

IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION
 CIVIL APPEAL NO(s). 7213 OF 2005

U.P. Power Corporation Ltd. Appellant (s)

VERSUS

Shanti Devi (D) by L.Rs. and another Respondent(s)

WITH

CIVIL	APPEAL	NO(s).	7219	OF	2005
CIVIL	APPEAL	NO(s).	7214	OF	2005
CIVIL	APPEAL	NO(s).	7215	OF	2005
CIVIL	APPEAL	NO(s).	7218	OF	2005

O R D E R

These appeals are directed against interlocutory orders passed by the Division Bench of the Allahabad High Court whereby the respondents were allowed to withdraw half of the enhanced compensation deposited by the appellant with District Judge, Aligarh and the remaining amount was directed to be invested in fixed deposit.

Since the acquisition proceedings were initiated as early as in 1989 and the matter has remained pending before the High Court and this Court for almost 21 years, we feel that it will be in the interest of justice to transfer the appeals pending before the High Court to this Court and dispose of the same on merits. Ordered accordingly.

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The land of the respondents was acquired in 1988-89 for construction of 2 K.V. Sub-station along with staff quarters at Hathras, District Aligarh. For this purpose, notification under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') was issued on 12.8.1988 and notification under Section 6 was issued on 28.2.1989. The Special Land Acquisition Officer passed award dated 23.5.1990

whereby he fixed market value of the acquired land at Rs.25/- per sq. yard.

The land owners applied for reference under Section 18 of the Act. Thereupon, the Land Acquisition Officer referred the matter to District Judge, Aligarh (hereinafter referred to as ' the Reference Court') for determination of the amount of compensation payable to the land owners. After analysing the pleadings and oral as well as the documentary evidence produced by the parties which included five sale deeds, awards dated 22.2.1990 and 10.5.1991 passed under Section 18 of the Act, map dated 20.9.1988 and stamp duty rate for the assessment years 1987-1988 and 1989 and 1992-1993 and 1993-1994, the Reference Court held that the market value of the acquired land should be Rs.100/- per square yard. The relevant portions of the award of the Reference Court are extracted below:

"P.W.1 was examined on behalf of the applicant who was asked numerous questions during cross-examination. In his cross examination, he stated that there is a high school in Mitai

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village and Saraswati Degree College, Polytechnic are nearby. This degree college would be at the most 3-4 furlongs from the acquired land. The sale deeds that he has filed is not adjoining to the lands but very near to them. Some are at one and half furlong and some at 25-50 yards. Document No.23G sale deed is 25-50 steps from his land. He has a plot in Mitai earlier. There is a temple next to his plot where people come to worship. Immediately after his plot, village Mitai starts where there is population and houses. His land is along the road. The sale deed at 23G is of Mitai village and the other sale deeds filed are of Gijrola. Gijrola is also near village Mitai. Gijrola is at a little distance from Hathras. Mitai is a little further from it and the Gas Godown is in between Gijrola and Mitai. Hathras Polytechnic is also in between Gijrola and Mitai.....In this case, document No.31G is regarding the market value of various lands for payment of stamp duty as determined by the collector and which has been written on 29th August, 1987. The most significant aspect that has come out in this, is that village Mitai is a village of Hathras Tehsil. Village Mitai has been joined with village Yahiyapur and Gijrola and other villages. The important point is that

all these lands of these villages have been shown at the same market value. It is not that the rate of Gijrola has been shown different and rate of Yahiyapur has been shown different. It will be understood from this that the rates of land of all these villages will be the same. Similarly in 31G/3, the rate of residential land has been shown of village Mitai which is Rs.100/- per square meter to Rs.125/- per square meter. Another order determining the rate of the land in April, 1992 is there which also clubs village Gijrola, Yahiyapur and Mitai in one place. The value of land of Yahiyapur and Gijrola has been shown at Rs.300/- per square meter and the land of Mitai at Rs.250/- per square meter.

Two judgments have been filed on behalf of the applicants. One judgment is Babu Singh Vs. State of U.P. Reference No.72/87. The second judgment is reference No.205/87 Total Ram Vs. State of U.P. In both the lands of Yahiyapur were required. In them, my predecessor had

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fixed the price of the lands of these villages at Rs.100/- per square meter. He had given a finding that these lands are next to Agra Aligarh national highway. Saraswait Inter College, Degree college, Polytechnic and Hari Eye Hospital are near them. He had considered the price of Rs.120/- per square meter of city land near population for stamp purposes while determining it. For stamp purposes, the value of land in Yahiyapur village has been shown at Rs.125/- and the value of land in Mitai Village has been shown as Rs.100/- to Rs.125/-. The market price is that which a willing buyer would pay. The Hon'ble Supreme court in its decision reported in AIR 1979 at page 472 has held that if construction is possible on a land then its market value should reflect so. DW.1 was examined and on one hand, his deposition is based on falsehood and on the other, it is also given in ignorance of the objection petition. In his chief examination, he has said that the owners of this land Radha Charan, Gir Prasad, Shri Niwas, Mahesh Chandra, Dinesh Chandra and Bhuvneshwar would not have raised any objection about the acquisition of their land. Whereas in a different reference 6/91 of this court is being moved by these owners. It is quite surprising that both the cases are being conducted at the same time. Even then DW.1 who is working as a Junior Engineer would speak such lies. He has said in his deposition that when the possession of the said lands were being taken then he was not present. He also said that he would tell the length or breadth of boundaries of the lands of the applicants. He has not seen village Mitai from inside. He has seen from the road only. He does not know after how many kilometers the city of Agra lies and after how many kilometers, the city of Hathras lies. Thus, he does not know how many houses have been built inside the polytechnic and how much is their population. He admitted that Jawahar Inter College is in village Mitai

but he does not know whether there is Grameen Bank or not. He also does not know about the commercial and residential situation of Hathras. And he also does not know about which institutions are there in Hathras. He has said in his deposition that he has deposed without looking at the reply. He first said that it is not ditches but it is below the main road and therefore, it will have to be filled up. I

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understand that when he has not seen the length, breadth and boundaries of the said lands and he has not seen the reply and neither is he familiar with the condition of Hathras, then how can his deposition be relied upon. He has not even seen the sale deeds filed by the applicants. The case is going on since 1991. But DW.1 does not have all the particulars of this case. In this situation, the deposition of DW.1 is absolutely useless and unbelievable.....There is slight difference in residential land. Even then I feel that the applicants can take benefit from the decision given in L.A. No.72/87 and L.A. No.205/87 regarding land in Yahiyapur by my predecessor. PW.1 has stated that his village is less than two kilometers from Yahiyapur. As per the order determining market value for the purpose of stamp, the populated area of village Mitai has been shown as Rs.100/- during 1987-88 and Rs.125/- per sq. meters during 1988-89."

The appellant should not have carried the matter to the High Court by filing appeals under Section 54 of the Act but, as is the usual practice of the State, its instrumentalities and agencies, the award of the Reference Court was subjected to challenge in various appeals. At one stage, the High Court directed the appellant to deposit the amount of compensation in fixed deposit but after hearing the counsel for the respondents, the impugned orders were passed.

We have heard learned counsel for the parties and perused the record. The appellant has not controverted the evidence produced by the respondents on the issue of location of the acquired land, various sale transactions and, above all, the two awards by which market value of the nearby land

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was fixed at Rs.100/- per square yard. Therefore, we do not find any valid ground to interfere with well reasoned award passed by the Reference Court for fixing higher market value

of the acquired land.

In the result, the appeals are dismissed and the award of the Reference Court is upheld. The appellant is directed to pay the balance amount to the respondents within a period of three months from today.

With a view to ensure that the respondents-land owners are not fleeced by the middleman, we deem it proper to issue following further directions:

(i)The Land Acquisition Officer 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 enhanced compensation.

(ii)The concerned 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 Officer within three months.

(iv) Within one month, the Land Acquisition Officer shall deposit the cheques of compensation
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in the bank accounts of the land owners.

Liberty is given to the appellant to withdraw the remaining amount deposited in compliance of the directions given by the High Court.

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

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

ITEM NO.102

COURT NO.11

SECTION XI

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). 7213 OF 2005

U.P.POWER CORPORATION LTD.

Appellant (s)

VERSUS

SHANTI DEVI (D) BY LRS. & ANR.

Respondent(s)

(With office report)

WITH

Civil Appeal NO. 7219 of 2005

(With office report)

Civil Appeal NO. 7214 of 2005

(With office report)

Civil Appeal NO. 7215 of 2005

(With office report)

Civil Appeal NO. 7218 of 2005

(With office report)

Date: 03/02/2011 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s)

Mr.Aneesh Mittal, Adv.

Mr.Parmatma Singh, Adv.

For Respondent(s)

Mr. Shakil Ahmed Syed, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeals are dismissed and the award of the Reference Court is upheld in terms of the signed order. The appellant is directed to pay the balance amount to the respondents within a period of three months from today.

With a view to ensure that the respondents-land owners are not fleeced by the middleman, we deem it proper to issue following further directions:

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(iii)The Land Acquisition Officer 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 enhanced compensation.

(iv)The concerned 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 Officer within three months.

(iv) Within one month, the Land Acquisition Officer shall deposit the cheques of compensation in the bank accounts of the land owners.

Liberty is given to the appellant to withdraw the remaining amount deposited in compliance of the directions given by the High Court.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)