

(1995) 08 SC CK 0023

In the Supreme Court Of India

Case No : Civil Appeal No. of 1995 (Arising out of SLP (C) No. 15939 of 1994)

Mohanji and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-08-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 11A, 18, 4(1), 6

Citation : (1995) 8 JT 599

Hon'ble Judges : K. Venkataswami, J;J.S. Verma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Leave granted.

2. An area of 0.99 acres bearing Plot No. 1311 and a building constructed therein over a portion measuring 0.09 acres at Jhansi was acquired for the purpose of Bundelkhand University. Notification u/s 4(1) of the Land Acquisition Act, 1894 was issued on 19.10.1977 and the declaration u/s 6 of the Act was issued on 23.4.1980. Section 11A was inserted in Land Acquisition Act with effect from 24.9.1984 which required an award to be made in all pending cases of land acquisition within a period of two years from the insertion of Section 11 A, and it further provided that all proceedings for acquisition of land in which no award is made within the specified period would lapse on the expiry of that period. Accordingly, the period available for making the award u/s 11 of the Act in this proceeding was upto 23.9.1986 (that day inclusive). The award in this case was actually made on 23.9.1986.

3. The submission of learned Counsel for the Appellants is that the award dated 23.9.1986 in the present case is only in respect of the vacant land in its entirety, i.e. 0.99 acres but not for the building constructed over a portion thereof and, therefore, there was no award made within the specified period as required by Section 11A of the Act since a piecemeal award is not contemplated thereunder.

Learned Counsel submits that award of compensation for the building was contemplated at some subsequent date which is impermissible in law. Learned Counsel for the Appellants referred to certain observations to this effect in the award dated 23.9.1986 to support this submission.

4. A perusal of the award dated 23.9.1986 leaves no doubt that the compensation awarded therein is for the entire land measuring 0.99 acres bearing Plot No. 1311 belonging to the Appellants which was acquired in the proceeding. It also appears from the award that the valuation report which had been sought from the Public Works Department had not been received and, therefore, the Land Acquisition Officer contemplated determination of compensation for the building in addition to the compensation awarded for the entire land being made on a subsequent date after the expiry of the specified period of two years u/s 11 of the Act. The question is whether in these circumstances it can be said that no award had been made u/s 11 of the Act in the proceeding to result in lapse of the entire proceeding for the acquisition of the "land"?

5. It is no doubt true that the entire award which is contemplated u/s 11 of the Act by virtue of the prescription in Section 11A has to be made within the period of two years failing which the entire proceeding shall lapse. The question is whether it can be said in the present case that no award has been made u/s 11 of the Act in this proceeding? In our view it cannot be said that no award u/s 11 has been made for the land acquired. Admittedly, compensation has been determined in the award so made for the entire area of 0.99 acres. In view of the fact that no piecemeal award by making a subsequent award after the expiry of the period of two years is contemplated in law, the award dated 23.9.1986 must be construed as the whole award made u/s 11 awarding compensation for the entire area of 0.99 acres with no compensation awarded for the building. The Appellants, therefore, had the right to claim compensation for the building by seeking a reference u/s 18 of the Act treating the award as one in which compensation had been determined and awarded only for the entire land measuring 0.99 acres but no compensation was awarded for the building therein. The Appellants had the remedy to claim compensation for the building in accordance with law treating the award made as not awarding any compensation for the building. That is, however, a different matter and it does not require any further consideration in this context. It is sufficient to say that the award dated 23.9.1986 made within the period specified in Section 11A of the Act must be construed as an award u/s 11 in the proceedings for acquisition of the Appellants' land bearing Plot No. 1311 having a total area of 0.99 acres. The contention that the entire proceeding for acquisition of the land has lapsed by virtue of Section 11A cannot, therefore, be accepted.

6. Accordingly, the appeal is dismissed. No costs.