

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1107 OF 2009

AVAS EVAM VIKAS PARISHAD ..APPELLANT(S)

VERSUS

BHOPENDRA SINGH & Ors. ..RESPONDENT(S)

CIVIL APPEAL NOS.731-731 OF 2013

NEW OKHLA INDUSTRIAL DEV. AUTHORITY ..APPELLANT(S)

VERSUS

VISHNU PRADHAN & Ors. ..RESPONDENT(S)

O R D E R

1. These appeals are directed against the judgment and order passed by the High Court of Uttaranchal at Nainital in First Appeal No.33 of 2004, dated 04.08.2005 and the judgment and order passed by the High Court of Judicature at Allahabad in Civil Misc. Writ Petition No.75152 of 2005, dated 10.12.2009, respectively.

CIVIL APPEAL NO.1107 of 2009

2. A notification under Section 28 of the Housing and Development Board Act (for short, "the Act") was

issued by acquiring authority on 11.1.1975 to acquire 16.38 acres of land in Village Ujjain, Tehsil Kashipur, District Udham Singh Nagar for the purpose of the "*Graha Nirman Yojna*" by the UP Housing and Development Board. A subsequent notification under Section 32 of the Act was issued on 03.04.1976 and possession of the said land was taken on 15.05.1976.

3. The respondents were, allegedly, the owners of Plot No.126-C measuring 0.30 acres and Plot No.127-C measuring 0.30 acres which were also acquired under the abovementioned notifications. However, the respondents were denied compensation by the Special Land Acquisition Officer on the grounds that they were not the owners of the said lands. The Respondents filed a petition before the Allahabad High Court which was disposed of by the High Court by judgment and order dated 09.02.1987. Aggrieved by this, the respondents approached this Court. This Court directed that if the respondents file an application before the

Collector, the same ought to be referred to the Reference Court under Section 18 of the Land Acquisition Act, 1894 (for short "the LAA"). Accordingly, the respondents filed an application before the Collector who, in turn, referred the same to the Reference Court under Section 18 of the LAA.

4. The Reference Court, by order dated 19.08.2002, fixed the cost of the said land at Rs.6/- per square feet and awarded a sum of Rs.17,400/- as compensation, together with 30% solatium on the compensation amount and interest on the compensation amount and solatium at the rate of 12% p.a. from the date of the possession till the date of the actual payment. The Court further held that the respondents were in possession of the said plots of land as "asamis" and were, therefore, entitled to payment of 50% of the said compensation while the remaining 50% would be payable to the actual owner of the land.

5. Being aggrieved by the said order, the respondents carried the matters by way of appeal before the High Court. The High Court, by the impugned judgment and order, allowed the appeal and enhanced the compensation payable to the respondents to Rs 95/- per square meter together with 30% solatium and interest at the rate of 12% p.a. payable from the date of delivery of possession.

CIVIL APPEAL NOS. 731-732 OF 2013

6. A notification under Section 4 of the LAA was issued by acquiring authority on 02.09.2005 together with a direction under Section 17(4) of the LAA to the effect that provisions of Section 5-A of the LAA would not apply to the present case. Subsequently, on 22.11.2005, a notification under Section 6 of the LAA was issued and the urgency clause under Section 17(1) of the LAA was invoked.

7. The respondents filed a writ petition before the High Court of Judicature at Allahabad challenging

the said notifications issued under Sections 4 and 6 of the LAA. The High Court, by the impugned judgment and order dated 10.12.2009, without prejudice to the merits of the case, disposed of the writ petition with directions to the Special Land Acquisition Officer to determine the compensation in accordance with the judgment rendered by the High Court of Uttaranchal in *Bhendra Singh & Ors. v. Awas Vikas Parishad & Ors.*, 2005 (2) Uttaranchal Decision, 295 (impugned order in Civil Appeal No. 1107 of 2009) and to ensure the payment of the same within a period of one month.

8. Being aggrieved by the same, the appellants are before us in these appeals, by way of special leave.

9. We have heard learned counsel appearing for parties to the *lis* and carefully perused the material available on record in all these appeals.

10. After carefully going through the records of the cases and the impugned judgments and orders passed by the respective High Courts, it is our considered

opinion that no good ground exists in these appeals for our consideration and interference. The appeals, being devoid of any merit, are liable to be dismissed and, are accordingly dismissed.

Ordered accordingly.

.....CJI.
(H.L. DATTU)

.....J.
(ARUN MISHRA)

NEW DELHI,
NOVEMBER 04, 2015.

ITEM NO.21

COURT NO.1

SECTION X

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

Civil Appeal No(s). 1107/2009

AVAS EVAM VIKAS PARISHAD

Appellant(s)

VERSUS

BHOPENDRA SINGH & ORS

Respondent(s)

(with interim relief and office report)

WITH

C.A. No. 731-732/2013

(With appln.(s) for directions and Interim Relief and Office Report)

Date : 04/11/2015 These appeals were called
on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN MISHRAFor Appellant(s) Mr. Vishwajit Singh, Adv.
Mr. Abhindra Maheshwari, Adv.
Mr. Pankaj Singh, Adv.

Mr. Ravindra Kumar, Adv.

For Respondent(s) Mr. Brahm S. Nagar, Adv.
Mr. Ashok Mathur, Adv.

Mr. Saurabh Mishra, Adv.

Ms. Vaijyanthi Girish, Adv.

Mr. V.N. Raghupathy, Adv.

M/s. Parekh & Co.

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

The appeals are dismissed in terms of the
signed order.

As a sequel to the above, all pending
interlocutory application(s) is/are disposed of.

(Neetu Khajuria)

Sr.P.A.

(Signed order is placed on the file.)

(Vinod Kumar)

Assistant Registrar