

Jasveer Singh And Anr vs State Of U.P And Ors on 1 May, 2017

Author: Adarsh Kumar Goel

Bench: Rohinton Fali Nariman, Adarsh Kumar Goel

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3790 OF 2017

Jasveer Singh and Anr.

...APPELLANT(S)

VERSUS

State of U.P. and Ors.

...RESPONDENT(S)

With

CIVIL APPEAL NO.3787 OF 2017

RAJINDER Singh

...APPELLANT(S)

VERSUS

State of U.P. and Ors.

...RESPONDENT(S)

WITH

CIVIL APPEAL NO.3786 OF 2017

BHAG Singh

...APPELLANT(S)

VERSUS

State of U.P. and Ors.

...RESPONDENT(S)

J U D G M E N T

ADARSH KUMAR GOEL, J.

1. These appeals have been preferred against the Order of the High Court of Allahabad in Writ C. No. 59918 of 2014 rejecting the prayer of the appellants for quashing the land acquisition proceedings initiated vide notification dated 18th August 1981 under Sections 4 and 6 of the Land Acquisition Act, 1894. The acquisition was “for the construction of New Broad Gauge Railway Line between Rampur and Haldwani” in the District of Rampur. Urgency clause was invoked. Possession of the land was taken on 19th September, 1986. The award was made on 22nd September, 1986. The appellants preferred reference under Section 18 for enhancement of compensation which was decided vide Award dated 7th December, 1988 by the District Judge, Rampur. First appeals against the said award were decided by the High Court on 29th January, 2004. This Court vide order dated 12th September, 2005 in Civil Appeal Nos. 5714-15 of 2005 remanded the matters to the High Court having regard to the grievance of the appellant against denial of statutory benefits.

2. On 19th December, 2005 the appellants filed a writ petition before the High Court seeking quashing of the acquisition proceedings which was decided by the High Court on 3rd December, 2010 directing redetermination of compensation. The said order was set aside by this Court on 16th October, 2012 in Civil Appeal No.7535 of 2012. It was observed that :

“After considering the pros and cons, without entering into serious controversies and making any comment on the merit of the case, we are of the considered opinion that in view of the judgment and order of this Court dated 26th November, 2010, which was passed in presence of the counsel for both the parties, the High Court ought not to have heard the matter at all. Thus, the judgment and order impugned before us has lost its sanctity. Therefore, the same is hereby set aside.

However, in order to meet the ends of justice, we remand the case to the High Court to hear the writ petition afresh expeditiously preferably within a period of six months from the date of production of the certified copy of the order before the Hon’ble Chief Justice. The matter may be assigned to any particular Bench by the Hon’ble Chief Justice for final disposal. The parties shall be at liberty to raise all factual and legal issues involved in the case. The High Court is requested to deal with the relevant issues in detail.

More so, if the respondents are so aggrieved regarding withdrawal of their appeals, which had been remanded by this Court for determining the entitlement of interest under Section 23-(1A) of the Land Acquisition Act, 1984 and an application is made by the respondent to revive the same, the High Court may consider and decide the said application in accordance with Law. All the matters shall be heard simultaneously by the same Bench if the appeals are restored. “

3. Thereafter, the High Court considered the contention of the appellants that the award in respect

of compensation was no award in the eye of law and though the possession was taken long back and railway line had been laid out, the acquisition proceedings were liable to be set aside and compensation was liable to be awarded at present market rate. The High Court rejected the said plea vide judgment dated 30th May, 2014 in Writ-C No.77449 of 2005. It was observed that objection of the appellants against the award had already been considered and remand by the Supreme Court on 12th September, 2005 was only in respect of statutory benefits. For the first time plea was sought to be raised in the writ petition against validity of acquisition which was impermissible in view of law laid down by this Court in Aflatoon versus Lt. Governor of Delhi[1], Swaika Properties Pvt. Ltd. versus State of Rajasthan[2], Sawaran Lata versus State of Haryana[3] and Banda Development Authority, Banda versus Moti Lal Agarwal[4]. Judgment of this Court in Royal Orchid Hotel versus G. Tayarama Reddy[5] was distinguished as that case related to fraudulent exercise of power of eminent domain. The High Court concluded :

“ 45. Taking into consideration the entire facts and circumstances of the case, we are of the view that the writ petition is highly barred by laches and deserves to be dismissed on the ground of laches alone.

46. As has been observed above, the petitioners' main grievance is for enhancement of compensation, for which the petitioner has already filed First Appeal No.880 of 1993 and First Appeal No.401 of 1998 which appeals are being allowed by order of the date, we see no reason to entertain the writ petition.

47. Although, various submissions on merits challenging the entire acquisition proceedings have been raised by learned counsel for the petitioners, but we having taken the view that the writ petition is highly barred by laches, we do not find it necessary to enter into the submissions raised by learned counsel for the petitioners on merits. ”

4. The appellant thereafter preferred S.L.P. (Civil) No. 27109 of 2014 which was dismissed. However, it was observed that appellants are at liberty to work out their grievance based on the new Land Acquisition Act (2013) by preferring appropriate proceedings. The appellant thereafter filed W.P. No.77449 of 2005 from which these appeals have arisen.

5. The High Court dismissed the writ petition with the following observations:

“ From the facts as noticed herein above, we are of the considered opinion that not only the Award had been made, the petitioners had also filed a Reference Application which was rejected and against the Reference Order, they filed First Appeal, referred to above, which has also been dismissed. There is substance in the allegations made. ”

6. We have heard learned counsel for the parties.

7. Learned counsel for the appellants submitted that in the present case the award should be held to have not been validly made and on that ground the proceedings should be held to have lapsed.

8. We are unable to accept the above submission. It is seen from the above resume of the proceedings that the appellants were paid compensation and possession was duly taken. The appellants also preferred reference on which higher compensation was awarded and matter attained finality upto this Court. The appellants thereafter filed a writ petition challenging the acquisition proceedings which was held to be barred by delay and laches against which SLP was dismissed by this Court. Of course, an observation was made that the appellants could prefer appropriate proceedings based on their grievance under the 2013 Act.

9. The grievance of the appellants against acquisition proceedings on the ground that the award was not a valid award was rejected and SLP was dismissed by this Court but permitting a fresh challenge. The fact remains that the challenge of the appellants is barred by laches and the said finding does not suffer from any infirmity. Even if the appellants were permitted to lay a fresh challenge, they are required to overcome this legal bar which in our view the appellants have not been able to overcome.

10. We, thus, do not find any error in the view taken by the High Court. The appeals are dismissed.

... .. J . [A D A R S H K U M A R G O E L]
.....J. [Rohinton Fali Nariman] NEW DELHI May 01, 2017

[2] (1975) 4 SCC 285 [4] (2008) 4 SCC 695 [6] (2010) 4 SCC 532 [8] (2011) 5 SCC 394 [10] (2011) 10 SCC 608