

RAMESH CHANDRA TIWARI AND ANR.

v.

U.P. AVAS EVAM VIKAS PARISHAD, LUCKNOW AND ORS.

JANUARY 8, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Land Acquisition Act, 1894/U.P. Awas Evam Vikas Parishad Adhinyam, 1965 : Ss. 6, 28, 32 & 55 r/w. para 2 of the Schedule/S.38—Acquisition initiated under the Adhinyam—Held S.6 of Land Acquisition Act not applicable—Procedure prescribed in Ss. 28 and 32 as modified by operation of S.55 r/w para 2 of the Schedule to the Act applicable—Also held land acquisition (Amendment) Act 68 of 1984 not applicable—Notification issued under S.28 of the Act and declaration made under S.38 of the Adhinyam held valid—Claimants entitled to compensation under S.32 of the Act.*

*Gauri Shankar Gaur & Ors. v. State of U.P. & Ors., [1994] 1 SCC 92 and U.P. Awas Evam Vikas Parishad, Lucknow v. Lata Awasthi, [1995] 3 SCC 573 relied on.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1823 of 1996.

From the Judgment and Order dated 3.10.85 of the Allahabad High Court in C.M.W.P. No. 9295 of 1984.

Yogeshwar Prasad, Attorney General, P.K. Bajaj and Ms. Rachna Gupta for the appellants.

Renu George and P.K. Jain for the Respondents.

The following Order of the Court was delivered :

Leave granted.

The controversy raised in this case is squarely covered by the Judgment of this Court in *Gauri Shankar Gaur & Ors. v. State of U.P. & Ors.*, [1994] 1 SCC 92 wherein this Court had held that the provision of Section 6 of the Land Acquisition Act, 1894 had no application to the acquisition initiated under U.P. Awas Evam Vikas Parishad Adhinyam, 1965 and the procedure prescribed in Sections 28 and 32, as modified by operation of Section 55 read with para 2 of the Schedule would be applicable. Consequently, the Land Acquisition (Amend-

ment) Act 68 of 1984 had no application. The above view was reiterated by this Court in *U.P. Avas Evam Vikas Parishad, Lucknow v. Lata Awasthi*, [1995] 3 SCC 573. Consequently, the notification issued under Section 28 and declaration made under Section 38 of the Adhiniyam are valid in law. The procedure prescribed under the Adhiniyam should prevail. The Amendment Act 68 of 1984 does not apply to the acquisition under the Adhiniyam. However, in view of the Judgment in *Gauri Shankar's* case (supra), the claimants would be entitled to the compensation determined with reference to the date of declaration under Section 32 of the Act for the reasons mentioned therein.

The appeal is accordingly disposed of.

Appeal disposed of.