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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6460 OF 2012  
(Arising out of SLP(C)No.19453/2009)

New Riviera Cooperative Housing Society Ltd. ...Appellant

VERSUS

Special Land Acquisition Officer & Ors.  
...Respondents

WITH

CIVIL APPEAL Nos.6461-6462 OF 2012  
(Arising out of SLP(C)Nos.19451-19452/2009)

O R D E R

Leave granted in all the SLPs.

The case has a chequered history. Facts of the case reveal that none of the courts below proceeded with the case in a correct perspective. The Land Acquisition proceedings were initiated by issuing a notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') on 14.7.1977. A declaration under Section 6 of the Act was issued on 17.11.1980 and Award was made under Section 11 of the Act on 22.1.1993. It appears that in pursuance of the said Award dated 22.1.1993, the possession of the suit land was taken on 14.10.1996 and the suit land was vested in the State free from all encumbrances.

The appellant claims that the suit land originally belonged to the State of Bombay, the predecessor in interest to the State of Maharashtra who had granted lease for the period of 99 years in favour of one Smt. Rani Roopraj Laxmi in the year 1940. The extent of suit land was 1675.59 sq.mt. The said lessee Smt. Rani Roopraj Laxmi had raised the construction of 28 flats upon the suit land. The Union of India using its powers under the Defence of India Rules requisitioned 24 flats and the remaining 4 flats had been given on rent to four different persons. As the lessee, namely, Smt. Rani Roopraj Laxmi could not pay statutory dues to the local bodies and assessment in this behalf has been made and recovery certificate was issued, the suit land was put to auction. The appellant Society purchased the suit land in auction on 12.4.1976. In respect of the said sale, certificate was issued on 27.7.1976, and the same stood registered on 26.8.1976.

In the Award dated 22.1.1993, the Land Acquisition Collector did not make any apportionment though claim had been advanced only by the appellant Society and inspite of a notice under Section 9(3) of the Act, no response was made by the lessee Smt. Rani Roopraj Laxmi, nor

did she file any claim petition before the Collector. Immediately thereafter, the appellant made an application dated 4.3.1993 before the Land Acquisition Collector, to make a reference to the court under Section 18 of the Act. As the original lessee Smt. Rani Roopraj Laxmi died on 17.7.1991, her LRs filed an application before the Collector on 29.11.1994 to make the said reference. The Land Acquisition Collector made the reference on the application filed by the LRs of the original lessee Smt. Rani Roopraj Laxmi, but did not forward the application submitted by the appellant Society to be adjudicated upon by the Reference Court under Section 18 of the Act. It may be pertinent to mention here that the reference made by the Collector, referred to both the provisions, that is, Section 18 as well as Section 30 of the Act as the dispute had been regarding the assessment of market value of the land, as well as that of the apportionment. All disputes of apportionment had been between the LRs or the original lessee Smt. Rani Roopraj Laxmi, as well as the Society, which is why the present appellant society was made the respondent before the Reference Court. The reference Court while making the Award made an observation that, as the application of the appellant Society had not been forwarded to the Court by the Collector, its claim could not be considered at all and enhanced the market value of the land and made the award on 23.1.1998.

Subsequently, the Union of India preferred an appeal under Section 54 of the Act before the High Court against the reference Court award on various grounds including that, once the lessee holding rights of the original lessee Smt. Rani Roopraj Laxmi had been extinguished on the date of auction sale, she had lost right, title or interest in the property, and therefore, she could not, by any means be categorised as, a person interested in the suit land and no amount could have been paid to her legal heirs. At the same time, the Society also filed a writ petition in the year of 2002, seeking direction from the Land Acquisition Collector, to make a reference to the reference Court. Such writ petition was filed after making various communications to the various concerned authorities, wherein the Land Acquisition Collector has also made correspondence with the counsel of the appellant Society to make a payment of a particular amount, that is Rs.7500/- was as required under the rules, for the purpose of court fee etc. The same amount had been paid to meet the requirement however, the High Court dismissed the writ petition filed by the appellant on the ground of delay and laches, for not approaching the court within reasonable time. However, in the appeal filed by the Union of India, the High court set aside the enhanced amount as directed by the Reference Court under Section 18 of the Act. Hence these appeals.

We have heard Mr. Raju Ramachandran, learned senior counsel appearing for the appellant and Ms. Madhurima Tatia, learned counsel for the Union of India and Mr. Shankar Chillarge, learned counsel for the State of Maharashtra. We are of the considered view that the said writ petition had been filed by the Society as the application filed by it before the Collector in 1993 had not been forwarded to the Reference Court, though a period of 10 years had lapsed and the High Court had made an observation that as the appellant failed to approach the Court immediately, such writ petition could not be entertained at this belated stage.

In our humble opinion, the High Court committed an error taking such a view for the reason that delay on the part of the Land Acquisition Collector in making a reference to the Court itself, was a cause of action for approaching the writ court for issuing the direction to make the reference. In case the enhanced compensation made by reference Court has been set aside, the appellant before us has been rendered remedyless so far as the issues of enhancement of compensation and also the said apportionment are concerned. Law does not permit the Court to render the parties remedyless, as held by this

In view of the above, we are of the considered opinion that the High Court ought to have issued direction to the Land Acquisition Collector to make the said reference under Section 18 of the Act.

In view of the above, the appeal (Civil Appeal arising out SLP(C)No.19453/2009) succeeds and is allowed. The impugned judgment of the High Court is set aside and we request the Land Acquisition Collector to make a reference to the Court under Section 18 of the Act expeditiously, preferably within a period of three months from the date of filing of the certified copy of the order before him. As the matter has been pending before various courts for a long time, we request the Reference Court to decide the matter expeditiously giving liberty to the Union of India and State of Maharashtra to raise all factual and legal issues regarding enhancement and apportionment.

In view of the direction hereinabove, we are of the view that no further direction is required in connected appeals (Civil appeals arising out of SLP(C)Nos.19451-19452/2009), as the Reference Court has to determine all the issues between the parties. Civil Appeals arising out of SLP(C)Nos.19451-19452/2009 stand disposed of accordingly. No order as to costs.

.....J.  
(Dr. B.S. CHAUHAN)

.....  
.....J.  
(FAKKIR MOHAMED IBRAHIM KALIFULLA)

New Delhi,  
September 12, 2012.

ITEM NO.2                                      Court No.9                                      SECTION IX

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

Petition(s) for Special Leave to Appeal (Civil) No(s).19453/2009

(From the judgement and order dated 27/01/2009 in WP No.2469/2002 of The HIGH COURT OF BOMBAY)

NEW REVIERA COOP.HNG.STY.LTD.                                      Petitioner(s)

VERSUS

SPL.LAND ACQUISITION OFFICER & ORS.                                      Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment and office report)  
(FOR FINAL DISPOSAL)

WITH SLP(C) NO. 19451-19452 of 2009  
(With appln(s) for exemption from filing c/c of the impugned Judgment,  
permission to file additional documents and office report)  
(FOR FINAL DISPOSAL)

Date: 12/09/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Petitioner(s) Mr. Raju Ramachandran, Sr. Adv.  
Mr. G.S. Pikale, Adv.  
Mr. E.C. Agrawala, Adv.  
Mr. Mahesh Agarwal, Adv.  
Mr. Rishi Agrawala, Adv.  
Mr. Amit Sharma, Adv.

For Respondent(s) Ms. Madhurima Tatia, Adv.  
Mr. Rahul Kaushik, Adv.  
Mr. B.V. Balram Das, Adv.  
Mrs Anil Katiyar, Adv.

Mr. Shankar Chillarge, Adv.  
Ms. Asha G. Nair, Adv.

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

Leave granted in all the SLPs.

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In terms of the signed order, the appeal (Civil Appeal No.6460/2012 arising out SLP(C)No.19453/2009) succeeds and is allowed. The impugned judgment of the High Court is set aside and we request the Land Acquisition Collector to make a reference to the Court under Section 18 of the Act expeditiously, preferably within a period of three months from the date of filing of the certified copy of the order before him. As the matter has been pending before various courts for a long time, we request the Reference Court to decide the matter expeditiously giving liberty to the Union of India and State of Maharashtra to raise all factual and legal issues regarding enhancement and apportionment. Civil Appeals 6461-6462/2012 arising out of SLP(C)Nos.19451-19452/2009 stand disposed of accordingly. No order as to costs.

| (O.P. SHARMA)  
| Court Master

| (M.S. NEGI)  
| Court Master

(Signed order is placed on the file)

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