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C.A.No. 7250-7251 OF 1999
ITEM NO. 101 PH COURT NO.7 SECTION XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL Nos.7250-7251/1999

DURGESHWARI DEVI (DEAD) THROUGH LR. Appellant(s)

Versus

STATE OF U.P. & ORS. Respondent(s)

(with office report)

Date:07/10/2003. These petitions were called on for hearing today.

CORAM:

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

For the Appellant(s)
Mr.Dinesh Dwivedi,Sr.Adv.,
Ms.Vibha Datta Makhija,Adv.

For the Respondent (s)
Mr.L.Nageshwara Rao, ASG
Mr.Rakesh Uttamchandra Upadhyay,Adv.

Mr.Ravi Prakash Mehrotra,Adv.

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

Appeals are disposed of in terms of the signed order. There shall be no order as to costs.

(Vijay Kumar Sharma)(Jasbir Singh)
AR cum PS to Hon.Judge Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.7250-7251/1999

DURGESHWARI DEVI (DEAD) THROUGH LR...Appellant

Versus

STATE OF U.P. & ORS...Respondents

O R D E R

These appeals are filed against the judgment and order dated 17.7.1998.

Briefly stated the facts are as follows:-

A Notification under Section 4(1) read with Section 17 (1) of the Land Acquisition Act was published on 14.2.1986. The land was acquired for construction of a commercial complex by the Allahabad Development Authority (i.e. respondent No.5 herein). The appellant challenged the acquisition proceedings in a writ petition. In this writ petition a compromise, in the following terms, was arrived at between the appellant and the Allahabad Development Authority.

(a) "Compensation to the tune of Rs.20,54,672/- as fixed by the Special Land Acquisition Officer would be paid to the petitioner.

(b) The afore-mentioned compensation would be paid to the petitioner within 10 days from the filing of the application/affidavit.

(c) Allahabad Development Authority will construct a commercial complex on the land in question in which one commercial shop on the said complex, on the ground floor of the choice of the petitioner, would be allotted to the petitioner, at a no profit and no loss basis, meaning thereby that at the cost price of the construction of the said shop.

(d) In lieu of the aforesaid construction and compensation, the petitioner withdraw the writ petition relinquishing her claim as envisaged in the writ petition."

In view of this compromise an application was jointly made for dismissal of the writ petition as withdrawn. On 9th January 1992 the writ petition allowed to be withdrawn in view of the compromise.

It seems that the Allahabad Development Authority neither paid the compensation nor allotted the shop in the commercial complex. Therefore, another writ petition was filed wherein it was claimed that the appellant was willing to abide by the compromise terms or otherwise the challenge to the acquisition proceedings should be upheld. In this writ petition an application for recall of the order dated 9th January 1992 was also made. By the impugned judgment that application has been allowed and the original writ petition was restored to its original number and then the writ petitions are dismissed.

Before us it has not been denied that the Allahabad Development Authority had entered into the compromise set out hereinabove. Having entered into the compromise and having got the writ petition dismissed, a public authority like the Allahabad Development Authority was bound to comply with the terms of the compromise particularly in view of the fact that on the basis of such compromise they got the appellant to withdraw the writ petition. In our view, the High Court was absolutely wrong in dismissing the writ petitions and not holding a public authority to the terms of compromise that it had agreed to.

We are told that the amount of Rs.20,54,672/- was deposited by the Allahabad Development Authority with the Special Land Acquisition Officer on 31.12.1992. In our view, there was no question of depositing the amount with the Special Land Acquisition Officer. The compromise specifically provided that the amount was to be paid to the appellant.

We are also told that the Allahabad Development Authority has entrusted the construction of the commercial complex to a private builder. We are told that the builder has sold all the shops in the complex and no shop is now available in this commercial complex. An offer was made to allot a shop in another complex on M.G. Road which we are told is only 100 meter away from this complex. The appellant is not willing to accept that shop. It is rightly contended that the compromise was entered into on the footing that a shop would be given in this complex. We fail to understand how the authority could not have reserved one shop in this complex. Even if they were to give out the construction to a private builder they could make it a condition that one shop be reserved for the appellant. In our view, the Allahabad Development Authority is bound to comply with the compromise and ensure that a shop in this complex (as per clause 'C' of the Compromise Terms) is allotted to the appellant. It will be for the Allahabad Development Authority to sort out its own problems as to how a shop in this complex is now to be allotted to the appellant. If necessary, the Allahabad Development Authority shall purchase on a resale a shop from one of the purchasers or from the builder and allot it to the appellant. The shop shall be allotted within six weeks from today and possession to be given immediately on construction being completed.

The Allahabad Development Authority is directed to pay the sum of Rs.20,54,672/- to the appellant within six weeks from today.

The question now is whether the Allahabad Development Authority be also directed to pay interest on this amount. It has been submitted on behalf of the Allahabad Development Authority that they had already deposited this amount with the Special Land Acquisition Officer. It is submitted that therefore they should not be made liable to pay interest on this amount. We are unable to accept this submission. The appellant has been deprived of the use of this money for all these years. The Allahabad Development Authority having specifically agreed to pay t

he amount to the appellant could not have deposited the amount with the Special Land Acquisition Officer. The Allahabad Development Authority must, in our view, compensate the appellant for having deprived her the use of this money for all these years by payment of interest at the rate of 9 per cent per annum from 9th January 1992 till payment. The interest amount to be also paid within six weeks from today.

It was submitted that the Allahabad Development Authority would be entitled to recover the amount from the Special Land Acquisition Officer along with interest at the same rate. We are not concerned with this aspect of the matter. It will be for the Allahabad Development Authority to take up the matter with the State Government or the Land Acquisition Officer if they feel they are entitled to recover it with interest.

On payment of the amount of Rs.20,54,672/- with interest thereon and on giving of possession of one shop in this complex, the appellant shall have no other right or interest or any other claim whatsoever in respect of the land which has been acquired.

The appeals stand disposed of accordingly. There shall be no order as to costs.

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

.....J
(H.K. Sema)

New Delhi,
October 7, 2003