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SLP(C)No. 7941-7942 OF 1998

ITEM No.201

Court No. 1

SECTION IVB

A/N MATTER

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.7941-7942/1998
(From the judgment and order dated 25/04/1996 in CWP 5987/1996
and the judgment and order dated 14/03/1997 in RP 64/1997 of the
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

UNION OF INDIA

Petitioner (s)

VERSUS

SWARAN SINGH & ORS.

Respondent (s)

(with appln.(s) for c/delay in filing SLP and office report)
(For Final Disposal)

Date : 01/08/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE S.B. SINHA

For Petitioner (s)Mr. R.N. Trivedi, ASG
Mr. P S Narasimha, Adv.
Ms. Sushma Suri, Adv.
Ms. Anil Katiyar, Adv.

For Respondent (s)Mr. P.N. Puri, Adv.

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

Delay condoned.

Special leave granted.

Heard counsel for the parties for 25 minutes.

The appeals are allowed in terms of the signed order. There shall be no order as to costs.

(D.P. WALIA)
COURT MASTER

(SURAJ PARKASH)
COURT MASTER

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5463-5464 OF 2003
[arising out of SLP(C) Nos. 7941-7942 of 1998]

Union of India ..Appellant(s)

vs.

Swaran Singh & Ors. ..Respondent(s)

O R D E R

Leave granted.

Heard counsel for the parties.

A large tract of land in the District Amritsar was required by the appellant herein and for that purpose a notification under Section 4 of the Land Acquisition Act, was issued on 26th April, 1978. The said notification was followed by a notification under Section 6 of the Act on 17th March, 1981. The Collector gave an award whereunder different rates of compensation were given for different categories of land. Since some of the land-owners whose land was acquired were not satisfied with the compensation offered to them, they sought reference before the District Judge. On 25.2.1988, the Addl. District Judge enhanced the compensation to Rs. 18,150/- per acre. On 11.9.1992 in another set of reference, the Addl. District Judge awarded compensation at the rate of Rs.39,000/- per acre irrespective of the classification of land. The claimants still not satisfied with the enhanced compensation filed regular first appeals before the High Court which are pending. Thereafter, the respondents filed an application under Section 28A of the Land Acquisition Act (hereinafter referred to as "the Act") some time in November 1992 for awarding compensation in terms of the order and judgment dated 11.9.1992 passed by the Addl. District Judge in another set of reference filed by other land-owners. However, the said application remained pending and not decided. Under such circumstances, the respondents filed a petition under Article 226 of the Constitution for issuing a writ of mandamus directing the authorities to consider and dispose of the said application. In the said petition, the Union of India was no doubt a party but no notice was issued to it. The High Court without giving any opportunity to the Union of India allowed the writ petition by issuing directions to the authorities to consider and dispose of the application filed by the respondents under Section 28A of the Act. A review petition was filed by the Union of India which was also dismissed. It is against the said orders and judgments of the High Court, the appellant Union of India is in appeal before us.

Learned Additional Solicitor General, inter alia, urged, that in view of the fact that the appeals against the order and judgment of Addl. District Judge passed in reference are pending before the High Court, the application filed by the respondents herein under Section 28A was not maintainable; and that the Union of India was not given opportunity of hearing in the matter.

We find that the arguments raised by learned Additional Solicitor General are well substantiated. It is not disputed that the appeals filed against the order and judgment of the Addl. District Judge are pending before the High Court and as such no application could have been entertained under Section 28A of the Act. So far as the second submission is concerned, admittedly no notice was issued to the appellant by the High Court and, in fact, no opportunity of hearing was given to Union of India before the impugned order was passed in the writ petition. For the aforesaid reasons, the orders of the High Court are, liable to be set aside. The appeals are consequently allowed and the orders and judgments of the High Court are set aside. There shall be no order as to costs.

.....CJI(V.N. KHARE)

.....J

(S.B. SINHA)

New Delhi;

August 1, 2003.