

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTIONCIVIL APPEAL NOS. 8791-8818 of 2014
[Arising out of Special Leave Petition (C) Nos.36425-36452 of
2009]

RELIANCE POWER LTD. APPELLANT

VERSUS

BABU SINGH AND ORS. ETC. ETC. RESPONDENTS

WITH

CIVIL APPEAL NOS. 8819-8831 OF 2014
[Arising out of SLP (C) Nos.36616-36628 of 2009]

WITH

CIVIL APPEAL NOS. 832-8833 OF 2014
[Arising out of SLP (C) Nos.171-172 of 2010]

WITH

CIVIL APPEAL NO. 8834 OF 2014
[Arising out of SLP (C) No.1937 of 2010]

WITH

CIVIL APPEAL NO.8835 OF 2014
[Arising out of SLP (C) No.29549 of 2010]

WITH

WRIT PETITION (C) NO.304 OF 2010

Signature Not Verified

WITH

Digitally signed by
Vinod Kumar
Date: 2014.09.17
14:03:30 IST
Reason:CIVIL APPEAL NOS. 8836-8839 OF 2014
[Arising out of SLP (C) Nos.35239-35242 of 2012]

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JUDGMENT

ADARSH KUMAR GOEL J.

1. Leave granted. The interlocutory applications are allowed.

2. These appeals arise out of the land acquisition proceedings initiated by the State of U.P. under the provisions of the Land Acquisition Act, 1894 [for short 'the Act']. By the impugned judgment, the High Court quashed the two notifications Dated 25th June, 2004 and 20th February, 2007 under Section 6 of the Act and partly quashed notifications under Section 4 of the Act dated 11 th February, 2004 and 29th August, 2006 to the extent of invocation of urgency clause with liberty to the State to proceed with the hearing of objections under Section 5A of the Act and with further direction as to refund of compensation already received by the land owners. The operative part of the order is as follows:-

"1. The notification dated 11th February, 2004 under Section 4 of the Act is partly quashed to the extent it invokes Section 17(1)/17(4) and mentions the acquisition as an acquisition for "public purpose". All subsequent proceedings consequent to the notification dated 11 February, 2004 including the notification under Section 6 dated 25th June, 2004 are

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quashed.

2. The Collector shall proceed with the inquiry under Section 5A in continuation of the notification dated 11th February, 2004 and proceed with the proceedings in accordance with the provisions of the Act. The notice be issued by the Collector inviting objection under Section 5A of the Act in newspaper having wide circulation by not giving less than 30 days period for filing objection.

3. The notification under Section 4 dated 29 th August, 2006 is partly quashed insofar as it invokes Section 17(1) and 17(4) of the Act. All subsequent proceedings consequent to the notification dated 29 th August, 2006 including the notification under Section 6 dated 20th February, 2007 are quashed.

4. The Collector shall proceed with the inquiry under Section 5A in continuation of the notification dated 29th August, 2006 and proceed with the proceedings in accordance with the provisions of the Act. The notice be issued by the Collector inviting objection under Section 5A of the Act in newspaper having wide circulation by not giving less than 30 days period for filing objection.

5. As a result of quashing of the notification dated 25th June, 2004 and 20th February, 2007, the petitioners are liable to refund the compensation

received from the respondents. However, we provide that it shall be open for those tenure holders, who have no objection to the acquisition, to indicate so in their objection to be filed under Section 5A in which event they may seek exemption from the Collector for refunding the compensation. The Collector shall proceed to decide the objection under Section 5A of the Act of only those tenure holders who have refunded the compensation received by them.

6. The Collector may recover the compensation as arrears of land revenue from the tenure holders who before the Collector do not in writing indicate their no objection with the acquisition.

7. The Collector in the proceedings for acquisition and hearing of the objection under Section 5A of the Act shall be entitled to pass such orders and take such proceedings as may be necessary with regard to refund/deposit of the compensation.

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8. We further direct the Collector to get the substance of this order published in all the leading newspapers, both in English and Hindi, for information to all concerned."

3. Though most of the appeals have been preferred by M/s Reliance Power Ltd. [formerly known as Reliance Energy Generation Ltd.] [for short 'the Company'] at whose instance the land in question was sought to be acquired, against part quashing of acquisition proceedings, some of the land owners have also appealed to this Court with the grievance that having held that the proceedings were initiated on the grounds of illegality and fraud, the High Court ought to have quashed the acquisition proceedings in entirety.

4. The appeals were heard and judgment reserved on 6th August, 2014. But before pronouncement of the judgment, an affidavit has been filed on behalf of the Company seeking to surrender all rights in respect of the land covered by the above notifications dated 11 th February, 2004 and 29th August, 2006, stating that on account of the difficulty in securing domestic natural gas to run the plant which was sought to be set up, it will not be feasible for the Company to utilise the land for the purpose for which the same was

acquired.

5. While we note the submissions made on behalf of the Company, we find that the impugned judgment was rendered on 4th December, 2009, and no stay has been granted by this Court. The State has not chosen to challenge the findings recorded by the High Court. On this ground itself, proceedings lapse as limitation for issuing notifications under Section 6 of the Act or for making award in respect of proceedings initiated vide notifications of Section 4 of the Act dated 11 th February, 2004 and 29th August, 2006 has expired.

6. In these circumstances no further question survives for consideration. We need not go into the question raised on behalf of the tenure holders that once the proceedings were vitiated by fraud and colourable exercise of power, such proceedings could not be revived in view of law laid down in Vyalikaval Housebuilding Coop. Society vs. V. Chandrappa & Ors.1, Greater Noida Industrial Development Authority vs. Devendra Kumar & Ors.2. The direction requiring the Collector to proceed with the enquiry

1 (2007) 9 SCC 304

2 (2011) 12 SCC 375

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under Section 5A of the Act has been rendered infructuous. Further direction that the tenure holders who had received any amount from the Company and wanted to file objections were liable to refund the same and those who had no objection could seek exemption from refund failing which the Collector could recover the amount paid by the Company as arrears of land revenue also does not survive. Since notification under Section 6 of the Act could no longer be issued at this stage, the question of any tenure holder having or not having objection does not survive for consideration as enquiry under Section 5A

of the Act could serve no purpose when notification under Section 6 of the Act can no longer be issued. Direction of the High Court could, thus, no longer be given effect to.

7. In view of the above, the appeals are disposed of as infructuous without prejudice to any other remedy for the Company to recover the amount, if any, paid and for tenure holders to claim damages, if any, from the Company in any other proceedings.

8. WRIT PETITION (C) NO.304 OF 2010

In view of the order passed in Civil Appeal Nos..... of 2014 (arising out of Special Leave Petition (C) Nos.36425-36452 of 2009 etc.), this writ petition is also disposed of in the same terms.

.....J.
[T.S. THAKUR]

.....J.
[C. NAGAPPAN]

NEW DELHI
September 16, 2014

.....J.
[ADARSH KUMAR GOEL]

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ITEM NO.1E-For Judgment COURT NO.14 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 (C) No(s).
36425-36452/2009

RELIANCE POWER LTD.FORM.R.E.GENERAN.LTD. Petitioner(s)

VERSUS

BABU SINGH & ORS.ETC.ETC. Respondent(s)

WITH
SLP(C) No. 36616-36628/2009
SLP(C) No. 171-172/2010
W.P.(C) No. 304/2010
SLP(C) No. 1937/2010
SLP(C) No. 29549/2010

Date : 16/09/2014 These petitions were called on for JUDGMENT today.

For Petitioner(s)

Mr. E. C. Agrawala, Adv.
Mr. Rameshwar Prasad Goyal, Adv.
Mr. Rishi Malhotra, Adv.
Mr. Ashok K. Mahajan, Adv.
Mr. Abinash Kumar Mishra, Adv.

For Respondent(s)

Mr. A.V. Balan, Adv.
Mr. V.S. Lakshmi, Adv.
Dr. Surat Singh, Adv.
Mr. Ashok Mahajan, Adv.
Mr. Anil Kumar Tandale, Adv.
Mr. Rishi Malhotra, Adv.
Mr. Anuvrat Sharma, Adv.
Mr. Aftab Ali Khan, Adv.
Mr. Ravi Kumar Tomar, Adv.
Mr. Abinash Kumar Mishra, Adv.
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Hon'ble Mr. Justice Adarsh Kumar Goel pronounced the judgment of the Bench comprising Hon'ble Mr. Justice T.S. Thakur, Hon'ble Mr. Justice C. Nagappan and His Lordship.

Leave granted.

The appeals are disposed of as infructuous in terms of the signed order.

Writ Petition (C) No.304 of 2010 is also disposed of in terms of the signed order.

(VINOD KUMAR)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(Signed Non-Reportable judgment is placed on the file)