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C.A.No. 6838-6839 OF 1999

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ITEM NO. 112

COURT NO. 6

SECTION XVI

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS. 6838-6839 OF 1999@@  
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Niladrinarayan C. Dhurjee (Dead) by Lrs.... Appellant (s)

Vs.

State of West Bengal

... Respondent (s)

( With office report )

Date: 06-09-2001 This/These matter(s) was/were called  
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE  
HON'BLE MR. JUSTICE B.N. AGRAWAL

For appellant (s) Mr. SN Datta, adv.  
Mr. Sarwa Mitter, adv.  
for M/s. Mitter & Mitter Co.

For respondent (s) Mr. TC Sharma, adv.  
Mr. Ajay Sharma, adv.  
Ms. Neelam Sharma, adv.

UPON hearing counsel, the Court made the following  
O R D E R

The appeals are allowed. There shall be no  
order as to costs.

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(Alka Dudeja)  
Court Master

(S. Krishnan)  
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Niladri Narayan Chandradhurja (d) by Lrs. .. Appellant (s)

-vs-

State of West Bengal .. Respondent (s)

O R D E R

A large tract of land was proposed to be acquired by the State of West Bengal. Consequently, a notification dated 23rd June, 1954 was published on 8th July, 1954 under Section 4 of the Land Acquisition Act (hereinafter referred to as the Act ). The land of the appellants was covered by the aforesaid notification issued under Section 4 of the Act. Subsequently, the said notification was followed by a notification under Section 6 of the Act, issued on 19th July, 1954. It is relevant to mention here that in the notification under Section 6 of the Act, the provisions of sub-sections (1) and (4) of Section 17 were also applied, with the result the State was free to take possession without delivery of the award by the Land Acquisition Officer. In view of the application of sub-sections (1) and (4) of Section 17 of the Act, the State of West Bengal took possession of the land on 23rd February, 1955. After taking possession, the Land Acquisition Collector gave an award on 1st February, 1956. In between time, the State of West Bengal enacted the Act, known as the West Bengal Estates Acquisition Act, 1953 (hereinafter referred to as the Estates Act ), which came into force on 12th February, 1954. Section 4 of the Estates Act provided that the State Government may from time to time by a notification, declare that with effect from the date mentioned in the notification, all estates and the rights of every intermediary in each such estate situated in any district or part of a district, specified in the notification, shall vest in the State free from all encumbrances. In pursuance of Section 4 of the Estates Act, a notification was issued on 16th August, 1954 declaring that the appellants land shall vest in the State with effect from 15th April, 1955. Since the appellants herein were not satisfied with the award given by the Land Acquisition Collector, they sought a reference. The Learned District Judge, Bankura, West Bengal, by his order and judgment held that the appellants herein are entitled to compensation at the rate of Rs. 150/- per acre. Aggrieved, the State of west Bengal filed a Regular First Appeal before the High Court. The appellants herein, also being dissatisfied with the quantum of compensation awarded by the District Judge, filed a cross objection. The appeal preferred by the State of West Bengal was allowed, whereas the cross objection filed by the appellants was dismissed. It is against the said judgment, the appellants are in appeals before us.

Learned counsel appearing for the appellants, urged that since the land of the appellants already vested under the Land Acquisition Act, therefore, the question of re-vesting in the State under the Estates Act does not arise and the view taken by the High Court in denying the compensation to the appellants is wholly erroneous. We find substance in the argument. A perusal of the dates referred to above shows that in the instant case, possession of the land under the Land Acquisition Act was taken on 23rd February, 1955 and on that date the said land of the appellants came to be vested in the State free from all encumbrances. The notification issued under Section 4 of the Estates Act was subsequent to the date of taking possession of the land and, therefore, the land which has already been vested could not have been re-vested in the State under the Estates Act. We are, therefore, of the view that the view taken by the High Court in holding that the appellants are not entitled to compensation is erroneous. We, therefore, set aside the judgment under challenge and send the case back to the High Court to decide the appeal filed by the State and the cross objection by the appellants, in accordance with law. The appeals are allowed. There shall be no order as to costs

& & & & & & & J.  
(V. N. Khare)

& & & & & & & J.  
(B. N. Agrawal)

New Delhi;  
6th September, 2001

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