

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1748-1749 OF 2005

IRESHAPPA (DEAD) BY LRS. ...APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA & ORS. ...RESPONDENT(S)

O R D E R

1. Aggrieved by the judgments and orders dated 05.10.2002 and 27.02.2003 passed by the High Court of Judicature at Bombay, Bench at Aurangabad in Writ Petition No.85 of 1992 and Civil Application No.2096 of 2003 respectively, these appeals have been filed upon grant of leave under Article 136 of the Constitution.

2. The relevant facts would require a notice at the first instance.

Way back in the year 1967, there was a proposal for establishment of a Bus-Stand in

Signature Not Verified

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NEETU KHAJURIA
Date: 2016.02.26

Umarga town in Osmanabad District by the State

16:29:19 IST

Reason:

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of Maharashtra. Land covered by Survey No.420

was identified for the purpose. As the said

land was reportedly under encroachment, 2

hectares of land belonging to the appellant,

located in Survey No.203, was identified for

acquisition for the purpose of relocation of

the families who were in occupation of land

covered by Survey No.420.

On the strength of

the impending acquisition under the provisions of the Land Acquisition Act, 1894, the possession of the land was taken from the appellant in September, 1970. Thereafter, what followed was repeated attempts on the part of the appellant to convince the State to acquire the land which was manifested in several rounds of writ petitions and contempt petitions that were filed before the High Court.

The net result was acquisition of area of 70 Ares out of the 2 hectares in question. The same resulted in an award dated 30.06.1989. No steps were however taken for acquisition of the

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remaining area of 1H 30 Ares though the same continued to remain in possession of the State after such possession was taken over by the State in 1970. This led to the filing of a fresh writ petition in the year 1992 seeking direction from the High Court to compel the Government to either acquire the land (1H.30 Ares) or for release of the land.

A decade

later, namely, on 05.10.2002 the writ petition was disposed of by the High Court by directing that compensation be paid to the appellant for the remaining land i.e. 1H.30 Ares at the rate awarded for the acquired land i.e. 70 Ares covered by the award dated 30.06.1989. This was notwithstanding with the fact that there was no acquisition proceedings till date in respect of the said land of 1H 30Ares. The appellant

sought a review of this order which was refused by the High Court by another order dated 27.02.2003. Thereafter the special leave petitions for leave to appeal against the said

orders of the High Court were filed and leave was granted by order dated 11.03.2005. The matter has remained pending before this Court since then.

2. There is no dispute between the parties, and there can be none in face of the record of the case, that possession of the entire 2 hectares of land which includes the acquired (70 Ares) and unacquired (1H.30Ares) was taken over by the State on 10th September, 1990. There is also no dispute on the fact that while an award granting compensation at the rate of Rs.68.86 per square meter had been passed on 30.06.1989 (by the Reference Court) in respect of the 70 Ares of land which has been acquired, there is no acquisition proceeding in respect of remaining land i.e. 1H.30 Ares.

3. Little persuasion would be required to take the view that the possession of the

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land by the State without acquisition (1H.30 Ares) is wholly contrary to any known provision of law. There is no manner of right or justification for the State who have persisted with the possession of the said land without acquiring it. If acquisition is not feasible the State ought to have handed over possession of the land to the appellant, who is the undisputed owner.

4. In the above circumstances, the order of the High Court directing grant of

compensation for the unacquired land at the rate covered by the award dated 30.06.1989 for the acquired land without there being any acquisition proceeding is not contemplated in law. The said order though may have been intended to rectify the wrong done to the appellant cannot have our acceptance. It is

our considered view that in the totality of the facts of the case it is the following

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order that should govern the matter :

(i) The State of Maharashtra shall initiate measures/take steps for acquisition of land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within a period of 3 months from today by issuing an appropriate notification in the event the State desires to retain possession of the land.

(ii) The proceedings under the 2013 Act, following the publication of the relevant notification, shall be completed within a period of three months thereafter.

(iii) In the event the State does not wish to retain possession of the land, it will naturally be open for it

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to return possession thereof to the appellant.

(iv) For what has been held to be unauthorised possession of the State land measuring 1H.30 Ares with effect from 10.09.1970, the appellant would be entitled to rent which we compute at the rate of 10% per annum of the amount awarded for the acquired land i.e. Rs.68.86 per square meter. This would be the quantum of the annual rent which will now be payable from 10.09.1970.

(v) On the said figure that would be computed the appellant shall be paid interest at the rate of 9% per annum. The arrears of rent along with interest in terms of this order will be paid by the State of Maharashtra to the appellant within three months from today and current rent at the said rate be

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paid from the present month until the initiation of the acquisition proceedings and completion thereof or until return of the land, as may be, in terms of the present order.

5. Any amount already paid to the appellant will be adjusted against the amount due in terms of the order.

6. The appeals are disposed of in the above terms.

.....,J.
(RANJAN GOGOI)

.....,J.

NEW DELHI
FEBRUARY 17, 2016

ITEM NO.103 COURT NO.7 CORRECTED SECTION IX

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). 1748-1749/2005

IRESHAPPA (DEAD) BY LRS. Appellant(s)

VERSUS

STATE OF MAHARASHTRA & ORS. Respondent(s)

(With appln. (s) for exemption from filing O.T. of annexures and permission to file additional documents and office report)

Date : 17/02/2016 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s) Ms. Meenakshi Arora, Sr. Adv.
Mr. S.P. Danve, Adv.
Dr. R. R. Deshpande, Adv.

For Respondent(s) Mr. Vivek C.Solshe, Adv.
For Mr. C. G. Solshe, Adv.

Mr. Kunal A. Cheema, Addl.Govt.Adv.
Mr. Yogesh K. Ahirrao, Adv.
Mr. Nishant Ramakantrao Katneshwarkar, Adv.

Mr. Yash Pal Dhingra, Adv.

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

Applications for exemption from filing
official translation and permission to file
additional documents are allowed.

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The appeals are allowed in terms of the
signed order.

(Neetu Khajuria)
Sr.P.A.

(Asha Soni)
Court Master

(Signed order is placed on the file.)