

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). 1710 OF 2001

GIRDHARI & ORS

Appellant

(s)

VERSUS

U.O.I. & ORS

Respondent

(s)

(With office report )

WITH Civil Appeal NO. 1711-1712 of 2001

(With office report)

Civil Appeal NO. 1713 of 2001

(With appln(s) for directions)

(With office report)

Civil Appeal NO. 1714 of 2001

(With appln(s) for c/delay in filing SLP)

(With office report)

Date: 07/04/2005 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE S.B. SINHA

For Appellant(s)

Mr. Pallav Shishodia, Adv.

Mr. Hemant Sharma, Adv.

Mr. Abhijat P. Medh, Adv.

Mr. B.V. Balaram Das

Mr. Shail Kumar Dwivedi

For Appellant/  
Respondent

Mr. B.Datta, ASG

Mrs. Indra Sawhney, Adv.

Mr. S.Wasim A.Qadri, Adv.

Mr. Arohi Bhalla, Adv.

Mr. M.Saud, Adv.

Mrs. Anil Katiyar, Adv.

Ms. Madhurima Tatia, Adv.

Mr. Aruneshwar Gupta, AAG

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UPON hearing counsel the Court made the following

O R D E R

Civil Appeal No.1710 of 2001 has been preferred by the

claimants Girdhari & Ors. whereas Civil Appeal Nos. 1711-1712 of 2001, C.A. No. 1713 of 2001 and C.A. No.1714 of 2001 have been preferred by the Union of India. The learned Additional Solicitor General appearing on behalf of the Union of India does not press the aforesaid appeals and therefore, they are dismissed as not pressed.

The appeal No.1710 of 2001 is disposed of in terms of the signed judgment.

(SUKHBIR PAUL KAUR)

COURT MASTER

(VIJAY DHAWAN)

COURT MASTER

(Signed Non-Reportable Judgment is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1710 OF 2001

GIRDHARI & ORS.

.....APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

.....RESPONDENT(S)

J U D G M E N T

Civil Appeal No.1710 of 2001 has been preferred by the claimants Girdhari & Ors. whereas Civil Appeal Nos. 1711-1712 of 2001, C.A. No. 1713 of 2001 and C.A. No.1714 of 2001 have been preferred by the Union of India. The learned Additional Solicitor General appearing on behalf of the Union of India does not press the aforesaid appeals and therefore, they are dismissed as not pressed.

In Civil Appeal No.1710 of 2001, the facts are that the land in question was requisitioned in the year 1972-1973 and thereafter on 31.3.1987 a notice under Section 7(1) of Requisition & Acquisition of Immovable Properties Act, 1952 (the Act) was issued and which was published in

the gazette on 12.11.1987. According to the appellants there was an agreement, and consequently a resolution was passed on 18.9.1989 for payment of compensation at the agreed rate of Rs.7,000/- per bigha. However, the Collector did not act on the agreement and by his decision of 18.12.1991 he reduced the compensation to Rs.3,850/- per bigha. Ultimately, the appellants moved the High Court in view of the differences between the parties and by order dated 17.7.1992 the High Court appointed the District Judge, Jodhpur as the Arbitrator. By his Award dated 6th June, 1994 the Arbitrator allowed compensation at the rate of Rs.7,000/- per bigha in addition to solatium at the rate of 10% and interest at the rate of 4% with effect from November 12, 1987 till payment. The objections preferred against the Award were also rejected.

Since payment was not made to the appellants

pursuant to the Award, they filed a writ petition before

the High Court praying for a writ of mandamus directing

enforcement of the Award by payment of compensation. By

Judgment and Order dated 23.7.1996, the aforesaid writ

petition was allowed by a learned Single Judge of the

High

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Court. It appears that appeals were preferred against the

said judgment by Union of India and the claimants and the

appeals came to be disposed of by the impugned judgment

and order dated 25.11.1997.

It is submitted on behalf of the appellant that

the only question which arose in the writ petition was

whether an Award could be enforced by issuance of a writ

of mandamus under Article 226 of the Constitution of India or whether the same was required to be executed as a decree of the Civil Court. The Division Bench which heard the appeal of the appellants held that the agreement of 28.9.1989 had been proved and on that basis compensation at the rate of Rs.7,000/- per bigha was justified. However, it held that solatium and interest could not be awarded by the Arbitrator and therefore, modified the Award accordingly. Against the said judgment of the Division Bench of the High Court these appeals have been preferred.

The learned Additional Solicitor General

appearing on behalf of the Union of India fairly submits that since a finding has been recorded by the High Court that the

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agreement for payment of compensation at the rate of

Rs.7,000/- per bigha has been proved, the Union of India

will accept the same and not press this appeal. It is

further submitted that in view of the decision of this

Court in Union of India versus Chajju Ram (Dead) by LR's.

& Ors. (2003 5 SCC 568) the provisions of the Land

Acquisition Act could not be resorted to and solatium and

interest could not be awarded. On the other hand, counsel

for the appellant submitted that on equitable

considerations this Court has in Prabhu Dayal & Ors.

versus Union of India (1995 Suppl. 4 SCC 221) awarded

solatium and interest, though in law the same could not

be awarded. That was because there was considerable delay

in appointment of Arbitrator causing prejudice to the

claimant.

We have considered all aspects of the matter. It

was stated before us by counsel appearing on behalf of

the Union of India on instruction, that the total amount of compensation calculated at the rate of Rs.7,000/- per bigha

has been deposited in Court. Counsel for the appellants states that he has no knowledge of the same. However, in the facts and circumstances of the case, we are of the view

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that interest at the rate of 9% on the compensation amount be allowed to the appellants in the interest of justice. We, accordingly, allow interest at the rate of 9% per annum from 18.9.1989 till the date of deposit of the compensation amount in Court or payment to the claimants, as the case may be.

The appeal is disposed of in the above terms.

.....J.

(B.P.SINGH)

.....J.

(S.B.SINHA)

NEW DELHI;

APRIL 7, 2005