

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1555 OF 2007

[ARISING OUT OF SLP (CIVIL) NO.8292 OF 2006]

LALLAN & ORS.

Appellants

VERSUS

U.P. AVAS EVAM VIKAS PARISHAD & ANR.

Respondents

O R D E R

Leave granted.

This appeal is directed against the order passed by the Division Bench of the Allahabad High Court dated 21.9.1999 and the order in review petition dated 18.1.2005.

Brief facts which are necessary for the disposal of this appeal are that the agricultural land in Shahabad, District Hardoi, U.P., was sought to be acquired by the State of Uttar Pradesh by notification dated 29.11.1980 and 18.3.1983. The land was acquired at the rate of 55 Paise per square feet. Aggrieved against that order passed by the Land

Acquisition Officer, a reference was made under Section 18 of the Land

Acquisition Act, and the Reference Court i.e. First Additional District &

Sessions Judge, Hardoi raised the compensation amount from 55 Paise

to Rs.50/- per square feet. Aggrieved against that order, an appeal was

filed before the Division Bench of the High Court of Allahabad, Lucknow

Bench, Lucknow and the Division Bench set aside the order of the

Reference Court on the ground that it is a laconic order and there is no

evidence to show that on what basis the learned Judge has worked out

the amount of compensation from 55 Paise per square feet to Rs.50/-

per square feet. Therefore, the order of the First Additional District &

Sessions Judge, Hardoi was set aside by the order dated 21.9.1999. A

review application was also filed by the appellants but the same was

dismissed on 18.1.2005.

Aggrieved against both the orders of the High Court, the

appellants have filed this appeal by way of special leave.

We have heard learned counsel for the parties and have perused

the record. We are of the opinion that the Division Bench instead of

deciding the matter and reducing the compensation amount from Rs.50/-

to 55 paise per square feet should have remitted the case back to the

Reference Court to give reasons on what basis the amount of

compensation was arrived at. Division Bench just set aside the order and

confirmed the payment of compensation amount at the rate of 55 Paise

per square feet. If the Division Bench was of the view that the order

passed by the Reference Court was not proper, it should have given some

reasons in arriving at the conclusion that the rate of 55 paise per square

feet is correct. But there is no reason mentioned in the order of the High

Court. In any case, the proper course for the Division Bench was to

remit the matter back to the Reference Court to pass appropriate order

after taking necessary evidence in the matter. Be that as it may, we think

reduction of the compensation from Rs.50/- per square feet to 55 Paise

per square feet is too low in the matter. However, we do not propose to

enhance the rate because we are not aware of the relevant factors in

arriving at the rate of compensation. Therefore, in the facts of this case,

we set aside the orders passed by the Division Bench dated 21.9.1999

and 18.1.2005 and also the order of the Reference Court and remit this

case back to the Reference Court to decide the rate of compensation afresh after taking necessary evidence led by either of the parties and fix the rate of compensation in accordance with law. The appeal is, accordingly, allowed. Since it is a very old matter, the Reference Court shall hear and decide the matter expeditiously preferably within six months after the receipt of a copy of this order.

.....J.

(A.K. Mathur)

.....J.

(Dalveer Bhandari)

New Delhi,

March 23, 2007

ITEM NO.206

COURT NO.9

SECTION XI

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(s).8292/2006

(From the judgement and order dated 21.9.1999 and 18.1.2005 in Civil Appeal No.39 of 1993 and C.M. Application No.147 of 2004 of The HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH, LUCKNOW)

LALLAN & ORS.

Petitioner(s)

VERSUS

U.P. AVAS EVAM VIKAS PARISHAD & ANR.

Respondent(s)

(With prayer for interim relief and office report )

(For final disposal)

Date: 23/03/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Petitioner(s)

Mr. K. Radhakrishnan, Sr. Adv.

Mr. Ansar Ahmad Chaudhary, Adv. (SCLSC)

For Respondent(s)

Mr. P.K. Jain, Adv.

Mr. P.K. Goswami, Adv.

Mr. K.K. Mishra, Adv.

Mr. Amit P. Singh Rawat, Adv.

Mr. R.S. Chauhan, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(K.K.Chawla)

(Radha R. Bhatia)

Court Master

Court Master

[Signed order is placed on the file]