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C.A.No. 1687 OF 1998
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ITEM NO. 113 COURT NO. 6 SECTION IVA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 1687 OF 1998@@
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Siddappa Vasappa Kuri and Anr. ... Appellant (s)

Vs.

Special Land Acquisition Officer and Anr... Respondent (s)

(With office report)

Date: 06-09-2001 This/These matter(s) was/were called
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE B.N. AGRAWAL

For appellant (s) Mr. SK Kulkarni, adv.
Mr. Gireesh Kumar, adv.
for Ms. Sangeeta Kumar, adv.

For respondent (s) Mr. Nikhil Sakhardande, adv.
Ms. Meenakshi Sakhardande, adv.
for Mr. Sanjay R Hegde, adv.

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

.....L.....I.....T.....T.....T.....T.....J
The papers of this civil appeal shall be
placed before Hon'ble the Chief Justice of India
for it being listed before a three-Judge Bench.

The appellants are permitted to file
additional documents.

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(Alka Dudeja) (S. Krishnan)
Court Master Court Master

Signed order is placed on the file.

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1687 OF 1998

Siddappa Vasappa Kuri and another .. Appellant (s)

-vs-

Spl. Land Acquisition Officer & anr. .. Respondent (s)

O R D E R

The appellants herein are the owners of the land bearing Survey No. 311/3 measuring 2 acres and 16 guntas, situate in village Hirenandi, Gokak Taluk, District Belgaum, Karnataka. It is alleged that the respondents herein took possession of the appellants land on 1st June, 1977 for purpose of construction of an Irrigation Channel. Subsequently, on 8th March, 1991, a notification u/s 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) was issued, proposing to acquire the land for public purpose. The land of the appellants of which possession was already taken was covered by the said notification. Section 4 (1) notification was followed by a notification under Section 6 of the Act. It appears that the provisions of sub-sections (1) and (4) of Section 17 were also applied. On 6th February, 1993 the Land Acquisition Officer gave an Award valuing the land at the rate of Rs. 10,000/- per acre. The appellants were not satisfied with the compensation awarded by the Land Acquisition Officer and, therefore, they sought reference. The learned District Judge, who heard the matter, enhanced the compensation at the rate of Rs. 50,000/- per acre. Aggrieved, the Land Acquisition Officer and the State of Karnataka went up in appeal before the High Court. The appeal filed by the State was partly allowed and the compensation was reduced from Rs. 50,000/- per acre to Rs. 41,400/- per acre. Thereafter, the appellants put the decree in execution before the Executing Court. Before the Executing Court, the question arose as to whether the claimant is entitled to additional compensation under Section 23(1) (a) of the Act with effect from the date of taking possession of the land or from the date of the award given by the Land Acquisition Officer. The view taken by the Executing Court was that the claimant is entitled to the additional compensation from the date of taking possession. The State thereafter filed a revision petition before the High Court against the order and judgment of the Executing Court. The High Court was of the view that the claimant is entitled to the additional compensation from the date of delivery of the award and not from the date of taking possession of the land in the present case. Aggrieved, the appellants have filed this appeal.

Learned counsel appearing for the appellants urged that the claimant is entitled to additional compensation under Section 23(1)(a) of the Act from the date of taking possession of the land i.e., 1st June, 1977 and not from the date of delivery of the award. Learned counsel, in support of his argument, relied upon two decision of this Court State of H.P. and others vs. Dharam Das reported in 1995 (5) SCC 683 and Assistant Commissioner, Gadag Sub-Division, Gadag vs. Mathapathi Basavannewwa and others reported in 1995 (6) SCC 355. In the aforesaid two cases, it has been held that the claimant is entitled to additional compensation under Section 23(1)(a) of the Act with effect from the date of taking possession, even if such a possession of the land has been taken prior to the date of issue of notification under Section 4(1) of the Act. Learned counsel appearing on behalf of the respondents strongly relied upon the decision in the case of Special Tehsildar (L.A.), PWD Schemes, Vijayawada vs. M.A. Jabbar reported in 1995 (2) SCC 142. In the said case, it was held that the claimant is not entitled to the additional compensation under Section 23(1)(a) of the Act from the date of taking possession even if such possession has taken place prior to the issue of notification under Section 4(1) of the Act. There is apparent conflict in two

sets of the decisions by two-Judges Bench. We, while sitting in a Division Bench of two Judges, cannot overrule either of the two sets of the decisions. We, therefore, feel it appropriate that this appeal may be decided by a three-Judge Bench.

Let the papers of this appeal be placed before Hon ble the Chief Justice of India for appropriate orders. The appellants are permitted to file additional documents.

& & & & & & & J.

(V. N. Khare)

& & & & & & & J.

(B. N. Agrawal)

New Delhi;
6th September, 2001