

CASE NO.:

Review Petition (civil) 30308 of 2000

Special Leave Petition (civil) 18180 of 1999

PETITIONER:

M/S.GREEN VIEW TEA & INDUSTRIES

Vs.

RESPONDENT:

COLLECTOR, GOLAGHAT & ANR.

DATE OF JUDGMENT: 09/11/2001

BENCH:

S.N.Phukan, S.S.N. Quadri

JUDGMENT:

J U D G M E N T

SYED SHAH MOHAMMED QUADRI, J.

The order of this Court dated December 1, 1999 dismissing Special Leave Petition (C) Nos.18180-18182 of 1999, is brought under challenge in the Review Petitions. And Special Leave Petition (C) No.5417 of 2000 is filed seeking leave to appeal from the order of the High Court of Gauhati in Review Application No.54 of 1998 passed on August 25, 1999. These cases relate to the same subject-matter and arise out of one and the same proceeding. To appreciate the controversy and the contentions of the parties, a reference to the relevant facts leading to the filing of these cases would be apt.

An extent of 825 bighas, 2 kathas, 0 lessa of land in village Ouguri Chapari under Mouza Morangi, Sub-Division Golaghat in the District of Golaghat (for short, the acquired land) was notified for acquisition under Section 4(1) of the Land Acquisition Act, 1894 (for short, the Act) for the construction of Numaligarh Oil Refinery (hereinafter referred to as the company) in notification No.RLA/210/92/27 dated September 22, 1992 which was published in the Gazette on November 4, 1992. In a meeting held in the chamber of the then Chief Minister of Assam on February 25, 1993, it was resolved that for the said compensation, inclusive of solatium, additional interest etc. at the rate of Rs.55,000/- per bigha, would be paid. The company also consented to payment of compensation at the said rate. But the process for fixing compensation for the acquired land by agreement of the parties did not materialise as the petitioner, owner of the land, did not accept the said rate. The acquisition proceedings were, therefore, continued under the Act and the Collector, Golaghat, proposed compensation for the said land at the rate of Rs.10,876/- per bigha but the State Government approved Rs.7,000/- per bigha only. Accordingly, the Collector awarded compensation for the acquired land at the rate of Rs.7,000/- per bigha. Dissatisfied with the award of the Collector dated July 4, 1994, the petitioner sought reference to Civil Court under Section 18 of the Act. On reference, in L.A. Case No.1 of 1996, the District Judge granted enhanced compensation at the rate of Rs.22,000/- per bigha on November 18, 1996. Aggrieved thereby, the petitioner filed First Appeal No.27 of 1997 praying for further enhancement of compensation; the Company and the Collector, Golaghat, filed First Appeal Nos.32 and 33 of 1997, respectively, challenging the enhancement of compensation by the District Judge from Rs.7,000/- to

Rs.22,000/- per bigha. The High Court by its common judgment dated June 24, 1998 dismissed the appeal of the petitioner and allowed the appeals of the respondents; in the result, the compensation awarded by the Collector, Golaghat, at the rate of Rs.7,000/- per bigha was restored. Against that judgment of the High Court, the petitioner filed Review Application No.54 of 1998 in the High Court. He filed Special Leave Petition (C) Nos.18020-18022 of 1998 also seeking leave of this Court to appeal against the said common judgment of the High Court dated June 24, 1998. On March 8, 1999 he was permitted to withdraw the Special Leave Petitions as his Review Application in the High Court was pending. On August 25, 1999, the said Review Application was dismissed by the High Court and its order is the subject matter of Special Leave Petition (C) No.5417 of 2000. However, against the said common judgment of the High Court dated June 24, 1998, the petitioner again filed Special Leave Petition Nos.18180-18182 of 1999 delayed by 399 days. On December 1, 1999, this Court condoned the delay but dismissed the Special Leave Petitions, which is subject matter of the Review Petitions.

Mr. Shanti Bhushan, the learned senior counsel appearing for the petitioner in Review Petitions and Special Leave Petition, argued that in the chamber of the then Chief Minister the company as well as the Collector assessed the compensation for the acquired land at the rate of Rs.55,000/- per bigha and that being the market value of the land, the Collector in the award ought not to have reduced compensation to Rs.7,000/- per bigha. In any event, the compensation enhanced by the District Judge at Rs.22,000/- per bigha, being far less than the compensation resolved in the chamber of the then Chief Minister, was erroneously set aside by the High Court in appeal. In Review Application the High Court failed to take note of the fact that relevant documents -- Exhs.6, 7 and 8 and the communication of July 3, 1999 -- were not taken into consideration in the common judgment and consequently the petitioner was deprived of enhanced compensation at the rate of Rs.55,000/- per bigha.

In the written submissions of the petitioner, in the reply to the affidavit filed on behalf of respondent No.1, the following are the relevant averments :

3(c) That in L.A. Case No.1/96-97, Rs.34,286/- (Rupees Thirty Four Thousand Two Hundred and Eighty Six) per bigha was paid to M/s. Halmira Properties (Pvt) Ltd., Golaghat as compensation for the land acquired for Numaligarh Refinery Ltd.

The Certified copy of the order sheet of the Award of the Sub-Divisional Officer & Collector, Bokakhat, in the district of Golaghat, is annexed herewith as Annexure A-1.

(d) That in the L.A. Case No.6/97-98, Rs.41,667/- (Rupees Forty One Thousand Six Hundred and Sixty Seven) per bigha was paid to Shri Prafulla Kakoty and others as compensation for the land acquired for Numaligarh Refinery Ltd. .

The certified copy of the order sheet of the Award of the Sub-Divisional Officer & Collector, Bokakhat, in the district of Golaghat is annexed herewith as Annexure A-2.

(e) That even the Government of Assam has acquired Govt. Land measuring 18B-4K-14L for Numaligarh Refinery Ltd. for the purpose of construction of school at the valuation of Rs.34,286/- (Thirty Four Thousand Two Hundred and Eighty Six only) per Bigha subject to payment of 100% land value as premium.

Mr.Soli J.Sorabjee, the learned Attorney-General, appearing for the respondents, has contended that there is nothing illegal in the order sought to be reviewed, therefore, the Review Petitions are liable to be dismissed; no arguments based on Exhts.6, 7 and 8 were addressed before the High Court nor was any ground taken in the memorandum of appeal in respect of the said documents, therefore, on the ground of non-consideration of those documents no Review Application could be maintained.

In the written submissions in the affidavit filed by the Director of Land, Requisition, Acquisition and Reforms, Assam, Guwahati, filed on behalf of the first respondent, para 5 reads thus :

It is submitted that, the mutually agreed valuation of Rs.55,000/- per bigha by O.N.G.C. at Sibsagar district, as stated by the petitioners has been discontinued since 1.1.1993. The Government decision to this effect, as derived in a meeting on 19.9.1994 is enclosed herewith.

The law in regard to review of an order of this Court is too well settled to justify an elaborate discussion on the point. Suffice it to observe that the finality of the order of the Apex Court of the country should not lightly be unsettled. A review of a judgment, observed Krishna Iyyer, J. in Sow.Chandra Kanta & Anr. Vs. Sheik Habib [AIR 1975 SC 1500] :

May be, we were not right in refusing special leave A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility.

[The same view is reiterated in Aribam Tuleshwar Sharma Vs. Aribam Pishak Sharma and Ors. (1979 (4) SCC 389), M/s. Northern India Caterers (India) Ltd. Vs. Lt. Governor of Delhi (1980 (2) SCC 167), Awadh Bihar Singh and Ors. Vs. State of Bihar and Ors. (1993 Supp.(4) SCC 594)]

Now advertng to Review Petition Nos.306-308 of 2000, we find that they are devoid of any merit. It is noted above that the petitioner having earlier challenged the common judgment of the High Court dated June 24, 1998 in Special Leave Petition (C) Nos.18020-18022 of 1998 withdrew the same with liberty to pursue the Review Application No.54 of 1998 filed in the High Court. Having lost in the High Court he again sought leave to appeal against the very same common judgment of the High Court by filing Special Leave Petition (C) Nos.18180-18182 of 1999 which were dismissed by this Court on December 1, 1999. Having withdrawn earlier S.L.P. Nos.18020-18022 of 1998, he could not have been allowed to maintain S.L.P. Nos.18180-18182 of 1999. He cannot, in the guise of the Review Petitions, be permitted to revive the incompetent Special Leave Petitions. We are not persuaded to accept the contention that the order of this Court dated December 1, 1999 suffers from any error much less an error apparent on the face of the record; there is absolutely no merit in the review petitions.

The Review Petitions are, therefore, dismissed.

SPECIAL LEAVE PETITION (C) NO.5417 OF 2000

Leave is granted.

Printing is dispensed with, the appeal to be heard on the special leave petition paper book. Parties may file the relevant additional documents, if any, within four weeks.

JUDIS