

dK
ITEM NO.3

COURT NO.5

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).13252/2010

(From the judgement and order dated 19/01/2010 in FA No.485/1990 of The
HIGH COURT OF JUDICATURE AT ALLAHABAD)

U.P.AVAS EVAM VIKAS PARISHAD

Petitioner(s)

VERSUS

BABU SINGH & ANR.

Respondent(s)

(With appln(s) for vacating interim order and prayer for interim relief and
office report)

WITH

SLP(C) NO. 13784 of 2010

SLP(C) NO. 13786 of 2010

(With prayer for interim relief and office report)

SLP(C) NO. 23246 of 2010(With office report)

SLP(C) NO. 23639 of 2010(With office report)

SLP(C) NO. 27607 of 2010(office report for direction)

Date: 14/09/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. Vishwajit Singh, Adv.
Mr. Abhendra Maheshwari, Adv.

For Respondent(s) Mr. Dinesh Kumar Garg, Adv.

Mr. Ajay Veer Singh Jain, Adv.
Mr. Nitin Jain, Adv.
Mr. Atul Agarwal, Adv.
Mr. R.K. Verma, Adv.
Mr. Uday Ram Bokadia, Adv.
Mr. Mohd.Irshad Hanif, AOR

Mr. Anoop Kr. Srivastava, Adv.
Mr. Vipin Saxena, Adv.

Mr. Irshad Ahmed, AAG
Mr. Raman Yadav, Adv.
Mr. Abhishth Kumar, AOR
Ms. Archana Singh, Adv.

Ms. Sumi Anand, Adv.
Mr. Arun K. Beriwal, AOR

UPON hearing counsel the Court made the following

O R D E R

These petitions are directed against the judgments of the
Division Bench of the Allahabad High Court whereby the appeals filed
by the petitioner under Section 54 of the Land Acquisition Act, 1894
(for short, 'the 1894 Act') against the awards passed by VIIth

Additional District Judge, Aligarh (for short, 'the Reference Court') in the references made by the Collector under Section 18 of the 1894 Act at the instance of the landowners - respondents were dismissed and the compensation determined by the Reference Court was approved.

The land of the respondents was acquired by the petitioner for execution of 'Hathras Bhumi Vikas Evam Grihsthan Yojna No.1'. For this purpose, preliminary notification was issued on 19.7.1980 under Section 28 of the U.P. Avas Evam Vikas Parishad Adhiniyam, 1965 (for short, 'the 1965 Act'), which is equivalent to Section 4 of the 1894 Act. The declaration under Section 32 of the 1965 Act, which is equivalent to Section 6 of the 1894 Act, was issued on 12.2.1983. The Special Land Acquisition Officer passed award dated 22.9.1986 whereby he fixed market value of the acquired land at the rate of Rs.9.68 per sq. yard. He also held that the landowners will be entitled to 30% solatium and 12% additional compensation.

The respondents did not feel satisfied and filed applications under Section 18 of the 1894 Act for determination of the amount of compensation by the Court. Thereupon, the Collector made references to District Judge, Aligarh, who assigned the cases to VIIth Additional District Judge, Aligarh.

The Reference Court adverted to the oral and documentary evidence produced by the parties and observed:

"In the evidence of Babu Singh, it has come that College, State Bank, Hospital and Police Station were already existed on the disputed land for a long time back. This fact cannot be ignored that National Highway on the one side and Nagarpalika road on the other side is passing through the disputed land. It can also not be ignored that the disputed land is situated within the limits of municipality. Keeping the aforementioned fact in mind, I am of the opinion that the disputed land was located near a well developed area of Hathras City where possibility of development is very bright. In support of the evaluation of the land, the claimant has submitted photocopy of sale deed executed by Shri Janki Prasad of Village Yahiyapur on 30.9.77 through which 949 sq. yard land had been sold for Rs. 45,500/-. This land was sold @ Rs. 48/- per sq. yard. If the escalation in the rate of land is believed to be Rs. 20/- per sq. per year, then its rate would not less than Rs. 100/- per sq. yard in the year 1980. In the year 1979, Shri Radhey Shyam had sold land in village Yahiyapur on which stamp fee has been paid @ Rs. 50/-. Copy of this sale deed is available in the case file as paper no. 30Ga-2. This sale deed shows that the actual rate of land in the year 1979 was quite higher than the rate determined by the Special Land Acquisition Officer. In the year 1979, Shri Makhan Lai Lekhpal had evaluated the rate of 1 Bigha 18 Biswa land in Khasra no. 396 @ Rs. 65/- per sq. yard. Since it is a definite fact that the land rate had sharply shoot up in the area due to acquisition of land by the Avas Evam Vikas Parishad, therefore, the rate of 100/- per sq. yard cannot be considered to be very high at that point of time. The claimant has submitted sale deed executed by Janki Prasad in the year 1983 through which 290 sq. yard land was sold for a sum of Rs. 40,600/- i.e. @ 140/- per sq. yard. From this point of view, it seems realistic that the rate of the disputed land in the year 1980, when the notification u/s 4 of the Land Acquisition Act was published, would have been Rs. 100/- per sq. yard. The claimant has submitted paper no. 34Ga-2 in which the rate of urban land has been shown @ Rs. 120/- per sq. mtr. for the purpose of stamp fee. In the light of this sale deed, it cannot be presumed that the rate of disputed land was less than Rs. 100/- in the year 1980. The claimant has also submitted paper no. 43Ga-2 which is a document that was filed by an Officer of Avas Evam Vikas Parisha before the Hon'ble High Court in the year 1988. From the perusal of this document, it appears that after carrying out development in the land, its cost was determined @ Rs. 245/- per

sq. mtr. From the certificate of Municipality (paper no. 44Ga-1) submitted by the claimant, it is evident that the development charges on the disputed land were Rs. 50/- per sq. yard. Thus, the Avas Evam Vikas had earned a profit of Rs. 195/- per sq. mtr. For the sake of argument, if it is presumed that the Avas Evam Vikas spends 50% of the profit as overhead expenditure, yet in my opinion, the cost of the disputed land would not come less than Rs. 100/- per sq. yard."

In view of the aforesaid findings, the Reference Court enhanced the compensation payable to the landowners from Rs.9.68 per sq. yard to Rs.100/- per sq. yard with 30% solatium and 12% additional compensation with other statutory benefits including interest under Section 34 of the 1894 Act.

We have heard learned counsel for the parties and carefully perused the record.

Though, the impugned judgments do not contain appropriate discussion on the issue of determination of market value of the acquired land, having considered the detailed reasons recorded by the Reference Court for fixing market value of the acquired land at the rate of Rs.100/- per sq. yard, we do not think that the petitioner has been able to make out a case for interference by this Court under Article 136 of the Constitution.

The special leave petitions are accordingly dismissed.

The petitioner is directed to pay the balance amount of compensation to the respondents within a period of three months from today along with all the statutory benefits payable to them in terms of the awards passed by the Reference Court by getting demand drafts prepared in their names/the names of their legal representatives.

All pending interlocutory applications are disposed of.

| (Parveen Kr.Chawla)
| Court Master
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| | (Phoolan Wati Arora)
| | Court Master
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