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C.A.No. 5079 OF 1998

ITEM No. 101 (Part-heard)

Court No. 6

SECTION IV

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. 5079 of 1998.

Betwa River Board, Jhansi Appellant(s)

VERSUS

Raghuraj Singh & Ors. Respondent (s)
(With office report)

Date : 21/04/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant (s) Mr. N.N.Goswami, Sr.Adv.
Ms. Rekha Pandey, Adv.
Mr. Syed Naqvi, Adv.
Mr. Arvind Kumar Sharma, Adv.

For Respondent (s) Mr. H.K.Puri, Adv.
Mr. Ujjwal Banerjee, Adv.
Mr. Shiv Gupta, Adv.
Mr. S.K.Puri, Adv.

Ex-parte

UPON being mentioned the Court made the following

O R D E R

Mr. N.N.Goswami, learned senior counsel appearing for the Appellants resumed his arguments at 10.35 A.M. and concluded at 11.00 A.M. Thereafter, Mr.H.K.Puri, learned counsel for the Respondents addressed the Court for five minutes.

The appeal is disposed of in terms of the signed order.

There will be no order as to costs.

Anita

(Jasbir Singh)

Court Master

(Signed Order is placed on the file.)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5079 OF 1998

BETWA RIVER BOARD, JHANSI

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Appellant (s)

Versus

RAGHURAJ SINGH & ORS.

...

Respondent (s)

O R D E R

This Appeal is against the Order of the High Court of Madhya Pradesh dated 28th November, 1997

Briefly stated the facts are that approximately 167.721 hectares of land were acquired in village Chakh Khanpur. By the Award the compensation fixed for the entire land was Rs. 10,53,757.30. The Respondents (herein) filed a Reference under Section 18 of the Land Acquisition Act as they were not satisfied with the amount of compensation given to them. The Reference Court increased the compensation to Rs. 17,000/- per hectare. The State as well as the Appellants (herein) filed an Appeal to the High Court. The Respondents also filed an Appeal to the High Court. The High Court has by the impugned Judgment dismissed the Appeal filed by the Respondents and partly allowed the Appeal filed by the State.

In the Special Leave Petition it has been stated that the Appellants were not given any opportunity of being heard and were not impleaded as a party to the Reference. There is no counter to it. It could not be denied that the Appellants were not impleaded as a party before the Reference Court.

The Constitution Bench of this Court has in the case of U.P.Awas Evam Vikas Parishad vs. Gyan Devi (Dead) By Lrs. and others reported in (1995) 2 SCC 326 held that the body, on whose behalf acquisition has taken place, is a proper party and must be impleaded in the proceedings before the Reference Court. Thereafter, in the case of Abdul Rasak and Ors. vs. Kerala Water Authority and Ors. reported in (2002) 3 SCC 228 the above mentioned decision of the Constitution Bench has been noticed and it is held that if the body on whose behalf acquisition has taken place has not been impleaded as a party to the Reference then the matter must be referred back to the Reference Court with a direction that they be impleaded as parties.

In view of this law, we set aside the Order of the Reference Court as well as the impugned Judgment and remit the matter back to the Reference Court with the following directions:-

- 1.The Betwa River Board, Jhansi shall be deemed to be on record of the Reference as a Defendant.
- 2.The Cause Title of the Reference Case will be amended accordingly.
- 3.The Betwa River Board, Jhansi may file their written statements within a period of six weeks from today.
- 4.The Reference Court shall proceed to dispose off the Reference as expeditiously as possible and within a period of six months from today in any case.
- 5.The statement of witnesses already recorded need not be recorded afresh and will be deemed to be part of the proceedings save and except that the Betwa River Board, Jhansi will be allowed to cross-examine the witnesses if they so desire. However if any witness is now not available and cannot be called before the Court their statement shall not be excluded from consideration and shall continue to be read in evidence. The claimants as well as the Betwa River Board, Jhansi and the State will be at liberty to adduce such other evidence as they desire and all parties will have the liberty of cross-examining those witnesses.
- 6.All parties are directed to remain present before the Reference Court through their respective counsel on 12th July, 2004.

The Appeal stands disposed of accordingly. There will be no order as to costs.

.....J.

(S.N.Variava)

.....J.

(H.K.Sema)

New Delhi,
April 21, 2004.