

(2000) 01 SC CK 0072

In the Supreme Court Of India

Case No : Civil Appeal No. 4602 of 1995

Collector of Pune

APPELLANT

Vs

I.B. Gokhale (Dead) through Executors and Another

RESPONDENT

Date of Decision : 12-01-2000

Acts Referred:

Defence of India Act, 1962 — Section 36(4)

Citation : AIR 2000 SC 3413 : (2000) AIRSCW 1879 : (2000) 2 JT 77 : (2000) 10 SCC 558 : (2001) 3 Supreme 509 : (2000) 1 UPLBEC 862

Hon'ble Judges : M. B. Shah, J;D. P. Mohapatra, J;B. N. Kirpal, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

1. After hearing the learned Counsel for the parties, we are of the opinion that the judgment of the High Court passed by the single Judge as well as by the Division Bench has to be set aside only on the ground that there was a bar to the filing of the civil suit u/s 36(4) of the Defence of India Act, 1962. For this ground alone the suit filed by the respondent was liable to be dismissed.

2. We, however, note that on 19th of July, 1968 award was made on the acquisition of land according to which compensation payable to the respondent was Rs.6078/-. About four years prior to this award, respondent No. 1 had on 9th of October, 1964 written to the appellant herein enquiring as to what steps she should take to receive the compensation for the acquisition. There is nothing on the record to show that any reply was sent to this letter. What seems to have happened, however, is that the amount of compensation which was determined was paid to the Life Insurance Corporation and not to the respondent possibly for the reason that the land continued to be mutated in the name of L.I.C, which was the owner of the said land, prior to the purchase of the same by respondent No. 1 in the year 1954. Being aware of the fact that respondent No. 1 was the owner of the land, not only by reason of the aforesaid letter dated 9th of October, 1964, but also on account of the fact that in the Schedule to the award,

the name of respondent No. 1 is shown as being the person interested, there was not valid reason for not paying the amount of compensation to respondent No. 1. We, therefore, under these circumstances direct that a sum of Rs. two lacs be paid to respondent No. 1 which would represent the compensation mentioned hereinabove plus reasonable interest thereon and also would take into consideration the rent which was payable to respondent No. 1 during the period when the land stood requisitioned prior to its acquisition in 1964.

3. The appeal is disposed of in the aforesaid terms. No Orders as to costs.