

U.P. AVAS EVAM VIKAS PARISHAD ETC. ETC.

A

v.

UDAI RAM (DEAD) THROUGH LRS. AND ANR. ETC. ETC.

MARCH 17, 1997

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

B

Land Acquisition Act, 1894.

Ss. 4 (1) and 18—Application of provisions of Amendment Act 68 of 1984—Notification u/s 4(1) published on May 9, 1970—Land Acquisition Officer passed award on March 28, 1980—Reference Court enhanced compensation by decree dated May 15, 1985 and also granted enhanced benefits as available under Amendment Act 68 of 1984—Parishad claiming that provisions of the Amendment Act were not applicable as the proceedings were initiated under the U.P. Avas Evam Vikas Parishad Act under which special procedure has been prescribed for determining compensation—High Court rejected the contention and further enhanced the compensation—Held, since the Amendment Act 68 of 1984 has no application, the orders of High Court to the extent of application of the Amendment Act stand set aside—Solatium shall be paid at the rate of 15% on the enhanced compensation, and interest at 6% under the schedule and Clause 15 of the Schedule of the U.P. Act—U.P. Avas Evam Vikas Parishad Adhiniyam, 1965.

C

D

E

Satya Pal & Ors. v. State of U.P., [1996] Suppl. 9 SCR 203; *U.P. Avas Evam Vikas Parishad, Lucknow v. Lata Awasthi*, [1995] 3 SCC 573 and *U.P. Avas Evam Vikas Parishad v. Hakim Singh & Anr.*, [1997] Vol. 9 SCC 607, relied on.

F

Nagpur Improvement Trust & Anr. v. Vithal Rao, [1973] 1 SCC 500, held inapplicable.

Gauri Shankar Gaur & Ors v. State of U.P., [1994] 1 SCC 92, cited.

G

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2409 of 1997 Etc. Etc.

From the Judgment and Order dated 2.5.96 of the Allahabad High Court in F.A. No. 757 of 1986.

H

A P.K. Jain for the Appellants.

Jitender Mohan Sharma for the Respondents.

The following Order of the Court was delivered :

B CA Nos. 2409, 2411-12, 2410, 2413/97:
[@ SLP (c) Nos. 24783, 24786, 24787, 24784 & 25148/96]

Delay condoned. Leave granted.

C We have heard the counsel on both sides. These appeals by special leave arise from the judgment of the Division Bench of the Allahabad High Court, made on May 2, 1996 in F.A. No. 757/86 and batch.

D Notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short, the 'Act') was published on May 9, 1970. The Land Acquisition Officer passed his award on March 28, 1980. The respondents claimed a reference under Section 18. The District Judge enhanced the compensation to Rs. 14/- per sq. yd. by his award and decree dated May 15, 1985. The reference Court also applied the provisions of Amendment Act 68 of 1984 and granted enhanced benefits under the Amendment Act. The Appellant-Parishad claimed that the amendment Act is not applicable since the proceedings were initiated under the U.P. Avas Evam Vikas Parishad Act under which special procedure has been prescribed for determination of compensation. The High Court has rejected the contention and awarded the compensation at the rate of Rs. 28.35 per sq. yard. Thus these appeals, by special leave.

F We need not go into the merits of the manner of determination of the compensation. The question is of applicability of the provisions of the Amendment Act 68 of 1984. Through there is a difference of opinion in *Gauri Shankar Gaur & Ors. v. State of U.P.*, [1994] 1 SCC 92, subsequently this Court has considered the question in *Satya Pal & Ors. v. State of U.P.*, [1996] Suppl. 9 SCR 203, with regard to the determination of compensation. This Court has upheld the same in *U.P. Avas Evam Vikas Parishad, Lucknow v. Lata Awasthi*, [1995] 3 SCC 573 and in *U.P. Avas Evam Vikas Parishad v. Hakim Singh & Anr.*, [1997] Vol. 9 SCC 607.

H Learned counsel for the respondents sought to contend that there was a reference against the difference of opinion as to the applicability of the Amendment Act either by incorporation or by reference to a three

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Judge Bench. In view of the fact that subsequent judgments have accepted that the Amendment Act is only by reference and not by incorporation, the Amendment Act has no application. It is then contended, relying upon the judgment in *Nagpur Improvement Trust & Anr. v. Vithal Rao*, [1973] 1 SCC 500, that payment of compensation under Adhinyam different from the Act is violative of Article 14. The ratio therein has no application to the fact-situation in these cases. That was a case where the vires of the Act itself was challenged under Article 226. In this case that question has not arisen because these appeals arose under reference under Section 18 of the Act. A B

The appeals are accordingly allowed. The orders of the High Court to the extent of application of the Amendment Act 68 of 1984 stand set aside. Solatium shall be paid @ 15% on the enhanced compensation, interest at 6% under the Schedule and Clause 15 of the Schedule to the Adhinyam. The appellant is directed to pay the amounts within six months from the date of the receipt of this order. No costs. C D

C.A. Nos. 2414-2415 /97. @ SLP(C) Nos. 7204-05/97
[CC Nos. 2797 and 2889/97]

Delay condoned.

Leave granted. E

Following the above judgment, these appeal are dismissed. No costs.

R.P.

Appeal Nos. 2414-15/97 dismissed.