

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 6386 OF 2005

M/S. SHREE BHARAT ASSOCIATES & ANR.

Appellants

VERSUS

STATE OF U.P. & ORS.

Respondents

WITH
CIVIL APPEAL NO. 6387 OF 2005
AND
CIVIL APPEAL NO. 6388 OF 2005

O R D E R

In all the three appeals, the issue concerning the land acquisition proceedings relating to the lands of the Appellants, in particular as to the validity of the declaration made under Section 6 of the Land Acquisition Act, 1894 ('Act' for short) and the award passed under Section 11 of the Act is the subject matter for consideration.

2. Brief facts are required to be stated to appreciate the grievance of the appellants raised in these appeals. In respect of the land in question there was an earlier proceedings by way of requisition by Collector of Meerut under the U.P. (Temporary Accommodation and Requisition) Act, 1947 in the proceeding dated 12.9.1966. At the instance of the appellants, the same came to be de-requisitioned by the Collector by order dated 19.4.1983. The said order was challenged at the instance of the requisitioning body in W.P.No.7396/1983 before the High Court. The said writ petition of the requisitioning body was dismissed by the High Court by order dated 20.12.1988. The said order was the subject matter of challenge before this Court in SLP No.1089/1989 which was ultimately dismissed by this Court by order dated 30.1.1989 in Civil Appeal No.6387/2005. The de-requisitioning order dated 19.4.1983 thus became final and conclusive. The requisitioning body was however, in possession of the land alongwith the super structure.

3. During the pendency of the above proceedings, fresh notification came to be issued under Section 4 of the Act on 1.1.1988. The appellants filed their objections in response to the notification dated 3.5.1988 issued under Section 4 of the Act. The appellants filed their objections under Section 5A of the Act on 23.5.1988. In pursuance to fresh notification issued under Section 4 of the Act, Section 6 declaration came to be issued on 18.3.1989.

4. The said Section 6 declaration was challenged by the appellants in Writ Petition No.5722/1989. The said writ petition was allowed by the High Court by order dated 8.1.1991. As the possession continue to remain with the requisitioning body inspite of the order of this Court dated 30.1.1989 in C.A. No.6387/2005, the appellants after approaching the Collector filed another writ petition in WP

No.11847/1989 challenging the order of the Collector dated 15.6.1989 declining to hand over possession of the property to the appellants. Both the writ petitions viz., W.P.Nos.5722/1989 and 11847/1989 came to be allowed by order dated 8.1.1991. Section 6 declaration dated 18.3.1989 was set aside and the Land Acquisition Authority was directed to consider the appellants' objections under Section 5A of the Act and simultaneously the requisitioning body was directed to hand over possession of the property. The said common order of the High Court dated 8.1.1991 was challenged at the instance of the requisitioning body in Civil Appeal No.1410-1411 of 1991.

5. This Court by order dated 2.4.1991 while affirming the order of the High Court dated 8.1.1991 in so far as it related to setting aside of Section 6 declaration dated 18.3.1989, as well as, the other direction to give reasonable opportunity to the appellants in regard to its objections filed under Section 5A of the Act, however, set aside that part of the order directing the requisitioning body to hand over possession. In the above said background, a fresh declaration under Section 6 came to be ultimately re-issued on 31.3.1992 and an award came to be passed under Section 11 of the Act.

6. The appellants approached the High Court again in Writ Petition No.29268/1992 and Writ Petition No.31913/1992 by which Section 6 declaration and the award under Section 11 of the Act came to be challenged. By the order impugned, the above writ petitions came to be dismissed. The appellants preferred a review petition by way of R.P.No.5648/1992, inter alia, contending that the main grievance of the appellants namely that Section 6 declaration was beyond the period of limitation prescribed under the Act was not duly considered by the High Court in the order impugned in Civil Appeal No.6387/2005. Similar grievance was raised before the High Court in writ petition No.31913/1997 in so far as the Award passed under Section 11 of the Act.

7. We have heard learned counsel for the appellants as well as the respondent and also perused the judgment of the High Court impugned in these appeals. We find that in the writ petitions the appellants specifically raised the plea of limitation in issuing Section 6 declaration, as well as, the passing of the award under Section 11 of the Act. Unfortunately, the said grievances of the appellants have not been considered at all by the High Court in the orders impugned in these appeals. In the circumstances, we have no other option except to set aside the orders impugned. In fact, in the grounds raised before the High Court in the writ petition as well as in the review petition, challenge was mainly on the ground of limitation. In such circumstances, the orders impugned cannot be sustained.

8. Accordingly, the appeals are allowed by setting aside the order impugned in these appeals and remit the matters back to the High Court for fresh consideration on merits. Having regard to the fact that the acquisition proceedings were initiated way back in 1988, we feel it appropriate to request the Hon'ble High Court to dispose of the writ petitions expeditiously preferably within six months. It is however, made clear that pending disposal of the writ petitions, the status quo as regards possession as on today shall continue to be maintained till the disposal of the writ petitions by the High Court.

9. Learned counsel for the respondent submitted before us that pursuant to the award passed, the compensation amount has already been deposited with the High Court. We record the said submission made on behalf of the respondent.

.....J.
[DR. B.S. CHAUHAN]

NEW DELHI
APRIL 1, 2013

.....J.
[FAKKIR MOHAMED IBRAHIM KALIFULLA]

ITEM NO.105

COURT NO.7

SECTION XI

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). 6386 OF 2005

M/S. SHREE BHARAT ASSOCIATES & ANR.

Appellants (s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

(With office report)

WITH Civil Appeal NO. 6387 of 2005

(With office report)

Civil Appeal NO. 6388 of 2005

(With office report)

Date: 01/04/2013 These Appeals were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For appellants(s)

Mr. Anupam Lal Das,Adv.
Mr. Atrabhavan Singh,Adv.
Mr. Parthiv Goswami,Adv.
Mr. Dipesh Sinha,Adv.
Mr. Anirudh Singh, Adv.

For Respondent(s)

Mrs. Shobha Dikshit,Sr.Adv.
Ms. Niranjana Singh,Adv
Mrs. Prema Singh,Adv.
Mfr. Kumar Rajan Mishra,Adv.

Mr. Ravi Prakash Mehrotra,Adv.

Mr. Vikrant Yadav,Adv.
Mr. Ashutosh Kr.Sharma,Adv.
Mr. Gaurav Dhingra,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeals are allowed, in terms of the signed order.

(O.P. Sharma)

(M.S. Negi)

Court Master

Court Master

(Signed order is placed on the file)