

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

INTERLOCUTORY APPLICATION NO. 3

IN

CIVIL APPEAL NO. 8786 OF 2013

RAJIV CHOUDHRIE HUF

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

INTERLOCUTORY APPLICATION NO. 4

IN

CIVIL APPEAL NO. 8787 OF 2013

WITH

INTERLOCUTORY APPLICATION NOS. 9-12

IN

CIVIL APPEAL NOS. 8788-8791 OF 2013

O R D E R

In these matters Special Leave to Appeal was granted on 27.09.2013. These applications have been filed praying that the Appeals be disposed of in view of the various subsequent determinations of this Court. It has been pointed out that in its Counter Affidavit, the Union of India has in terms admitted that compensation had not been tendered in consonance with the law. In para 19 of the

Counter Affidavit, it has been pleaded that "when the possession of the land could not be taken by virtue of the operation of the interim orders of this Hon'ble Court and the Hon'ble Delhi High Court, the question of payment of compensation to the Petitioner does not arise".

In the cases in hand, the Award is dated 06.08.2007 and is in existence therefore for more than five years. Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short 'the New Act') is clearly applicable. This Court has in a number of decisions including *Pune Municipal Corporation vs. Harakchand Misirimal Solanki* (2014) 3 SCC 183, *Union of India vs. Shiv Raj* (2014) 6 SCC 564 and *Bimla Devi vs. State of Haryana* (2014) 6 SCC 583 clarified the manner in which the new provision is to be interpreted viz. that the acquisition lapses.

As regards the Ordinance which has been promulgated with effect from 31st December, 2014, decisions have been rendered namely *Radiance Fincap (P) Ltd. vs. Union of India in Civil Appeal No. 4283 of 2011* decided on 12.01.2015 and in *Arvind Bansal vs. State of Haryana in Civil Appeal Nos. 417-418 of 2015* decided on 13.01.2015, whereinafter referring to the previous judgments of this Court including that of the Constitution Bench Judgment, it has been held that the Ordinance shall have prospective operation only. This view is also to be found in *Karnail*

Kaur vs. State of Punjab in Civil Appeal No. 7423 of 2013 decided on 22.01.2015. We respectfully concur.

Learned Additional Solicitor General has sought to contend otherwise vociferously that the Proviso to the said Section added by means of the Ordinance, is only clarificatory in nature and will therefore have retrospective operation. This plea ought to have been raised before the Bench which heard *Radiance Fincap (P) Ltd.* as well as *Arvind Bansal and Karnail Kaur*. In any event, we are not persuaded by the said argument.

In these circumstances, as prayed for in the applications, the Appeals are accepted. We quash the subject land acquisition proceedings in terms of Section 24(2) of the New Act.

All the Applications and Appeals are allowed in the above terms.

.....J
(VIKRAMAJIT SEN)

.....J
(C. NAGAPPAN)

NEW DELHI
FEBRUARY 06, 2015

ITEM NO.1

COURT NO.11

SECTION XIV

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

I.A. 3/2014 in Civil Appeal No(s). 8786/2013

RAJIV CHOUDHRIE HUF

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(for directions and office report)

WITH

I.A. 4/2014 in

C.A. No. 8787/2013

(With appln.(s) for directions and Office Report)

with

I.A. 9-12/2014

C.A. No. 8788-8791/2013

(With appln.(s) for directions and Office Report)

Date : 06/02/2015 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAMAJIT SEN

HON'BLE MR. JUSTICE C. NAGAPPAN

For Appellant(s)

Mr. Chander Uday Singh, Sr. Adv.

Mr. Siddhartha Dave, Adv.

Ms. Jemtiben AO, Adv.

Mr. Senthil Jagadeesan, Adv.

For Respondent(s)

Mr. A. Venayagam Balan, Adv.

Ms. Rachana Srivastava, Adv.

Mr. Utkarsh Sharma, Adv.

Mr. Ashwani Kumar, Adv.

Mr. Vishnu B. Saharya, Adv.

M/s Saharya & Co., Adv.

Mr. Manindar Singh, ASG
Mr. S.A. Haseeb, Adv.
Ms. Sadhna Sandhu, Adv.
Ms. Aishwarya Bhati, Adv.
Ms. Sushma Suri, Adv.

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

All the Applications and Appeals are allowed in
terms of the Signed Order.

(NEELAM GULATI)
COURT MASTER

(SAROJ SAINI)
COURT MASTER

(Signed Order is placed on the file)