

SECTION IV B Listed on 12.1.2015
Court No.13
IN THE SUPREME COURT OF INDIA Item No.32
CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL(CIVIL)NO. 28503
OF 2008.

WITH PRAYER FOR INTERIM RELIEF

UNION OF INDIA & ANR.Petitioner(s)

Versus

TARLOK SINGH (D) Th. Lrs.& ORS.Respondent(s)

OFFICE REPORT

The matter above mentioned was listed before the Hon'ble Court on 08.04.2013, when the Court was pleased to pass the following order:-

"Delay condoned.

Although, the matter has been listed for consideration of the office report in I.A.No.4 of 2009, having considered the case on merits, we deem it proper to dispose of the main petition.

The petitioners are aggrieved by the order of the Division Bench of the High Court which, after taking cognizance of the fact that the petitioners had unauthorisedly taken possession of the land belonging to the respondents and raised construction, directed payment of compensation at the rate of Rs.12,000/- per annum with interest at the rate of 9% per annum. The relevant portion of the order passed by the High Court is extracted below:

"Having heard the learned counsel few facts which become clear are that the petitioner along with respondent nos.5 and 6 are the owners of the land and that the land is in forcible possession of respondent no.2 since 2.11.1989. The owners of the land including the petitioner as well as respondent nos.5 and 6 have moved from pillar to post yet neither their land has been acquired nor they have been given back the possession. Mr. Surveer Sehgal, learned State counsel has expressed

the inability of the State of Punjab to acquire the land while appearing for respondent no.3. He has stated that the land could be acquired by respondent no.2 itself under the provision of Requisitioning an Acquisition of immovable Property Act, 1952 (for brevity, the 1952 Act'). There is no commitment made by respondent no.2 on behalf of the Union of India undertaking that the land would be acquired under the 1952 Act and compensation would be paid to the owners within specified time. We are amazed that the rights of citizens have been suppressed in such an arbitrary manner. In the present case the State is acting through respondent nos.1 and 2 in an autocratic manner. Therefore, the writ petition deserves to be allowed."

The operative portion of the impugned order is also reproduced below:

"For the reasons afore-mentioned this petition succeeds and the same is allowed. Respondent nos.1 and 2 are directed to deliver back possession of the land in question to their owners namely petitioner as well as respondent nos.5 and 6. The petitioner, respondent nos.5 and 6 shall be entitled to compensation from respondent nos.1 and 2 for use of the land from 2.11.1989 till the date of delivery of possession at the rate of Rs.12,000/- per annum along with interest @ 9% per annum. The needful shall be done within a period of one month from the date of receipt of copy of this order. The petitioner alone shall be entitled to costs which is quantified at Rs.25,000/-, which shall be borne by respondent nos.1 and 2."

In our opinion, the detailed reasons recorded by the High Court for ordaining payment of compensation to the respondents along with interest are legally correct and the order under challenge does not suffer from any legal infirmity

whatsoever which may warrant interference under Article 136 of the Constitution.

The special leave petition is accordingly dismissed.

If the petitioners have so far not paid the amount to respondent No.1 in terms of the direction given by the High Court then the needful must be done within a period of eight weeks from today.

The Registry is directed to send copies of this order to the legal representatives of respondent No.1 at the addresses mentioned in the memo of special leave petition."

As directed, certified copies of Court's order dated 08.04.2013 were sent to the Lrs. of deceased Respondent No. 1.

It is further submitted that Mr. B. K. Prasad, Counsel for the Petitioner has on 24.09.2013 filed an application for Modification/clarification of Hon'ble Court's order dated 08.04.2013, which is registered as IA No. 5. and the same was listed before Hon'ble Court on 22.11.2013, 25.11.2013, when the court was please to pass the following order:

22.11.2013:

" Put up on 25.11.2013."

25.11.2013:

" Issue notice to the respondents in the special leave petition to show cause as to why order dated 8.4.2013 may not be recalled in view of the fact that the land in dispute had been acquired by the Government of Punjab vide notification dated 21.10.2010 issued under Section 4 of the Land Acquisition Act, 1894 and in furtherance of the award passed by the Land Acquisition Officer the respondents had received compensation amounting to Rs.2,66,836/-,returnable in ten weeks. Dasti, in addition, is permitted.

A copy of this order be sent to the respondents along with the notice."

Accordingly show cause notice by usual mode of Service as well as Dasti was issued on 20.1.2014. Counsel for the petitioner has filed affidavit with proof of dasti service in respect of all the respondents.

Service of show cause notice is complete. The IA No.5 (Application for modification/Clarification of Hon'ble Court's Order dated 08.04.2013) was again listed before the Hon'ble Court on 11.07.2014, 12.09.2014, 08.10.2014 and lastly listed on 10.11.2014 when the court was pleased to pass the following order:-
Order dated 10.11.2014:

"Heard learned counsel for the parties and perused the orders dated 08.04.2013 and 25.11.2013. It will be necessary to extract the relevant portion of this Court's order dated 25.11.2013, which reads as under:

"Issue notice to the respondents in the special leave petition to show cause as to why order dated 8.4.2013 may not be recalled in view of the fact that the land in dispute had been acquired by the Government of Punjab vide notification dated 21.10.2010 issued under Section 4 of the Land Acquisition Act, 1894 and in furtherance of the award passed by the Land Acquisition Officer the respondents had received compensation amounting to Rs.2,66,836/-, returnable in ten weeks. Dasti, in addition, is permitted"

Mr. Kuldeep Saini, DIG (PERS) at Headquarters, Director General, Border Security Force, CGO Complex, Lodhi Road, New Delhi filed affidavit on 07.11.2014, after serving a copy of the

same upon the respondent. Paragraph 4 of the affidavit reads thus:

"It is hereby submitted that Union of India, apart from payment of Rs.2,66,836/- paid towards acquisition cost, Union of India paid respondents another sum of Rs.4,58,200/- as compensation/rental for use of the land from 02.11.1989 to 01.11.2008 @ 12000/- p.a. along with 9% interest including quantified cost Rs.25,000/- as awarded by the Hon'ble High Court vide its order dated 20.05.2008 in W.P.(Civil) No. 14491/2007"

The aforesaid averments are not controverted. On the other hand, the learned counsel for the respondents, to our query, made submission that the land-owners have received less compensation. Having regard to the averments made at Para 4 by the DIG (PERS) at Headquarters, Director General, Border Security Force, it has been specifically stated by the learned counsel for the respondents that the market value of the compensation determined in award and also the rental value for the use of the land from 02.11.1989 till the date of delivery of possession at the rate of Rs.12,000/- per annum along with interest @ 9% per annum including costs quantified at Rs.25,000/-, awarded by the High Court in the Writ Petition No. C.W.P. No.14491 of 2007 vide order dated 20.05.2008, the order dated 08.04.2013 of this Court is required to be recalled, which we order. Accordingly, the application for clarification/modification of order dated 08.04.2013 is allowed."

It is submitted that Mr. Subhasish Bhowmick, Advocate has filed vakalatnama and Memo of Appearance and Counter affidavit on behalf of Respondent Nos. 2 and 3. Copy of Counter affidavit has been included in the paper books. No one has entered appearance on behalf of Respondent Nos. 1(i) to 1(iv), 1(v)(a) to 1(v)(c), 4 & 5 so far.

Service of show cause notice is complete.

The matter above mentioned is, therefore, listed before the Hon'ble Court with this office report.

Dated this the 8th day of January, 2015.

ASSISTANT REGISTRAR

Copy to :- Mr. S. N. Terdal, Adv.
Mr. Subhashish Bhowmick, Adv.

ASSISTANT REGISTRAR

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