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C.A.No. 8267 OF 1997  
ITEM NO.101 (Part-Heard)COURT NO.8

SECTION XI

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.8267 OF 1997

SARVDEO SINGH AND ORS.

Appellant (s)

VERSUS

KRISHI UTPADAN MANDI SAMITI & ORS.  
(With Office Report)

Respondent (s)

Date : 16/12/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA  
HON'BLE MR. JUSTICE H.K. SEMA

For Appellant (s)Mr. Ranjit Kumar, Sr. Adv.  
Mr. T.N. Singh, Adv.  
Mr. V.K. Singh, Adv.

For Respondent (s)Mrs. Shobha Dikshit, Sr. Adv.  
Mr. Pradeep Misra, Adv.

Mr. C.D. Singh, Adv.  
Mr. Ashok K. Srivastava, Adv.

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

Mrs. Shobha Dikshit learned senior counsel appearing for the respondent resumed her arguments at 10.30 A.M. and concluded at 11.00 A.M. Thereafter, Mr. Ranjit Kumar, learned senior counsel appearing for the appellants addressed the Court for two minutes. The appeal stands disposed of in terms of the signed order. There will be no order as to costs.

(K.K. Chawla)  
Court Master

(Jasbir Singh)  
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8267 OF 1997

SARVDEO SINGH AND ORS.

Appellants

VERSUS

KRISHI UTPADAN MANDI SAMITI & ORS.

Respondents

## O R D E R

This appeal is against an order of the High Court dated 27th May, 1997.

The facts, briefly stated, are as follows:-

On 8th September, 1995, Notification under Sections 4, 6 and 17 of the Land Acquisition Act, 1894 were issued. The acquisition was for the purposes of construction of a Mandi Samiti. The appellants herein filed a writ petition challenging the acquisition proceedings. The writ petition was dismissed on 10th March, 1978. Possession was then taken on 22nd March, 1978. However, the award was passed only on 22nd September, 1986. Under the award a sum of Rs.54,21,588/- was fixed as compensation payable. A copy of the award was sent to the Land Reforms Commissioner.

It appears that the respondents (herein) applied, under the provisions of Section 18(3) of the U.P. Amendment Act, to the Land Reforms Commissioner for referring the question of compensation. This application was rejected on 23rd June, 1987.

The appellants claimed to be tenants and applied for apportionment of compensation. On 19th November, 1988, the Collector withdrew the reference. Therefore, the appellants filed a writ petition. By an order dated 19th March, 1991, the High Court directed reference. By an order dated 2nd March, 1992, apportionment was directed on the basis of 60% to the Government and 40% to the appellants.

It must be mentioned that a dispute as to whether or not the appellants have any rights in the said lands was also pending before the appropriate authority. We are informed that this dispute has now been finally settled and it is held that the appellants had rights as tenants.

On 22nd April, 1992, the respondents filed a writ petition challenging the award dated 22nd September, 1986; the order dated 23rd June, 1987 and the order dated 2nd March, 1992. The High Court has allowed the writ petition.

The delay and laches in challenging the award dated 22nd September, 1986 and the order dated 23rd June, 1987 was sought to be explained by stating that the respondents had been advised by the Legal Remembrancer that until apportionment takes place, the award should not be challenged. In our view, the explanation is unacceptable. If they were advised to wait till apportionment took place, they would not have asked for a reference under Section 18(3) of the U.P. Amendment Act. When that application was rejected on 23rd June, 1987 they knew that the award had attained finality under Section 12 of the Land Acquisition Act, 1894. The quantum of compensation awarded had thus attained finality and would not be affected by the apportionment. They thus could not have waited for over 6 years to challenge the Award dated 22nd September, 1986. The High Court should have dismissed the writ petition qua the challenge to quantum of compensation on the ground of delay and laches itself.

There is a further and more major difficulty in the way of the respondents. Section 25 of the Land Acquisition Act, 1894, reads as follows:-

"25.Amount of compensation by Court not to be lower than the amount awarded by the Collector. - The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11".

The advocate for the respondents very fairly pointed out Section 25 of the Land Acquisition Act to the High Court. The High Court notes in its Judgment that Section 25 is pointed out to it. Yet surprisingly, the High Court then goes on to reduce the compensation by holding that instead of 25% deduction for development charge, there should be a deduction of 60%. The High Court also deletes interest under Section 23(1A) on the ground that the Notification is of the year 1975 whereas Section 23(1A) was incorporated by the Amendment Act of 1984 and did not have retrospective effect. After making these modifications, the High Court remits the matter back to the Land Acquisition Officer to recalculate the compensation payable. Thus the High Court has reduced the compensation payable contrary to the specific provision of Section 25 of the Land Acquisition Act, 1894.

The High Court has also fallen in error in holding that Section 23(1A) would not apply. The award is of 22nd September, 1986. On the date the award was passed, Section 23(1A) was already on the statute book. As it was already on the statute book, the Court was bound to give effect to Section 23(1A). No question arose of any retrospective effect.

It must be mentioned that in order to support the judgment, reliance was placed on the cases of Greater Delhi Planners Ltd. v. State of Haryana & Anr. reported in (1993) 2 SCC 674 and Kana ka Gruha Nirmana Sahakara Sangha v. Narayanamma (since deceased) by LRS. & Ors. reported in (2003) 1 SCC 228. In our view, these authorities are entirely irrelevant and have nothing to do with any question involved in this case.

Reliance was also placed on the case of Santosh Kumar & Ors. v. Central Warehousing Corporation & Anr. reported in (1986) 2 SCC 343, wherein it has been held that a Government Company or a local authority cannot seek reference against an award excepts on grounds of fraud, corrupti

on or collusion. In our view, this authority, if anything, is completely against the respondents.

We, therefore, set aside the judgment of the High Court and restore the Award dated 22nd September, 1986.

So far as apportionment is concerned, the High Court had directed the amount to be kept in an FDR till final adjudication takes place. As we are told that final adjudication has taken place and as per the final adjudication the appellants will be entitled to 40% of the compensation, we direct that 40% of the compensation, as fixed by the award be paid over to the appellants along with 40% of the accrued interest on the fixed deposits.

The appeal stands disposed of accordingly. There will be no order as to costs.

.....J.  
(S.N. Variava)

.....J.  
(H.K. Sema)  
New Delhi;  
December 16, 2003.