

6.9.1999 rendered by Additional District Judge, Sambalgarh, District Muraina in Land Acquisition Case No.2/1997, it is borne out that the acquisition proceedings were dropped by District Magistrate, Muraina on 10.9.1991). Not only this, the functionaries of the State did not pay single penny to the respondent by way of compensation. This forced him to knock the doors of Madhya Pradesh High Court by filing Writ Petition No.50/1995, which was disposed of on 20.2.1995 with a direction that the award be passed within a period of three months.

4. Even after the order of the High Court, the concerned officers slumbered over the matter and passed award only in the year 1996 for payment of total compensation amounting to

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Rs.4,713.80.

5. Since, the compensation awarded by the Collector was wholly inadequate, the respondent was left with no choice to again seek intervention of the Court. On an application filed by him, the Collector made a reference under Section 18 of the Act. The learned Additional District Judge, Sambalgarh (hereinafter referred to as "the Reference Court"), after considering the pleadings and evidence produced by the parties including the statement of Shri Devi Prasad, who was working as Patwari at the relevant time that value of the land was Rs.40,000/- to 45,000/- per bigha, passed judgment dated 6.9.2009, the relevant portion of which is extracted below:

"On the basis of above discussion, in my opinion, in the case filed under Section 11 of Land Acquisition Act, payment of the market rate of the year 1971 in respect of the disputed land 307 R.A situated in village Devpur amounting to Rs.6,000/- (six thousand) shall be justified. On this amount 30% solatium under Section 23(2) of the Act shall be given. Additional compensation @ 12% per annum under Section 23(a) of the Act from the date of notification dated 28.3.1977 to the date of judgment dated 2.10.1996 shall be payable and compensation amount on the extended period of one year from the date of possession dated 5.11.1971 shall be made @ 9% and thereafter till the completion of payment 15% per annum interest shall be payable as per the provision under Section 28 of the Act."

6. Dissatisfied with the meager quantity of enhancement granted by the Reference Court, the respondent filed an appeal under Section 54 of the Act. The learned Single Judge noted that acquisition proceedings had not been

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initiated before dispossessing the respondent and that notification issued/published on 13.5.1977 proved abortive because final declaration was not published under Section 6 of the Act and held that market value of the land is required to be determined with reference to 1996 when the award was made by the Collector. The learned Single Judge

then referred to the evidence produced by the parties including the statement of the then Patwari, Shri Dev Prasad and concluded that the respondent is entitled to compensation of Rs.42,570/- with other statutory benefits like solatium, interest, etc.

7. Shri Vikas Upadhyay, learned counsel for the petitioner assailed the impugned judgment and argued that the learned Single Judge committed serious error by fixing the market value of land with reference to the year 1996-1997 ignoring the fact that possession of the land had been taken way back in 1971. Learned counsel submitted that even though the respondent was deprived of the land without initiating proceedings under the Act and declaration under Section 6 was not published in furtherance of notification issued/published under Section 4(1) on 13.5.1977, the learned Single Judge was not at all justified in fixing the market value by treating 1996 as the year of acquisition.

8. We have considered the submission of the learned counsel but not at all felt impressed. Rather, we are convinced that this petition is a piece of vexatious litigation instituted by the State and the same deserves to be dismissed at the threshold with costs because the respondent was deprived of his property in violation of

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Articles 19 and 31 [Article 31 was omitted by the Constitution (Forty-fourth Amendment) Act 1978]. Even after the amendment of 1978, no person can be deprived of his property save by authority of law - Article 300A. In a democratic polity like ours, in which every citizen is entitled to certain constitutional rights and legal rights, it is abhorrent for the State to deprive a person of his property without following the relevant provisions of law and without paying compensation for decades together. One can appreciate the anxiety of the State Government to execute the drainage scheme expeditiously but it is not possible to sustain a wholly arbitrary and capricious action taken by its officers to deprive the respondent of his land without even initiating the action for acquisition, what to say of paying him just and reasonable compensation. Such a course will be permissible only after the Constitution is amended and the State is given power to deprive a citizen or a person of his right to property without complying with the relevant statutory provisions and/or without paying compensation. In this context, reference can usefully be made to the observations made by Vivian Bose, J. in State of West Bengal v. Anwar Ali Sarkar and another AIR 1952 SC 75. While dealing with the question whether Section 5(1) of West Bengal Special Courts Act, 1950 is violative of Article 14, the learned Judge observed:

"The law of the Constitution is not only for those who govern or for the theorist, but also for the bulk of the people for the common man for whose benefit and pride and safeguard the Constitution has also been written. Unless and until these fundamental provisions are altered by the constituent processes of Parliament they must be interpreted in a sense which the common

man, not versed in the niceties of grammar and dialectical logic, can understand and appreciate so that he may have faith and confidence and unshaken trust in that which has been enacted for his benefit and protection."

9. In the premise aforesaid, the special leave petition is dismissed. If the functionaries of the State of Madhya Pradesh have so far not paid the compensation to the respondent in accordance with the direction given by the High Court, the needful must be done within a period of four weeks from the date of receipt of the copy of this order. Within that period, the petitioner shall pay a sum of Rs.1,00,000/- to the respondent by way of costs in lieu of harassment caused to him for 40 years. The State shall be free to recover the amount of Rs.1,00,000/- from the officers responsible for depriving the respondent of his land without following the procedure prescribed for acquisition of land.

10. Collector, Muraina (State of Madhya Pradesh) is directed to send a report to this Court within eight weeks indicating therein whether or not the amount of compensation and cost has been paid to the respondent in accordance with the direction given by the Court.

11. The case be listed on 5th July, 2010 before the Court along with the report of the Collector.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master