

STATE OF KERALA AND ANR.
v.
BETTY W/O L.J. MANI AND ANR.

JANUARY 17, 1995

[K. RAMASWAMY AND SUJATA V. MANOHAR, JJ.]

Land Acquisition Act, 1894—Possession of the land not taken before 30th April, 1984—No entitlement or benefit under Section 28 or Section 31 of Amendment Act 68 of 1984.

A notification under Section 3 of the Kerala Land Acquisition Act, 1961, equivalent to Section 4(1) of the Land Acquisition Act, 1894 was published on September 10, 1974. Possession of respondent's land was taken on March 20, 1977. Subordinate Judge enhanced the compensation by an award and decree dated March 21, 1980. While dismissing the appeal of the State, the High Court by its judgment and decree dated 14.01.88 applied the Amendment Act 68 of 1984 and granted the statutory benefits under Sections 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894 to the respondents.

Applicability of the statutory benefits under Act 68 of 1984 was called in question in this appeal.

Allowing the appeal, this Court

HELD : 1. The High Court would get jurisdiction to apply the amended Act 68 of 1984 only when it has enhanced the compensation or only if the proceedings are pending either before the Land Acquisition Officer or Civil Court before the introduction of the Act on 24.09.84.

[359-G]

2. If the possession of the land has been taken before 30th, 1984, i.e. when Act 68 came into force and the amount of compensation for such acquisition had not been paid or deposited under Section 31, the claimant would be entitled to interest as contemplated under Section 34 of the 1984 Act. Since the Land Acquisition Act was not applicable to the State of Kerala, the Amending Act would be applicable only from the date on which the Amending Act came into force, namely, September 24, 1984. Therefore, the respondents were not entitled to the benefits under Section 31 or 28 as

A amended by Act 68 of 1984. [359-C-D]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1421-22 of 1991.

B From the Judgment and Order dated 14.1.88 of the Kerala High Court in L.A.A. Nos. 242-43 of 1980.

M.T. George for the Appellants.

G. Vishwanath Iyer, P. Kesava Pilli and T.G.N. Nair for the Respondents.

C The following Order of the Court was delivered :

D A notification under s.3 of the Kerala Land Acquisition Act, 1961, equivalent to s.4(1) of the Central Act was published on September 10, 1974. The possession of the land was taken on March 20, 1977, obviously after making the award. On reference, the Subordinate Judge enhanced the compensation by his award and decree dated March 21, 1980. While dismissing the appeal of the State, the High Court by its judgment and decree dated January 14, 1988 applied the Amendment Act 68 of 1984 and granted that statutory benefits under s.23(1-A), 23(2) and 28 of the E Land Acquisition Act, 1894 as amended in Act 68 of 1984. Thus this appeal by special leave confining to the question of applicability of the statutory benefits under Act 68 of 1984.

F It would be seen that the court under s.23(1) while enhancing the compensation has been given power under s.23(1-A) or 23(2), on an application, to award the statutory benefits, in addition to the enhanced compensation. So, on the application made by the claimant, the court would not get jurisdiction to apply the amended Act 68/1984 except when it has enhanced the compensation. Even otherwise, it would apply only if proceedings were pending either before the Land Acquisition Officer or before the civil court before the date when the Bill was introduced on G 30.4.82 or the Act came into force, i.e. 24.9.84. Then only the statutory benefits would be given on the enhanced compensation and not otherwise.

H Sri. G. Vishwanath Iyer, learned senior counsel for the claimants relied upon sub-s. (3) of s.30 of the Act and contended that since the amount was not paid before possession was taken, the claimants are

entitled to the payment of interest under clause (a) of sub-s (3) of s.30 reads thus : A

"(a) every case in which possession of any land acquired under the principal Act had been taken before the 30th day of April, 1982 [the date of Introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People], and the amount of compensation for such acquisition had not been paid or deposited under Section 31 of the principal Act until such date, with effect on and from that date;" B

It would, therefore, clearly indicate that if possession of the land has been taken before 30th April, 1982, i.e. before the introduction of the Land Acquisition (Amendment) Bill 1982, and the amount of compensation for such acquisition has not been paid or deposited under s.31, the claimant would be entitled to the payment of interest as contemplated under s.34 of the Principal Act. Since the Land Acquisition Act 1 of 1984 was not applicable to the State of Kerala, this Amending Act would be applicable only from the date on which the Amending Act has come into force, namely, September 24, 1984. Therefore, the claimants are not entitled to the benefits either under s.34 or s.28 as amended under Act 68 of 1984. The appeals are accordingly allowed. The statutory benefits granted by the High Court are set aside. The claimants are entitled only for 15% solatium and 4% interest under the Kerala Act. No costs. C D E

A.G.

Appeal allowed.