

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). 1762-1764 OF 2008

SANJAY KUMAR PANDEY

Appellant (s)

VERSUS

SPL. DEPUTY COLLECTOR RAILWAYS, NALGONDA

Respondent(s)

(With office report)

Date: 26/04/2011 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

HON'BLE MR. JUSTICE SWATANTER KUMAR

For Appellant(s)

Mr. A. K. Ganguly, Sr. Adv.

Mr. P. Venkat Reddy, Adv.

Mr. Anil Kumar Tandale, Adv.

For Respondent(s)

Mr. I. Venkatanarayana, Sr. Adv.

Ms. C.K. Sucharita, Adv.

Ms. Nirada Das, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is allowed in terms of the signed order.

(NIDHI CHUGH)

Sr. P.A.

(RENUKA SADANA)

Court Master

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 1762-1764 OF 2008

SANJAY KUMAR PANDEY

... Appellant

VERSUS

SPL. DEPUTY COLLECTOR RAILWAYS, NALGONDA

... Respondent

O R D E R

Heard learned counsel for the parties.

The appeal filed at the instance of the claimant impugning the judgment of the High Court dated 14.11.2006 in Civil Revision Petition Nos. 4490, 4652, 4655 of 2006

raises a very narrow controversy. In the impugned

judgment, the High Court has remanded the matter to the

Executing Court for fresh consideration and disposal.

so far as the High Court's directions in the order of

In

in

the

order

of

remand regarding additional market value awarded under Section 23(1A) of the Land Acquisition Act is concerned, no grievance has been raised before us by the learned counsel for the appellant. His only grievance is confined about the manner of adjustment of amount deposited by the State from time to time, first towards interest and thereafter, against compensation.

Learned counsel for the appellant has pointed out and in our view rightly, that in the order of remand, the High Court has not properly followed the ratio of this Court in the case of Prem Nath Kapur v. National Fertilizers Corpn. of India Ltd. [(1996) 2 SCC 71].

....2.

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.2.

A Constitution Bench of this Court in Gurpreet Singh v. Union of India [(2006) 8 SCC 457] has explained the ratio in Prem Nath Kapur's case as follows: -

52. What is to happen when a part of the amount awarded by the Reference Court or by the appellate court is deposited pursuant to an interim order of the appellate court or of the further appellate court and the awardee is given the liberty to withdraw that amount? In such a case, the amount would be received by the decree holder on the strength of the interim order and the appropriation will be subject to the decision in the appeal or the further appeal and the direction, if any, contained therein. In such a case, if the appeal is disposed of in his favour, the decree holder would be entitled to appropriate the amount already received by him pursuant to the interim order first towards interest then towards costs and the balance towards principal as on date of the withdrawal of the amount and claim interest on the balance amount of enhanced compensation by levying execution. But on that part appropriated towards the principal, the interest would cease from the date on which the amount is received by the awardee. Of course, if while passing the interim order, the court had indicated as to how the deposited amount is to be appropriated, that direction will prevail and the appropriation could only be done on the basis of that direction.

The same has further been elaborated in para 53, which is set out as under: -

53. Thus, on the whole, we are satisfied that the essential ratio in Prem Nath Kapur on appropriation being at different stages is justified though if at a particular stage there is a shortfall, the awardee-decree-holder would be entitled to appropriate the same on the general principle of appropriation, first towards interest, then towards costs and then towards the principal, unless, of course, the deposit is indicated to be towards specified heads by the judgment-debtor while making the deposit intimating the decree-holder of his intention. We, thus, approve the ratio of Prem Nath Kapur on the aspect of appropriation.

....3.

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.3.

In view of the aforesaid ratio, we think that the observation made by the High Court in page 6 of the impugned order is not correct. We, therefore, allow the appeal on the limited question that the Executing Court while considering the question of adjustment of amount deposited by the State shall follow the ratio of Prem Nath Kapur's case as explained by the Constitution Bench of this Court in Gurpreet Singh's case and proceed accordingly.

The appeal is, accordingly, allowed.

No orders as to costs.

....., J.
[ASOK KUMAR GANGULY]

....., J.
[SWATANTER KUMAR]

NEW DELHI;
APRIL 26, 2011.