

A THE SPECIAL LAND ACQUISITION OFFICER

v.

SIDDAPPA UJANAPPA MADAR

NOVEMBER 2, 1995

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

Land Acquisition Act, 1894 :

C Sections 23(1-A), 23(2) and 28 as amended by the Amendment Act, 1984—Applicability of.

The applicability of the provisions of Ss.23(1-A), 23(2) and 28 of the Land Acquisition (Amendment) Act 1984 was in question in these appeals.

Allowing the appeal, this Court

D HELD : The controversy in this appeal is no longer *res integra*, as the points are already covered by the Constitution Bench decisions of this Court.* Consequently, the benefits granted pursuant to the Amendment Act stand set aside. The respondents are entitled to interest @6% per annum and also solatium @ 15% on the enhanced compensation. [749-C-D]

E **Union of India v. Raghubir Singh*, [1989] 3 SCR 316 and *K.S. Paripooman v. State of Kerala*, [1994] 5 SCC 593, followed.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 10522 of 1995.

F From the Judgment and Order dated 26.5.87 of the Karnataka High Court in M.S.A. No. 79 of 1987.

M. Veerappa for the Appellant.

G Kiran Suri for the Respondent.

The following Order of the Court was delivered :

H The Registry's report dated August 14, 1995 indicates that S.S. Typai, the sole respondent in SLP (C) No. 9906 of 1987 (present SLP), was dead as per the postal endorsement. We, therefore, directed the learned counsel

for the petitioner-State to take steps to bring on record the legal representatives of the sole- respondent. The Special Land Acquisition Officer, National Highways, Dharwad, in his letter dated 17th October, 1995 had stated that said S.S. Tyapi is still alive and he is presently running a tea shop near bus depot at Gangavati. Under these circumstances, the postal endorsement obviously is incorrect. Therefore, there is no need to bring the legal representatives of the respondent on record.

Leave granted.

The controversy in case is not longer *res intergra*. The applicability of the provisions of Sections 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894, as amended by the Land Acquisition (Amendment) Act (Act 68 of 1984), is in question in this matter. These points have already been covered by two Constitution Bench decisions of this Court in *Union of India v. Raghbir Singh*, [1989] 3 SCR 316 and *K.S. Paripooman v. State of Kerala*, [1994] 5 SCC 593. In view of these Constitution Bench judgments the appeal is to be allowed. Consequently, the benefits granted pursuant to the Amendment Act stand set aside. The respondents are entitled to interest @ 6% per annum and also solatium @ 15% on the enhanced compensation.

The appeal is accordingly allowed but, in the circumstances, without costs.

G.N.

Appeal allowed.