

SRI NANDLAL TEJMAL KOTHARI

A

v.

THE INSPECTING ASSISTANT COMMISSIONER OF  
INCOME TAX AND ORS.

APRIL 3, 1997

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[K. RAMASWAMY AND D.P. WADHWA, JJ.]

*Appeal—Controversy in—Held covered by judgment in C.B. Gautam's case\*.*

*Income Tax Act, 1961—P. UD(1)—Compulsory purchase.*

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**\*C.B. Gautam v. Union of India, [1993] 1 SCC 78, relied on.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3624 of  
1986.

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From the Judgment and Order dated 11/12.3.86 of the Karnataka High  
Court in W.P. No. 11570 of 1985.

Mukul Mudgal for the Appellant.

The following Order of the Court was delivered :

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The controversy raised in this appeal is covered by the judgment of  
this Court in *C.B. Gautam v. Union of India*, [1993] 1 SCC 78 wherein it  
was held that :

"31. The recording of reasons which lead to the passing of the  
order is basically intended to serve a two-fold purpose :

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(1) that the "party aggrieved" in the proceeding before (sic the  
appropriate authority) acquires knowledge of the reasons and  
in a proceeding before the High Court or the Supreme Court  
(Since there is no right of appeal or revision), it has an  
opportunity to demonstrate that the reasons which persuaded  
the authority to pass an order adverse to his interest were  
erroneous, irrational or irrelevant, and

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(2) that the obligation to record reasons and convey the same to

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A           the party concerned operates as a deterrent against possible  
              arbitrary action by the quasi-judicial or the executive  
              authority invested with judicial powers.

              42. We realise that if order for compulsory purchase of the proper-  
B           ty is made hereafter the intending vendor will suffer to some extent  
              by reason of the fact that he will get the purchase amount several  
              years after the time he would have got it had the impugned order  
              been held to be valid. But on the other hand, however, he would  
              have retained the possession of the property in question. Taking  
              into account these factors and taking note of the fact that the  
C           immovable properties in urban areas have gone up steeply in value  
              during the last few years, we direct that in case an order for  
              compulsory purchase is made the Central Government shall pay  
              to the intending seller the amount of the apparent consideration  
              plus interest at 9 per cent per annum from the date the impugned  
              order was made.

D           50. We, accordingly, clarify by this supplemental direction to be  
              read as part of the judgment that in respect of cases other than  
              that of petitioner - C.B. Gautam, the period of two months referred  
              to in Section 269-UD(1) shall be reckoned with reference to the  
              date of disposal of each of such pending matters either before this  
E           Court or before the High Courts as the case may be. Where,  
              however, the stay orders inhibiting the authorities from taking  
              further proceedings are vacated, the period referred to in the said  
              Section 269-UD(1) shall be reckoned with reference to the date  
              of such vacating of the stay orders. This clarification and further  
F           direction shall be supplemental to and be treated as parts of the  
              main judgment."

Following the above ratio, this appeal is disposed of. No costs.

T.N.A.

Appeal disposed of.