

ITEM NO.101

COURT NO.8

SECTION IVA

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

CIVIL APPEAL NO. 10551/2011

SPECIAL LAND ACQUISITION OFFICER

APPELLANT(S)

VERSUS

RAVAJI RAO RAM RAO (D) BY LRS.&amp; ORS.

RESPONDENT(S)

WITH

C.A. NO. 10552/2011

(WITH OFFICE REPORT)

Date : 09/09/2015 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE N.V. RAMANA

For parties (s)

Ms. Anitha Shenoy, Adv.

Mr. Basavaprabhu S. Patil, Sr. Adv.

Mr. Anandkumar A. Magadum, Adv.

Mr. N.D.B. Raju, Adv.

Mr. Abdul Azeem Kalebudde, Adv.

Mr. Chinmoy Deshpande, Adv.

Mr. N. Ganpathy, Adv.

Mr. Basavaprabhu S. Patil, Sr. Adv.

Mr. Anandkumar A. Magadum, Adv.

Mr. Abdul Azeem Kalebudde, Adv.

Dr. Sushil Balwada, Adv.

Mr. Chinmoy Deshpande, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The appeals are dismissed in terms of the signed  
order.

[VINOD LAKHINA]

COURT MASTER

[ASHA SONI]

COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.10551 OF 2011

THE SPECIAL LAND ACQUISITION  
OFFICER & ANR. . . . APPELLANTS

VERSUS

RAVAJI RAO RAM RAO DESHPANDE (D)  
BY LRS. & ORS. . . . RESPONDENTS

WITH  
CIVIL APPEAL NO.10552 OF 2011

RAVAJI RAO RAM RAO DESHPANDE (D)  
BY LRS. & ORS. . . . APPELLANTS

VERSUS

THE SPECIAL LAND ACQUISITION  
OFFICER & ANR. . . . RESPONDENTS

ORDER

1. Aggrieved by the judgment and order dated 10<sup>th</sup> June, 2008 of the High Court of Karnataka, the appellants as well as the respondents before the High Court have instituted their respective appeals which are being disposed of by this common order.

2. The brief facts that will require to be noticed are as follows:

The provisions of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") were invoked by the State of Karnataka to acquire land measuring 10 acres in Survey No.23, Sanna Somapura Village, Dharwad District of the State of Karnataka. The Notification under Section 4 of the Act was issued on 10<sup>th</sup> August,1992. The said Notification was followed by a declaration under Section 6 of the Act which was made on 24<sup>th</sup> September, 1993. It appears that on 26<sup>th</sup> March, 1997 a Notification under Section 48(1) of the Act was issued withdrawing the land from acquisition. The

withdrawal notification was put to challenge by the land owners in a writ proceeding before the High Court which was, however, withdrawn. The High Court by order dated 22<sup>nd</sup> June, 1999 disposed of the said writ petition by permitting the land owners to make appropriate representation under Section 48(2) of the Act for grant of compensation for damages. It is not in dispute that the possession of the land had since been handed over to the land owners. The compensation for damages to the land under Section 48(2) of the Act was determined by the Land Acquisition Officer and then by the Reference Court and finally by the High Court. By the impugned order, the said compensation was assessed by the High Court at Rs.40,42,878/- which was made payable with

interest at the rate of 9% per annum with effect from 15<sup>th</sup> December, 1989 i.e. the date of taking over of possession of the land till date of payment. The High Court further directed that the claim of the land owners on account of damages to crops should be reconsidered by the learned Reference Court. Accordingly, the aforesaid aspect of the claim of the land owners was remanded for a fresh consideration by the learned Reference Court.

3. Aggrieved with the quantification of the compensation payable; the rate of interest and also the remand of the claim with regard to crops, the State has filed Civil Appeal No.10551 of 2011.

4. Contending that the land owners are entitled to additional compensation, solatium etc. under the provisions of Section 23(1A) of the Act, the land owners have filed a separate appeal i.e. Civil Appeal No.10552 of 2011.

5. We have heard Ms. Anitha Shenoy, learned counsel appearing for the State and Mr. Basavaprabhu S. Patil, learned Senior Counsel appearing for the land owners.

6. Insofar as the appeal of the State is concerned, the issue with regard to the claim on account of crops needs to be dealt with first. We have noticed that the aforesaid part of the claim has been remanded to the Reference Court for reconsideration. Though learned counsel

for the appellant-State had tried to persuade us that the issue of damage to the crops is no longer open and stands concluded by earlier orders of the Reference Court, we are not persuaded to cause any interference with the aforesaid part of the order. The High Court, for valid reasons, thought it proper to require the Reference Court to have a relook at the matter. All objections that the State may have in this regard may be urged before the Reference Court.

7. Insofar as the quantification of the compensation on account of damages to the land along with the rate of interest is concerned, a perusal of the materials on record and the relevant part of the long and elaborate order of the High

Court would go to show that such quantification was made on the basis of the total requirement of soil and the cost thereof including transportation to the site for filling up different parts of the land which had been dug up. The rates quantified were as prevailing in the year 1992-1993. We have noticed that the computation of the total quantity of soil that would be required as well as the rates thereof, as determined, is what was virtually admitted on behalf of the State before the High Court. In such a situation when both the quantity of the soil that would be required and the rates thereof had not been disputed by the State before the High Court, we are not inclined to cause any interference with the quantification made by the High Court.

Insofar as rate of interest is concerned, though the High Court had held 9% per annum to be the appropriate rate by resorting to Section 34 of the Act, we are of the view that though the aforesaid provision of the Act may not be strictly applicable to the present proceedings, on a conjoint reading of the provisions of Section 34 of the Code of Civil Procedure, 1908 and the provisions of the Interest Act, 1978 and having regard to the nature of the claim made by the land owners, namely, compensation for damages, the rate of interest awarded by the High Court i.e. 9% per annum is justified. On the aforesaid findings the appeal of the State will have to be dismissed which we hereby do.

8. Coming to the appeal filed by the land owners, we find that the High Court had elaborately considered the applicability of Sections 23(1A) and 23(2) of the Act in its order. Paragraph 27 which contains the reasoning of the High Court for holding that the said provisions of the Act to have no application to the instant case may be reproduced herein below:

"27. Further, sub-Section (1A) and sub-section (2) of Section 23 deal with additional 12% to be given on the market value of the land and 30% solatium to be given due to the compulsory nature of the acquisition. Since in the instant case there has been withdrawal of acquisition, these heads of compensation under sub-section 1-A and sub-section 2 of Section 23 are not to be taken into consideration. This interpretation is supported by

the fact that under Section 26, which deals with the form of awards, specifically makes a distinction between the amount awarded under clause (1) of sub-section (1) of Section 23 and the "amounts, (if any)" respectively awarded under each of the other clauses on the same sub-section. Therefore, it is clear that while awarding compensation under sub-section (3) of Section 48 by taking into consideration Part-III of the Act no compensation is awarded on the market value because in the absence of compulsory acquisition and while considering the damage caused in the event of a subsequent denotification, land does not arise.(sic) Therefore, additional compensation under sub-section (1A) and (2) of Section 23 do not arise."

9. On consideration of the reasoning of the High Court and the facts of the present case and particularly having regard to the fact that there was no acquisition of land in the present case

and the land acquired had re-vested in the land owners, we are of the view that the claim of the land owners for additional compensation, solatium, etc. under the aforesaid provisions of the Act does not merit any further consideration to determine whether any interference with the order of the High Court is called for. The appeal of the land owners, consequently, shall also stand dismissed.

10. In the result, both the Civil Appeal No. 10551 of 2011 and Civil Appeal NO.10552 of 2011 are dismissed, however, without any order as to costs.

.....,J.  
(RANJAN GOGOI)

.....,J.  
(N.V. RAMANA)

NEW DELHI  
SEPTEMBER 09, 2015