

A WARDINGTON LYNGDOH AND ORS.  
 v.  
 THE COLLECTOR, MAWKYRWAT

APRIL 17, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Land Acquisition Act, 1894 :*

C *Sections 18, 19, 23, 31—Award of compensation under an agreement—Subsequently objecting and claiming higher compensation—Reference made and the reference court awarded higher compensation—Validity of the reference—Held: Reference application itself not maintainable.*

D In respect of certain lands acquired, the Collector made an award. The petitioners received compensation under an agreement signed by them and the Collector. Thereafter they claimed enhancement by reference under S.18. After hearing them, the Collector referred the matter to the Special Judicial Officer. Objection was taken to the validity of the reference and also their entitlement to higher compensation. However, the compensation was enhanced at the rate of Rs. 60 to Rs. 40 per sq. meter. On appeal by the State, the High Court reversed the decree of the reference court since the appellants had agreed to the terms and conditions of the agreement. Hence this special leave petition.

F The petitioners contended that since they had objected to the award, though after receiving the compensation, the reference was valid and the Special Judicial Officer was within his power to consider proper value of the lands and award compensation under S.23 of the Act.

Dismissing the petition, this Court

G HELD : 1. The persons interested in the land are entitled to receive compensation awarded by the Collector under s.11 under protest and entitled to object to the compensation determined by the Collector. No person who had received the amount otherwise than under protest is entitled to make application under s.18. Thus the receipt of the amount under protest is a condition precedent to make an application under s.18

H within the limitation prescribed under the proviso to sub-s.(2) of s.18

together with the grounds on which the objections have been taken. Thereon the Collector is enjoined to make a reference to the Civil Court with the statement in the manner stated in s.19. [357-D, E]

2. The petitioners professed lack of knowledge regarding the jointly signed agreement Ex-B or its content. This stand stoutly taken at the enquiry before the Judicial Officer is obviously an after thought. They admitted that they did not file any protest at the time of receiving compensation. Only one claimant, had filed an objection petition, that too one week after the receipt of the compensation without protest. He stated at the enquiry that he signed a blank paper. He admitted that the signature in the joint statement was his but stated that the contents of Ex-B were not explained to him. The High Court minutely examined the evidence of all the witnesses and concluded that their claim of oral protest was belied by the written agreement Ex-B. It had gone into the evidence on merits and found that award of compensation for the paddy fields and other lands at the rates of Rs. 60 to Rs. 40 per sq. meter was highly excessive and reliance upon unregistered sale deeds in relation to other homestead lands was illegal. It is credulous to believe that agricultural lands would be sold and purchased on square meter basis. The finding of the High Court that the reference application itself is not maintainable, is perfectly legal and does not warrant interference. [357-F to H, 358-A, B]

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 11083 of 1995.

From the Judgment and Order dated 7.6.94 of the Gauhati High Court in F.A.No. 36 of 1993.

A.M. Mazumdar and S.K. Nandy for the Petitioners.

The following Order of the Court was delivered:

Delay condoned.

Notification under s.4(1) of the Land Acquisition Act, 1890 (for short, 'the Act') was published on December 6, 1988 for construction of explosive magazines at Nawkyrawat. The Collector made his award on May 17, 1989. On July 5, 1989 the appellants received the compensation under Ex-B, which is an agreement signed by them and the Collector. Thereafter,

- A on August 8, 1989, the respondents objected to the amount of compensation determined by the Collector and they claimed enhancement by reference under s.18. On August 22, 1989, the Collector asked them to appear before him. On August 29, 1989, on which date when appeared, they requested the Collector for reference under s.18. Accordingly, it was referred to the Special Judicial Officer. Objection was taken to the validity of the reference and also their entitlement to higher compensation. The Special Judicial Officer by his award and decree dated October 29, 1991 enhanced the compensation at the rate of Rs. 60 to 40 per sq. meter. On appeal by the State, the High Court by its judgment and decree dated June 7, 1994 reversed the decree of the reference court and hold that since the petitioners had agreed in Ex.-B and received compensation subject to the terms and conditions therein that "in respect of acquisition of land for construction of explosive magazine to be made herein after by the Collector provided it included the following matters which to our minds are true, just and equitable. The total amount of compensation arrived at is fully acceptable to us". The details are not material for the purpose of this case.

- The only contention raised by the learned counsel appearing for the petitioners is that since the petitioners had objected to the award, though after receiving the compensation, the reference is valid and the Special Judicial Officer was within his power to consider proper value of the lands and award compensation under s.23 of the Act.

- Section 31 (1) of the Act enjoins the Collector that he shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award..... and shall pay it to them.....sub-s(2) envisages that if they shall not consent to receive it.....the Collector shall deposit the amount of the compensation in the court to which a reference under s.18 would be submitted. Second proviso engrafts a rider that "provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under s.18".
- Section 18(1) envisages that any person interested "who has not accepted the award" may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the court, whether his objection be to the measurement of the land, the amount of compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested. In sub-s.(2) thereof the

grounds on which the objection to the award is taken shall be required to be stated. The proviso prescribed limitation within which the application under s.18 should be made. Thereon under s.19 the Collector is required to make the statement to the court in writing with details and in the manner mentioned in s.19. The court shall, thereafter, cause a notice in that behalf served under s.20 on the Collector and persons interested in the objection for determination of the objection. On their appearance court shall proceed to enquire into the objection. Section 21 restricts the scope of the enquiry "to a consideration of the interests of the person affected by the objection". Section 23(1) lays down the principles in clauses one to six for determination of the amount of compensation to be awarded for the acquired land.

It will thus be clear that the persons interested in the land are entitled to receive compensation awarded by the Collector under s.11 under protest and entitled to object to the compensation determined by the Collector. No person who had received the amount otherwise then under protest should be entitled to make the application under s.18. In other words, the receipt of the amount under protest is a condition precedent to make an application under s.18 within the limitation prescribed under the proviso to sub-s.(2) of s.18 together with the grounds on which the objections have been taken. Thereon the Collector is enjoined to make a reference to the Civil Court with the statement in the manner stated in s.19.

The petitioners professed lack of knowledge of the jointly signed agreement Ex-B or its content. This stand stoutly taken at the enquiry before the Judicial officer is obviously an after thought. They admitted that they did not file any protest at the time of receiving compensation. Only one claimant, Releningster Tongwah, had filed an objection petition that too one week after the receipt of the compensation without protest. He stated at the enquiry that he signed a blank paper. He admitted that the signature in the joint statement was his but stated that the contents of Ex-B were not explained to him. The High Court minutely examined the evidence of all the witnesses and concluded that their claim of oral protest is belied by the written agreement Ex-B. The High Court also has gone into the evidence on merits and found that award of compensation to the paddy fields and other lands at the rates of Rs. 60 to Rs. 40 per sq. meter was highly excessive and reliance upon unregistered sale deeds in relation

A to other homestead lands was illegal. It is credulous to believe that agricultural lands would be sold and purchased on square meter basis. Even without going into the merits, we hold that the finding of the High Court that the reference application itself is not maintainable, is perfectly legal and does not warrant interference.

B The Special leave petition is accordingly dismissed.

G.N.

S.L.P. dismissed.