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PUTTU LAL (DEAD) BY LRS.

v.

STATE OF U.P. AND ANR.

FEBRUARY 14, 1996

B

[K. RAMASWAMY AND S. SAGHIR AHMAD, JJ.]

*Land Acquisition Act, 1894/U.P. Encumbered Estate Act, 1955 :*

C

*Sections 4, 6, 16—Compensation paid for the land acquired—Acquisition made under the provisions of the U.P. Encumbered Estates Act, and possession taken by Government—Right, title and interest held by the land owner stood extinguished—Vested in the State free from all encumbrances—State becomes absolute owner and could file suit for possession.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2478 of 1977.

From the Judgment and Order dated 15.7.76 of the Allahabad High Court in F.C.A. No. 31 of 1965.

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Raj Kumar Mehta for the Appellants.

T.N. Singh and R.B. Misra for the Respondents.

The following Order of the Court was delivered :

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This appeal by special leave arises from the judgment and decree of the High Court of Judicature at Allahabad dated July 15, 1976 made in Civil First Appeal No. 11/65. The State filed the suit for recovery of possession of property from the respondents pursuant to the orders passed under Section 145 of the Cr. P.C. The civil court dismissed the suit but on appeal the High Court allowed the same.

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The admitted facts are that the land originally belonged to Smt. Kokilla. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') was published on April 15, 1928 and declaration under Section 6 was published on July 28, 1928 acquiring the land known as Phulwari for public purpose, namely, for construction of the quarters for

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the constables of Police outpost Misrana. That acquisition has become

final. Now, the High Court has recorded a finding of fact that compensation was paid to Smt. Kokila and, therefore, the land stood vested in the State under Section 16 of the Act free from all encumbrances. A

The contention raised by the appellant is that the proceedings were taken under the U.P. Encumbered Estates Act, 1955 and the property was declared to be encumbered estate. As a consequence, the title of the appellant's predecessor was upheld. He being the purchaser at an auction is entitled to the possession by virtue of his title. We find no force in the contention. Having acquired the land under the provisions of the Act and the possession having been taken thereunder the right, title and interest held by Smt. Kokila stood extinguished and vested in the State free from all encumbrances. Consequently, the State is the absolute owner. The State being the owner, is entitled to file the suit for possession. The High Court, therefore, has rightly found that the appellants at this distance of time cannot question the correctness of the acquisition made in 1928. B C

The appeal is accordingly dismissed. No costs. D

G.N.

Appeal dismissed.