

Supreme Court of India

Modi Spinning & Weaving Mills vs Virendra And Ors. on 31 March, 1998

Equivalent citations: JT 1998 (6) SC 623, (1998) 5 SCC 718

Bench: M Punchhi, K Thomas, S R Babu

ORDER

1. Vide order dated 23-2-1990, a two-Judge Bench of this Court referred this appeal to be heard and disposed of by a three-Judge Bench because of an apparent conflict in some decisions of this Court with regard to the competence of a company to file appeal, or to maintain a petition of appeal, for whose benefit, the land may have been acquired under the provisions of the Land Acquisition Act, 1894. Added thereto was the question of the impact of the Land Acquisition (Amendment) Act, 1984 whereunder enhanced rate of solatium was grantable as also enhanced rate of interest.

2. The appellant before us is M/s. Modi Spinning & Weaving Mills Co. Ltd. The land involved in this litigation was acquired for its purposes. Notification under Section 4 of the Act was issued on 20-7-1965. At that time, by means of the U.P. Act 22 of 1954, Section 23(2) of the Act stood omitted with effect from 19-11-1954 as a result of which the State was not obliged to pay any solatium to the owners whose land was involved in acquisition. Notification under Section 6 was issued on 18-11-1965. On 14-12-1965, possession of the land was taken. The award came later on 14-7-1967. The land acquisition references were decided on 29-9-1970. First appeals filed by the landowners in the Allahabad High Court in 1974 were decided on 12-9-1985. The High Court took into account a twofold change in law. Firstly, it took cognizance of the reinsertion of Section 23(2) in the Act on 31-7-1972 whereby solatium at the rate of 15 per cent became payable on lands acquired. Secondly, the enhanced rate of solatium being at the rate of 30 per cent and enhanced rate of interest being at the rate of 9 per cent was taken into account having been brought under the provisions of the Land Acquisition (Amendment) Act, 1984. Solatium and interest having been awarded in this manner activated the appellant-Company to move this Court by special leave.

3. The question of law referred stands answered by a Constitution Bench of this Court in U.P. Awasthi v. Vikas Parishad v. Gyan Devi, . In para 24 of the Report, the Bench has summed up their conclusions. Conclusions 6 to 10 are important for our purposes. They are quoted below:

"6. The local authority is a proper party in the proceedings before the reference court and is entitled to be impleaded as a party in those proceedings wherein it can defend the determination of the amount of compensation by the Collector and oppose enhancement of the said amount and also adduce evidence in that regard.

7. In the event of enhancement of the amount of compensation by the reference court if the Government does not file an appeal, the local authority can file an appeal against the award in the High Court after obtaining leave of the court.

8. In an appeal by the person having an interest in land seeking enhancement of the amount of compensation awarded by the reference court, the local authority should be impleaded as a party and is entitled to be served notice of the said appeal. This would apply to an appeal in the High

Court as well as in this Court.

9. Since a company for whom land is being acquired has the same right as a local authority under Section 50(2), whatever has been said with regard to a local authority would apply to a company too.

10. The matters which stand finally concluded will, however, not be reopened."

4. An objection has been raised on behalf of the respondent - the affected landowners, that the appeal by the Company (M/s. Modi Spinning and Weaving Mills Co. Ltd.) is incompetent for it is not an aggrieved party since it had on 8-11-1968 transferred the acquired land to M/s. Modipon Ltd. and the latter Company was not a party to any proceedings in the courts below or even here. Secondly, it has been urged that as required by the principles laid down in the afore-mentioned Constitution Bench decision, the Company could only file an appeal against the order of the High Court after obtaining specific leave for the purpose in this Court. It is maintained that the grant of special leave would not be the leave of the kind as obtainable in the 7th conclusion arrived at by the Constitution Bench.

5. We have examined both the objections carefully and have also put into play the equities of the case. The appellant-Company passed on the bargain to Modipon Ltd. way back on 8-11-1968. M/s. Modipon Ltd. is assumed to have paid every penny of the price settled. We cannot assume, in these circumstances, that the litigation going on between the appellant-Company and the State on the one side and the landowners on the other had not been taken into account towards settlement of the price. Additionally, no specific leave in terms of Conclusion 7 has been taken from us focussing the issue. Besides, we can take judicial notice of the fact that prices in real estate had started soaring in the days when the acquisition took place and have remained soared in the following two decades. Seeing to the injustice on account of non-payment of solatium and higher rate of interest, the U.P. State Legislature had itself stepped in on 31-7-1972 to reinsert Section 23(2) of the Land Acquisition Act, 1894 as it originally stood. The totality of the circumstances persuades us that we should not permit the Company to challenge the impugned order of the High Court. We, therefore, decline leave as envisaged under Requirement 7 and dispose of the appeal as having been dismissed.

6. At this stage, it has been pointed out to us that the first respondent, Virendra Singh died on 26-2-1998. This factum is recorded.