

(1995) 01 SC CK 0099

In the Supreme Court Of India

Case No : Civil Appeal No. 1299 of 1988

Umed Industries and Land Development Co. and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 17-01-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 1A, 23(2)

Rajasthan Urban Improvement (Amendment) Act, 1987 — Section 52(2), 53(6)

Rajasthan Urban Improvement Trust Act, 1959 — Section 60A

Citation : (1995) 2 JT 495 : (1995) 1 SCALE 309(1) : (1995) 2 SCC 563 :
(1995) 1 SCR 348 : (1995) 1 UJ 326

Hon'ble Judges : Sujata V. Manohar, J;K. Ramaswamy, J

Bench : Division Bench

Advocate : B.B. Beri and Indra Makwana, for the Appellant; B.D. Sharma, for the Respondent

Final Decision : Allowed

Judgement

1. This appeal, by special leave, arises from the Judgment of the learned Single Judge of the High Court of Rajasthan, dated 22.7.1987 made in Revision No. 265 of 1983 and batch.

2. The Notification u/s 52 of the Rajasthan Urban Improvement Act, 1959, for short the Act, was published in the State Gazette on 10.10.1974 acquiring an extent of 39875 acres of land for Urban development. Possession of the land was taken on. 10, 1974. Though the appellant had claimed larger amount, the additional Collector in his Award dated 18.4.1980 determined the market value @ Rs. 13.50 per sq. yd. Feeling aggrieved, the appellant carried the matter in appeal u/s 54 of the Act claiming additional amount of compensation and also solatium and interest. The Government also filed appeals against the order of the Collector awarding 10% interest. The District Judge by his common award and decree dated 9.2.1983 determined the compensation @ Rs. 49.50 per sq. yd. and reduced the interest from 10% to 6% from October 10, 1974. Still further

aggrieved the appellants carried the matter in revision to the High Court. The appellants' revision is 498/83, the High Court by a common judgment dismissed the revision petitions as stated earlier on 22.7.1984. Thus this appeal.

3. The only contention raised by the learned Counsel for the appellants is that the provisions of Section 52(2) and 53(6)(a) are inconsistent with the provisions of the Land Acquisition (Amendment) Act 68 of 1984 amending the principal Land Acquisition Act 1 of 1894 and that therefore the provisions of Section 52(2) and 53(6)(a) are void. Unfortunately, this contention, though was raised before the District Judge, was not pursued before the High Court nor any independent proceedings have been taken challenging the constitutionality of the provisions referred to hereinbefore. Therefore, we cannot permit the appellants to agitate this question for the first time in this appeal. However, the State Legislature, after the Central Act 68 of 1984 has come into force, has taken care to amend the provisions of the Act and the relevant provisions in the Rajasthan Land Acquisition Act, 1953 as applicable to the State by appropriate amendments. As regard the Act is concerned, the Legislature amended the same by State Amendment Act 29 of 1987 which came into force w.e.f. 1.8.1987. Therein the Act has taken care of transitory provision in Section 60-A of the Act which reads thus:

60-A. Transitory provisions for pending matters relating to acquisition of land. -
(1) Notwithstanding anything otherwise contained in Sub-section (1) of Section 52, where in any matter relating to the acquisition of land pending on the date of commencement of the Rajasthan Urban Improvement (Amendment) Ordinance, 1987 (hereinafter in this section referred to as the date of commencement), an action, thing or order has been taken, done or made under and in accordance with the provisions of this Act as it stood before the date of commencement such action, thing or order shall not be reopened or reviewed or be liable to be challenged on the ground that such action, thing or order was at variance with that provided in the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter in this section referred to as the Land Acquisition Act) subject, however, that any further proceeding, action or order in such matter conducted, taken or made on or after the date of commencement shall subject to the other provisions of this section, be made under and in accordance with the Land Acquisition Act.

(2) The amount of compensation or interest or that payable for any other reason shall, in a matter pending on the date of commencement, be payable under and in accordance with the provisions of the Land Acquisition Act and the money paid prior to the date of commencement shall be deducted from or adjusted against the said amount.

(3) & (4) x x x x x x

(5) In determining the amount of compensation to be awarded in a matter pending on the date of commencement, the market value of the land at the date

on which the notice was published in the official Gazette under Clauses (b) of Sub-section (6) of Section 53. as it stood before the date of commencement, shall be taken in to consideration.

(6) An appeal filed u/s 54 or Section 56 or a dispute referred u/s 55 or Section 59 and pending on the date of commencement shall be decided having regard to the provisions of the Land Acquisition Act.

A reading thereof would make the legislative intention clear that any action taken, done or made under and in accordance with the provisions of the Act as it stood before the date of commencement of the Central Amendment Act 68 of 84, such action, thing or order shall not be reopened or reviewed or be liable to be challenged on the ground that such action, thing or order was at variance with that provided in the Land Acquisition Act, 1894 (Central Act 1 of 1894) subject, however, that any further proceeding, action or order in such matter conducted, taken or made on or after the date of commencement shall subject to the other provisions of this Section, namely, Section 60-A, be made under and accordance with the L.A. Act. Sub-section (2) also makes the matter very clear, namely, the amount of compensation or interest or that payable for any other reason shall, in a matter pending on the date of commencement, be payable under and in accordance with the provisions of the L.A. Act (Central Act) and the money paid prior to the date of commencement shall be deducted from or adjusted against the said amount. It was applied to pending appeals. Thereby, it is amply clear that the amount of compensation or interest or that payable for any other reason (solatium under the Central Act) shall be in accordance with the provisions of the L.A. Act. But entitlement will be only from the date of commencement of the Act but, not anterior thereto.

4. Section 52(2) provides payment of simple interest at 6% per annum on the amount of compensation determined under u/s 53. Section 53(6)(a) specifically omits to pay solatium for compulsory acquisition. Thereby, prior to the commencement of the Central Act 68 of 1984, namely September 24, 1984, the claimants are not entitled to solatium.

5. In Union of India (UOI) and Another Vs. Raghubir Singh (Dead) by Lrs. Etc., a Constitution Bench of this Court has held that in proceedings pending before the date of the introduction of the Amendment Act and the date of the commencement of the Amendment Act either before the Land Acquisition Officer or before the reference Court enhanced solatium would be payable. In view of the fact that the Award was made by the District Court on 9.2.83 i.e. prior to the commencement of the Amendment Act, the claimants are not entitled to solatium @ 30%. However, since the proceedings are pending, they are entitled to payment of solatium at 15% from the date of commencement of the Act, namely, 1-8-1987 till date of payment on the enhanced compensation awarded by the District Court. As regards interest is concerned, till the State Amendment Act has been operating till 1.1.1987 the claimants are entitled to interest under the Central Amendment Act only on and from 1.9.87 on the enhanced

compensation at 9% per annum on the enhanced market value for one year from 1.8.1987. Therefore, after expiry of one year till date of payment or deposit, the claimants are entitled to interest at 15% on the enhanced compensation. With regard to additional amount u/s 23(1-A) this Court in K.S. Paripoornan Vs. State of Kerala and Others, held that the claimants would not be entitled to the additional amount, if the proceeding were not pending before the Civil Court as on the date of the commencement of Central Amendment Act. Since the Amendment Act p. was made applicable only on 1.8.1987, the claimants also are not entitled to the additional amount u/s 23(1-A)

6. The appeal is allowed only to the above extent. But in the circumstances, the parties are directed to bear their own costs.