
(1995) 05 AHC CK 0007
In the Allahabad High Court
Case No : C.M Rev. No. 93 of 1995

Allahabad Development Authority

APPELLANT

Vs

Ikhlaque Husain and Others

RESPONDENT

Date of Decision : 30-05-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Land Acquisition Act, 1894 — Section 10, 11, 18, 2(2), 26(2)

Citation : (1995) 05 AHC CK 0007

Hon'ble Judges : O.P. Jain, J

Bench : Single Bench

Advocate : B.B. Paul, for the Appellant; Ashok Khare, for the Respondent

Final Decision : Dismissed

Judgement

O.P. Jain, J.—This revision has been filed against the order passed by XVth Additional District Judge, Allahabad on 2.2.1995 by which it has been ordered that a property belonging to Allahabad Development Authority (hereinafter called the Authority) known as Indira Bhawan situated in Civil Lines, Allahabad may be auctioned for the realisation of a sum of Rs. 43,51,384.45 p. it appears that some land was acquired by Special Land Acquisition Officer (S.L.AO.) for the Authority and an award was given on 30.4.1991 by XVth Additional District Judge, Allahabad in favour of the owners of the land. The owners who are Respondent Nos. 1 and 2 in this revision filed an execution application for the realisation of the amount and on that application, the Impugned order was passed.

2. Sri B.B. Paul, learned Counsel for the revisionist and Sri Ashok Khare, learned Counsel for the Respondents have been heard.

3. The first contention on behalf of the revisionist is that an award given by the Court on a reference u/s 18 of Land Acquisition Act (hereinafter called the Act) is not enforceable and that the party in whose favour the award is given by the

Court has to file a civil suit for the recovery of the amount awarded by the Court. In support of this contention, the learned Counsel for the revisionist has cited *Ram Jiyawan v. State of U.P. and Ors.* (1992) 2 LAL 304, para 64 in which it has been held that the remedy may be enforced by filing a civil suit or a petition under Article 226 of the Constitution.

4. The authority cited by the learned Counsel is not applicable to a case where the award has been made by the Court u/s 18 of the Act. Para 64 of the above authority is in respect of an award made by the Collector u/s 11 of the Act. This is clear from the fact that in the very first line of paragraph 64 it is stated that an award under the Act is a statutory offer of the A.W.C.J Allahabad Development Authority v. Ikhlake Husain and Ors. 1529 compensation mentioned therein. It is well settled that the award made by the Collector Is In the nature of an offer. Therefore, the remedy of civil suit or the remedy of petition under Article 226 of the Constitution is to be availed of in case of an award made by the Collector u/s 11 of the Act.

5. So far as the award by the Court u/s 18 is concerned, Section 26, Sub-clause (2) of the Act clearly slates as under:

Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of Section 2, Clause (2), and Section 2, Clause (9), respectively, of the Code of Civil Procedure.

6. In view of this clear provision there is no scope for argument that an award given by the Court u/s 10 of the Act is not enforceable.

7. The second contention on behalf of the revisionist is that in the award dated 30.4.1991, the Court has said that the compensation amount is to be made available by S.L.A.O. It is argued that the execution application should have been filed against S.L.A.O. and not against the authority.

8. This contention has no force because it is not disputed that the land was acquired at the instance of and for the purposes of the Authority. The learned Counsel for the Respondents has cited *Shyam Lata Jauhari and others v. Collector, Allahabad and Ors.* (1992) I LAL 480, in which a similar contention was repelled by a Division Bench of this Court. The Division Bench made the following observations in paragraph 14:

It is submitted on behalf of the Nagar Mahapaltka that since the acquisition has been made by the State, the liability to pay the compensation is also that of the State and no direction can properly be issued to the Nagar Mahapalika in this respect. We cannot agree with this submission for the simple reason that acquisition of the land has been made for and on behalf of the Nagar Mahapalika and in any case the Collector will ultimately have to recover the amount from the Nagar Mahapalika. The Respondents are, therefore, under a statutory obligation to make this payment.

9. It is true that in the cited case, a writ petition was filed for enforcing payment

against Nagar Mahapalika whereas in the case before me an execution application has been filed. That, however, does not make any difference so far as the principle is concerned. The Authority is, therefore, bound to make the payment because It was for the purpose of the Authority that the land was acquired. It cannot be said under these circumstances that the executing court has gone behind the decree. The contention that only the S.L.A.O. or the State Government is liable under the award has no force.

10. The third and last contention is that XVth Additional District Judge has no Jurisdiction to give the award. It is argued that u/s 3(d) of the Act, expression "Court" has been defined as a principal civil court of original Jurisdiction unless the appropriate Government has appointed a Special Judicial Officer within any special local limits to perform the function of the Court under this Act. It is pointed out that a notification has been issued by the State Government which Is Annexure-1 to the stay application. This notification was issued on 9.1.1976 and was published In Gazette on 24.1.1976. The notification appoints all Additional District Judges within the local limits of their respective jurisdiction to be Special Judicial Officers to perform the function of the Court under the said Act in respect of cases transferred to them by the principal civil court of original jurisdiction.

11. On this basis, it is argued that after the issuing of this notification in January, 1976, the Additional Sessions Judges became specially authorised Judicial Officers and, therefore, the reference u/s 18 could have been 1530 Allahabad Development Authority v, Ikhlauque Husain and Ors. 1995 made directly to them. It is contented that after January, 1976 the District Judge or the principal civil court of original jurisdiction ceased to have Jurisdiction in land acquisition matters and, therefore, the reference to the District Judge was not competent.

12. This contention is devoid of all force. The notification simply authorizes the District Judges to transfer the land acquisition references to the Additional District Judges. The notification does not take away the power of the District Judge. The power has been conferred on the District Judge (principal civil court of original Jurisdiction) by the Act and it cannot be taken away by any notification.

13. In view of the above discussion, none of the contention raised on behalf of the revisionist is found to be tenable. Consequently, the revision is hereby dismissed and interim order dated 21.2.1995 is vacated.