

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.4312/2000

(From the judgement and order dated 08/10/1999 in CMWP 41810/97
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

MEWA LAL

Petitioner (s)

VERSUS

STATE OF U.P. & ORS.

Respondent (s)

(For Final Disposal)

With

SLP(C)No.4313/2000
(For final disposal)

Date : 16/03/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS
HON'BLE MR. JUSTICE R.P. SETHI

For Petitioner (s)

Mr. Shrish Kumar Misra,Adv.

For Respondent (s)
No2

Mr. P.N. Gupta,Adv.

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J
.SP2

Leave granted.
The Civil Appeals are allowed.

.SP1

Hemalatha

(HK Bhatia)
Court Mast\r

(Signed order is placed on file)

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2104-2105 OF 2001@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(Arising from SLP(C) Nos.4312 & 4313/2000)

MEWA LAL

... APPELLANT

vs.

STATE OF U.P. & ORS.

...RESPONDENTS

O R D E R@@
CCCCCCCC

.PL55
.SP2

Leave granted.

Under Section 18 of the Land Acquisition Act(Act for short) a claimant can file application for reference before the Civil Court either within six weeks if he was present when the award was passed or within six months if he was not present when the award was passed. In the present case the award was passed on 23.9.1986. An application for reference was made on 20.3.1987. The land acquisition officer dismissed the application for reference on the sole ground that it was not presented within six weeks. That order was challenged before the High Court. By the impugned judgment the High Court confirmed the order of the land acquisition officer. Section 18 of the Act reads thus:-

.SP1
.....L.....T.....T.....T.....T.....J.....

Reference to Court- (1) Any person@@
BBBBBBBBBBBBBBBBBBBBBBB
interested who has not accepted the award may, by written application to the Collector, required that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the

-2-

persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:
Provided that every such application shall be made,--

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other case, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section(2), or within six months from

the date of the Collector's award,
whichever shall first expire."

.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

The proviso to the section refers to two different periods for the claimant to make an application but that period will depend upon the fact situation as to whether the claimant was present at the time when the award was made or not. There is no dispute in this case that if the claimant was not present when the award was made the application was well within time and it could not have been rejected. Hence it is a question of fact. We made an order on 15.12.2000 for the respondents to put in an affidavit whether the claimant was present when the award was passed or not. The respondents failed to substantiate that the claimant was present when the award

-3-

was passed. On the contrary the claimant asserted that they were not present. In view of the uncontroverted assertion of the claimant that they were not present when the award was passed we have to assume the fact situation on the basis of the said assertion.

In the result we allow the appeals and set aside the impugned orders. We direct the Land Acquisition Officer to make the reference on the strength of the application filed by the claimant under Section 18 of the Act.

.SP1

.....J.
(K.T. Thomas)

New Delhi
March 16, 2001

.....J.
(R.P. Sethi)