2024 INSC 409

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1636-1637 OF 2016

UNION OF INDIA & ANR. ... APPELLANT(S)

VS.

DR. ASKET SINGH & ORS. ... RESPONDENT(S)

JUDGMENT

Abhay S.Oka, J.

Heard the learned counsel appearing for the parties.

2. The facts of the case are glaring. The respondents are the owners of the lands subject matter of these appeals. At the instance of the Ministry of Defence, acquisition proceedings were initiated under the Requisitioning and Acquisition of Immovable Property Act, 1952 (for short "the 1952 Act"). A notice of acquisition under Section 7 of the 1952 Act was issued on 26th March, 1964 which was published in the State Government Gazette on 3rd April, 1964. The vesting of the acquired property was complete on publication of the notice in the official gazette.

3. The provisions for grant of compensation in respect of the acquired land are found in Section 8 of the 1952 Act. The first option provided therein is to fix the compensation by an agreement between the acquiring body and the owners. if there is no such agreement, under clause (b) of sub-section (1) of Section 8, the Central Government is required to appoint an arbitrator for determining the amount of compensation payable. An offer for payment of compensation was made by the appellants belatedly after 12 years on 16th August, 1976. The respondents declined to accept the said offer. Therefore, the Land Acquisition Officer addressed a letter to the Government on 8th October, 1976 to appoint an arbitrator. Accordingly, the Additional District Judge, Gurdaspur was appointed as the Arbitrator. Nearly 22 years thereafter on 8th May, 1998, the award was declared by the Arbitrator by which he came to the conclusion that the market value of the acquired land was Rs.150/- per Marla.

4. An appeal was preferred by the first respondent as well as by the present appellants for challenging the award of the Arbitrator. By the impugned judgment, the High Court held that the market value ought to be Rs.350/- per Marla which was determined in the cases of

similarly situated acquired lands. As there was a gross and inordinate delay in completing the arbitral proceedings for determination of the market value, relying upon the decisions of this Court in the cases of *Harbans Singh Shanni Devi* v. *Union of India*[1] and *Union of India* v. *Chajju Ram*[2] which were followed by this Court in a decision in the case of *Dilawar Singh & Ors.* v. *Union of India & Ors.*[3], the High Court granted solatium at the rate of 30% of the market value and interest on the compensation amount at 9% and 15%.

5. The submission of the learned counsel appearing for the appellants is that the relief of solatium and interest has been granted in earlier cases by this Court where there was a delay on the part of the Central Government in appointing an Arbitrator for determination of compensation. In this case, the delay is mainly in disposal of the arbitral proceedings. He, therefore, submitted that the High Court ought not to have awarded both solatium and interest. The learned counsel appearing for the first respondent pointed out that in terms of the impugned judgment, the first respondent has received the entire compensation amount about 7 years

1. **decided on 11th February, 1985 in Civil Appeal No.470-471 of 1985**
2. **(2003) 5 SCC 568**
3. **(2010) 14 SCC 357**

back.

6. It will be useful to refer to paragraphs 9 and 10 of the decision of this Court in the case of *Dilawar Singh*[3] which reads thus:

> **"9. It is common ground that the provisions of the Requisitioning and Acquisition of Immovable Property Act, 1952 do not make any provision for the grant of solatium or interest to the expropriated landowners. The absence of any such provision in the said act was in fact made a basis for a challenge to the constitutional validity of the enactment which was repelled by this Court in *Union of India* v. *Hari Krishan Khosla*[4]. This Court pointed out that any comparison between acquisition made under the Requisitioning and acquisition Act would be odious in view of the dissimilarities between the two enactments. That decision was followed in subsequent pronouncements of this Court in *Union of India* v. *Chajju Ram*[2] where a similar attack was mounted against the constitutional validity of the Defence of India Act, 1971 but repelled by this Court relying upon the decision in *Hari Krishan Khosla*[4].**
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> **10. What is noteworthy is that in both these matters this Court had made a distinction between cases in which there was inordinate delay in the appointment of an arbitrator and consequent delay in the determination of the amount of compensation payable to the owners and other case**

4. 1993 Supp (2) SCC 149

where there was no such delay. In para 79 of the judgment of this Court in *Hari Krishan Khosla*[4], this Court observed:

> **"79. This is a case in which for 16 years no arbitrator was appointed. We think it is just and proper to apply the principle laid down in *Harbans Singh Shanni Devi* v. Union of India[1]. The Court held as under:**
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> > **Having regard to the peculiar facts and circumstances of the present case and particularly in view of the fact that the appointment of the arbitrator was not made by the Union of India for a period of 16 years, we think this is a fit case in which solatium at the rate of 30% of the amount of compensation and interest at the rate of 9% per annum should be awarded to the appellants. We are making this order having regard to the fact that the law has in the meanwhile been amended with a view to providing solatium at the rate of 30% and interest at the rate of 9% per annum."**

7. As noted in the said decision, there is no provision for grant of solatium and interest under the 1952 Act.

8. It is true that the right to hold immovable property is no longer a fundamental right but it is a right under Article 300A of the Constitution of India. Considering the peculiar provisions of the 1952 Act, the land owned by the first respondent stood vested in the Central Government on 3rd April, 1964. Therefore, the compensation ought to have been paid to the first respondent within a reasonable time from 3rd April, 1964. Under clause (a) of sub-section (1) of Section 8, there is a provision to decide the amount of compensation by an agreement. Such agreement could have been arrived at, provided the Central Government had submitted their proposal or offer to the first respondent. However, the offer was actually made by the Collector in August, 1976. Thus, there was no attempt made by the Central Government to bring about the consensus on the market value for a period of more than 12 years. Inordinate time of 12 years was taken by the Government to offer compensation to the first respondent. We must record here that this delay of more than 12 years is attributable solely to the Central Government. After the Arbitrator was appointed on 8th October, 1976, it took slightly less than 20 years to conclude the proceedings. There is nothing placed on record to show that the proceedings were delayed due to

any conduct attributable to the first respondent. The delay in appointing the arbitrator must be attributed to the Central Government, as the Central Government took 12 years to offer compensation. In effect, market value prevailing on the date of acquisition was paid to the owners after lapse of more than 30 years from the date of vesting.

9. After having perused the aforesaid decisions of this Court, we find that as there are no provisions under the 1952 Act to compensate the owner for the delay in making payment of compensation, a direction was issued by this Court that in such cases, solatium and interest must be paid by the Central Government. The main reason for taking the said view is that the compensation must be paid to the owner of the acquired property within a reasonable time from the date on which the acquired property vested in the acquiring body. The requirement of making payment of compensation within a reasonable time from the date of vesting must be read into the 1952 Act. In fact, such a long delay of 12 years even in offering compensation will attract arbitrariness which is prohibited by Article 14 of the Constitution of India. The first respondent had an option of even seeking quashing of the acquisition on the ground of this

arbitrariness which may have violated his rights under Article 300A of the Constitution of India.

10. Considering the huge delay involved in payment of compensation, the High Court has rightly granted solatium and interest in terms of the decisions of this Court. In fact, we are surprised to note that the appellants have dragged the first respondent to this Court. There is absolutely no merit in these appeals. As the first respondent has been paid compensation 7 years back, we are refraining from imposing costs.

11. Hence, the appeals are dismissed.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
May 01, 2024.