

PETITIONER:
UNION OF INDIA & ANR.

Vs.

RESPONDENT:
BABU SINGH & ORS.

DATE OF JUDGMENT 04/12/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
PARIPOORNAN, K.S.(J)

CITATION:
1996 SCC (1) 477 1995 SCALE (7)347

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Delay condoned.

Leave granted.

In view of the fact that Mrs. Naresh Bakshi, learned counsel took notice on behalf of the proposed legal representatives of the deceased respondent Nos.1, 2 and 9, the relevancy to give the particulars as pointed out by the office, no longer subsists.

The only question is whether reference under Section 28-A of the Land Acquisition Act, 1894 is maintainable to the land acquired under the Defence of India Act. Initially, an extent of 1230.8 acres of land including the land of the respondents situated in Bhatinda in Punjab State was requisitioned for the purpose of defence of India. Obviously the acquisition was under Section 8 of the Requisition and Acquisition of the Immovable Property Act, 1952. An arbitrator was appointed under Section 8 [3] of the Act. The arbitrator in his award dated 19th January, 1985 determined the amount of compensation. Subsequent thereto, a writ petition seeking direction for reference under Section 28-A of the Land Acquisition Act, 1894 as amended by Act 68 of 1984, was filed in the High Court by the respondents.

The counsel appearing for the Union of India in the High Court had conceded as mentioned in the impugned order that a reference could be made under Section 28-A and the award could be decided within two months from that date. Assailing that order dated 29th October, 1987 of the High Court in the abovesaid writ petition, viz., W.P. No.2482/87, this appeal by special leave has been filed.

Shri Goswami, learned senior counsel appearing for the Union of India contended that Section 28-A has no application to the acquisition of the land under the Requisition and Acquisition of Immovable Property Act, 1952. We find force in the contention. Shri Ujjagar Singh, learned senior counsel for the respondents contended that since the counsel appearing for the Union of India has conceded before

the High Court, the State is bound by the concession and that, therefore, there is nothing wrong in the order passed by the High Court. It is difficult to accept the contention. It is a case of total lack of jurisdiction since Section 28-A of the Land Acquisition Act has no application when the land is acquired under the Requisition and Acquisition of the Immovable Property Act. Therefore, wrong concession made by the counsel does not bind the Union of India in that behalf.

The appeal is accordingly allowed. The order of the High Court is set aside and the writ petition stands dismissed. No costs.

JUDIS