

PETITIONER:
SATYA PAL & ORS.

Vs.

RESPONDENT:
THE STATE OF U.P. & ORS.

DATE OF JUDGMENT: 26/11/1996

BENCH:
K. RAMASWAMY, G.T. NANAVATI

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted,
We have learned counsel on both sides.

This appeal by special leave arises from the judgement and order of the Division Bench of the High Court of Allahabad made on November 1, 1995 in W.P. No.30914/95.

The acquisition is under the U.P. Avas Evam Vikas Parishan Adhiniyam, 1965. The controversy is whether the Land Acquisition act 68 of 1984 would apply to the acquisition made under the Adhiniyam. In Gaurishankar Gaur vs. State of U.P. [(1994) (1) SCC 921, a bench of two Judges of this court, to which one of us, K. Ramaswamy, J. had held that this Adhiniyam and the procedure prescribed therein vis-a-vis the Land Acquisition Act, 1894 (1 of 1894) by incorporation and, therefore, the Amendment Act does not apply to the acquisition under the Adhiniyam. Hon'ble R.M. Sahai, J. had taken a different view on that matter. However, on merit both agreed for shifting of the date for payment of the compensation to the later date of declaration as under :

"Though for different reasons, we have come to the same conclusions that the civil appeals and writ petitions shall stand dismissed. But the appellants and petitioners shall be paid compensation on the market rate prevalent in the year the declaration analogous to section 6 of the Land Acquisition Act, 1894 were issued. In view of the special facts and peculiar circumstances and nor as of Law we have adapted this course."

Subsequently, the question was considered by another Bench of this Court in U.P. Avas Evam Vikas Parishad Lucknow vs. Lata Awasthi [(1995) 3 SCC 573] wherein it was held that the Amendment Act has no application since some of the provisions of the Land Acquisition Act, 1894 (1 of 1894) were incorporated into the Adhiniyam. The same view was reiterated in Ramesh Chandra Tiwari & ors. vs. U.P. Avas

Evam Vikas Parishan, Lucknow [CA No.1832/86] decided January 8, 1996 by another Bench. Under these circumstances, it is now settled law that the Land Acquisition Amendment Act 68 of 1894, has no application. The notification under Adhiniyam similar to section 4 and the declaration similar to Section 6 do not stand lapsed after the expiry of two years from the date the Amendment Act has come into force. The High Court, therefore, was right in refusing to grant the relief.

The Land Acquisition Officer is directed to pass the award in accordance with law within a period of six weeks from the date of the receipt of this order. If the Land Acquisition Officer does not pass the award within that period, he should award interest on the amount awarded @ 18% from the date of the expiry of six weeks till the date of the deposit with him of the compensation by the requisitioning authority. In any event, if the amount is not deposited with the Land Acquisition Officer within a further period of three months thereafter, there shall be a direction to the State Government to withdraw from the acquisition.

The appeal is accordingly ordered. No costs.