

YALAMANCHI RANGA RAO AND ORS. ETC.

A

v.

STATE OF ORISSA AND ORS.

MAY 5, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

B

Land Acquisition Act, 1894 :

S.28-A—Re-determination of compensation on the basis of award of court—Acquisition of land—Compensation awarded by Land Acquisition Officer—No reference sought by land owners—Later, in another matter, reference court enhanced compensation for similar lands covered under the same notification—Land owners filed application u/s 28-A within three months of the order of reference court—Meanwhile High Court further enhanced the compensation—Land owners again made application before Land Acquisition Officer—Application rejected and writ petition dismissed—Held, Land owners are entitled to seek a reference u/s 28-A—Application for reference after the judgment of High Court is not maintainable—Land Acquisition Officer is directed to re-determine the compensation in accordance with the award passed by the High Court, as per the earlier reference application, which would be subject to result of appeal, if any, filed by the State in connected appeals.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3614 of 1997 Etc.

From the Judgment and Order dated 30.4.93 of the Orissa High Court in O.J.C. No. 2556 of 1990.

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Y.P. Rao for the Appellants.

Indrajit Ray Adv. Genl. and P.N. Misra for the Respondents.

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The following Order of the Court was delivered :

Leave granted. We have heard learned counsel on both sides.

The facts in the appeal arising out of SLP (C) No. 1670/94 are that notification under Section 4(1) of the Land Acquisition Act, 1894 was

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- A** published on August 11, 1971 acquiring 700 acres of land. The award came to be passed on 18.10.1976. The Appellants did not seek reference u/s 18. The reference court in respect of similar lands by its award and decree dated 30.1.1985 and 31.1.1985 enhanced the compensation to Rs. 450 in MJC No. 32/79 and 29/79, for each fruit (coconut) bearing tree. The appellants filed their application under Section 28-A on April 30, 1985
- B** within three months from the date of the award of the reference Court. It was not decided. Again, enhancement was made by the High Court by judgment dated January 5, 1995 enhancing the compensation to Rs. 650 per fruit bearing tree in F.A. No. 166/84. The appellants again made an application on May 23, 1990 before the Land Acquisition Officer for re-determination, which was rejected. The High Court has dismissed the writ petitions on April 30, 1993. Thus, these appeals by special leave.
- C**

- In view of the fact that the appellants had filed the written reference applications within three months from the date of the award of enhanced compensation by the reference Court in the connected matters, which are
- D** admittedly covered under the same notification issued under Section 4(1), the appellants are entitled to seek a reference under Section 28-A but this was not done. The application for reference under Section 28-A after the judgment of the High Court is not maintainable.

- E** The appeals are accordingly allowed. The Land Acquisition Officer is directed to redetermine the compensation for the properties of the appellants acquired under the said notification in accordance with the award passed by the High Court as per the reference application dated April 30, 1985 and pass appropriate award as per law which would be subject to result of the appeal, if any, filed by the State in these connected
- F** appeals. No costs.

R.P.

Appeals allowed.