
(1991) 12 GAU CK 0001
In the Gauhati High Court
Case No : F.A. (T) No. 235 of 1991

Union of India (UOI)

APPELLANT

Vs

Lohit Ch. Mazumdar and Others

RESPONDENT

Date of Decision : 17-12-1991

Acts Referred:

Requisitioning and Acquisition of Immovable Property Act, 1952 — Section 11, 31, 8

Citation : (1992) 1 GLR 235

Hon'ble Judges : R.K. Manisana Singh, J;M. Sharma, J

Bench : Division Bench

Advocate : sic B. Kalita, Addl. Central Govt. Standing, for the Appellant; N.N. Saikia, General for Nagaland, P.N. Goswami, (sic) C. Barthakur, K. Dewan and B.C. Talukdar, for the Respondent

Judgement

Manisana

1. The Union of India has filed this appeal (sic) Section 11 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (for short "Act") from a common award made in the Arbitrator u/s 8 of the Act along with an application for condonation of delay in filing the appeal.

2. Learned Counsel for the Respondents have raised a question that the Union of India cannot prefer the appeal as it was not (sic) party in the arbitration proceedings. The question which, therefore arises for consideration is whether the Union of India can file appeal u/s 11 of the Act. Section 11 of the Act (sic) follows:

Any person aggrieved by an award of the arbitrator (sic) u/s 8 may, within thirty days form the date of (sic) award, prefer an appeal to the High Court within whose (sic) jurisdiction the requisitioned or acquired property is situated:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the Appellant was prevented by sufficient cases from filing the appeal in time.

(emphasis added)

Section 11 lays down who can file an appeal, that is to say "a person aggrieved" may prefer an appeal.

3. The question then is,--What is the meaning of the words "a person aggrieved"? In *Corpus Juris Secundum*, Volume-IV, page 183, it is stated:

Broadly speaking, a party or person is aggrieved by a decision when, and only when, it operates directly and injuriously upon his personal, pecuniary, or property rights.

4. In *Bar Council of Maharashtra v. M.V. Dabholkar* AIR 1935 SC 2092, the Supreme Court has observed:

The meaning of the words "a person aggrieved" may vary according to the context of the statute. One of the meanings is that a person will be held to be aggrieved by a decision if that decision is materially adverse to him. Normally, one is required to establish that one has been denied or deprived of something to which one is legally entitled in order to make one "a person aggrieved". Again a person is aggrieved if a legal burden is imposed on him. The meaning of the words "a person aggrieved" is sometimes given a restricted meaning in certain statutes which provide remedies for the protection of private legal rights.

(emphasis added)

5. Keeping the above principles in view, let now examine the (sic) whether the Union of India is a person aggrieved. The land (sic) acquired for the purpose of the Union. The Union of India has (sic) the compensation. In the award, the compensation had been (sic) Therefore, the award operates directly or injuriously against (sic) interest of the Union and also is materially adverse to (sic) Union of India, thereby imposing a legal burden on the Union of India, This being the situation the Union of India is a person. (sic) It is true that the Union of India was not a party to the (sic) proceedings. There is a difference between "a party aggrieved" and "a person aggrieved". In the case of "a party aggrieved" (sic) a party to record can appeal under the statute providing that (sic) party aggrieved" may appeal. But, Section 31 provides that, as (sic) stated, any person aggrieved may prefer appeal. Therefore, (sic) Union of India can prefer appeal.

6. With regard to condonation of delay of 678 days for prefe(sic) the appeal, the Appellant has explained that the Union of India (sic) not a party in the arbitration proceedings. However, the Deft(sic) Estates Officer (DEO) received a letter dated 8.1.91 of the Land (sic) Officer on 18.1.91 along with two uncertified copies of the (sic) Thereafter, he sent the statement of facts to the Secretary (sic) Branch at Calcutta for opinion. The DEO received opinion on (sic) from the Ministry of Law and Justice. Certified copy of the (sic) was received on 21.5.91. Learned Counsel of the Union of India (sic) get ready the Memo of Appeal on 24.5.91 and the same was (sic) on 25.5.91. The DEO himself had sworn the affidavit verifying (sic) facts stated above. Although, the learned Counsel for the

Respondent has submitted that every day delay has not been explained, following the decision of the Supreme Court in Collector v. Katiji (sic) 1987 SC 1353, we approach the matter liberally, especially when (sic) Union of India was not a party in the arbitration proceedings. (sic) the facts and the circumstances of the case, we are of the view that sufficient cause has been shown for not preferring the appeal in time. Accordingly, the delay is condoned The appeal shall be listed for admission.