

(1979) 01 SC CK 0014

In the Supreme Court Of India

Case No : Civil Appeal No. 1711 (N) of 1969

Raja Niranjana Singh and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 09-01-1979

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1)

Citation : AIR 1979 SC 1547 : (1979) 3 SCC 758 : (1979) 11 UJ 245

Hon'ble Judges : Y. V. Chandrachud, C.J.; V. D. Tulzapurkar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Y.V. Chandrachud, C.J.—The appellants owned extensive forest areas at Etawah, Bharthana and Auraiya in the district of Etawah. On October 28, 1944 the Government of Uttar Pradesh issued a notification u/s 4(1) of the Land Acquisition Act, 1894 acquiring an area admeasuring over 6,000 acres therefrom, for the purpose of preservation of existing tree growth, afforestation and control of erosion by means of regulation of grazing. By an award dated September 6, 1945 the Land Acquisition Officer awarded Rs. 20, 145 7 0 as compensation for the acquisition of the lands of the appellants. In a reference made by the Lands Acquisition Officer, the appellants claimed a sum of Rs. 90,000/- as compensation for the land, Rs. 10,000/- for buildings and Rs. 2,00,000/- for the trees standing in the forest. The learned District Judge, Mainpuri, came to the conclusion that income which accrued to the appellants from the acquired land by way of grazing charges amounted to Rs. 2,000/-per year and that 23 times of that amount would represent a fair compensation to the appellants as the market value of the land. The learned Judge valued the standing trees at Rs. 40,293.5-0 and awarded a total sum of Rs. 99,237-5-0 to the appellants. In First Appeal No. 473 of 1951 filed by the State of Uttar Pradesh, the High Court upheld the value of the land at Rs. 46,000/-but set aside the compensation awarded by the District Court for the value of trees. The High Court has granted to the appellants

a certificate to appeal to this Court under Article 133(1)(a) of the Constitution.

2. Learned Counsel for the appellants contends that the High Court was in error in refusing to award compensation to the appellants for the value of the trees standing in the forest, since the land has to be valued separately from the trees. In support of this contention reliance is placed on the definition of 'land' in Section 3(1) of the Land Acquisition Act and on the provisions of Section 23(1), firstly and secondly of the same Act, Having considered this contention in the light of these provisions and in the context of the various facts to which we will presently advert, it seems to us difficult to uphold it.

3. In the first place, the, forest land which has been acquired was mostly situated in ravines caused by the erosive action of the rivers Kuari, Chambal and Jamuna. With a view to preventing erosion of the land, the Government of Uttar Pradesh embarked upon a scheme of afforestation of the land in pursuance of which agreements were entered into between the appellants and the Government in 1918 and 1923. By these agreements the Government came entitled to manage the forests as 'reserved forests'. These agreements were terminated subsequently and on October 27, 1934 a fresh agreement was arrived at between the appellants and the Secretary of State for India. That agreement was to remain in force for a period of 10 years and it was immediately on the expiry of that agreement that the land was acquired under the notification dated October 28, 1944. Under the agreement of 1934, an annual sum of Rs.899/- only was payable by the Government to the appellants. The Government had to incur the entire expenditure for protecting, preserving and managing the forest but it was entitled to collect and credit to itself the entire income accruing from the forest. The only right reserved to the appellants, apart from the annual payment of Rs. 899/- was the right of shooting for himself, his family and friends, to take the grass growing on the land and to graze his cattle on the land.

4. The evidence in the case, particularly that furnished by the various agreements between the parties shows that the trees which stood on the land were planted by the Government itself in pursuance of its scheme of afforestation of the lands and that the entire income of the trees was appropriated by the Government. There is no evidence to show that any trees were planted by the appellants and indeed there is hardly any reliable evidence to show that the appellants were receiving any particular income by selling the wood or timber of the felled trees. In fact, there is not even credible evidence to show that the appellants were receiving any regular income by letting out the land or any part of it for grazing purposes. Even assuming therefore, for the sake of argument, that the appellants would be entitled not only to the value of the land but to the value of the trees standing thereon also the High Court was justified in deleting from the award the compensation granted by the District Court for the value of the trees.

5. The evidence of Nawab Singh, D.W. I, who retired as Deputy Ranger in 1949

shows that the trees which were standing on the land on the date of acquisition were all planted by the Government from 1918. It is significant that Prag Narain, P.W. 11. who was the Mukhtiar-i-am of the appellants admitted in his cross-examination that he had never seen any trees being planted on any part of the disputed forest by or on behalf of the appellants. This evidence in our opinion furnishes a complete answer to the appellants contention that since the trees belonged to them, they were entitled to be compensated for their acquisition.

6. It is unnecessary in view of this factual position to consider the legal submission of the appellants' counsel that the land and the trees should have been valued separately by reason of the provisions of the Land acquisition Act cited by him. Were it necessary to consider this contention we would have preferred to hold that since the land was acquired as a forest, it would have to be valued as a forest and that value would depend upon the kind of trees and the number of trees standing in the forest on the date of acquisition. If the value of trees is taken into consideration while valuing the forest, the trees cannot be valued once again for arriving at the total compensation payable to the owners of the forest.

7. For these reasons we affirm the judgment of the High Court and dismiss the appeal with costs.