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SLP(C)No. 5201 OF 2001
ITEM No.204

Court No. 8

SECTION IX
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.5201/2001
(From the judgement and order dated 15/01/2001 in CRA 31/2001
of The HIGH COURT OF BOMBAY)

PIPRI CHINCHWAD NEW TOWN DEV. AUTHOIRTY

Petitioner (s)

VERSUS

DIWAKAR GOPAL KHARE & ORS.

Respondent (s)

(With Appln(s). for exemption from filing c/c of the impugned Judgment)
(For Final Disposal)

Date : 07/02/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s) Mr. S.B. Sanyal, Sr. Adv.
Mr. Shivaji M. Jadhav, Adv.
Mr. Himanshu Gupta, Adv.

For Respondent (s) Mrs. J.S. Wad, Adv.
Mr. Ashish Wad, Adv.
Ms. Niharika Bahl, Adv.
Ms. D. Selvi, Adv. for
M/s. J.S. Wad & Co., Adv.

Mr. Naresh Kumar, Adv.
Mr. V.N. Raghupathy, Adv.

Mr. U.U. Lalit, Adv.
Ms. Aprajita Singh, Adv.
Ms. Asha Gopalan Nair, Adv.

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

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.SP2

Heard learned counsel for the parties for half
an hour.

Leave granted.

The appeal stands disposed of in terms of the
signed order. There will be no order as to costs.

.SP1

(K.K. Chawla)
Court Master

(Jasbir Singh)
Court Master

[Signed order is placed on the file]

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.PL58

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2003@@
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(ARISING OUT OF SLP (CIVIL) NO.5201 OF 2001

PIPRI CHINCHWAD NEW TOWN DEV. AUTHOIRTY .. APPELLANT

VERSUS

DIWAKAR GOPAL KHARE & ORS. .. RESPONDENTS

O R D E R@@
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.SP2

Leave granted.
Heard parties.

This appeal is against an order dated 15.1.2001 by which the Revision filed by the appellant has been dismissed.

The respondents had filed a suit challenging acquisition of their land. The suit was decreed and the Award, by which lands had been acquired on behalf of the appellant, was set aside. The State Government had filed an appeal but same got dismissed by default. The appellant is the body on whose behalf the acquisition proceedings had been undertaken. Pursuant to the award they had also deposited the amount. Being aggrieved, they filed an appeal. The appeal was filed 87 days late. The Appellate Court dismissed the appeal both on the ground of delay as well as on the ground that the appeal is not maintainable. Thus, they filed a Revision before the High Court.

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In the impugned order it has been held that the appellant had no right to maintain an appeal.

Mr. Lalit took us through Sections 18 and 50 of the Land Acquisition Act and submitted that the Scheme of this Act is that the body on whose behalf land is acquired is not even permitted to file a reference under Section 18. He submitted that in land acquisition proceedings it is the Government who is the affected party and that the body on whose behalf land is acquired has no say. He submits that thus the appellant had no right to file an appeal and the courts below have rightly held that that appeal was not maintainable. On the other hand, Mr. Sanyal contends that appellants are affected parties and they had a right to maintain the appeal.

We have heard the parties. The body on whose behalf an acquisition proceeding is undertaken is a person who is interested in the acquisition proceeding. When the award by which lands are acquired on their behalf is set aside, they are also affected.

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Section 18 of the Act provides for reference to Court in cases regarding the measurement of the land, the amount of compensation payable and the apportionment of that compensation. Section 50 permits the body on whose behalf the land is being acquired from appearing and adducing evidence for purposes of determining compensation but prevents them from demanding a reference under Section 18. Thus, where the Legislature intended that the body on whose behalf land was being acquired should not have a right, the legislature has specifically so provided. Section 53 of the Act makes it clear that the Code of Civil Procedure applies to all proceedings. Section 54 provides for appeals. Significantly Section 54 does not lay down that the body on whose behalf the land was being acquired, cannot file an appeal. A reading of all these provisions makes it clear that a person who is interested and/or aggrieved by an order would have a right to file an appeal. It cannot be said that the appeal by such a person is not maintainable. In our view, in a matter like this a mere delay of 87 days should not have been a ground for not entertaining the appeal.

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We, therefore, set aside the impugned order as well as the order of the Appellate Court. We condone the delay and hold that the appeal is maintainable. The Appeal is remitted back to the Appellate Court. The Appellate Court shall dispose of the appeal on its merits. Parties will be at liberty to take all contentions which are available to them in accordance with law.

This appeal stands disposed of accordingly. There will be no order as to costs.

.SP1

.....J.
(S.N. Variava)

.....J.
(B.N. Agrawal)

New Delhi,
February 07, 2003.