

ITEM NO.34

COURT NO.11

SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).19272/2010

(From the judgment and order dated 13/05/2010 in WP No. 26830/2003
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

ALLAHABAD DEVT.AUTH. Petitioner(s)

VERSUS

SURAJ PAL & ORS. Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned
Judgment,exemption from filing O.T. and prayer for interim relief
and office report)

Date: 26/07/2010 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Pallav Shishodia, Sr. Adv.
Mr. Rakesh Uttamchandra Upadhyay, Adv.
Mr. Abhijeet Kakoti, Adv.

For Respondent(s)

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

Heard learned counsel for the petitioner and perused
the record.

This petition by Allahabad Development Authority is
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directed against order dated 13.5.2010 passed by the Division
Bench of Allahabad High Court whereby it allowed the writ
petition filed by the respondents and quashed Notification
dated 21.1.1991 issued by the State Government under Section
4 read with Section 17(1) of the Land Acquisition Act, 1894
(for short, "the Act") for acquisition of 524 bighas of land
in villages Shaha alias Pipelgaon, Jhalwa, Harwara and
Deoghat for the purpose of establishment of residential
colony under planned development and the declaration
published in the Official Gazette dated 30.12.1991.

The petitioner has questioned the impugned order on the following grounds:

"(i) that even though in the writ petition filed by them the respondents had not prayed for quashing notifications issued under Sections 4 and 6 of the Act, the Division Bench proceeded to nullify the two notifications.

(ii) that the writ petitions filed by other land owners for quashing the notifications challenged by the respondents were dismissed by the High Court on 18.1.1994 and 25.8.2000 and S.L.P.(C) No.4905 of 2001 filed against order dated 25.8.2000

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passed in C.M.W.P. No.19126 of 1992 was dismissed by this Court on 19.4.2001 and even though this fact was brought to the notice of the Court during the course of hearing, the Division Bench ignored the same and allowed the writ petition filed by the respondents.

(iii) that the High Court's interpretation of the two notifications and corrigendum is ex-facie erroneous.

(iv) that the writ petition was filed by the respondents after a long time gap of 12 years but the High Court did not consider the objection of delay and laches."

Prima facie, we are of the view that the Division Bench was not justified in quashing the notifications issued under Sections 4 and 6 of the Act ignoring that coordinate Benches had negatived challenge to those notifications and at least in one of the case, the order of the Division Bench was confirmed by this Court by dismissing the special leave petition. The impugned order also suffers from a serious legal infirmity inasmuch as the Division Bench of the High

Court quashed the two notifications ignoring that no such prayer had been made in the writ petition. The objection of delay and laches raised in the counter affidavit filed on behalf of the petitioner herein has also been overlooked by the High Court.

In view of the above, we feel that it will be just and proper to relegate the petitioner to the remedy of review. Accordingly, the special leave petition is disposed of by giving liberty to the petitioner to apply for review of the order under challenge. The High Court is requested to deal with and decide the review petition, which may be filed by the petitioner, within one month. We also direct that till the disposal of the review petition by the High Court, the operation of the impugned order shall remain stayed.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master