

Siddappa Vasappa Kuri And Anr vs Special Land Acquisition Officer And ... on 16 October, 2001

Equivalent citations: AIR 2001 SUPREME COURT 2951, 2002 (1) SCC 142, 2001 AIR SCW 4419, (2002) 1 ALLMR 262 (SC), 2002 (1) UPLBEC 109, (2001) 9 JT 176 (SC), 2001 (7) SCALE 380, 2001 (9) JT 176, (2002) 1 MAD LJ 82, (2002) 1 LANDLR 298, (2002) 2 MAD LW 215, (2002) 1 ORISSA LR 184, (2001) 2 LACC 539, (2002) 1 UPLBEC 109, (2001) 6 ANDHLD 138, (2001) 8 SUPREME 89, (2002) 1 RECCIVR 805, (2002) 1 ICC 42, (2001) 7 SCALE 380, (2002) 1 UC 133, (2001) 45 ALL LR 688, (2001) 6 ANDH LT 39, (2002) 1 ALL WC 106, (2002) 1 ANDHWR 114, (2002) 1 CIVLJ 597

Bench: S.P. Bharucha, Brijesh Kumar

CASE NO.:

Appeal (civil) 1687 of 1998

PETITIONER:

SIDDAPPA VASAPPA KURI AND ANR.

RESPONDENT:

SPECIAL LAND ACQUISITION OFFICER AND ANR.

DATE OF JUDGMENT: 16/10/2001

BENCH:

S.P. BHARUCHA & Y.K. SABHARWAL & BRIJESH KUMAR

JUDGMENT:

JUDGMENT 2001 Supp(4) SCR 236 The Judgment of the Court was delivered by BHARUCHA, J. This appeal has been referred to a bench of three Judges by reason of the contrary views taken by two benches of two learned Judges in Special Tahsilar (LA), P. W.D. Schemes, Vijayawada, v. M.A. Jabbar, [1995] 2 SCC 142 on the one hand and in Asstt. Commr., Gadag Sub-Division, Gadag \. Mathapathi Basavannevva, [1995] 6 SCC 355 on the other. (The referral order also makes a reference to State of H.P. v. Dharam Das, [1995] 5 SCC 683, but no reasoning can be discerned therein.) We are required to consider the provisions of Section 23 (1A) of the Land Acquisition Act, 1894 in the context of the following facts : Possession of land bearing Survey No. 311/3, admeasuring 2 acres and 16 guntas, situated at Village Hirenandi, Gokak Taluk, Belgaum District, Karnataka was taken by the respondents from the appellants, who were the owners thereof, on 1st June, 1977 for the purposes of the construction of an irrigation channel. On 8th March, 1991, a notification was issued under Section 4(1) of the Act in relation to the said land. It was followed by a notification under Section 6. The provisions of Section 17 were thereafter applied. On 6th February, 1993, an award was made and compensation was awarded to the appellants at the rate of Rs. 10,000

per acre, on a reference made by the appellants, the District Judge enhanced the compensation to Rs. 50,000 per acre. The Land Acquisition officer and the State preferred appeals before the High Court. Therein, compensation was reduced to Rs. 41,400 per acre. The decree so passed was put in execution. Before the executing court the question of additional compensation under Section 23(1A) arose. The executing court granted to the appellants additional compensation under Section 23(1A) from the date on which possession of the land was taken, namely, 1st June, 1977 to the date on which the Section 4 notification was issued, namely, 8th March, 1991. The High Court, before whom a revision petition was presented by the LAO, took the view that the appellants were entitled to the additional compensation from the date of the Section 4 notification, namely, 8th March, 1991, to the date of the award, namely, 6th February, 1992. Against this order of the High Court this appeal has been filed.

Section 23(1A) reads thus :

"23(1-A) In addition to the market-value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market-value of the period commencing on the from the date of the publication of the notification under Section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation- In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any court shall be excluded."

It is the contention of learned counsel for the appellants that the appellants are entitled to compensation for the period 1st June, 1977 to 8th March, 1991, i.e., from the date on which possession of the said land was taken till the date of publication of the section 4(1) notification. He finds sustenance for this contention in the decision of this Court in Mathapathi Basavannevva 's case [1995] 6 SCC 355 where a similar contention was upheld. The provisions of Section 23(1A) were analysed but, said the Court, "strict construction leads to unjust result, hardship to the owner and defeats legislative object." In its view, therefore, the expression "whichever is earlier" in Section 23(1A) had to be construed in that backdrop and the claimant was entitled to the additional amount from the date of taking possession. Since advance possession was taken before the publication of the notification under Section 4(1), "the claimants, by necessary implication, are entitled to the payment of additional amount by way of compensation from the date of taking over the possession for loss of enjoyment of the land."

This Court in Special Tahsildar (LA), P. W.D. Schemes, Vijayawada v. M.A. Jabbar, [1995] 2 SCC 142, quoted Section 23(1A) and said "In other words, the owner of the land who has been deprived of the enjoyment of the land by having been parted with possession, the Act intended that the owner be compensated by awarding an additional amount calculated at the rate of 12 per centum per annum on the enhanced market value for the period between the date of notification and the date of award or date of taking possession of the land, whichever is earlier. Admittedly, possession having

already been taken on 15-2-1965, before publication of the notification under Section 4(1) on 6-3-1980, the award of additional amount for the period from 6-3-1980 to 30-9-1983, i.e., the date of making the award under Section 11 is perfectly correct."

It is, as we see it, clear from Section 23(1A) that the starting point for the purposes of calculating the amount to be awarded thereunder, at the rate of 12 per centum per annum on the market value, is the date of publication of the Section 4 notification. The terminal point for the purpose is either the date of the award or the date of taking possession, whichever is earlier. In the present case, possession of the land having been taken prior to the publication of the Section 4 notification, that terminal is not available. The only available terminal is the date of the award. The High Court, therefore, was in no error in holding that the appellants were entitled to the additional compensation under Section 23(1A) for the period 8th March, 1991 to 6th February, 1993.

Section 23(1A) admits of no meaning other than the meaning that we have placed upon it. There is no room here for any construction other than that given above. It is only where a provision is ambiguous that a construction that leads to a result that is more just can be adopted. Having regard to its clear terms, Section 23(1A) must receive the only construction it can bear. We are of the view, therefore, that the law has been correctly laid down in the decision in *Special Tahsildar (LA), P.W.D. Schemes v. MA. Jabbar*, [1995] 2 SCC 142 and that it has not been correctly laid down in *Asstt. Commr., Godag Sub-Division v. Mathapathi Basavannewwa*, [1995] 6 SCC 355 and, for that matter in *State of H.P. v. Dharam Das*, [1995] 5 SCC 683.

The appeal is dismissed. No order as to costs.