by the Government."

The Under Secretary did not use the word "compensation" in his letter nor did the respondents use it in their reply in which, on the other hand, they made a grouse of the hardship which the delay in payment had caused to them and brought it to the pointed attention of the under Secretary that immediate payment was an essential part of the bargain. In the agreement signed by them (as pointed out above) they no doubt used the word "compensation" but they added that they would make no further claim in regard to it if actual payment was received by them before the 31st March, 1969. The condition thus attached by them to the agreement would show that by the acceptance of the quantified sum of Rs. 4,41,202.45 they condoned the delay in payment and also relinquished all future claims to interest. If it were otherwise, there is no reason why the respondents would not have expressly reserved their right to claim interest under section 34 of the Act. The tenor of the two letters coupled with the agreement leads to no other conclusion.

4. In the result the appeal succeeds and is accepted. The judgment of the High Court is set aside and the respondents' petition decided by it is dismissed but with no order as to costs.

S.R.

Appeal allowed.