

(2002) 11 SC CK 0007

In the Supreme Court Of India

Case No : Civil Appeal Nos. 6155-6156 of 1995

Union of India (UOI)

APPELLANT

Vs

Vijay Kumar and Others

RESPONDENT

Date of Decision : 12-11-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 23, 28

Citation : (2002) 10 JT 75

Hon'ble Judges : Shivaraj V. Patil, J; Doraiswamy Raju, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The above appeals have been filed against the order of a division bench of the High Court of Punjab & Haryana in C.W.P. Nos. 5566 of 1993 and 15674 of 1992 whereunder the High Court has passed the following order:

"These appeals will stand dismissed accordingly. The learned counsel for the union of India could not point out any distinguishing feature in the instant cases for not applying the ratio of the apex court's judgment in civil appeal Nos. 4688-94/89 & 2674-85/89. Respectfully following the rule of law laid down by the apex court in civil appeal Nos. 4688-94/89 & 2674-85/89, we do not think the arbitrator was in error in allowing solatium and interest to the petitioners in the instant cases. The award of the arbitrator so far as solatium and interest has been allowed to the claimant-petitioners is fair, just and unexceptional. The respondents are directed to release all the payments payable under the award to the petitioners within three months from today, failing which they would be liable to pay interest at the rate of 18% per annum on the amount."

2. Heard the learned counsel appearing on either side.

3. It is contended for the appellants that the order of the High Court could not be sustained for the reason that when the appeals against the very determination of

the compensation are pending and the stay petitions filed are still pending along with the appeals, (though no interim orders as such were granted) the court, in exercise of writ jurisdiction, could not have directed the release of the payments payable under the award which is the subject matter of challenge in the pending appeals before the High Court. Further, it is urged that the court committed a serious error in sustaining the claim for solatium and interest. During the pendency of the appeal in this Court, on 19.3.1999, stay of the impugned order of the High Court was granted on condition that the appellants pay to the respondents 50% only of the enhanced principal amount awarded by the arbitrator.

4. There is no controversy that the appellants have complied with the said condition of the stay order. We are unable to countenance a claim for further ad hoc payments. Keeping in view the fact that the main appeals are pending before the High Court wherein all questions raised by the parties remain to be adjudicated, it would be unnecessary for this Court and inappropriate too to express any opinion on this collateral nature of proceeding, which has come before this Court virtually on an order to enforce the award which as already stated is the subject matter of an appeal pending before the High Court. Any view expressed in these proceedings is likely to prejudice a fair and effective disposal of the appeal, on their own merits. Keeping in view all this, we consider it sufficient to leave all questions and disputes between parties open including the entitlement or otherwise of the respondent for solatium as well as interest, to be adjudicated in the pending appeals, uninfluenced by the observations or findings recorded by the High Court in the orders under challenge before us. The High Court ought not to have entertained claims of the nature by means of independent proceedings in the form of writ petitions, inspite of the pendency of the appeals and without referring the parties to seek relief in the pending appeals.

5. The amount already paid pursuant to the conditional order of stay granted by this Court shall be adjusted between the parties subject to the ultimate result of the appeal now pending before the High Court. Having regard to the fact that the acquisition was of more than two decades old, the High Court will do well to ensure the final disposal of the pending appeals within six months from the date of receipt of copy of this order or production of the same by either of the parties.

6. The appeals are allowed and disposed of in the above terms. Parties to bear their own costs.