

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 203 OF 2015
(Arising out of SLP (C) No.30993 of 2008)

RAMAKANT PANDEY & ANR. ...Appellants

VERSUS

DY.COMMISSIONER, M.P.HSG.BOARD & ORS. ...Respondents

O R D E R

Leave granted.

The appeal has been preferred by the appellants against the judgment and order dated 08.08.2008 passed by the High Court of Madhya Pradesh at Jabalpur in Writ Appeal No. 1147 of 2007. By the impugned judgment, the High Court held that the notification issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act' for short) is valid and thereby set aside the order passed by the learned Single Judge who quashed the said notification.

When, the matter was taken up by this Court on 08.01.2015, the learned counsel appearing on behalf of the appellants submitted that even if the notification under Section 4 of the Act is held to be valid, it should not have included the structure and the appropriate open area around the said structure in terms of decision of this Court in *Sube Singh v. State of Haryana* (2001) 7 SCC 545 and *Jagdish Chand & Anr. v. State of Haryana & Anr.* (2005) 10 SCC 162.

In view of the submission, the following observation was made by this Court on 08.01.2015: -

".....

The respondents are directed to state as to why the land should not be excluded from the land occupied by the structure along with appropriate open area around the structure and or such direction be not issued by the Court."

The respondents have not disputed that there is a structure over the acquired land in question.

In that view of the matter, we hold that the appellants' claim for exclusion of his land to the extent occupied by the structure and the appropriate open area around the said structure in terms of the decision of this Court in *Sube Singh v. State of Haryana* [2001 (7) SCC 545] and *Jagdish Chand and Another v. State of Haryana and Another* [2005 (10) SCC 162], is justified. We, accordingly, direct the respondents to exclude the land to the extent it is covered by the structure and appropriate open area around the structure, taking into consideration the sale deed dated 22.05.2003 and the proposed plan of house as enclosed with the appeal. The measurement may be made in terms of the proposed plan and the structure already made and the appropriate open area adjoining to it be excluded from the notification under Section (4) of the Act, within four months. The rest of the land of the appellant shall stand vested with the State. The impugned order dated 08.08.2008 passed by the High Court stands modified to the above said extent.

The appeal stands disposed of, accordingly.

.....,J.
[SUDHANSU JYOTI MUKHOPADHAYA]

.....,J.
[N.V. RAMANA]

New Delhi;
February 13, 2015.

ITEM NO.201

COURT NO.4

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

Petition(s) for Special Leave to Appeal (C) No(s). 30993/2008

(Arising out of impugned final judgment and order dated 08/08/2008 in WA No. 1147/2007 passed by the High Court Of M.p At Jabalpur)

RAMAKANT PANDEY & ANR.

Petitioner(s)

VERSUS

DY.COMMISSIONER, M.P.HSG.BOARD & ORS.

Respondent(s)

(with appln. (s) for exemption from filing O.T. and permission to file additional documents and permission to place addl. documents on record and interim relief and office report)

(For final disposal)

Date : 13/02/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s)

Mr. B. K. Satija, Adv.

For Respondent(s)

Mr. S. K. Dubey, Sr. Adv.

Mr. Jayant Kumar Mehta, Adv.

Mr. Yogesh Tiwari, Adv.

Mr. Saurabh Dev Karan Singh, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal stands disposed of in terms of the signed order.

(Nidhi Ahuja)
COURT MASTER

(Suman Jain)
COURT MASTER

[Signed order is placed on the file.]