

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 32 OF 2010

SUBEY RAM

Appellant(s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

O R D E R

Heard learned counsel for the parties.

This appeal takes exception to the judgment and order dated 22.08.2008 passed by the High Court of Judicature at Allahabad in Writ Petition No. 17366 of 2008. The High Court has rejected the stated writ petition primarily on the ground that the relief claim therein was also sought in previous Writ Petition No. 679 of 2006 and, as regards the self-same property, the petitioner also filed Writ Petition No. 27094 of 2007, which was decided on 13.06.2007 but therein, he did not press the relief against acquisition proceedings. Hence, the High Court took the view that the relief claimed in Writ Petition No. 17366 of 2008 was barred by the principles of constructive *res judicata*. Notably, the previous Writ

Petition (No. 679 of 2006) is still pending for hearing before the High Court. It appears from the impugned judgment that after arguments were concluded on 15.05.2008, the High Court proceeded to pronounce the impugned judgment only on 22.08.2008.

After examining the rival submissions, we are of the considered opinion that the High Court ought to have taken up the pending Writ Petition No. 679 of 2006 for analogous hearing with the subject Writ Petition. For, the previous Writ Petition No. 27094 of 2007 was disposed of by directing the concerned Authority to consider the objections raised by the appellant, without itself (the High Court) adjudicating the question about the validity of notification dated 31.10.2015. In that sense, the issue regarding the validity of the stated notification remained open to be decided in the first Writ Petition No. 679 of 2006 and also because the appellant was additionally challenging the subsequent order passed by the competent authority dated 15.02.2008 (in addition to the reliefs claimed in Writ Petition No. 679 of 2006) with regard to the self-same property and in reference to the same acquisition proceedings.

As a result, we set aside the impugned judgment and

order and relegate the parties before the High Court, while placing on record the submissions made by the respondent(s) that the acquisition proceedings commenced on the basis of notification dated 31.10.2005 in respect of the suit property has already attained finality in terms of the decision of the full bench of the same High Court which, in turn, has been upheld by this Court by dismissal of the appeal therefrom.

In other words, all contentions available to both the parties in the respective Writ Petitions are left open.

As aforesaid, we commend to the High Court to take up the subject Writ Petition No. 17366 of 2008 and the previous pending Writ Petition No. 679 of 2006 together for analogous hearing and dispose of the same expeditiously.

The order of status quo passed by this court on 26.05.2009 shall continue till the disposal of the writ petitions. That would mean that the appellant shall also maintain the status of the property in the condition as on 26.05.2009 including not carrying out any improvement thereupon henceforth without prior permission of the High Court.

The Civil Appeal is disposed of accordingly.

Pending applications, if any, stand disposed of.

.....J
(A.M. KHANWILKAR)

.....J
(DINESH MAHESHWARI)

.....J
(SANJIV KHANNA)

New Delhi;
August 10, 2020.

ITEM NO.27 Court 3 (Video Conferencing) SECTION III-A

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). 32/2010

SUBEY RAM

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VERSUS

STATE OF U.P. & ORS.

Respondent(s)

Date : 10-08-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE SANJIV KHANNA

For Appellant(s)

Mr. Ravindra Shrivastava, Sr. Adv.
Mr. Rishi Malhotra, AOR

For Respondent(s)

Mr. Ravindra Kumar, AOR

UPON hearing the counsel the Court made the following
O R D E R

The Civil Appeal is disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)

[Signed order is placed on the file]