
(2018) 10 SC CK 0073
In the Supreme Court Of India
Case No : Civil Appeal No.10781 Of 2018

Raghubir Singh

APPELLANT

Vs

State Of Rajasthan & Ors

RESPONDENT

Date of Decision : 26-10-2018

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2018) 10 JT 551 : (2018) 14 Scale 360

Hon'ble Judges : Abhay Manohar Sapre, J;Indu Malhotra, J

Bench : Division Bench

Advocate : Vaibhav Manu Srivastava

Final Decision : Allowed

Judgement

Abhay Manohar Sapre, J.

1. Leave granted.

2. This appeal is directed against the final judgment and order dated 04.12.2017 of the High Court of Judicature for Rajasthan at Jaipur in D.B. Special Appeal Writ No. 1598 of 2017 whereby the High Court disposed of the same filed by the appellant upholding the final order and judgment dated 04.09.2017 passed by the learned Single Judge.

3. Few facts need to be mentioned infra for the disposal of this appeal, which involves a short point.

4. The dispute, which is subject matter of this appeal, relates to acquisition of land under the provisions of the Land Acquisition Act (for short called The Act).

5. The challenge was made by the appellant (writ petitioner) by filing the writ petition in the High Court to the issuance of Section 4 notifications and subsequent notifications issued under the Act on several factual and legal grounds.

6. The learned Single Judge dismissed the writ petition, which gave rise to filing of the intra court appeal by the writ petitioner before the Division Bench. By impugned order, the Division Bench dismissed the appeal and upheld the order passed by the learned Single judge, which has given rise to filing of special leave to appeal in this Court.

7. Having heard the learned counsel for the parties and on perusal of the record of the case, we are constrained to allow the appeal and while setting aside the impugned order remand the intra court appeal to the Division Bench of the High Court for its disposal afresh on merits in accordance with law.

8. In our considered view, the need to remand the appeal to the Division Bench for its decision afresh on merits has occasioned inter alia for the reason that it did not deal with any of the issues arising in the case and nor it seemed to have dealt with any of the submissions urged by the parties and, especially, the submissions urged by the appellant.

9. In our considered opinion, the intra court appeal did involve factual and legal issues, which were decided by the Single Judge, therefore, once they were carried in intra court appeal by an aggrieved party and pressed in service while assailing the order of the Single Judge, it was incumbent upon the Division Bench to deal with all the issues urged and record its findings one way or the other on every issue urged keeping in view the legal provisions applicable to the issues.

10. It was, however, not done by the Division Bench and in a cursory manner, the Division Bench disposed of the appeal, resulting in its dismissal.

11. We find ourselves unable to concur with such disposal and feel inclined to set aside the impugned order and remand the case to the Division Bench of the High Court with a request to decide the appeal afresh on merits in accordance with law.

12. Having formed an opinion to remand the case in the light of our reasoning mentioned above, we do not consider it proper to go into the merits of the case and, therefore, leave all the issues to be dealt with by the Division Bench for its decision on merits.

13. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. Impugned order is set aside. The case (intra court appeal) is remanded to the Division Bench of the High Court for its decision on merits uninfluenced by any of our observations in this order. We request the High Court to dispose of the appeal as expeditiously as possible preferably within 6 months.

14. Pending application(s), if any, stand disposed of.