

Supreme Court of India

U.P. State Industrial ... vs State Of U.P. And Ors on 19 October, 1994

Bench: K. Ramaswamy, M.K. Mukherjee, Suhas C. Sen

CASE NO. :

Appeal (civil) 8112-14 of 1994

PETITIONER:

U.P. State Industrial Development Corpn. Ltd.

RESPONDENT:

State of U.P. and Ors.

DATE OF JUDGMENT: 19/10/1994

BENCH:

K. Ramaswamy & M.K. Mukherjee & Suhas C. Sen

JUDGMENT:

JUDGMENT Arising out of SLP (C) Nos. 5205, 5221 and 5287 of 1992 1994 Supp(4) SCR 581-A  
ORDER

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 under Section 28-A of the Act. The notification under Section 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 under Section 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 under Section 28-A(1) of the Act.

Following the award of the District Court, the land acquisition officer passed the award under Section 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 under Section 26 of the Act, the proper course open to the L.A.O., on an application made under Section 28-A(1) of the Act, would be to keep the applications under Section 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 under Section 28-A(2) is quashed. The Collector/L.A.O. is directed to keep the application filed under Section 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.