

(1994) 10 SC CK 0065

In the Supreme Court Of India

Case No : Civil Appeal No's. 8112-14 of 1994 Arising out of SLP (C) No's. 5205, 5221 and 5287 of 1992

U.P. State Industrial Development Corpn. Ltd.

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 19-10-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 28A

Citation : (1995) 2 ALT 32 : (1994) 4 SCALE 1137 : (1995) 2 SCC 766 : (1994) 4 SCR 581(1) Supp

Hon'ble Judges : S. C. Sen, J; M. K. Mukherjee, J; K. Ramaswamy, J

Bench : Full Bench

Final Decision : allowed

Judgement

1. Leave granted.

2. These appeals arise from the judgment of the High Court of Allahabad dated 29.1.1992 made in W.P. No. 16908/89 & batch. The only controversy in these cases is whether the Collector was right in determining the compensation u/s 28-A of the Act. The notification u/s 4(2) of the Land Acquisition Act, 1894, Act No. 1 of 1894, for short 'the Act', was published on February 9, 1962. The Collector passed the awards relating to three villages on different dates determining the compensation. Some of the claimants received the compensation without protest and some on protest. Those who received the compensation under protest sought for and secured references u/s 18 to the Civil Court. The Addl. District Judge, Ghaziabad in his award and decree dated May 23, 1987 enhanced the compensation. The State filed F.A. No. 668 of 1987 which is pending disposal in the High Court at Allahabad. The claimants who received the compensation without protest made applications u/s 28-A(1) of the Act.

Following the award of the District Court, the land acquisition officer passed the award u/s 28-A(2) of the Act. This was challenged by the appellants in the High Court in the writ petitions which were dismissed. Thus these appeals by special

leave.

3. The entire controversy has been considered by this Court in Babua Ram and Ors. v. State of U.P. dated 4.10.1994 rendered in C.A.Nos. 563/94 & batch and held that since an appeal has been preferred by the State against the award of the Dist. Judge made u/s 26 of the Act, the proper course open to the L.A.O., on an application made u/s 28-A(1) of the Act, would be to keep the applications u/s 28-A(1) pending till the appeal filed against the award of the Dist. Judge is disposed of by the High Court and then to take action as per Section 28-A(2) of the Act. Following the law laid down therein and subject to directions contained therein, we hold that the High Court was not right in dismissing the writ petitions. Therefore, the order of the High Court is set aside. The award of the Collector made u/s 28-A(2) is quashed. The Collector/L.A.O. is directed to keep the application filed u/s 28-A(1) of the Act pending till the disposal of the appeal. On receipt of the judgment from the High Court or in an appeal by this Court the L.A.O. is directed to determine the compensation based on the final judgment according to law.

4. The appeals are accordingly allowed. But in the circumstances without costs.