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UMED INDUSTRIES AND
LAND DEVELOPMENT CO. AND ORS.

v.

STATE OF RAJASTHAN AND ORS.

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JANUARY 17, 1995

[K. RAMASWAMY AND MRS. SUJATA V. MANOHAR, JJ.]

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Rajasthan Urban Improvement Act, 1959—Section 60- A—Transitory provisions for pending matters relating to acquisition of land—Amount of compensation or interest or that payable for any other reason—Payable in accordance with provisions of Land Acquisition Act, 1894—Entitlement only from date of commencement of Act.

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The notification u/s 52 of the Rajasthan Urban Improvement Act, 1959 was published acquiring land for urban development. Possession of the land was taken. The Additional Collector determined the market value. Appeal u/s 54 of the Act was filed by the claimants claiming additional amount of compensation and also solatium and interest. The Government also filed appeals against the order of the Collector awarding 10% interest. The District Judge by his decree dated 9.2.1983 determined the compensation and reduced the interest. Revision filed against this judgment was dismissed. This appeal had been filed against the order made in revision.

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It was contended by the appellants that the provisions of Sec. 52(2) and 53(6) (a) were inconsistent with the provisions of the Land Acquisition (Amendment) Act 68 of 1984 amending the principal Land Acquisition Act 1 of 1984 and therefore the provisions of Sec. 52(2) and 53(6) (a) were void. The appellants were not permitted to agitate this question as this contention though raised before the District Judge was not pursued before the High Court.

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Disposing of the matter, this Court

HELD: 1.1. A reading of transitory provisions in Sec. 60- A of the Rajasthan Urban Improvement Act, 1959 would make the legislative intention clear that any action taken, done or made under and in accordance with the provisions of the Act as it stood before the date of commencement of the Central Amendment Act 68 of 1984, such action, thing or order shall

not be reopened or reviewed or be liable to be challenged on the ground that such action, thing or order was at variance with that provided in the Land Acquisition Act, 1894 (Central Act 1 of 1894) subject, however, that any further proceeding, action or order in such matter conducted, taken or made on or after the date of commencement shall subject to the other provisions of this section, namely, section 60-A, be made under and accordance with the Land Acquisition Act. Sub-sec. (2) also makes the matter very clear, namely, the amount of compensation or interest or that payable for any other reason shall, in a matter pending on the date or commencement, be payable under and in accordance with the provisions of the Land Acquisition Act (Central Act) and the money paid prior to the date of commencement shall be deducted from or adjusted against the said amount. It was applied to pending appeals. Thereby, it is amply clear that the amount of compensation or interest or that payable for any other reason (solatium under the Central Act) shall be in accordance with the provisions of the Land Acquisition Act. But their entitlement will be only from the date of commencement of the Act but, not anterior thereto.

[352-C-F]

1.2. Section 52(2) provides payment of simple interest at 6% per annum on the amount of compensation determined under sec. 53. Sec 53(6)(a) specifically omits to pay solatium for compulsory acquisition. Thereby, prior to the commencement of the Central Act 68 of 1984, namely, September 24, 1984, the claimants were not entitled to solatium.

1.3. Since the award was made by the District Court on 9.2.83 i.e. prior to the commencement of the Amendment Act, the claimants were not entitled to solatium @ 30%. However, since the proceedings were pending, they were entitled to payment of solatium at 15% from the date of commencement of the Act, namely, 1-8-1987 till date of payment on the enhanced compensation awarded by the District Court. As regards interest till the State Amendment Act had been operating till 1.1.1987 the claimants were entitled to interest under the Central Amendment Act only on and from 1.9.87 on the enhanced market value for one year from 1.8.1987. Therefore, after expiry of one year till date of payment or deposit, the claimants were entitled to interest at 15% on the enhanced compensation.

[353-A-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1299 of 1988.

A From the Judgment and Order dated 22.7.87 of the Rajasthan High Court in S.B.C.R.P. No. 498 of 1983.

B.B. Beri and Indra Makwana for the Appellants.

B.D Sharma for the Respondents.

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The following Order of the Court was delivered :

This appeal, by special leave, arises from the Judgment of the learned Single Judge of the High Court of Rajasthan, dated 22.7.1987 made in Revision No. 265 of 1983 and batch.

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The Notification under Section 52 of the Rajasthan Urban Improvement Act, 1959, for short the Act, was published in the State Gazette on 10.10.1974 acquiring an extent of 39875 acres of land for Urban development. Possession of the land was taken on 10.10.1974. Though the appellant had claimed larger amount, the additional Collector in his Award dated 18.4.1980 determined the market value @ Rs. 13.50 per sq.yd. Feeling aggrieved, the appellant carried the matter in appeal under Section 54 of the Act claiming additional amount of compensation and also solatium and interest. The Government also filed appeals against the order of the Collector awarding 10% interest. The District Judge by his common award and decree dated 9.2.1983 determined the compensation @ Rs. 49.50 per sq.yd. and reduced the interest from 10% to 6% from October 10, 1974. Still further aggrieved the appellants carried the matter in revision to the High Court. The appellants' revision is 498/83, the High Court by a common judgment dismissed the revision petitions as stated earlier on 22.7.1984. Thus this appeal.

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The only contention raised by the learned counsel for the appellants is that the provisions of Sec.52(2) and 53(6) (a) are inconsistent with the provisions of the Land Acquisition (Amendment) Act 68 of 1984 amending the principal Land Acquisition Act 1 of 1894 and that therefore the provisions of Sec. 52(2) and 53(6) (a) are void. Unfortunately, this contention, though was raised before the District Judge, was not pursued before the High Court nor any independent proceedings have been taken challenging the constitutionality of the provisions referred to hereinbefore. Therefore, we cannot permit the appellants to agitate this question for the first time in this appeal. However, the State Legislature, after the Central

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Act 68 of 1984 has come into force, has taken care to amend the provisions of the Act and the relevant provisions in the Rajasthan Land Acquisition Act, 1953 as applicable to the State by appropriate amendments. As regard the Act is concerned, the Legislature amended the same by State Amendment Act 29 of 1987 which came into force w.e.f. 1.8.1987. Therein the Act has taken care of transitory provision in Sec. 60-A of the Act which reads thus:

"60-A. Transitory provisions for pending matters relating to acquisition of land. ---(1) Notwithstanding anything otherwise contained in sub-section (1) of Section 52, where in any matter relating to the acquisition of land pending on the date of commencement of the Rajasthan Urban Improvement (Amendment) Ordinance, 1987 (hereinafter in this section referred to as the date of commencement), an action, thing or order has been taken, done or made under and in accordance with the provisions of this Act as it stood before the date of commencement such action, thing or order shall not be reopened or reviewed or be liable to be challenged on the ground that such action, thing or order was at variance with that provided in the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter in this section referred to as the Land Acquisition Act) subject, however, that any further proceeding, action or order in such matter conducted, taken or made on or after the date of commencement shall subject to the other provisions of this section, be made under and in accordance with the Land Acquisition Act.

(2) The amount of compensation or interest or that payable for any other reason shall, in a matter pending on the date of commencement, be payable under and in accordance with the provisions of the Land Acquisition Act and the money paid prior to the date of commencement shall be deducted from or adjusted against the said amount.

(3) & (4) x x x x x x

(5) In determining the amount of compensation to be awarded in a matter pending on the date of commencement, the market value of the land at the date on which the notice was published in the official Gazette under Clause (b) of sub-section (6) of section

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A 53, as it stood before the date of commencement, shall be taken into consideration.

(6) An appeal filed under section 54 or section 56 or a dispute referred under Section 55 or section 59 and pending on the date of commencement shall be decided having regard to the provisions of the Land Acquisition Act."

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A reading thereof would make the legislative intention clear that any action taken, done or made under and in accordance with the provisions of the Act as it stood before the date of commencement of the Central Amendment Act 68 of 84, such action, thing or order shall not be reopened or reviewed or be liable to be challenged on the ground that such action, thing or order was at variance with that provided in the Land Acquisition Act, 1894 (Central Act 1 of 1894) subject, however, that any further proceeding, action or order in such matter conducted, taken or made on or after the date of commencement shall subject to the other provisions of this section, namely, section 60-A, be made under and accordance with the L.A. Act. Sub-sec.(2) also makes the matter very clear, namely, the amount of compensation or interest or that payable for any other reason shall, in a matter pending on the date of commencement, be payable under and in accordance with the provisions of the L.A. Act (Central Act) and the money paid prior to the date of commencement shall be deducted from or adjusted against the said amount. It was applied to pending appeals. Thereby, it is amply clear that the amount of compensation or interest or that payable for any other reason (solatium under the Central Act) shall be in accordance with the provisions of the L.A. Act. But entitlement will be only from the date of commencement of the Act but, not anterior thereto.

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Section 52(2) provides payment of simple interest at 6% per annum on the amount of compensation determined under under sec.53. Sec. 53(6)(a) specifically omits to pay solatium for compulsory acquisition. Thereby, prior to the commencement of the Central Act 68 of 1984, namely September 24, 1984, the claimants are not entitled to solatium.

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In *Union of India v. Raghubir Singh & Ors.*, [1989] 3 SCR 316, a Constitution Bench of this Court has held that in proceedings pending before the date of the introduction of the Amendment Act and the date of the commencement of the Amendment Act either before the Land Acquisition Officer or before the reference Court enhanced solatium would

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be payable. In view of the fact that the Award was made by the District Court on 9.2.83 i.e. prior to the commencement of the Amendment Act, the claimants are not entitled to solatium @ 30%. However, since the proceedings are pending, they are entitled to payment of solatium at 15% from the date of commencement of the Act, namely, 1-8-1987 till date of payment on the enhanced compensation awarded by the District Court. As regards interest is concerned, till the State Amendment Act has been operating till 1.1.1987 the claimants are entitled to interest under the Central Amendment Act only on and from 1.9.87 on the enhanced compensation at 9% per annum on the enhanced market value for one year from 1.8.1987. Therefore, after expiry of one year till date of payment or deposit, the claimants are entitled to interest at 15% on the enhanced compensation. With regard to additional amount under s.23(1-A) this Court in *K.S. Paripooman v. State of Kerala*, [1994] 5 SCC 593 held that the claimants would not be entitled to the additional amount, if the proceeding were not pending before the Civil Court as on the date of the commencement of Central Amendment Act. Since the Amendment Act was made applicable only on 1.8.1987, the claimants also are not entitled to the additional amount u/s 23(1-A)

The appeal is allowed only to the above extent. But in the circumstances, the parties are directed to bear their own costs.

A.G.

Appeal allowed.