

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). 5993 OF 2000

SPL. LAND ACQN. OFFICER, MYSORE

Appellant (s)

VERSUS

NINGAMMA

Respondent(s)

AND

CIVIL APPEAL NO. 6223 OF 2000

Date: 23/01/2007 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s)

Ms. Kiran Suri,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

The appeals are allowed. No order as to costs.

[ Charanjeet Kaur ]

Court Master

[ Vinod Kulvi ]

Court Master

[ Signed order is placed on the file ]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5993 OF 2000

Spl. Land Acqn. Officer, Mysore

.. Appellant(s)

Versus

Ningamma

.. Respondent(s)

AND

CIVIL APPEAL NO. 6223 OF 2000

O R D E R

These appeals are directed against the judgment and order

dated October 12, 1999 passed by the High Court of Karnataka in  
CRP NOS. 3292 and 3293 of 1997.

Proceedings under the Land Acquisition Act, 1894

(hereinafter referred to as the Act) had been initiated in 1975.

Notification under Section 4 of the Act was issued on April 3, 1975

and on April 5, 1979 possession was taken over. Awards were

passed by the Land Acquisition Officer on February 19, 1981 by

granting market value at the rate of of Rs. 5,000/- per acre. It appears that the claimants made applications under Section 152 of the Code of Civil Procedure, 1908 (hereinafter referred to as the Code) for grant of relief under Section 23 (1-A) of the Act.

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The Principal Civil Judge, Mysore allowed the applications and amended the decree granting the benefit as mentioned in the orders.

Being aggrieved by the said orders, the Special Land Acquisition Officer approached the High Court by filing revision petitions which came to be dismissed.

Initially, notices were issued by this Court on April 7, 2000 and April 13, 2000 respectively and stay was also granted against payment of the amount. Nobody appeared on behalf of the respondents and leave was granted by this Court on October 12, 2000 and November 3, 2000 respectively. The matters are called on for hearing today.

We have heard learned counsel for the appellant. Nobody appears for the respondents.

Learned counsel for the appellant drew our attention to a decision of a larger Bench of this Court in K.S.Paripoornan vs. State of Kerala- 1994(5) SCC 593. Attention of the Court was

particularly drawn to paragraphs 49 and 74 of the reported decision

which read as follows:

"49. Section 30 of the amending Act contains the following transitional provisions:

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"30. Transitional provisions - (1) The provision of sub-section (1-A) of Section 23 of the principal Act, as inserted by clause (a) of Section 15 of the Act, shall apply, and shall be deemed to have applied, also to, and in relation to, -

(a) every proceeding for the acquisition of any land under the principal Act pending on the

30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People), in which no award has been made by the Collector before that date;

(b) every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an award has been made by the Collector before the date of commencement of this Act.

2. The provisions of sub-section (2) of Section 23 and Section 28 of the principal Act, as amended by clause (b) of Section 15 and Section 18 of this Act respectively, shall apply,

and shall be deemed to have been applied, also to,  
and in relation to, any award made by the  
Collector or Court or to any order passed by the  
High Court or Supreme Court in appeal against  
any such award under the provisions of the  
principal Act after the 30th day of April, 1982 [the  
date of introduction of the Land

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Acquisition (Amendment) Bill, 1982, in the House  
of the People] and before the commencement of  
this Act.

3. The provisions of Section 34 of the principal  
Act, as amended by Section 20 of this Act, shall  
apply, and shall be deemed to have been applied  
also to, in relation to -

(a) every case in which possession of any  
land acquired under the principal Act had been  
taken before the 30th day of April, 1982 [the date  
of introduction of the Land Acquisition  
(Amendment) Bill, 1982, in the House of the  
People), and the amount of compensation for such  
acquisition has not been paid or deposited under  
Section 31 of the principal Act until such date,  
with effect on and from that date; and

(b) every case in which such possession  
has been taken on or after that date but before the  
commencement of this Act without the amount of  
compensation having been paid or deposited  
under the said Section 31, with effect on and from

the date of taking such possession"

74. If sub-section (1-A) of Section 23 is construed in the light of the provisions contained in sub-section (1) of Section 30 of the amending Act there is no escape from the

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conclusion that Section 23 (1-A), itself, has no application to proceedings which had commenced prior to the enactment of the amending Act and the applicability of the said provision to pending proceedings is governed exclusively by sub-section (1) of Section 30 of the amending Act. A perusal of sub-section (1) of Section 30 of the amending Act shows that it divides the proceedings for acquisition of land which had commenced prior to the date of the commencement of the amending Act into two categories, proceedings which had commenced prior to 30-4-1982 and proceedings which had commenced after 30-4-1982. While clause (a) of Section 30(1) deals with proceedings which had commenced prior to 30-4-1982, clause (b) deals with proceedings which commenced after 30-4-1982. By virtue of clause (a), Section 23(1-A) has been made applicable to proceedings which had commenced prior to 30-4-1982. If no award had been made by the Collector in those proceedings before 30-4-1982. It covers (i) proceedings which were pending before the Collector on 30-4-1982 wherein award was made after 30-4-1982, but before the date of the commencement of the amending Act and (ii) such

proceedings wherein award was made by the Collector after the date of the commencement of the amending Act. Similarly Section 30(1)(b) covers (i) proceedings which had commenced after

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30-4-1982 wherein award was made prior to the commencement of the amending Act, and (ii) such proceedings wherein award was made after the commencement of the amending Act. It would thus appear that both the clauses (a) and (b) of sub-section (1) of Section 30 cover proceedings for acquisition which were pending on the date of the commencement of the amending Act and to which the provisions of Section 23 (1-A) have been made applicable by virtue of Section 30(1). If Section 23 (1-A), independently of Section 31, is applicable to all proceedings which were pending on the date of the commencement of the amending Act, clauses (a) and (b) of Section 30(1) would have been confined to proceedings which had commenced prior to the commencement of the amending Act and had concluded before such commencement because by virtue of Section 15 the provisions of Section Section 23 (1-A) would have been applicable to proceedings pending before the Collector on the date of commencement of the amending Act. There was no need to so phrase Section 30(1) as to apply the provisions of Section 23 (1-A) to proceedings which were pending before the collector on the date of the commencement of the amending Act. This only indicates that but for

the provisions contained in Section 30(1) Section 23 (1-A) would not have been applicable to proceedings pending before the Collector on the date of commencement of the amending Act."

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In the conclusive part of the judgment of the majority, it was stated that in cases where acquisition proceedings were initiated prior to the date of commencement of the amending Act, the payment of the additional amount payable under Section 23 (1-A) of the Act will be restricted to matters referred to Clause (a) of sub-section (1) of Section 30 of the amending Act, i.e. no award should have been made prior to April 30, 1982. If the award is prior to that date, the claimants would not be entitled to the benefit of Section 23 (1-A) of the Act. Admittedly, in these cases, awards were passed in February, 1981 and as such the claimants were not entitled to claim benefits of Section 23 (1-A) of the Act.

Learned Counsel also referred to a decision of this Court in Union of India vs. Rangila Ram (Dead) By Lrs.- 1995(5) SCC 585 wherein the Court held that once an award was passed, Section 152 of the Code has no application. In the instant cases, submitted the learned counsel for the appellants, there was no error which could be corrected under Section 152 of the Code and on that ground also the orders passed by the Principal Civil Judge, Mysore and confirmed by

the High Court deserve to be quashed and set aside.

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Having heard learned counsel for the appellants, we are of the view that the point is finally concluded by the decision in K.S. Paripoornan's case (supra). Again, it is clear as observed in Rangila Ram's case (supra) that the Principal Civil Judge, Mysore could not have passed the orders by invoking the provisions of Section 152 of the Code. On both the grounds, in our opinion, the Court has committed an error and orders passed by the Principal Civil Judge, Mysore and confirmed by the High Court of Karnataka are liable to to be quashed and set aside and are hereby set aside. The appeals are, accordingly, allowed. No order as to costs.

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[ C.K. THAKKER ]

.....J

[ LOKESHWAR SINGH PANTA ]

NEW DELHI,

JANUARY 23, 2007.