

ABDUL AZIZ ABDUL RAJAK AND ANR.

A

v.

THE MUNICIPAL CORPN. OF GREATER BOMBAY AND ANR.

FEBRUARY 15, 1996

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

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*Land Acquisition Act, 1894 & Amendment Act 68 of 1984 :*

*Section 11—Interest—Entitlement to—Contract entered into by the authorities for payment of interest—Held : Land Acquisition Officer entitled to award interest as per the contract—Though Amendment Act gives benefit of enhanced rate of interest, parties not entitled to it by virtue of their contract for payment of interest.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3819 of 1996.

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From the Judgment and order dated 14.7.94 of the Bombay High Court in Appeal No. 414 of 1992 in L.A.R. No. 34 of 1984.

R.P. Bhatt and Ramesh Babu M.R. for the Appellants.

Bhimrao N. Naik and D.N. Mishra for the Respondents.

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The following order of the Court was delivered :

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

Notification under Section 4(1) of the Land Acquisition Act 1 of 1894 was published in 1981 and the award under Section 11 was made on May 9, 1984 awarding compensation at the rate of Rs. 110 per sq. yd. On reference under Section 18 the learned single Judge enhanced the compensation to Rs. 300 per sq. yd. by award and decree dated February 19, 1992 but disallowed interest in view of the agreement between the parties. Dissatisfied therewith, the appellant has come forward with this appeal by special leave against the order of the High Court dated July 14, 1994 in Appeal No. 114/92.

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The only question is whether the appellants are entitled to the interest as amended under the Amendment Act 68 of 1984. Admittedly,

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A the appellants had entered into an agreement and the relevant part thereof reads as under :

B "That the Corporation shall pay an amount of Rs. 98,480 (Rupees Ninety Eight Thousand Four Hundred Eighty only) being 2/3rd of compensation to be calculated at the interim rates of Rs. 40 for the said property more particularly described in the First Schedule hereunder written on the execution of this agreement and the balance amount of the compensation as may be awarded under the Land Acquisition Act, 1894 shall be paid to the owners with interest thereon at the rate of 4% per annum from the date of possession."

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A reading thereof clearly indicates that they were agreeable for payment of a sum of Rs. 98,480 only being 2/3rd of the compensation to be calculated at the rate of Rs. 40 per sq. yd. more particularly described in the First Schedule on execution of the agreement. For the balance

D amount they requested the authorities to award compensation under the Act. But they contracted for payment of interest at the rate of 4% per annum from the date of possession.

Sub-section (2) of Section 11 of the Act reads as under :

E "(2) Notwithstanding any thing contained in sub-section (1), if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the Form prescribed by rules made by the appropriate Government, he may, without making further enquiry,

F make an award according to the terms of such agreement."

Therefore, notwithstanding anything contained in sub-section (1), the Land Acquisition Officer is entitled to award interest as per the contract entered into by the authorities. Though the Amendment Act has come into

G force giving benefit of enhanced rate of interest, the appellants are not entitled to the enhanced interest by virtue of their contract.

The appeal is accordingly dismissed. No costs.

G.N.

Appeal dismissed.