

K. Kamala Jammanniavaru (Dead) By Lrs vs The Special Land Acquisition Officer ... on 14 February, 1985

Equivalent citations: 1985 AIR 576, 1985 SCR (2) 914, AIR 1985 SUPREME COURT 576, 1985 (1) SCC 582, (1985) 1 APLJ 37.1, (1985) IJR 114 (SC), 1985 UJ (SC) 681, (1985) 98 MAD LW 697, 1985 2 CIV LJ 201, (1985) 11 ALL LR 253, (1985) 1 CURCC 1143, (1985) 1 ANDH LT 383, (1985) GUJ LH 546, (1985) 2 LANDLR 170, (1985) MAH LJ 364, (1985) MPLJ 218

Author: O. Chinnappa Reddy

Bench: O. Chinnappa Reddy, Sabyasachi Mukharji

PETITIONER:

K. KAMALA JAMMANIAVARU (DEAD) BY LRS.

Vs.

RESPONDENT:

THE SPECIAL LAND ACQUISITION OFFICER AND VICE VERSA.

DATE OF JUDGMENT 14/02/1985

BENCH:

REDDY, O. CHINNAPPA (J)

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REDDY, O. CHINNAPPA (J)

MUKHARJI, SABYASACHI (J)

CITATION:

1985 AIR 576 1985 SCR (2) 914

1985 SCC (1) 582 1985 SCALE (1) 283

CITATOR INFO :

O 1985 SC1576 (4,5,7)

RF 1988 SC1652 (19)

F 1989 SC1933 (4,5,30,32,35)

APR 1990 SC 981 (9)

ACT:

Land Acquisition Act, 1894, Section 23 & Land Acquisition (Amendment) Act, 1984 Section 51 (b) and 30(2).

Solatium of 'thirty per centum' - Entitlement of - When arises - Awards made after April 30, 1982 and appeals arising from such awards.

HEADNOTE:

The Land Acquisition (Amendment) Act, 1984 by 15(b) amended s. 23(2) of the Land Acquisition Act, 1894 to provide that in sub-section (2) of section 23 for the words "fifteen per centum", the words 'thirty per centum' shall be substituted. Section 30(2) of the Amendment Act provided that the increased solution was to be applicable "in relation to, any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any such award under the provisions of the Principal Act 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.

"The lands of the appellant-claimant were acquired pursuant to notifications issued under s. 4(1) Land Acquisition Act, 1894 on November 28, 1957 Being dissatisfied with the compensation awarded by the Land Acquisition Officer, Civil Judge and the High Court, appeals were filed to this Court for enhancement. The State filed appeals for reduction of the compensation.

It was contended on behalf of the appellant-claimant that s. 30(2) of the Land Acquisition (Amendment) Act, 1984 made the amended s. 23(2) which increased the solatium to thirty per centum" applicable to all proceedings in regard to compensation which had not become final whether they be pending before the Collector, Court, High Court, or Supreme Court.

Dismissing the Appeals,

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HELD: The Parliament did not intend and could not have intended that whatever be the date of the award however ancient it may be, solatium

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would stand enhanced to 'thirty per centum' if an appeal happened by chance or accident to be pending on April 30, 1982. It was not the contention 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 s. 23(2) applicable to all proceeding relating to compensation wherever they may 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 s. 30(2) to have very limited retrospectivity. it made the provision applicable to awards after April 30, 1982 and before September 24, 1964 also and further to appeals to the High Court as well as Supreme court arising from such awards [917C-E]

JUDGMENT:

CIVIL APPELLANT JURISDICTION: Civil Appeal Nos. 2:96 of 1970, 2712 and 2714 of 1972 On appeal by Certificate from the Judgment and Decree dated 12.3.1970 of the' High Court of the Mysore at Bangalore in M F. Appeals No 155 & 168 of 1965.

K.N. Bhat and Miss Madhumulchandani for the appellant, in C.A. No. 2196 & Respondent CAs. No. 271'-14.

K. Rajendra Choudhary for the Respondent in CA No. 2195 & Appellants in CAs. 2713-14.

The Judgment of the Court was delivered by CHINNAPPA REDDY, J. In respect of acquisition of land pursuant to notifications issued under s. 4(1) of the Land Acquisition Act on November 28, 1957, compensation of Rs. 5250 for the land in S. No. 83 and compensation at the rate of Rs. 800 per acre for the land in S. No. 74 was awarded by the Land Acquisition Officer. On a reference under s. 18 of the Land Acquisition Act, the Civil Judge enhanced the compensation to Rs. 18,000 for the land in S. No. 83 and Rs. 14,250 for the land in S. No. 74. The High Court, on appeal, further enhanced the compensation to Rs. 8000 per acre for the land in S. No 83 and Rs. 2500- per acre for the land in S. No. 74. The claimant has filed Civil Appeal No. 2196 of 1970 to enhance the compensation and the State of Karnataka has preferred Civil Appeal Nos. 2713 and 2714 of 1972 to reduce the same. We are unable to find any question of principle involved in any of the appeals and accordingly we have no option but to dismiss them, However, in the appeal filed by the claimant, Shri K.N. Bhat, learned counsel, urged that in view of the Land Acquisition Amendment Act, 1984, his client is entitled to be paid solarium of 30% of the compensation instead of the 15% to which he had been held entitled by the lower courts under the unmended Act. He relied open sec. 15(b) and sec. 30(2) of the 1984 Amendment Act which are in the following terms:-

"15. In Section 23 of the Principal Act,-

(a)

(b) in sub-section (2) for the words "fifteen per centum", the words "thirty per centum" shall be substituted."

.....

"30. (1)

(2) The provisions of sub-section (2) of section 23 and section 28 of the Principal Act as amended by clause (b) of section 15 and section 18 of this Act respectively, shall apply, and shall be deemed to have applied, also to, and in relation to, any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any such award under the provisions of the Principal Act 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,"

Shri Bhat's submission was that s. 30(Z) of Amendment Act made the amended s. 23(2) which increased the solarium to thirty per centum applicable to all proceedings in regard to compensation which had not become final whether they be pending before the Collector, Court, High Court or Supreme Court. We are unable to agree with Shri Bhat's submission. It is worth while remembering at this juncture that awards made by the Collector under s. 11 and by the Court on reference under s. 18 only are described as awards in the Land Acquisition Act, while further appeals are provided to the High Court and the Supreme Court. The new s. 23(2), of course, necessarily applies to awards made by the Collector or Court after the commencement of the Act, that is after September 9, 1984 which was the date on which the act received that assent of the President.

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 s 23(2) from the date of introduction of the Bill. So the amended provision was expressly made applicable by s. 30(2) to awards made by the Collector or Court between April 30, 1982 and September 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 September 24, 1984. Parliament did not intend and could not have intended that whatever be the date of the award, however ancient it may be, solarium would stand enhanced to 'thirty per centum' if an appeal happened by chance or accident to pending an April 30, 1982. Surely it was not the intention of Parliament to reward those who kept alive the litigation of Parliament to make the amended s. 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 s. 30(2) and would become meaningless. It is clear that Parliament wanted the amended s.23(2) to have very limited retrospectivity. It made the provision applicable to awards made after April 30, 1982 and before September 24, 1984 also and further to appeals to the High Court as the Supreme Court arising from such awards. In this view we see no force in the submission of Shri Bhat. All the appeals are dismissed. No costs.

N.V.K. Appeals dismissed.