

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.8287 OF 2002

UNION OF INDIA

.....APPELLANT

VERSUS

SANICCHARWA LAKRA & ORS.

.....RESPONDENTS

WITH

CIVIL APPEAL No. 8288 of 2002  
CIVIL APPEAL No. 1827 of 2003

O R D E R

These appeals are directed against the order of the Division Bench of the Patna High Court whereby the letters patent appeals filed by the appellant against the judgment and order passed by the learned Single Judge under Section 11 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (for short, 'the 1952 Act') were dismissed as not maintainable.

The land of the respondents was requisitioned in 1942 under the Defence of India Act, 1939 for construction of Army Camp. After 44 years, the President gave sanction for acquisition of that land. This was conveyed by the Government of India, Ministry of Defence to the Chief of Army Staff vide letter dated 30.4.1986. Deputy Commissioner, Ranchi (hereinafter referred as

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'the Competent Authority') passed order for acquisition of the land without complying with the mandate of Section 7(1) of the 1952 Act. C.W.J.C. No. 1386/1989 filed by some of the land owners questioning the action of the Competent Authority was allowed by the Division Bench of the High Court and the acquisition of land was quashed. However, liberty was given to the Competent Authority to pass appropriate order afte

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complying with Section 7(1) of the 1952 Act. Thereafter, the competent authority issued notices to the respondents and other land owners. They filed objections against the acquisition of land. After considering the same, the Competent Authority passed order dated 04.03.1992 for the acquisition of land.

Since the respondents had not given consent for the acquisition of their land and had not agreed to accept the compensation fixed by the Competent Authority, the Central Government ought to have appointed an arbitrator in terms of Section 8(1)(b) of the 1952 Act. However, as no order was

passed in that regard for almost six years from the date of initial acquisition, the land owners filed C.W.J.C. No.1723 of 1992 for appointment of an arbitrator for determination of the amount of compensation.

The same was disposed of by the learned Single Judge of the High Court on 17.4.1995 and the Central Government was directed to take appropriate steps for appointment of an arbitrator within two months. Thereafter, the Central Government appointed Shri Justice Ram Chandra Prasad Sinha (retired) as an arbitrator.

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After hearing the parties and considering the evidence produced by them, the arbitrator passed award dated 27.05.1998 for payment of compensation which included solatium and interest.

The appeals preferred by the appellant under Section 11 of the 1952 Act were dismissed by the learned Single Judge. Paragraphs 15 to 17 of the order passed by the learned Single Judge are extracted below:

"15. In the present case applying the said principle it is found that compensation was assessed at a very low rate long back and, therefore, the claimants appellant took objection in the matter and asked for referring the matter to arbitrator but the same was not done and the claimants had to come to this court in writ application, wherein direction was given for appointment of Arbitrator. Acquisition took place in the year 1986-87 and Arbitrator was appointed in 1995-96, i.e., after more than 8 years for the negligence on the part of the Union of India in

appointing Arbitrator.

16. The learned Arbitrator considered the aforesaid aspect of the matter and awarded interest and solatium in the nature and circumstances of the case.

17. In such circumstances, I find no reason to interfere with the impugned award."

The appellant challenged the order of the learned Single Judge in SLP(C)No.....CC No.1617 of 2000 - Union of India vs. Sanicharwa Lakra & others and SLP(C)No.....CC No.2926 of 2000 - Union of India vs. Charu Oraon & others, which were dismissed on the ground of delay.

It is not clear from the record whether any special leave petition was filed in the case of Sukher Oraon and others but in

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all the cases, the appellant preferred appeals under Clause 10 of the Letters Patent, which were dismissed by the Division Bench by relying upon the judgments of this Court in Hanskumar Kishan Chand vs. Union of India, AIR 1958 SC 947; Collector, Varanasi vs. Gauri Shanker Misra & others, AIR 1968 SC 384 and judgment of the Division Bench of Delhi High Court in M/s

Banwari Lal & Sons Private Limited vs. Union of India and

another, AIR 1981 Delhi 366. The Division Bench opined that an

appeal filed against an award of the arbitrator, who was

appointed under Section 8(1)(b) of the 1952 Act, was not

a judgment and as such an appeal under Clause 10 of the Letters Patent was not maintainable.

We have heard learned counsel for the parties at

considerable length and carefully perused the record. In our

opinion, the Division Bench of the High Court rightly dismissed

the Letters Patent Appeals as not maintainable. In Hanskumar

Kishan Chand (supra), a three Judge Bench of this Court interpreted Section 19(1)(c) of the 1939 Act which is pari

materia of Section 11 of the 1952 Act and held that the Letters Patent Appeal is not maintainable against an order passed by the learned Single Judge on an appeal preferred against an award of the arbitrator. Some of the observations made in that judgment are extracted below:

"There is thus a sharp distinction between a decision which is pronounced by a Court in a cause which it hears on the merits, and one which is given by it in a proceeding for the filing of an award. The former is a judgment, decree or order rendered in the exercise of its normal jurisdiction as a civil court, and that is

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appealable under the general law as for example, under Sections 96, 100, 104, 109 and 110 of the Code of Civil Procedure. The latter is an adjudication of a private tribunal with the imprimatur of the Court stamped on it, and to the extent that the award is within the terms of the reference, it is final and not appealable. The position in law is the same when the reference to arbitration is made not under agreement of parties but under provisions of a statute. The result of those provisions again is to withdraw the dispute from the jurisdiction of the ordinary courts and to refer it for the decision of a private tribunal. That decision is an award, and stands on the same footing as an award made on reference under agreement of parties.

The law as laid down in the above authorities may thus be summed up: It is not every decision given by a Court that could be said to be a judgment, decree or order within the provisions of the Code of Civil Procedure or the Letters Patent. Whether it is so or not, will depend on whether the proceeding in which it was given, came before the Court in its normal civil jurisdiction, or de hors it as a persona designata. Where the dispute is referred to the Court for determination by way of arbitration as in *Rangoon Botatoung Company v. The Collector, Rangoon*, or where it comes by way of appeal against what is statedly an award as in *The Special Officer, Salsette Building Sites v. Dossabhai Bezonji*, *Manavikraman Tirumalpad v. The Collector of the Nilgris*, and *Secretary of State for India in Council v. Hindusthan Co-operative Insurance Society Limited* then the decision is not a judgment, decree or order under either the Code of Civil Procedure or the Letters Patent.

Under Section 19(1)(b), the reference is admittedly to an arbitrator. He need not even be a Judge of a Court. It is sufficient that he is qualified to be appointed a Judge of the High Court. And under the law, no appeal would have lain to the High Court against the decision of such an arbitrator. Thus, the provision for appeal to the High Court under s. 19(1)(f) can only be construed as a reference to it as an authority designated and not as a Court. The fact that, in the present case, the reference was to a District Judge would not affect the position. Then again, the decision of the arbitrator appointed under Section 19(1)(b) is expressly referred to in Section 19(1)(f) as an award. Now, an appeal is essentially a continuation of the original proceedings, and if the

proceedings under Section 19(1)(b) are arbitration proceedings, it is difficult to see how their character can suffer a change, when they are brought up before an Appellate Tribunal. The decisions in The Special Officer, Salsette Building Sites v. Dossabhai Bezonji. The Special Officer Salsette Building Sites

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v. Dassabhai Basanji Motiwala, Manavikraman Tirumalpad v. The Collector of the Nilgris and Secretary of State for India in Council v. Hindusthan Co-operative Insurance Society Limited proceed all on the view that an appeal against an award continues to be part of, and a further stage of the original arbitration proceedings. In our view, a proceeding which is at the inception an arbitration proceeding must retain its character as arbitration, even when it is taken up in appeal, where that is provided by the statute."

We are further of the view that these appeals are liable to be dismissed because the appellant has not approached the Court with clean hands inasmuch as the dismissal of the special leave petitions filed against the judgment and order passed by the learned Single Judge in the cases of Sanicharwa Lakra and others and Charu Oraon and others have not been mentioned in the list of dates or the memo of special leave petitions, which have been converted into civil appeals by grant of leave.

We have no

doubt that if the appellant had brought it to the notice of the Court that the special leave petitions filed against the judgment and order of the learned Single Judge were dismissed, this Court would have surely declined to entertain the special leave petitions.

De hors the above conclusion, we are satisfied that the direction given by the arbitrator for payment of solatium and interest do not call for interference because there was unexplained delay of more than eight years in the appointment of arbitrator. In Prabhu Dayal & ors. vs. Union of India, 1995 (Suppl.) 4 SCC 221, this Court refused to interfere with the award of solatium and interest on the sole ground that there was unexplained delay in the appointment of arbitrator.

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It is also apposite to mention that Special Leave Petition

(C) No....CC 727/2000 filed against an order passed by the

Division Bench refusing to entertain the Letters Patent Appeal in the case of Union of India vs. Manas Sett and others was dismissed by this Court on 14.02.2000 by recording the following order :-

"Delay condoned.

This SLP is directed  
Division Bench of the  
We do not find any  
Special Leave Petition

against the order of the  
High Court dated 19.7.1999.  
ground to interfere. The  
is dismissed."

In the result, the appeals are dismissed with cost of Rs.2 lacs payable to the respondents in each of these appeals.

We also direct that the balance amount, if any, payable by the appellant to the respondents shall be paid within three months.

With a view to avoid any further litigation in the matter, we direct as under :

- (i) The concerned Land Acquisition Collector shall depute officers subordinate to him not below the rank of Naib Tehsildar, who shall get in touch with all the land owners and/or their legal representatives and inform them about their entitlement and right to receive balance amount of compensation.
- (ii) The officers shall also instruct the land owners and/or their legal representatives to open savings bank account in case they already do not have such account.
- (iii) The bank account numbers of the land owners should be given to the Land Acquisition Collector within two months.
- (iv) The Land Acquisition Collector shall deposit the cheques of compensation in the bank accounts of the land owners without any further delay.

The amount of costs shall also be paid to the respondents within three months from today.

As a sequel to dismissal of these appeals, all interlocutory

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applications shall stand disposed of.

.....J.  
( G.S.SINGHVI )

.....J.  
( ASOK KUMAR GANGULY )

NEW DELHI;  
JANUARY 20, 2011.

ITEM NO.106

COURT NO.11

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO(s). 8287 OF 2002

UNION OF INDIA

Appellant (s)

VERSUS

SANICCHARWA LAKRA & ORS.

Respondent(s)

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WITH  
Civil Appeal NO. 1827 of 2003  
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Date: 20/01/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s) Mr.Gaurav Dhingra, Adv.  
Mr.D.L.Chidanandan, Adv.

For Respondent(s) Mr.S.K.Sinha, Adv.  
Ms.Seema Kashyap, Adv.

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

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(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master

( Signed order is placed on the file )