

A U.P. STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD.

v.

STATE OF U.P. AND ORS.

OCTOBER 19, 1994

[K. RAMASWAMY, M.K. MUKHERJEE AND S.C. SEN, JJ.]

B

Land Acquisition Act, 1894 : Sections 4(1), 18, 28-A (1) and (2), Land Acquisition—Compensation—Award by District Judge—Stage's appeal—Pendency of—Application under Section 28-A (1) during—Held such application should be kept pending till disposal of State's appeal.

C

For acquisition of certain lands the Collector passed awards determining the compensation. Some of the claimants received compensation without protest and some on protest. On reference by the claimants of later category they were granted enhanced compensation against which State preferred writ petition before the High Court. During the pendency of the writ petition, the claimants of former category made an application under

D

section 28-A (1). Following the award of the District Court the Land Acquisition Officer passed awards under section 29-A (2). Petitions challenging these awards were dismissed by the High Court.

In appeals to this Court on the question whether the Collector was right in determining the compensation under section 28-A :

E

Allowing the appeals and setting aside the orders of the High Court, this Court

HELD : In view of the law laid down in *Babua Ram's* case the High Court was not right in dismissing the writ petitions. The award of the Collector made under section 28-A (2) is quashed and he is directed to keep the application filed under section 28-A (1) of the Act pending till the disposal of the appeal. He should determine the compensation based on the final judgment according to law. [581B-F]

F

Babua Ram and Ors. v. State of U.P., [1994] Suppl. 4 SCR 148, reled on.

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 8112-14/94 etc.

G

From the Judgment and Order dated 29.1.1992 of the High Court of Judicature at Allahabad in Civil Writ Petn. Nos. 16908, 16910 and 16909 of 1989 respectively.

V.A. Bobde, U.N.R. Rao, G.L. Sanghi, C.S. Vaidyanathan, R. Venkatachalapathi, U.a. Rana, Rajiv Tyagi, Anand Prasad, Mohinder Rupal,

H

Manoj Swarup, Ms. Lalitha Kohli, S. Bala Krishnan, S. Prasad, Satendra Jain,

Satendra Jain, R.N. Keshwani, A. Maniarputham and Ms. A. una Mathur, A
U.N. Kourd and Ashok Grover for the appearing parties

The following order of the Court was delivered :

Leave granted.

These appeals arise from the judgment of the High Court of Allahabad B
dated 29.11.1992 made in W.P. No. 16908/89 and batch. The only controversy
in these cases is whether the Collector was right in determining the compen-
sation under s. 28-A of the Act. The notification under s.4(2) of the Land Ac-
quisition Act, 1894, Act No. 1 of 1894, for short 'the Act', was published on
February 9, 1962. the Collector passed the awards relating to three villages on
different dates determining the compensation. Some of the claimants C
received the compensation without protest and some on protest. Those who
received the compensation under protest sought for and secured references
under s. 18 to the Civil Court. The Addl. District Judge, Ghaziabad in his
award and decree dated May 23, 1987 enhanced the compensation. The State
filed F.A. No. 668 of 1987 which is pending disposal in the High Court at Al-
lahabad. The claimants who received the compensation without protest made D
applications under s.28-A (1) of the Act. Following the award of the District
Court, the land acquisition officer passed the award under s. 28-A (2) of the
Act. This was challenged by the appellants in the High Court in the writ peti-
tions which were dismissed. Thus these appeals by special leave.

The entire controversy has been considered by this Court in *Babua Ram* E
and Ors. v. State of U.P. dated 4.10.1994 rendered in C.A. Nos. 563/94 and
batch and held that since an appeal has been preferred by the State against
the award of the Distt. Judge made under s.26 of the Act, the proper course
open to the L.A.O., on an application made under s.28-A(1) of the Act, would
be to keep the applications under s.28-A(1) pending till the appeal filed
against the award of the District Judge is disposed of by the High Court and
then to take action as per s.28-A(2) of the Act. Following the law laid down F
therein and subject to directions contained therein, we hold that the High
Court was not right in dismissing the writ petitions. Therefore, the order of
the High Court was not right in dismissing the writ petitions. Collector made
under s.28-A (2) is quashed. The Collector/L.A.O. is directed to keep the ap-
plication filed under s. 28-A (1) of the Act pending till the disposal of the ap-
peal. On receipt of the judgment from the High Court or in an appeal by this G
Court the L.A.O. is direct to determine the compensation based on the final
judgment according to law.

The appeals are accordingly allowed. But in the circumstances without
costs.

T.N.A.

Appeals allowed. H