

(1995) 01 SC CK 0004
In the Supreme Court Of India
Case No : Civil Appeal No. 72 of 1992

Mirza Majid Hussain

APPELLANT

Vs

State of M.P. and another

RESPONDENT

Date of Decision : 18-01-1995

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : AIR 1995 SC 2243 : (1995) 2 JT 93 : (1995) 1 SCALE 409 : (1995) 2 SCC 422 : (1995) 1 SCR 401 : (1995) 1 UJ 547

Hon'ble Judges : N. Venkatachala, J;K. Ramaswamy, J

Bench : Division Bench

Advocate : Shyamala Pappu, K.K. Mohan, Rajshree Bhatnagar, M.R. Krishnamurthi and Promad Sharma, for the Appellant; Sakesh Kumar, S. K. Agnihotri and Gautam Bose, for the Respondent

Final Decision : dismissed

Judgement

1. This appeal by special leave arises from the order of the High Court of Madhya Pradesh at Jabalpur in Misc. Petition No. 484 of 1987, dated 5.1.1988.

2. Notification u/s 4(1) of the Land Acquisition Act was issued acquiring a large extent of 837.50 acres of land for submergence of Barna Dam irrigation project in the State of M.P. The lands of the appellant were also acquired. The Land Acquisition Officer by his award dated 5.9.1969 awarded compensation to the appellant. Thereafter, it would appear that the appellant had received the compensation granted by the Land Acquisition Officer without protest but, according to the appellant, it was under protest. Be it as it may, on the rejection of the reference, the appellant filed a revision before the District Judge in 1982. By order dated 20.6.82, the District Judge rejected the revision. In 1987, the appellant filed the Writ Petition in the High Court which was dismissed by the High Court on the ground of inordinate delay. It was held that though the Collector had rejected the reference on 2.4.75, the revision was filed in the Tribunal and the Distt. Judge rejected it on 29.6.83. The petitioner who had slept

over the matter for more than 5 years, filed the Writ Petition. From the date of the order of the L.A. Collector till date of filing the writ petition more than 10 years have elapsed. On that ground the High Court refused to grant the relief.

3. The State Legislature of M.P. amended Clause (b) of Sub-section (2) of Section 18 and inserted Sub-section (3) thus :

Any order made by the Collector on the application under this section shall be subject to the revision by the High Court as if the collector were the Court subordinate to the High Court within the meaning of Section 115 C.P.C.

Thus, it could be seen that against the order of rejection of reference by the Collector on 2.5.75 only jurisdiction that could be exercised as per the amendment is by the High Court u/s 115 C.P.C. Thereby, the exercise of the power by District Judge in this behalf is clearly without authority of law or jurisdiction. The Order of the District Judge, therefore, is nullity.

4. Then we have to see whether the appellant was justified in approaching the High Court after an inordinate delay of more than 10 years from the date of the order of the Collector or at any rate from the date of the order passed by the District Judge. The High Court exercised its jurisdiction under Article 226 but not u/s 115 C.P.C. Even if it is to be converted as a revision u/s 115 C.P.C., the order of the High Court is not vitiated by any error of jurisdiction or material irregularity in the exercise of its jurisdiction. The High Court has rightly refused to exercise its discretionary jurisdiction after an inordinate delay of more than 5 years from the date of the order of the District Judge and more than 10 years from the date of the order of the Land Acquisition Collector. Under these circumstances, we do not think that it is a case warranting interference by this Court under Article 136.

5. The appeal is accordingly dismissed. No Costs.