

A GEN. MANAGER, M/S. HUTTI GOLD MINES CO.

v.

SHIVAPPA (D) THR. HIS LRS. AND ORS.

FEBRUARY 19, 2007

B [DR. AR. LAKSHMANAN AND ALTAMAS KABIR, JJ.]

Land Acquisition:

C *Execution of award passed in Land Acquisition proceedings—Stay by High Court subject to appellant depositing 50% of enhanced compensation amount along with proportionate amounts towards solatium, additional market value and the interest thereon and claimants given liberty to withdraw the same—Challenge to—Held: Order of High Court needs modification—On deposit of 50% of the enhanced amounts, claimants permitted to withdraw 25% without furnishing security—Remaining 25% to be kept in fixed deposit of Nationalized Bank.*

D **The High Court while admitting appeals stayed the operation and execution of the award passed in Land Acquisition proceedings subject to the appellant depositing 50% of the enhanced compensation amount along with the proportionate amounts towards solatium, additional market value and the interest thereon with the Reference Court and on such deposit being made, granted liberty to Respondent-claimants to withdraw the same. Hence the present appeal challenging the said direction of High Court.**

F **Disposing of the appeal, the Court**

G **HELD: The order of the High Court ordering deposit of 50% of the enhanced amount with liberty to withdraw needs modification. The appellant is directed to deposit 50% of the enhanced amount along with the proportionate amounts towards solatium, additional market value and the interest thereon with the Reference Court. On such deposit, all the claimants are entitled to withdraw 25% of the enhanced amount without furnishing any security. The Reference Court shall open a separate account in respect of all the claimants and keep 25% of the remaining amount in fixed deposit in a Nationalised Bank and await further orders from the High Court in the pending appeal. [Para 5] [806-A, B, C]**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 840 of 2007. A

From the interims Order dated 11.1.2007 of the High Court of Court of Karnataka at Bangalore in M.F.A. No. 3707/2006.

Gopal Subramaniam, Mukul Rohtagi, Lalit Mohini Bhat, Anitha Shenoy and Naveen R. Nath for the Appellants. B

Dhruv Mehta, Harshvardhan Jha and Yashraj Singh Deora for the Respondents.

The Judgment of the Court was delivered by

DR. AR. LAKSHMANAN, J. 1. Heard Mr.Gopal Subramaniam, learned ASG appearing on behalf of the appellant and Mr. Dhruv Mehta, learned counsel appearing on behalf of the respondent-claimants. C

2. Leave granted.

3. This appeal is directed against the order passed by the High Court of Karnataka in M.F.A.No.3707/2006 and other connected matters. The High Court of Karnataka by order dt.11.01.2007 while admitting the appeals has passed the following interim order:- D

“This Court doth Order that pending admission of the above appeal the operation and execution of the impugned award in LAC Nos. 1,2,31.3,4,32,5,6,7,33,34,8,35,37,9,10 of 2001 dated 19.12.2006 and LAC Nos.22,23,13,24,17,26,18,27,19,14,28,20,29,15m 30 of 2001 dated 03.01.2006 on the file of the Addl.Civil Judge (Sr.Dn.) Raichur is hereby stayed subject to the appellant depositing 50% of the enhanced amounts along with the proportionate amounts towards solatium, additional market value and the interest thereon within four weeks from today i.e. 11.01.2007 with the reference Court. On such deposit being made, it is open to the claimants to draw the same.” E

4. Aggrieved against the direction to deposit 50% of the enhanced amount along with the proportionate amounts towards solatium, additional market value and the interest thereon, the appellant through its General Manager preferred the above Civil Appeal arising out of SLP(C) No.2471/2007. F

5. We have perused the grounds of appeal and also heard the arguments advanced by learned ASG for the appellant and learned counsel for the H

A respondents. Since the appeal is pending before the High Court, we are not expressing any opinion on the merits of the rival claims. However, in our opinion, the order of the High Court ordering deposit of 50% of the enhanced amount with liberty to withdraw needs modification. We, therefore, direct the appellant herein to deposit 50% of the enhanced amount along with the proportionate amounts towards solatium, additional market value and the interest thereon within four weeks from today with the Reference Court. On such deposit, all the claimants are entitled to withdraw 25% of the enhanced amount without furnishing any security. The Reference Court shall open a separate account in respect of all the claimants and keep 25% of the remaining amount in fixed deposit in a nationalised bank and await further orders from the High Court in the pending appeal. Since the acquisition proceedings started in the year 1995 and the matter is pending in one forum or the other we request the High Court to dispose of the appeals filed by the appellant herein and also the appeals filed by the respondents herein/claimants within six months from today on merits and in accordance with law. We request the Hon'ble Chief Justice of the Karnataka High Court to place all the matters before a Division Bench of the said court for disposal of the same within the time stipulated in this Order.

6. The appeal stands disposed of accordingly.

7. No costs.

E

B.B.B.

Appeals disposed of.