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SH. KISHAN DAS AND ORS.

v.

THE STATE OF U.P. AND ORS.

SEPTEMBER 12, 1995

B

[K. RAMASWAMY, B.P. JEEVAN REDDY
AND B.L. HANSARIA, JJ.]

Land Acquisition Act, 1894 : Sections 18, 23(1), 28, 34 and 54.

C

*Land Acquisition—Compensation—Interest—Liability of State to pay—
Litigation by land-owners—Delay in passing the compensation award—Com-
pensation amount deposited as soon as award was passed—Held there was
no liability to pay interest.*

D

In proceedings initiated for acquisition of land belonging to the appellants, a notification under section 4(1) of the Land Acquisition Act, 1894 was published on September 29, 1976 while the declaration under section 6 was published on September 30, 1976. While issuing notification under section 4(1), the Government exercised its power under section 17(4) and dispensed with the enquiry under section 5-A and consequently took possession of the land on December 16, 1976. Immediately after issue of the notification in september, 1976, the appellants filed petitions in the High Court as a result of which further proceedings were stayed. Further, after the dismissal of writ petitions by the High Court the appellants obtained status quo from this Court. Consequently, the Land Acquisition Officer was not in a position to pass the award.

E

F

In appeal to this Court it was contended for the appellant that in view of the fact that the award was made on March 22, 1983 though the acquisition was made in September, 1976 the appellants should be compensated by payment of interest @ 12 per cent per annum.

G

Dismissing the appeal, this Court

H

HELD : 1.1. The liability of the State to pay interest ceases with the deposit made as per Section 34 of the Land Acquisition Act. Further liability would arise only when the court on reference under Section 18 enhanced the compensation under Section 28 of the Act. Similarly, in an

appeal under Section 54 of the Act if the appellate court further increases the compensation, then again similar obligation under Section 28 arises. In the light of the operation of the respective provisions of Section 34 and 28 of the Act, it would be difficult to direct payment of interest. [587-A-B] A

1.2. Section 23(1-A) is a set off for loss in cases of delayed awards to compensate the person entitled to receive compensation; otherwise a person who is responsible for the delay in disposal of the acquisition proceedings will be paid premium for dilatory tactics. In this case the amount of interest was also calculated and total amount was deposited in the account of the appellants by the Land Acquisition Officer after passing the award i.e. on November 15, 1976. Under these circumstances, the liability to pay interest would arise when possession of the acquired land was taken and the amount was not deposited. In view of the fact that compensation was deposited as soon as the award was passed, it is not a case for interference at this stage. [587-C-D] B C

Ram Chand & Ors. v. Union of India & Ors., [1994] 1 SCC 44, distinguished. D

Aflatoon v. Lt. Governor of Delhi, [1975] 4 SCC 285, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 733 of 1981. E

From the Judgment and Order dated 30-8-79 of the Allahabad High Court in C.M.W. No. 35 of 1977.

S.B. Saṅyal and P.K. Jain for the Appellants. F

R.C. Verma for A.K. Srivastava and Ravindra Bana for the Respondents.

The following Order of the Court was delivered :

This appeal by special leave arises from the judgment dated August 30, 1979 of the Division Bench of the Allahabad High Court in C.M.W. No. 35/1977. Notification under Section 4 (1) of the Land Acquisition Act, 1894 [for short, 'the Act'] was published in the gazette on September 29, 1976. Declaration under Section 6 was made on September 30, 1976. While issuing the notification under Section 4 (1) of the Act, the Government H

A exercised the power under Section 17 (4) of the Act and dispensed with the enquiry under Section 5-A. Consequently, notice under Section 4 (1) of the Act was served on November 15, 1976 and possession of the land was taken on December 16, 1976.

B The appellant had challenged the exercise of the power of the Government under Section 17(4) contending that there is no such urgency as is warranted to dispense with the enquiry under Section 5-A and the exercise of power under Section 17(4), therefore, was illegal. The High Court had not accepted the contention holding that there was urgency to dispense with the enquiry and the court could not substitute the satisfaction of urgency recorded by the Government when it exercised power under Section 17 (4) of the Act. It is now an admitted fact that in the land under acquisition constructions have been made and completed. Under these circumstances, the need to go into the question of urgency and exercise of power under Section 17 (4) at this belated stage does not arise.

D Shri S.B. Sanyal, learned senior counsel for the appellants, contended that the award was made on March 22, 1983 though the acquisition was made in September 1976. Therefore, the appellants should be compensated by payment of interest @ 12 per cent per annum. In support of his contention, he placed reliance on the decision of this Court in *Ram Chand & Ors. v. Union of India & Ors.*, [1994] 1 SCC 44 and in particular on paragraph 16 of the judgment. It is seen that in *Ram Chander's* case even after the dismissal of the writ petitions by this Court in *Aflatoon v. Lt. Governor of Delhi*, [1975] 4 SCC 285, no action was taken by the Land Acquisition Officer to pass the award. Thus, till 1980-81 no award was made in respect of any of the acquisitions. Under these circumstances, this Court had directed the Government to pay interest @ 12 per cent on the amount awarded to compensate the loss caused to the appellants therein. In this case it is seen that though the notification was issued in September 1976, the writ petitions came to be filed in the High Court immediately thereafter in 1977 in the High Court and obviously further proceedings were stayed. Accordingly, the Land Acquisition Officer delayed the award. After the dismissal of the writ petitions, the appellants came to this Court and obtained *status quo*. Obviously, the Land Acquisition Officer was not in a position to pass the award immediately. Thereafter, it would appear that he passed the award on March 22, 1983. Section 34 of the Act obligates H the State to pay interest from the date of taking possession under the

unamended Act @ 6 per cent and after the Amendment Act 68 of 1984 at different rates mentioned therein. The liability of the State to pay interest ceases with the deposit made as per Section 34 of the Act. Further liability would arise only when the court on reference under Section 18 enhances the compensation under Section 28 of the Act. Similarly, in an appeal under Section 54 of the Act if the appellate court further increases the compensation, then again similar obligation under Section 28 arises.

In the light of the operation of the respective provisions of Sections 34 and 28 of the Act, it would be difficult to direct payment of interest. In fact, Section 23 (1-A) is set off for loss in cases of delayed awards to compensate the person entitled to receive compensation; otherwise a person who is responsible for the delay in disposal of the acquisition proceedings will be paid premium for dilatory tactics. It is stated by the learned counsel for the respondents that the amount of interest was also calculated and total amount was deposited in the account of the appellants by the Land Acquisition Officer after passing the award, i.e., on November 15, 1976 in a sum of Rs. 20,48,615. Under these circumstances, the liability to pay interest would arise when possession of the acquired land was taken and the amount was not deposited. In view of the fact that compensation was deposited as soon as the award was passed, we do not think that it is a case for us to interfere at this stage.

The appeal is accordingly dismissed. No costs.

T.N.A.

Appeal dismissed.