

ITEM NO.104

COURT NO.12

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 6900/2009

STATE OF UTTARAKHAND &amp; ORS.

Appellant(s)

VERSUS

RAJIV BERRY &amp; ORS.

Respondent(s)

(with appln. (s) for permission to file affidavit and impleadment as party respondent and bring on record subsequent event and permission to file additional documents and exemption from filing O.T. and office report)

WITH

C.A. No. 6901/2009

(With Office Report)

Date : 14/01/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAMAJIT SEN

HON'BLE MR. JUSTICE C. NAGAPPAN

For the Parties:

Ms. Rachana Srivastava, Adv.

Mr. Utkarsh Sharma, Adv.

Mr. S. P. Sharma, Adv.

Mr. Arun K. Sinha, Adv.

Mr. M.L. Verma, Sr. Adv.

Ms. Sandhya Goswami, Adv.

Mr. M.P.S. Tomar, Adv.

Mr. Nikhar Berry, Adv.

Mr. Jabal Singh, Adv.

Mr. Jayant Bhushan, Sr. Adv.

Ms. Shikha Pandey, Adv.

Mr. Manish K. Bishnoi, Adv.

Mr. A. Ghosh, Adv.

Mr. Kartik Prasad, Adv.

Mr. Rajiv Dutta, Adv.

Mohd. Irshad Hanif, Adv.

Mr. T. Mahipal, Adv.

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

CIVIL APPEAL NO. 6900 OF 2009

Learned Senior Counsel, on instructions, submits that on the basis of the following calculations, the respondents-land owners are willing to accept compensation regardless of the provisions of Section 24(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "the New Act"):

"1. The total area of land - 2.301 hectares = 5.68 acres = 28.4 Bighas = 21,357 sq.mt.

2. The Circle Rate fixed by the appellant is Rs.60,000 per Sq. mt.

3. The total compensation comes to Rs.60,000 x 21357 sq.mt. i.e. Rupees 128 crores approximately.

4. Further 100% market value would have to be added as solatium under Section 30 of the New Act thereby aggregating the entire compensation at Rupees 256 crores."

The Impugned Order, which is under challenge, has quashed the acquisition, as proceedings under Section 6 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Old Act") were held to have taken place beyond one year. While so holding, the learned Division Bench had

clarified that it is open to the Government to issue fresh Notification under Sections 4 & 6 of the Old Act corresponding to Sections 11 & 19 of the New Act.

The proposal made on behalf of the Respondents is that if the compensation in terms of the New Act is paid to the Respondents, they would be willing to give up their opposition to the subject land acquisition. In other words that the Appellants would not have to initiate proceedings afresh. In any event, even if the appeal was to be allowed, thereby holding that the provisions of Sections 4 & 6 of the Old Act corresponding to Sections 11 & 19 of the New Act, would immediately attracted, since avowedly the Award has not been passed.

As we see it, therefore the submission of learned Senior Counsel on behalf of the Respondents is pragmatic in the sense that compensation will be forthcoming; and in the interest of the appellants since *de novo* proceedings under Sections 4 & 6 of the Old Act corresponding to Sections 11 & 19 of the New Act would not have to be initiated. The appellants do not stand to lose at all since the provisions of Section 24(1) of the New Act have to be complied with.

It is in these circumstances, we adjourn the proceedings by four weeks in order to enable the appellants to take a decision as to whether, and by when, they are willing to comply with the provisions of Section 24(1) of the New Act with regard to payment of compensation. A decision in this regard should be taken by the appellants

within three weeks from today so as to enable the learned Senior Counsel to convey the decision to us on the next date of hearing. We also think that it would be appropriate that the compensation payable under the New Act should be tendered to the Respondents within three months from today, which we are awarding would constitute the Award postulated in law, which none of the parties would object to. This will be without prejudice to the inter se disputes of the parties and the Intervenor.

CIVIL APPEAL NO. 6901 OF 2009

Learned Senior Counsel appearing for the appellants states that the appellants are willing to settle the matter on the lines indicated in Civil Appeal No. 6900 of 2009.

Counsel for the Respondents states that he had to take instructions in this Appeal also.

Copy of this Order be given dasti to the parties.

List both the appeals on 19<sup>th</sup> February, 2015. No further adjournment shall be granted regardless of whether the appellants take decision on the above proposal.

(NEELAM GULATI)  
COURT MASTER

(SAROJ SAINI)  
COURT MASTER