

CORRECTED

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).5269/2012

RAMESH CHANDRA SAHNI

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH THR. COLLECTOR & ORS. Respondent(s)

O R D E R

Heard Shri Rakesh K. Khanna, learned senior counsel for the appellant and Shri Shakil Ahmed Syed, learned counsel for the respondent.

The appellant has come up in the appeal questioning the land acquisition proceedings initiated by notification under Section 4(1) read with Section 17 (1) and 17 (4) of the Land Acquisition Act, 1874 (hereafter referred to as 'the Act') issued by the Lucknow Development Authority on 27.6.1985 by a notification published under Section 6 of the Act on 5.7.1985.

A writ petition was filed in the High Court questioning the acquisition by the appellant herein. It was averred that he was the owner of plot No. 51 measuring 2 Bighas, 143 measuring 1 bigha 15 biswa 5 biswansi, 144 measuring 1 bigha 14 biswa 5 biswansi, 228 ka biswa, 4

biswansi, totalling 5 bigha and 18 biswas 14 biswansi in village Haibatmau Mawaiya, Pargana Bijnor, District, Lucknow.

The objective of the Lucknow Development Authority was to earn profit. Land would ultimately be sold to the Housing Society, the acquisition was with a profit motive. As the Award was not passed within two years, after the notification dated 5.7.1985, as such, acquisition stood lapsed. The Lucknow Development Authority possessed no funds for development of the land. It would sell the land to the private organizations. As no award has been passed, and possession has not been taken, the acquisition cannot be permitted to go till infinity. No reasonable opportunity has been given to the appellant for filing objections.

The respondent Nos. 2 and 3 in joint counter affidavit contended that notifications have been issued in accordance with the provisions contained in Section 4 read with Section 17 (1) of the LA Act. Declaration under Section 6 had been issued and the Award was passed on 8.1.1988. Once possession has been taken, thereafter land vests absolutely free from all encumbrances, with the State Government. The limitation of two years would not apply in the instant case. Land has been acquired under the provisions of Section 17(1) and 17(4) as laid down by this Court in (1) Satendra Prasad Jain and Ors. vs. State of U.P. and Ors. [1993 4 SCC 369]. (2)Awadh Bihari Yadav & Ors. Vs. State of Bihar & Ors.

[(1995) 6 SCC 31] and (3) P. Chinnanna and Ors. Vs. State of A.P. and Ors. (1994) 5 SCC 486]

The High Court has held that as the possession has been taken, notification under Section 4 has been issued and urgency provisions have been invoked under section 17 (1) and 17 (4), declaration under Section 6 has been made and once possession had been taken, it was not necessary to pass award within two years. It was open to the appellant to avail appropriate remedy once the award had been passed. The compensation has been deposited for disbursement with Land Acquisition Officer but the appellant has not collected it. The acquisition had been made for the public purpose of housing. The writ petition of the appellant was dismissed that is how, the appellant has preferred the present appeal.

It was submitted by the learned counsel for the appellant that since the compensation has not been paid, acquisition would lapse on the expiry of two years from the date of the declaration issued under Section 6. He has relied upon the decision of this Court in Laxmi Devi Vs. State of Bihar and Ors. [2015 (10) SCC 241]

Learned counsel appearing on behalf of respondent Nos. 2 and 3 submitted that possession had been taken and the amount had been deposited with the Land Acquisition Officer as per the Award passed, since the urgency provision had been invoked under Sections 17 (1) and 17 (4) of the LA Act

the acquisition would not lapse on expiry of two years period.

After hearing the learned counsel for the parties, we are of the considered opinion that there is no merit in the instant appeal. As the possession had already been taken as observed by the High Court, the High Court has appropriately considered the mode of taking possession and rightly held that the amount has also been deposited. In our opinion, the ratio in the case of Laxmi Devi (supra) would not come to the rescue of the appellant. In Laxmi Devi (supra), this Court held that:

"18. Section 17(3-A) came to be introduced into the statute by Act 68 of 1984. It requires the Collector to tender payment of eighty per cent of the compensation estimated by him, obviously and pointedly, to the person interested in compensation for such land, unless the Collector is precluded or prevented from making such payments because of exigencies enumerated in Section 31 of the L.A. Act. In other words, the Collector cannot by way of first recourse deposit the estimated compensation even in the Court to which the filing of a Reference under Section 18 is provided."

Thus, the aforesaid principle is not applicable in the instant case as urgency provision had been invoked. The appellant has not accepted the compensation and questioned the acquisition itself. As such, there was no lapse of acquisition proceedings.

It was further submitted by the learned counsel for the appellant that he may be permitted to file application under Section 24 of the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In the facts and circumstances of the case, the provision cannot be said to be applicable at all.

Therefore, we find no ground to interfere with the same. The appeal is devoid of merits and is hereby dismissed.

.....J
(ARUN MISHRA)

.....J
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI;
AUGUST 9, 2017

REVISED

ITEM NO.102

COURT NO.11

SECTION III-A

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).5269/2012

RAMESH CHANDRA SAHNI

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH THR. COLLECTOR & ORS. Respondent(s)

Date : 09-08-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Appellant(s) Mr. Rakesh Kumar Khanna, Adv.
 Ms. Rashmi Khanna, Adv.
 Mr. Pranav Vyas, Adv.
 Mr. Satyam Tiwari, Adv.
 Mr. Surya Kant, AOR

For Respondent(s) Mr. Vinay Garg, AOR
 Ms. Vimla Sinha, Adv.
 Mr. Ramjee Pandey, Adv.
 Mr. Tanmay Agarwal, Adv.
 Mr. Shakil Ahmed Syed, AOR
 Mr. Mohd. Parvez Dabas, Adv.
 Mr. Uzmi Jameel Husain, Adv.

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

The civil appeal is dismissed in terms of the
signed order.

(B. PARVATHI)
COURT MASTER (SH)

(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER

(Corrected signed order is placed on the file)