

UNION OF INDIA
v.
THE SPECIAL TEHSILDAR (ZA) AND ORS.

NOVEMBER 12, 1995

[A.M. AHMADI, C.J., N.P. SINGH AND B.N. KIRPAL, JJ.]

Land Acquisition Act, 1894 : Section 54.

Enhancement of Compensation—Appeal against—Pending before High Court—Person filing writ petition before High Court—Seeking impleadment as party in the said appeal—Held : Writ petition not maintainable—Proper course was to approach the appellate Court for being impleaded.

Constitution of India, 1950 : Article 226.

Writ Petition—By interested party seeking impleadment in pending appeal—Held : Writ petition not maintainable—Proper course was to file application in the appellate Court.

The Department of Space approached the State for acquisition of land for Rocket Launching Station. This was done pursuant to the Notification which had been issued under Article 258(1) of the Constitution of India whereby President of India had entrusted to the State Government, with their consent, the functions of the Central Government under the Land Acquisition Act, 1894 in relation to acquisition of lands for the purpose of the Union of the said State. Accordingly, Notification under section 4 of the Land Acquisition Act, 1894 was issued by the State Governor.

Pursuant to the issuance of the aforesaid Notification under section 4 of the Act, further proceedings were taken and the Land Acquisition Officers awarded compensation. Dissatisfied with the award, the land owners filed application requiring Reference under section 18 of the Act. The said References were heard by the Subordinate Court and the amount of compensation was substantially increased.

Against the aforesaid judgment of the Subordinate Court enhancing the compensation, the Respondents filed appeals in the High Court. The High Court by an interim order directed the entire enhanced award

A amounts to be deposited in the Court and if the amount was not deposited, then the stay was to be automatically vacated.

B Inasmuch as the lands were acquired by the appellant and the compensation to be paid was to be borne by the Department of Space, the State Revenue Authorities urged the appellant to deposit the enhanced compensation amounts in the Court. Thereupon the appellant filed Writ
 C petitions were admitted and interim orders were passed staying the operation of the awards/decrees of enhanced compensation which had been passed.

D The High Court held that the appellants in land acquisition cases could not be considered as interested parties in the cases and, therefore, should not be impleaded as a party. Aggrieved by the High Court's judgment the appellants preferred the presents appeal.

Disposing of the appeal, this Court

E HELD : 1.1. It is an admitted case that the appeals are pending against the order passed by the Subordinate Court on reference having been made under section 18 of the Land Acquisition Act, 1894. The appellants wanted to be impleaded as a party in the said appeals. The proper and the only course which should have been adopted was to have applied to the Appellant Court for being impleaded as a party. Instead of
 F doing this, writ petition under Article 226 of the Constitution of India was filed. The appellants desired an order of the Court for being impleaded in the appeals which were pending before the High Court. The proceedings under Article 226 of the Constitution of India could not have been instituted and as already observed, the only remedy which was available to
 G the appellants was to apply, in the pending appeals, to be impleading as a party by moving an appropriate interim application. [464-B-E]

H 1.2. The High Court unnecessarily entertained writ petitions and gave a detailed Judgment on the question which, in fact, it could not consider when dealing with a petition under Article 226 of the Constitution of India. This question should have been considered only if the proper

application was filed in the pending appeals for being impleaded as a party. [464-E-F] A

U.P. Awas Evam Vikas Parishad v. Gyan Devi (Dead) by Lrs. and Ors., [1995] 2 SCC 326 and *Union of India v. Sher Singh*, [1993] 1 SCC 608, cited.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 10699-10722 of 1995. B

From the Judgment and Order dated 28.4.89 of the Madras High Court in W.P. Nos. 1824-34/98 and 2347-59 of 1988.

Altaf Ahmad, Additional Solicitor General, D.S. Mehra, A.S. Rawat, C.V.S. Rao and A.K. Srivastava for the Appellants. C

A. Mariarputham, Ms. Aruna Mathur, Ajay Kapur, for Arputham Aruna & Co. for the Respondent No. 1.

M.S. Subramaniam and S.R. Setia for the Respondents Nos. 4-11, 13-14, 16, 17, 19, 20, 22 and 25. D

The Judgment of the Court was delivered by

KIRPAL, J. Leave granted. E

The short facts leading to these appeals are as under :

For the Rocket Launching Station located at Sri Hari Kota of Indian Space Research Organisation, Department of Space, Government of India, an area of about 37,792 acres of land was acquired sometimes in 1970s. Consequent to the expansion of space programmes certain additional lands at the southern tip of Sri Harikota Island in the Marimanal village in Pooneri Taluka Chengai Anna District, Tamil Nadu, were required. The extent of these lands, with which we are concerned, was about 5394 acres. F

For the purpose of acquiring the aforesaid lands, the Department of Space, Government of India approached the State of Tamil Nadu. This was done pursuant to the Notification No. 4(1)/65 dated 23.4.1966 which had been issued under Article 258(1) of the Constitution of India whereby President of India had entrusted to the Government of Tamil Nadu, with their consent, the functions of the Central Government under the Land Acquisition Act, 1894 in relating to acquisition of lands for the purpose of H

A the Union in the said State. Accordingly, Notification under section 4 of the Land Acquisition Act (hereinafter referred to as the Act') was issued by the Governor of Tamil Nadu on 3.1.1982.

B Pursuant to the issuance of the aforesaid Notification under section 4 of the Act, further proceedings were taken and the Land Acquisition Officers awarded Rs. 10 per 'cent' of land as compensation apart from the compensation for standing trees, crops etc. Dissatisfied with the award, the land owners filed application requiring Reference under section 18 of the Act. The said References were heard by the Subordinate Court at Tiruvllur and the amount of compensation was substantially increased and it ranged
C from Rs. 100 to Rs. 180 per cent' land.

D Against the aforesaid judgment of the Subordinate Court dated 31.1.1986, enhancing the compensation, the Special Tehsildar filed appeals in the High Court of Madras. The High Court by an interim order directed the entire enhanced award amounts to be deposited in the Court within 12 weeks and if the amount was not to be deposited, then the stay was to be automatically vacated.

E Inasmuch as the lands were acquired by the Union of India and the compensation to be paid was to be borne by the Department of Space, the State Revenue Authorities urged the Space Department to deposit the enhanced compensation amounts in the Court. Thereupon the Department of Space filed Writ Petition No. 1824- 34/88, 2347-2359/88 in the High Court of Madras praying that the Department should be impleaded as a party in the aforesaid appeals which had been filed by the Land Revenue
F Authorities and there should be a stay with regard to the direction which had been issued requiring the deposit of the enhanced amount. These writ petitions were admitted and interim orders were passed staying the operation of the awards/decrees of enhanced compensation which had been passed.

G The aforesaid writ petitions, along with a number of similar petitions filed by other Central Government Departments and organisations were heard by the High Court and the impugned Judgment and order dated 28.4.1989, the High Court held that the Requisitioning Department in land acquisition cases could not be considered interested party in the cases and,
H therefore, should not be impleaded as party. Challenging the aforesaid

decision, it has been contended on behalf of the appellants that in view of the decision of the Constitution Bench in *U.P. Awas Evam Vikas Parishad v. Gyan Devi (dead) by Lrs. and Ors.*, [1995] 2 SCC 326, the appellants should have been impleaded as a party because the acquisition proceedings had taken place at the expense and for the benefit of the appellants. It was also submitted by the learned counsel for the appellants that in *Union of India v. Sher Singh*, [1993] 1 SCC 608, land had been acquired for the purpose of Union of India which had moved an application before the Reference Court for being impleaded in the array of respondents. On this application being rejected by the Reference Court, an appeal was filed and this Court, while reversing the order of the High Court, allowed the application of the Union of India for impleadment and held that it was entitled to file an appeal in the High Court against the judgment of the Reference Court. Shri Altaf Ahmad the learned Additional Solicitor General contended that the said decision has been referred to in the majority judgment in *U.P. Awas Evam Vikas Parishad's* case (supra) and has not been dissented from and, therefore, the High Court ought to have directed that the appellants should be impleaded as a party.

On behalf of the respondents, it has been contended that the decision in *U.P. Awas Evam Vikas Parishad's* case (supra) has no application in the present case because *U.P. Awas Evam Vikas Parishad* was treated as a local authority by virtue of section 3(i) as introduced by U.P. Act and, therefore, section 50(2) of the Act conferred on the local authority, for whom the land is acquired, right to appear in the acquisition proceedings before the Collector and the Reference Court and adduce evidence for the purpose of determining the amount of compensation. It was contended that in the present case, the appellants could not be regarded as a local authority under section 50 and it had no right to be impleaded as a party. The second submission of the learned counsel for the respondents was that according to section 3(ee) of the Act, the expression 'appropriate Government' in relation to acquisition of land for the purpose of Union is the Central Government. By virtue of the aforesaid Notification dated 23.4.1966 issued under Article 258(1) of the Constitution of India, the President had delegated the power of acquisition of land to the State of Tamil Nadu. Therefore, it was contended that when the State of Tamil Nadu initiated the acquisition proceedings, they were done by the Delegate of the Central Government and once the power had been delegated, the appellants could not claim a right to be impleaded as a party.

A In our opinion, it is not necessary to decide any of the aforesaid issues on merits because the writ petitions which were filed by the appellants before the High Court, were completely mis-conceived.

B It is an admitted case that the appeals are pending against the order passed by the Subordinate Court on reference having been made under section 18 of the Act. The appellants wanted to be impleaded as a party in the said appeals. The proper and the only course which should have been adopted was to have applied to the Appellate Court for being impleaded as a party. Instead of doing this, writ petitions for writs of certiorari under Article 226 of the Constitution of India were filed.

C Presumably, it must have been contended that the appellants should have been impleaded as respondents as they were interested parties because the acquisition was being effected at their expenses and for their benefits. Further, no effective relief could, possibly, have been sought by the appellants against the respondents. What was, in fact, desired by the appellants

D was an order of the Court for being impleaded in the appeals which were pending before the High Court. The collateral proceedings under Article 226 of the Constitution of India could not have been instituted and as already observed, the only remedy which was available to the appellants was to apply, in the pending appeals, to be impleaded as a party by moving

E an appropriate interim application. The High Court unnecessarily entertained writ petitions and gave a detailed judgment on the question which, in fact, it could not consider when dealing with a petition under Article 226 of the Constitution of India. This question should have been considered only if the proper application was filed in the pending appeals for being

F impleaded as a party. We may here observe that while dealing with merits of the case, the High Court did not have the benefit of the judgment of this Court in *U.P. Awasth Evam Vikas Parishad's* case (*supra*) and the other judgments referred to therein.

G For the reason that the writ petition for being impleaded as a party in Regular First Appeals, which were pending, was not a proper remedy, the said writ petitions filed by the appellants have to be dismissed. Such dismissal will not be regarded as affecting the rights of the appellants in applying to the High Court by moving proper applications in the pending appeals for being impleaded as a party. Such applications may, if the

H appellants desire, be filed within two months and in case, the same are

filed, they will be considered and disposed of by the High Court in accordance with law, keeping in view the law laid down by this Court in *U.P. Awas Evam Vikas Parishad's* case (supra) and the other decisions which had been relied upon therein. A

The appeals are disposed of in the aforesaid terms. There will be no order as to costs. B

Application for substitution is also allowed.

V.S.S.

Appeal disposed of.