

Jaipur Development Authority Vs. Chotte Lal (Dead) Through Lrs. and ors.

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Court : Supreme Court of India

Decided On : Jan-09-2001

Reported in : JT2001(3)SC538; (2002)9SCC421

Judge : A.S. Anand, C.J.,; R.C. Lahoti and; Doraiswamy Raju, JJ.

Acts : Rajasthan Land Acquisition Act, 1953 - Sections 4, 6

Appeal No. : Civil Appeal Nos. 339 and 340 of 2001 (Arising out of SLP (C) Nos. 11350 and 11504 of 2000)

Appellant : Jaipur Development Authority

Respondent : Chotte Lal (Dead) Through Lrs. and ors.

Disposition : Appeal Allowed

Prior history : Arising out of SLP (C) Nos. 11350, 11504 of 2000

Judgement :

A.S. Anand, C.J.,; R.C. Lahoti and; Doraiswamy Raju, JJ.

1. Leave granted.

2. Shorn of all details, the essential facts required to be noticed in these appeals are as follows:

Acquisition proceedings commenced with the preliminary notification issued under Section 4 of the Rajasthan Land Acquisition Act, 1953 (hereinafter referred to as "the Act") on 13-5-1960. It was followed by a declaration under Section 6 of the Act on 3-5-1961. The award was made on 9-1-1964. According to the respondents, the acquisition of 3 bighas and 10 biswas of land from Khasra No. 35 had been wrongly included in the award dated 9-1-1964. The respondent, therefore, filed a writ petition being WP No. 2935 of 1992 for protecting his rights in respect of 3 bighas and 10 biswas of land comprised in Khasra No. 35. The writ petition was resisted mainly on the plea that in the award made as early as in 1964, 3 bighas and 10 biswas of land in Khasra No. 35 had been included. It was also maintained that possession of the entire land, including 3 bighas and 10 biswas in Khasra No. 35 had already been taken and even compensation had been paid to the landowners. A learned Single Judge of the Rajasthan High Court dismissed the writ petition on various grounds vide order dated 15-3-1994.

3. The order of learned Single Judge was challenged in appeal before a Division Bench in DB Special Appeal No. 245 of 1994. The said special appeal was heard by a Bench comprising Mr Justice V.K. Singhal and Mr Justice Arun Madan. The Division Bench dismissed special appeal against the order of learned Single Judge, vide its order dated 12-5-1994. The writ petitioner (respondent herein) filed a review petition in the High Court against the judgment of the Division Bench in DB Special Appeal No. 254 of 1994. He also filed a special leave petition against the same order dated 12-5-1994 in this Court. The special leave petition was dismissed in limine on 15-9-1995. The review petition against the order of the Division Bench dated 12-5-1994 came up before the High Court after dismissal of the special leave petition by this Court. The appellant resisted the review petition on various grounds, including the ground that after dismissal of the special leave petition, review petition against the order dated 12-5-1994 was no longer maintainable.

4. The review petition came up for consideration before a Bench comprising Mr Justice Arun Madan and Mr Justice M.A. Khan (since Mr Justice V.K. Singhal had in the meantime retired). The Division Bench comprising Mr Justice Arun Madan and Mr Justice M.A. Khan on 27-1-1999, issued notice to show cause why the

review petition be not admitted, heard and decided. The matter was thereafter listed before a Bench comprising Mr Justice V.S. Kokje, Acting Chief Justice and Mr Justice Arun Madan, when the order [impugned in civil appeal arising out of SLP (C) No. 11350 of 2000] was passed on 18-5-2000. By that impugned order inter alia the Division Bench directed that review petition be placed before Mr Justice Arun Madan alone, sitting singly. Reference was made to Rule 64 of the Rajasthan High Court Rules, 1952 while issuing that direction. The review petition was, accordingly, placed before Mr Justice Arun Madan on the next day as directed. The review petition, however, came to be heard by Mr Justice Arun Madan on 2-6-2000 when it was admitted. It was further directed by Madan, J. that the petition be listed for final hearing on 12-7-2000. The appellant was directed to make available the original record pertaining to land acquisition proceedings for perusal of the Court. Order dated 2-6-2000 has been put in issue in civil appeal arising out of SLP (C) No. 11504 of 2000. Both these appeals are being disposed of by us by this common order.

5. Learned counsel for the respondent has drawn our attention to an order made by Mr Justice V.S. Kokje, Acting Chief Justice, who was a party to the order made on 18-5-2000 [subject-matter of civil appeal arising out of SLP (C) No. 11350 of 2000], in HCM Institute RIPA v. Jai Singh¹ wherein a view similar to the one taken on 18-5-2000 had been expressed.

6. We have carefully perused the judgment in HCM Institute RIPA¹ and have serious doubts about the correctness of the same not only because that judgment impinges upon the roster-making powers of the Chief Justice of the High Court (which powers are protected even in Rule 64 of the High Court Rules) but for other reasons also. However, we need not detain ourselves to deal with this issue at any length in this case because, having regard to essential facts and circumstances of this case, where the order of the Division Bench in special appeal is being sought to be reviewed, learned counsel for the parties agree that the review petition be directed to be heard by a Division Bench of the High Court of Rajasthan instead of by a Single Judge. We, accordingly, allow these appeals and set aside the impugned orders dated 18-5-2000 and 2-6-2000. We direct that the review petition be placed for its consideration and disposal before a Division Bench of the High

Court of Rajasthan to be constituted by the Hon'ble Chief Justice of that High Court. We request the Hon'ble Chief Justice to constitute the Division Bench at the earliest so as to dispose of the review petition expeditiously.

7. We clarify that nothing said hereinabove shall be construed as any expression of opinion on the merits of the case.

8. The appeals are allowed in the above terms. No costs.

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