

À'

SLP(C)No. 3796-3797 OF 2000
ITEM No.2

Court No. 5

SECTION XIV
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.3796-3797/2000

(From the judgement and order dated 09/07/1999 in CWP 854/94 and
order dated 28.9.1999 passed in Review Petition No.11/99 of The
HIGH COURT OF H.P AT SHIMLA)

AMAR SINGH

Petitioner (s)

VERSUS

NATHPA JHAKRI POWER CORPN. & ORS.

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 13/03/2002 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH
HON'BLE MR. JUSTICE BISHESHWAR PRASAD SINGH
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Petitioner (s)

Mr.Tripurari Ray,Adv.,
Mr.Vishwajit Singh,Adv.

For Respondent (s)

Mr.Mukul Rohtagi, ASG
Mr.B.K.Satija,Adv.

Mr.Naresh K. Sharma,Adv.

UPON hearing counsel the Court made the following

O R D E R

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

Leave granted.

Heard the learned counsel for the parties.

The appeals are allowed. Impugned judgment and
order dated 9.7.1999 passed in CWP No.854/94 and order dated
28.9.99 passed in R.P.No.11/99 are set aside and the matters
are remitted to the High Court for deciding them on merits
in accordance with law after considering the contentions
raised by the parties. No order as to costs.

.SP1

(Vijay Kumar Sharma)
Court Master

(K.K Chadha)
Court Master

Signed order is placed on the file.

.PA

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 2234-2235 OF 2002
(Arising out of SLP © Nos. 3796-3797 of 2000)

Amar Singh

& Appellant

Vs.

Nathpa Jhakri Power Corpn. & Ors.

& Respondents

O R D E R

Leave granted.

Heard the learned counsel for the parties.

On 19th February, 2002 learned Additional Solicitor General appearing on behalf of Nathpa Jhakri Power Corporation respondent No. 1 made a statement that respondent No. 1 is not in a position to abide the Scheme framed for rehabilitation and, therefore, respondent No. 1 is prepared to hand over back the appellant's land which is acquired on the condition that appellant would refund the compensation amount simultaneously. Learned Additional Solicitor General clarified that the aforesaid statement was made because of the peculiar facts and circumstances of this case. Clarification is accepted. Learned counsel appearing on behalf of the appellant states that the appellant is not in a position to refund the compensation amount which he has taken away after the award. Hence, the aforesaid statement made by the learned Additional Solicitor General would not survive.

Learned Additional Solicitor General further submits that as the High Court has dismissed the writ petition without considering any of the contentions raised by the parties, he has no objection if the matter is remitted back to the High Court for fresh consideration. It is his contention that the Scheme for rehabilitation would not be applicable to the appellant for various reasons which he has pointed out at the time of the hearing of the appeals. Learned counsel for the appellant also submits that the matter be remitted to the High Court for fresh consideration.

In our view also, considering the dispute involved, this matter requires to be decided on the merits by the High Court. As the matter is remitted back to the High Court, we do not reiterate the submissions made by the learned counsel for the parties and leave it to the High Court for its decision in accordance with law.

In the result, appeals are allowed; impugned judgment and order dated 9.7.1999 passed in CWP No. 854/94 and order dated 28.9.1999 passed in Review Petition No. 11/99 are set aside and the matters are remitted to the High Court for deciding them on merits in accordance with law after considering the contentions raised by the parties. No order as to costs.

& & & & & & & & & & & & & & & J
(M. B. SHAH)

& & & & & & & & & & & & & & J
(BISHESHWAR PRASAD SINGH)

& & & & & & & & & & & & & & ..J
(D. M. DHARMADHIKARI)

New Delhi
March 13, 2002.