

PETITIONER:
U.P. AVAS EVAM VIKAS PARISHAD ETC. ETC.

Vs.

RESPONDENT:
UDAI RAM (DEAD) THROUGH L.RS. & ANR. ETC. ETC.

DATE OF JUDGMENT: 17/03/1997

BENCH:
K. RAMASWAMY, G.T. NANAVATI

ACT:

HEADNOTE:

JUDGMENT:

WITH
2411, 2412, 2410, 2413-15
CIVIL APPEAL NOS. OF 1997

[Arising out of SLP (C) Nos.24786, 24787, 24784, 25148/96, SLP(C) Nos.7204/97 (CC-2797) and SLP (C) No.7205/97 (CC-2889)]

O R D E R

CA Nos. 2409, 2411-12, 2410, 2413/97:
[@ SLP (C) Nos. 24783, 24786, 24787, 24784&25148/96]

Delay condoned. Leave granted.

We have heard the counsel on both sides. These appeals by special leave arise from the judgment of the Division Bench of the Allahabad High Court, made on May 2, 1996 in F.A. No. 757/86 and batch.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') was published on May 9, 1970. The land Acquisition Officer passed his award on March 28, 1980. The respondents claimed a reference under section 18. The District Judge enhanced the compensation to Rs.14/- per sq. yd. by his award and decree dated May 15, 1985. The reference Court also applied the provisions of Amendment Act. The appellant-Parishad claimed that the Amendment Act is not applicable since the proceedings were initiated under the U.P. Avas Exam Vikas Parishad Act under which special procedure has been prescribed for determination of compensation. The High Court has rejected the contention and awarded the compensation at the rate of Rs.28.35 per sq. yard. Thus these appeals, by special leave.

We need not go into the merits of the manner of determination of the compensation. The question is of applicability of the provisions of the Amendment Act 68 of 1984. Though there is a difference of opinion in Gauri Shankar Gaur & Ors. v. state of U.P. [C.A.No.15399/96], decided on December 26, 1996, with regard to the determination of compensation. This Court has upheld the same in U.P. Avas Exam Vikas Parishad, Lucknow v. Lata Awasthi[(1995) 3 SCC 573] and in U.P. Avas Exam Vikas Parishad v. Hakim Singh & Anr. [C.A No.15493/96, dated December 6, 1996].

Learned counsel for the respondents sought to contend

that there was a reference against the difference of opinion as to the applicability of the Amendment Act either by incorporation or by reference to a three Judge Bench. In view of the fact that subsequent judgments have accepted that the Amendment Act is only by reference and not by incorporation, the Amendment Act has no application. It is then contended, relying upon the judgment in Nagpur improvement Trust & Anr. V. Vithal Rao [(1973) 1 SCC 500] that payment of compensation under Adhiniyam different from the Act is violative of Article 14. The ratio there in has no application to the fact-situation in these cases. That was a case where the vires of the Act itself was challenged under Article 226. In this case that question has not arisen because these appeals arose under reference under section 18 of the Act.

The appeals are accordingly allowed. The orders of the High Court to the extent of application of the Amendment Act 68 of 1984 stand set aside. Solatium shall be paid @ 15% on the enhanced compensation, interest at 6% under the Schedule and clause 15 of the Schedule to the Adhiniyam. The appellant is directed to pay the amounts within six months from the date of the receipt of this order. No costs.

C.A Nos 2414-2415 /97

@ SLP(C) Nos. 7204-05/97 [CC Nos. 2797 and 2889/97]

Delay condoned.

Leave granted.

Following the above judgment, these appeals are dismissed. No costs.