

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.7381-7382 OF 2016
(Arising out of S.L.P.(C) Nos.16651-16652 of 2014)

LAKHAN LAL AND ANOTHER

Appellant(s)

Versus

G.M. (R&R) NARMADA HYDROELECTRIC AND OTHERS

Respondent(s)

O R D E R

1. We have heard the learned counsels appearing for the parties.
2. Delay condoned.
3. Leave granted.
4. The challenge in these appeals is against the order dated 27.01.2012 passed by the High Court of Madhya Pradesh, Principal Seat at Jabalpur in Writ Petition No. 11244 of 2011 and order dated 18.10.2012 passed by the High Court of Madhya Pradesh, Principal Seat at Jabalpur in Review Petition No. 528 of 2012, by which the High Court has directed that the amount of

Rs.6,42,979/- under the Special Rehabilitation Grant (hereinafter referred to as 'SRG') sanctioned in favour of the appellants-landowners should be deducted from the amount of compensation awarded under the Land Acquisition Act, 1894 (in short 'the Act')

5. The SRG is payable to persons affected by acquisition of land in connection with the Indira Sagar Project. It is so payable under a Government Policy in force. It will not be necessary for us to traverse the details of said policy, inasmuch as the nature and effect of the grant has received consideration of this Court in State of Madhya Pradesh versus Narmada Bachao Andolan and another, reported in (2011) 7 SCC 639. Though Narmada Bachao Andolan (supra) pertained to Omkareshwar Dam Project, paragraphs 54, 55 and 56 of the aforesaid judgment extracted below, highlights the cardinal issues dealt with by this Court, which would govern the present case also.

"54. Before the High Court, the State put forward the explanation that the authorities had awarded the benefit of SRG to the oustees. In fact, the PAFs had complained that with the amount of compensation for their lands they were not able to buy land elsewhere and that instead of purchasing the land by the Government, the additional cost involved may be made available to the PAFs to enable them to purchase land of their choice. The State Government

after consultation with all concerned and approval by the Hon'ble Chief Minister devised a scheme whereby a PAF is given substantial additional amount over and above the compensation for its land in order to enable it to purchase arable and irrigable land at the location of its choice. This scheme has come to be known as SRG or Special Rehabilitation Package (SRP). The rate of the irrigated land in the nearest command area is worked out on the basis of sale deeds and the cost of land going under submergence is calculated. 30% of this amount is again added to this cost and a sum is worked out which is known as the determined value. Difference between the determined value and compensation already paid is called SRG and is paid to the PAF. The problems inherent in the Government purchase are totally eliminated and the PAF is fully empowered and competent to decide things for itself. The additional amount made available to the PAF as SRG is not recoverable from him. The purchase of land made by the PAF is exempt from the stamp duty and registration fee.

55. The offer of SRG is over and above the rehabilitation Policy. SRG enables the PAF to purchase land suitable to it at a place of its choice as it is neither willing to accept the land offered by the Government nor to start the life at the new place by mortgaging the land for the loan. Under SRG, the extra amount paid over and above the compensation is not recoverable. Due to the advantage of free hand, SRG is well accepted by the PAFs. Registration fees and stamp duty are also paid. As the SRG comes into operation after the PAFs show unwillingness to accept the land from the land Bank and the PAFs want complete freedom for getting the land of their choice, so the land for land option has not been exercised by the PAFs and instead they have preferred and accepted cash compensation. So land for land has not been allotted to PAFs as the policy. It is, however, erroneous to say that not a single PAF of Omkareshwar Project was allotted agricultural land because the PAFs were empowered to purchase land of their choice by paying SRG.

56. SRG is an additional amount paid to an oustee to enable him to purchase land in the command area to the extent of his land acquired. Normally, an oustee who loses land in the submergence area gets an amount determined under the 1894 Act. When a project is envisaged in an area, the sale and purchase in that area decrease and the prices also get depressed. By the time the notification under Section 4(1) of the 1894 Act is issued, the sale deeds, if any, executed in that area, do not represent the correct price. Similarly, the prices in the command area also increase as a result of declaration of the project. Hence, it is difficult for an oustee to purchase land in the command area from the amount given to him under the 1894 Act. SRG is designed to nullify both the above effects and to enable the oustee to get an amount by which he can purchase land to the extent of his land acquired, in the command area.

6. The highlighted portion of paragraph 56 of the report in Narmada Bachao Andolan (supra) adequately explains the position that SRG is over and above the compensation paid/payable under the Land Acquisition Act, 1894.

7. In view of the aforesaid clear enunciation of the nature of the grant, we cannot sustain the order of the High Court directing deduction of the SRG from the compensation paid/payable under the Act.

8. We, therefore, set aside the impugned orders passed by the High Court, allow these appeals and direct that

over and above whatever compensation is payable to the appellants-landowners under the Land Acquisition Act, 1894 they shall also be entitled to receive the amount awardable as SRG in terms of the Government Policy in force.

9. Pending applications, if any, stand disposed of.

.....J.
(RANJAN GOGOI)

.....J.
(PRAFULLA C. PANT)

New Delhi,
August 09, 2016

ITEM NO.7

COURT NO.6

SECTION IVA

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

Petition(s) for Special Leave to Appeal (C) No(s). 16651-16652/2014

(Arising out of impugned final judgment and order dated 27/01/2012 in WP No. 11244/2011 18/10/2012 in RP No. 528/2012 passed by the High Court Of M.P At Jabalpur)

LAKHAN LAL & ANR.

Petitioner(s)

VERSUS

G.M. (R & R) NARMADA HYDROELECTRIC & ORS

Respondent(s)

(with appln. (s) for c/delay in filing SLP and exemption from filing O.T. and permission to file additional documents and office report)

Date : 09/08/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Sanjay Parikh, Adv.
Ms. Ninni Susan Thomas, Adv.
For Mr. Niraj Sharma, Adv.

For Respondent(s)
For RR-1 Mr. Manu Dev Sharma, Adv.
Ms. Suparna Srivastava, Adv.
Mr. Ram Swarup Sharma, Adv.

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

Delay condoned.

Leave granted.

The appeals are allowed in terms of the signed order.

Pending applications, if any, stand disposed of.

[ASHA SONI]
COURT MASTER

[SUKHBIR PAUL KAUR]
A.R.-CUM-P.S.

(Signed order is placed on the file)