
(2013) 04 SC CK 0035

In the Supreme Court Of India

Case No : C.A. No. 2919 of 2013 (Arising out of SLP (C) No. 36701 of 2009) and
C.A. No. 2920 of 2013 (Arising out of SLP (C) No. 36703 of 2009)

Executive Engineer, Nandur, Madhameshwar Canal

APPELLANT

Vs

Vilas Eknath Jadhav and Others

RESPONDENT

Date of Decision : 02-04-2013

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 4(1), 48

Citation : (2013) 5 ABR 16 : AIR 2013 SC 3839 : (2013) 3 AJR 726 : (2013) 5
ALD 126 : (2014) 2 ALLMR 914 : (2013) ALT(Rev) 252 : (2013) 3 AWC 2775 :
(2013) 9 JT 328 : (2013) 4 MhLj 503 : (2013) 3 MPLJ 340 : (2013) 2 RCR(Civil)
929 : (2014) 123 RD 206 : (2013) 5 SCAL

Hon'ble Judges : Surinder Singh Nijjar, J; Pinaki Chandra Ghose, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted. In spite of service, none has appeared on behalf of Respondent Nos. 1. to 4, the persons whose land was acquired. Mr. Babu Marlapalle, learned senior counsel appearing for the Appellant submits that the judgment of the High Court is contrary to the law laid down by this Court in R.L. Jain (D) by Lrs. Vs. DDA and Others, . He submits that the Appellant had taken possession of the land of Respondent Nos. 1 to 4 on 3.6.2001 whereas the Notification u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 30th December, 2006. Undoubtedly, the aforesaid Respondents would have been entitled to interest on the statutory benefits under the Act calculated from the date when the Notification u/s 4 of the Act was issued. However, for the period between 3.6.2001 and 30.12.2006, they would only be entitled to rental compensation. On the rental compensation determined by the Land Acquisition Officer, the Respondents would also be entitled to the interest at Bank rate. In support of this, he relies on observations made in paragraph 18 of the judgment in R.L. Jain (D) supra. In the aforesaid paragraph, this Court has observed as follows: -

18. In a case where the land owner is dispossessed prior to the issuance of preliminary Notification u/s 4(1) of the Act the Government merely takes possession of the land but the title thereof continues to vest with the land owner. It is fully open for the land owner to recover the possession of his land by taking appropriate legal proceedings. He is therefore only entitled to get rent or damages for use and occupation for the period the Government retains possession of the property. Where possession is taken prior to the issuance of the preliminary Notification, in our opinion, it will be just and equitable that the Collector may also determine the rent or damages for use of the property to which the land owner is entitled while determining the compensation amount payable to the land owner for the acquisition of the property. The provision of Section 48 of the Act lend support to such a course of action. For delayed payment of such amount appropriate interest at prevailing bank rate may be awarded.

2. The aforesaid observations make it abundantly clear that in case the land owner has been dispossessed prior to the issuance of the preliminary Notification u/s 4(1) of the Act, it will be open to such land owner to recover the possession of his land by taking appropriate legal proceeding. In case the possession is not recovered, he would be entitled to rent or damages for use and occupation for the period Government retained possession of the property.

3. These observations fully support the submissions made by learned senior counsel for the Appellant. In view of the above, the appeals are allowed. The judgment and order of the High Court is modified to that extent.