
(1985) 07 OHC CK 0035
In the Orissa High Court
Case No : First Appeal No. 42 of 1975

State of Orissa

APPELLANT

Vs

Haradhan Debta

RESPONDENT

Date of Decision : 29-07-1985

Acts Referred:

Land Acquisition Act, 1894 — Section 23(2)

Citation : AIR 1986 Ori 96 : (1985) 60 CLT 314

Hon'ble Judges : P.C. Misra, J;B.K. Behera, J

Bench : Division Bench

Advocate : G. Rath, General, for the Appellant; R.N. Sinha and S.N. Sinha, for the Respondent

Final Decision : Dismissed

Judgement

Behera, J.—The State is in appeal against the award by the learned Subordinate Judge, Sambalpur, on a reference made u/s 18 of the Land Acquisition Act (for short, "the Act") and the only contention raised by the learned Advocate-General is that the valuation of the "Munda" (water reservoir) measuring Ac. 1.21 decimals at the rate of Rs. 5,000/- per acre is on the higher side. We find no force in this contention. As has rightly been submitted by Mr. Sinha for the respondent, when the water is let out, a "Munda" would turn out to be a very good variety of land for the purpose of cultivation. That apart, the costs of construction of the "Munda" has also been included by the learned Subordinate Judge in assessing its value. In our view, this valuation cannot be said to be unreasonable or excessive.

2. Inviting our attention to the view taken by the Delhi High Court in the case of Raghbir Singh Vs. Union of India and Others, (decided on December 6, 1984), Mr. Sinhal has contended that the respondent is entitled to enhanced compensation in view of the provisions made in the Act as amended in 1984. No cross-appeal has been preferred and no claim has been made by the respondent in this Court after the amending Act came into force for enhanced compensation.

Later in point of time, the Supreme Court has held in K. Kamalajammanniavaru (Dead) by Lrs. Vs. Special Land Acquisition Officer, that the increase in the solatium to thirty per cent by the Amendment Act in 1984 is limited to the awards passed after April 30, 1982 and before Sept. 24, 1984 and to appeals arising from such awards. Their Lordships have observed and held :

".....The Bill which ultimately became the Amendment Act was introduced into Parliament on April 30, 1982. Parliament obviously desired to give effect to the amended Section 23(2) from the date of introduction of the Bill. So the amended provision was expressly made applicable by Section 30(2) to awards made by the Collector or Court between April 30, 1982 and Sept. 24, 1984 also. A natural corollary was that the new provision should apply to orders made by the High Court or by the Supreme Court in appeals against such awards, that is awards made between April 30, 1982 and Sept. 24, 1984. Parliament did not intend and could not have intended that whatever be the date of the award, however ancient it may be, solatium would stand enhanced to "thirty per centum" if an appeal happened by chance or accident to be pending on April 30, 1982. Surely it was not the intention of Parliament to reward those who kept alive the litigation even after several years. If it was the intention of Parliament to make the amended Section 23(2) applicable to all proceedings relating to compensation wherever they be pending, the words "after the 30th day of April 1982 (the date of introduction of the Land Acquisition Amendment Bill, 1982 in the House of the People) and before the commencement of this Act" in Section 30(2) would become meaningless. It is clear that Parliament wanted to amend Section 23(2) to have very limited retrospectivity. It made the provision applicable to awards made after April 30, 1982 and before Sept, 24, 1984 also and further to appeals to the High Court and the Supreme Court arising from such awards....."

What has been laid down by the Supreme Court is the law of the land. In the instant case, the award had been passed in Jan. 1975. The contention raised by Mr. Sinha cannot prevail.

3. For the foregoing reasons, the appeal fails and is dismissed, leaving the parties to bear their own costs in this appeal.

P.C. Misra, J.

4. I agree.