

(1996) 01 SC CK 0080

In the Supreme Court Of India

Case No : Civil Appeal No. 1823 of 1996.

Ramesh Chandra Tiwari and another

APPELLANT

Vs

U.P. Avas Evam Vikas Parishad, Lucknow and others

RESPONDENT

Date of Decision : 08-01-1996

Acts Referred:

Land Acquisition Act, 1894 — Section 6

Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965 — Section 28, 32, 38, 55

Citation : (1996) 1 AD 594 : AIR 1996 SC 3274 : (1996) 1 JT 475 : (1996) 1 SCALE 370 : (1997) 9 SCC 116 : (1996) 1 SCR 211 : (1996) 3 UPLBEC 1532

Hon'ble Judges : K. Ramaswamy, J;G. B. Pattanaik, J

Bench : Division Bench

Advocate : Yogeshwar Prasad, Attorney General, P.K. Bajaj and Rachna Gupta, for the Appellant; Renu George and P.K. Jain, for the Respondent

Final Decision : Disposed Of

Judgement

1. Leave granted.

2. The controversy raised in this case is squarely covered by the Judgment of this Court in Gauri Shankar Gaur and Others, etc. Vs. State of U.P. and Others, wherein this Court had held that the provision of Section 6 of the Land Acquisition Act, 1894 had no application to the acquisition initiated under U.P. Awas Evam Vikas Parishad Adhiniyam, 1965 and the procedure prescribed in Sections 28 and 32, as modified by operation of Section 55 read with para 2 of the Schedule would be applicable. Consequently, the Land Acquisition (Amendment) Act 68 of 1984 had no application. The above view was reiterated by this Court in U.P. Avas Evam Vikas Parishad, Lucknow (U.P.) Vs. Pushpa Lata Awasthi (Smt), . Consequently, the notification issued u/s 28 and declaration made u/s 38 of the Adhiniyam are valid in law. The procedure prescribed under the Adhiniyam should prevail. The Amendment Act 68 of 1984 does not apply to the acquisition under the Adhiniyam. However, in view of the Judgment in Gauri Shankar's case (supra), the claimants would be entitled to the compensation

determined with reference to the date of declaration u/s 32 of the Act for the reasons mentioned therein.

3. The appeal is accordingly disposed of.