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C.A.No. 158 OF 1998
ITEM No.103COURT No.7

SECTION IVA

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.158 OF 1998

HIRALAL B.C. TELIAppellant(s)

VERSUS

BALACHANDRA T. YADAV & ORS.

Respondent (s)

(With office report)

Date : 24/03/2004 This Appeal 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. S.N. Bhat, Adv.

For Respondent (s)Ex-parte.

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

Heard learned counsel for the appellant for fifteen minutes.
The Appeal is allowed in terms of the signed order. There will be no order as to costs.

(K.K. Chawla)
Court Master

(Ramesh Chand)
Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.158 OF 1998

HIRALAL B.C. TELIAppellant(s)

VERSUS

BALACHANDRA T. YADAV & ORS.

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O R D E R

This Appeal is against the judgment dated 12th March, 1997. Briefly stated the facts are as follows:-

The Appellant herein was a tenant of the concerned premises. The premises were acquired and an award came to be passed for such acquisition. The Appellant claimed a share in the compensat

ion amount. Therefore, a Reference under Section 30 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") was filed for apportionment of the compensation. The Reference Court held that the Appellant was entitled to 30% of the compensation amount.

Respondents, who were the owners of the property, filed an Appeal before the High Court. The High Court has, by the impugned judgment, held that there is no provision in the Act for paying any compensation to the tenant. The High Court has thus allowed the Appeal of the landlord and directed that nothing is to be paid to the Appellant.

Section 3(b) of the Act defines a "person interested" as any person claiming an interest in compensation to be made on account of the acquisition of land. A person shall be deemed to be interested in land even if he has an easement in the land. A tenant is a person who has an interest greater than a person having merely an easement. Therefore, it is clear that the tenant is a "person interested".

Section 9 of the Act then provides that notice has to be given to persons interested. In answer to that notice the person interested must state the nature of his/her respective interest in the land and the amount and give particulars of their claims to compensation for such interests. Thus a notice would have to be given to a tenant also and their objections must be considered.

Section 11 of the Act provides that the Collector shall after enquiry into the objections of any person interested make an award and in the award, amongst other things, there will be apportionment of the compensation amongst persons interested in the land.

Section 30 also makes it clear that any person who has an interest in the land can raise a dispute as to apportionment. A tenant being a person interested can always raise a dispute under Section 30.

This Court has in the case of Collector of Bombay v. Nusserwanji reported in A.I.R. 1955 S.C. 298, while considering the question whether a Government has a right to levy assessment in respect of land which had been acquired inter alia held, in para 13 thereof that the term "interest" means one or more of those rights which go to make up "ownership". It is held that the term "interest" would include "mortgage, lease, charge, easement and the like". This authority therefore shows that the term "interest" in the land would include the interest which a tenant had in the acquired land.

Apart from this there are a number of judgments of this Court where compensation has been apportioned between tenants and owners. Such apportionment could not take place unless it was an accepted position that a tenant had an interest in the property. The judgments are many but reference may be made of only two, namely, Mangat Ram & Ors. v. State of Haryana & Ors. reported in (1996) 8 SC 664 and Union of India v. Ajit Singh reported in (1997) 6 SCC 50.

Under these circumstances, we are unable to uphold the judgment of the High Court. Accordingly, it is set aside. The Appeal is allowed. There will be no order as to costs.

It is held that the Appellant will be entitled to 30% of the compensation amount as per the Judgment of the Reference Court. This amount has been directed not to be disbursed by order dated 9th September, 1997. We now direct that the same may be paid over to the Appellant.

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

.....J.
(H.K. Sema)
New Delhi;
March 24, 2004.