

THE STATE OF MAHARASHTRA  
v.  
NANAKCHAND PYARMAL AND ORS.

NOVEMBER 22, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Land Acquisition Act, 1894 :*

*S.28A(1)—Reference application—Award subject matter of appeal pending in the High Court—Collector to take action only on the basis of the judgment that might be rendered—Directions issued.*

For certain lands acquired under a notification u/s. 4(1) of the Land Acquisition Act, the Collector made the award and paid compensation which was accepted by the respondents without protest. One of the claimants covered under the same notification sought reference under section 18 and the District Judge, enhanced the compensation to Rs. 10 per square meter. The State's appeal against the award was admitted and *ad interim* stay of the award and decree of the District Court was granted subject to certain conditions. Thereafter the respondents filed an application under section 28A(1) for redetermination for the amount of compensation to their lands on the basis of the said award of the District Judge. The Collector made a draft award and referred the matter to the State Government for approval. At that stage the respondents filed a writ petition in the High Court, which directed the Land Acquisition Officer to declare the award by the end of November 1992. Hence this appeal.

Disposing of the appeal, this Court

**HELD :** In view of the fact that the award of the Reference Court is already the subject matter of the appeal pending decision in the High Court, appropriate course would be to keep the reference application made under section 28A(1) of the Land Acquisition Act pending till disposal of the appeal in the High Court. The Collector shall take action only on the basis of the judgment that may be rendered by the High Court. Until then, the matter be kept pending. [580-H; 581-A]

A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 11425 of 1995.

From the Judgment and Order dated 24.8.92 of the Bombay High Court in W.P. No. 1802 of 1992.

B S.M. Jadhav and D.M. Nargolkar for the Appellant.

U.N. Bachawat, Dr. R.B. Nargolkar and K.L. Taneja for the Respondents.

The following Order of the Court was delivered :

C Leave granted.

We have heard learned counsel on both sides. Notification under section 4(1) of the Land Acquisition Act was published on February 4, 1970 acquiring a large extent of land. The Collector made the award and paid compensation which was accepted by the respondents without protest. It would appear that one of the claimants covered under the same notification sought reference under section 18 and the District Judge, Raigarh at Alibag in Reference No. 183/86 enhanced the compensation to Rs. 10 per square meter by his award and decree dated November 6, 1987. Against the said award and decree, the State carried First Appeal No. 1038/88 which was admitted on February 16, 1989 and *ad interim* stay of the award and decree of the District Court was granted subject to certain conditions.

The respondents thereon filed an application under section 28A(1) on February 2, 1988 for redetermination of the amount of compensation to their lands on the basis of the said award of the District Judge. It would appear from the record that the Collector made a draft award and referred the matter to the State Government for approval. At that stage the respondents filed a writ petition in the High Court. A Division Bench of the High Court by the impugned order dated August 24, 1992 directed the Land Acquisition Officer to declare the award by the end of November 1992. Thus this appeal by special leave.

In view of the fact that the award of the Reference Court, referred to hereinbefore, is already the subject matter of the appeal pending decision in the High Court, appropriate course would be to keep the reference application made under section 28A(1) pending till disposal of

the appeal in the High Court. The Collector shall take action only on the basis of the judgment that may be rendered by the High Court. Until then, the matter be kept pending. The writ petition stands dismissed subject to the above direction. **A**

The appeal is accordingly disposed of. No costs.

G.N.

Appeal disposed of. **B**