

(2008) 04 SC CK 0151

In the Supreme Court Of India

Case No : Civil Appeal No. 1363 of 2007, Civil Appeal No. 2468 of 2008 (Arising out of SLP (C) No. 15653 of 2004, Civil Appeal No. 2469 of 2008 (Arising out of SLP (C) No. 15657 of 2004) , Civil Appeal No. 2470 of 2008 (Arising out of SLP (C) No. 15683 of 2004) and

Lilawati Agarwal (dead) by LRs. and Others

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 04-04-2008

Acts Referred:

Land Acquisition (Amendment) Act, 1984 — Section 30, 30(2)

Land Acquisition Act, 1894 — Section 11, 18, 19, 23, 23(1A)

Citation : (2008) AIRSCW 2723 : (2009) 2 ALT 26 : (2008) 2 AWC 1849 Supp : (2008) 4 JT 624 : (2008) 2 KLT 224 : (2008) 6 SCALE 272 : (2008) 15 SCC 464 : (2008) 2 Supreme 782

Hon'ble Judges : P. Sathasivam, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : Himanshu Munshi, Anip Sachthey, Mohit Paul, Gopal Prasad, Anil K. Jha, B.B. Singh and Rajesh Singh, for the Appellant;

Final Decision : Dismissed

Judgement

Arijit Pasayat, J.—Leave granted in SLP(C) Nos. 15653, 15657, 15683 and 20741 of 2004.

2. All these appeals involve identical questions and are therefore, taken up together for disposal. The basic issues involved in these appeals relate to entitlement of the claimants/appellants for benefits under Sections 23(1A), 23(2) and Section 28 of the Land Acquisition Act, 1894 (in short the 'Act').

3. Factual position is almost undisputed and essentially as follows:

Notification u/s 4(1) of the Act was issued on 21.4.1965, Section 6 notification was issued on 10.11.1966 and the Land Acquisition Collector's Award was made on 6.4.1972. Section 30 of the Land Acquisition (Amendment) Act, 1984 (in short the 'Amendment Act') was introduced and made operative with effect from

24.9.1984.

The reference court decided reference on 30.9.1985, the High Court held that in view of the decision of this Court in K.S. Paripoornan Vs. State of Kerala and Others, the appellant was not entitled to the benefit u/s 23(1A), 23(2) and Section 28 of the Act.

4. Learned counsel for the appellants submitted that the benefit u/s 23(1A) may not be available in view of what has been stated in K.S. Paripoornan's case (hereinafter referred to as 'Paripuranan I') yet in view of the decision of this Court in Union of India (UOI) and Another Vs. Raghubir Singh (Dead) by Lrs. Etc., and in K.S. Paripoornan Vs. State of Kerala and Others, (hereinafter referred to as 'Paripoornan II')the benefit u/s 23(2) and Section 28 of the Act are available.

5. Learned counsel for the respondent-State and Bharat Coking Coal Ltd. (in short the 'BCCL') the beneficiary for whose benefit the land was acquired submitted that the view in Paripuranan II is not correct as a three judge Bench had taken a view clearly contrary to what has been stated by the Constitution Bench in Raghubir Singh's case (supra).

6. By way of reply learned counsel for the appellant submitted that even recently in Panna Lal Ghosh and Others Vs. Land Acquisition Collector and Others, this Court has adopted a view taken in Paripuranan II's case (supra).

7. In order to appreciate the rival submissions it is necessary to take note of what has been stated in Raghuveer Singh's case (supra) which is as follows:

31. In construing Section 30(2), it is just as well to be clear that the award made by the Collector referred to here is the award made by the Collector u/s 11 of the parent Act, and the award made by the Court is the award made by the Principal Civil Court of Original Jurisdiction u/s 23 of the parent Act on a reference made to it by the Collector u/s 19 of the parent Act. There can be no doubt that the benefit of the enhanced solatium is intended by Section 30(2) in respect of an award made by the Collector between 30-4-1982 and 24-9-1984. Likewise the benefit of the enhanced solatium is extended by Section 30(2) to the case of an award made by the Court between 30-4-1982 and 24-9-1984, even though it be upon reference from an award made before 30-4- 1982.

34. Our attention was drawn to the order made in State of Punjab Vs. Mohinder Singh and Another, , but in the absence of a statement of the reasons which persuaded the learned Judges to take the view they did we find it difficult to endorse that decision. It received the approval of the learned Judges who decided Bhag Singh and Others Vs. Union Territory of Chandigarh through the land acquisition collector, Chandigarh, but the judgment in Bhag Singh's case (supra) as we have said earlier, has omitted to give due significance to all the material provisions of Section 30(2), and consequently we find ourselves at variance with it. The learned Judges proceeded to apply the principle that an

appeal is a continuation of the proceeding initiated before the Court by way of reference u/s 18 but, in our opinion, the application of a general principle must yield to the limiting terms of the statutory provision itself. Learned counsel for the respondents has strenuously relied on the general principle that the appeal is a rehearing of the original matter, but we are not satisfied that he is on good ground in invoking that principle. Learned counsel for the respondents points out that the word 'or' has been used in Section 30(2) as a disjunctive between the reference to the award made by the Collector or the Court and on an order passed by the High Court or the Supreme Court in appeal and, he says, properly understood it must mean that the period 30-4-1982 to 24-9-1984 is as much applicable to the appellate order of the High Court or of the Supreme Court as it is to the award made by the Collector or the Court. We think that what Parliament intends to say is that the benefit of Section 30(2) will be available to an award by the Collector or the Court made between the aforesaid two dates or to an appellate order of the High Court or of the Supreme Court which arises out of an award of the Collector or the Court made between the said two dates. The word 'or' is used with reference to the stage at which the proceeding rests at the time when the benefit u/s 30(2) is sought to be extended. If the proceeding has terminated with the award of the Collector or of the Court made between the aforesaid two dates, the benefit of Section 30(2) will be applied to such award made between the aforesaid two dates. If the proceeding has passed to the stage of appeal before the High Court or the Supreme Court, it is at that stage when the benefit of Section 30(2) will be applied. But in every case, the award of the Collector or of the Court must have been made between 30-4-1982 and 24-9-1984.

(underlined for emphasis)

8. In Raghubir Singh's case (supra) two terminus points were fixed i.e. Award by the Collector or decision of the reference Court must have been taken between 30.4.1982 and 24.9.1984. It has been clearly stated in the last line of para 34 that every case "must" have been decided between the aforesaid terminus. In Paripuranan II's case (supra) at para 4 it was observed that restrictive interpretation should not be given. With great respect we are unable to subscribe to the view. As a matter of fact a three judge Bench was trying to give an interpretation different from what was specifically given by the Constitution Bench.

9. Therefore, we think it appropriate to refer the matter to a larger bench to consider correctness of the view expressed in para 4 in Paripuranan II's case (supra) holding that a restricted interpretation should not be given, on the face of what has been stated in para 34 of Raghuveer Singh's case (supra). Records may be placed before the Hon'ble Chief Justice of India for necessary orders.