

A

GURBACHAN SINGH AND ANR.

v.

UNION OF INDIA AND ANR.

FEBRUARY 9, 1996

B

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

*Constitution of India, 1950 :*

C

*Articles 32, 136—Special Leave Petition—Judgment and order passed thereon—Whether amenable to judicial review under Art. 32—Held : No.*

*Abdul Rehman Antulay v. Union of India & Ors. Etc., [1984] 3 SCR 482; Khoday Distilleries Limited & Anr. v. The Registrar General Supreme Court of India., W.P.(C) No. 803 of (1995) and M/S. Khoday Distilleries Ltd. & Anr. v. State of Karnataka & Ors., [1995] 1 SCC 574, relied on.*

D

CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 782 of 1994.

(Under Article 32 of the Constitution of India.)

E

Ms. Nanita Sharma for R.C. Gubrele for the Petitioners.

The following Order of the Court was delivered :

F

The writ petition is filed against the order passed by this Court under Article 136 allowing the appeal and setting aside the order of the High Court and arbitrator awarding enhanced solatium and interest under the Land Acquisition Act, 1864 as amended by Amendment Act 68 of 1984 in respect of lands acquired under Requisition and Acquisition of the Immovable Property Act, 1952. A three-Judge Bench of this Court had held that the Amendment Act 68 of 1984 or the Land Acquisition Act, 1894 has no application to the award passed under Section 8 of the Requisition and Acquisition of the Immovable Property Act. Consequently, the direction and order for the payment of interest and solatium was held to be without jurisdiction and, therefore, it would be nullity. The question then is : whether writ petition under Article 32 of the Constitution would lie ?

G

H

Dealing with the same question in *Abdul Rehman Antulay v. Union*

of *India & Ors. Etc.*, [1984] 3 SCR 482 this Court had observed thus :

A

"In my view, the writ petition challenging the validity of the order and judgment passed by this Court as nullity or otherwise incorrect cannot be entertained. I wish to make it clear that the dismissal of this writ petition will not prejudice the right of the petitioner, to approach the Court with an appropriate review petition or to file any other application which he may be entitled in law to file".

B

Following the above ratio, in *Khoday Distilleries Limited & Anr. v. The Registrar General, Supreme Court of India*, W.P. (C) No. 803 of (1995) decided on December 5, 1995, a three-Judge Bench (to which one of us, K. Ramaswamy, J. was a member) has held that after the decision of this Court in *M/s. Khoday Distilleries Ltd. & Anr. v. State of Kamataka & Ors.*, [1995] 1 SCC 574 writ petition under Article 32 of the Constitution canvassing the correctness of the decision of this Court, is not maintainable.

C

Thus the judgement and order of this Court passed under Article 136 is not amenable to judicial review under Article 32 of the Constitution.

D

The writ petition is accordingly dismissed.

G.N.

Petition dismissed.