

PETITIONER:
THE SPECIAL LAND ACQUISITION OFFICER, MALAPRABHA DAM PROJECT,

Vs.

RESPONDENT:
MADIVALAPPA BASALINGAPPA MELAVANKI ETC.

DATE OF JUDGMENT 16/08/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)
HANSARIA B.L. (J)

CITATION:
1995 SCC (5) 592 1995 SCALE (5) 66

ACT:

HEADNOTE:

JUDGMENT:

WITH
CIVIL APPEAL NO. OF 1995 7871 OF 1995
[Arising out of SLP [C] No. 8589 of 1989]
O R D E R

Leave granted.

The Court of Civil Judge in L.A.C. Nos. 263 and batch by award and decree dated 14th December, 1981 enhanced the compensation determined by the Land Acquisition Officer from Rs. 3,000/- per acre to Rs. 15,000/- per acre. On appeal, under Section 54 of the Land Acquisition Act [for short, 'the Act'] the IInd Additional District Judge, Belgaum by his common judgment dated 24th August, 1983 confirmed the same. The High Court by the impugned order dated 29th January, 1988 in Miscellaneous Second Appeal No. 44 of 1985 and batch held that in determining compensation on the basis of the annual yield application of 15 years multiplier would be illegal, as held in Special Land Acquisition Officer, Davangere vs. P. Veerabhadarappa etc. etc. [AIR 1984 SC 774]. As for this decision, appropriate multiplier is 10. This view was reiterated in a number of decisions.

However, the learned Judge declined to interfere with the order on the ground that the land in acquisition in this case was only of an extent of 38 gunthas and it was held that "it is hardly appropriate to interfere with the award notwithstanding the discernible blemish pointed out by the learned Government Pleader". The learned Judge also applied the provisions of Sections 23 (1-A); 23 [2] and 28 of the Act as amended by Amendment Act 68 of 1984 holding that it would be subject to the result in Bhag Singh & Ors. vs. Union Territory of Chandigarh [(1985) 2 SCC 737].

Since on merits, the learned Judge was not inclined to interfere with the determination of compensation applying 15 years multiplier, the land in question being a small extent of land, on facts of this case, we are also not inclined to upset the wrong application of law. However, it would not

operate as a precedent to any future case or other cases arising from the same notification. All cases need to be decided applying only 10 years multiplier. However, the claimants are not entitled to the benefits under the Amendment Act 68 of 1984. It is settled law that if the claim is pending before the reference Court on or after coming into force of the Amendment Act., viz., September 24, 1984, the Amendment Act gets attracted for pending claims during that interregnum. Since the award of the Reference Court is of December 14, 1981, i.e., much prior to the date when the Land Acquisition Amendment Bill was introduced, the claimants are not entitled to 30 per cent solatium on the enhanced compensation, additional amount @ 12 per cent per annum of the enhanced compensation from the date of award or taking over possession whichever is earlier and interest as provided in the proviso to Section 28 of the Act as amended under Act 68 of 1984, i.e., 9 per cent for one year and 15 per cent thereafter from the date of taking over possession till date of deposit or payment whichever is earlier. But the respondent-claimants are entitled to 15 per cent solatium on the enhanced compensation and 5 per cent interest per annum on the enhanced compensation as amended by the local Act, from the date of taking over possession till the date of deposit or payment, whichever is earlier.

The appeals are accordingly allowed. No. costs.