

Supreme Court of India

Sri Nandlal Tejmal Kothari vs The Inspecting Assistant ... on 3 April, 1997

Bench: K. Ramaswamy, D.P. Wadhwa

PETITIONER:

SRI NANDLAL TEJMAL KOTHARI

Vs.

RESPONDENT:

THE INSPECTING ASSISTANT COMMISSIONER OF INCOME TAX & ORS.

DATE OF JUDGMENT: 03/04/1997

BENCH:

K. RAMASWAMY, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:

O R D E R The controversy raised in this appeal is covered by the judgment of this Court in C.B. Gautam vs. Union of India [(1993) 1 SCC 78] wherein it was held that:

"31. The recording of reasons which lead to the passing of the order is basically intended to serve a two- fold purpose:

(1) that the "party aggrieved" in the proceeding before (sic the appropriate authority) acquires knowledge of the reasons and in a proceeding before the High Court or the Supreme Court (since there is no right of appeal or revision), it has an opportunity to demonstrate that the reasons which persuaded the authority to pass an order adverse to his interest were erroneous, irrational or irrelevant, and (2) that the obligation to record reasons and convey the same to the party concerned operates as a deterrent against possible arbitrary action by the quasi-judicial or the executive authority invested with judicial power.

42. We realise that if order for compulsory purchase of the property is made hereafter the intending vendor will suffer to some extent by reason of the fact that he will get the purchase amount several years after the time he would have got it had the impugned order been held to be valid. But on the other hand, however, he would

have retained the possession of the property in question. Taking into account these factors and taking note of the fact that the immovable properties in urban areas last few years, we direct that in case Central Government shall pay to the intending seller the amount of the apparent consideration plus interest at 9 per cent per annum from the date the impugned order was made.

50. We, accordingly, clarify by this supplemental direction to be read as part of the judgment that in respect of case other than that of petitioner - C.B. Gautam, the period of two months referred to in Section 269-UD(1) shall be reckoned with reference to the date of disposal of each of such pending matters either before this Court or before the High Courts as the case may be. Where, however, the stay orders inhibiting the authorities from taking further proceedings are vacated, the period referred to in the said Section 269-UD(1) shall be reckoned with reference to the date of such vacating of the stay orders. This clarification and further direction shall be supplemental to and be treated as parts of the main judgment." Following the above ratio, this appeal is disposed of.

No costs.