(2017) 01 SC CK 0125

SUPREME COURT OF INDIA

Case No: Civil Appeal Nos. 303 of 2017 (Arising From SLP(C) No. 5108 of 2014)

A.V. Subramanian — APPELLANT

Vs

Union of India — RESPONDENT

Date of Decision: Jan. 10, 2017

Acts Referred:

- Constitution of India, 1950 - Article 133

Citation: (2017) 2 JT 30 : (2017) 2 Scale 29 : (2017) 12 SCC 693

Hon'ble Judges: Kurian Joseph, J; A.M. Khanwilkar, J

Bench: Division Bench

Advocate: R. Venkatramani, Senior Advocate, V.G. Pragasam, S. Prabu Ramasubramanian, Mrs. Neelam Singh, Sameer Singh, Yashraj Singh Bundela, Sarfraz Ahmed Siddiqui, Ms. Satya Siddiqui, Shyam Singh Chauhan, Raj B. Yadav, Advocates, for the Respondents; R. Basant, Senior Advocate, Mrs. Mahalakshmi Pavani, Senior Advocate, G. Balaji, Shiva Vijay Kumar, Jagan, Advocates, for the Appellants

Final Decision: Disposed Of

Judgement

Kurian, J. - Leave granted.

2. Aggrieved by the award passed by the Additional District Judge, Karaikal on 24.1.1994 in L.A.O.P. No.38/1993, the Union of India approached the High Court in A.S.583 of 1994. The said appeal was partly allowed by the judgment dated 23.02.2001, reducing the compensation.

3. Aggrieved, the appellant approached this Court in SLP(C) No.16046 of 2001, which was dismissed in limine - "Special leave petition is dismissed," by order dated 28.09.2001. Since, the dismissal was not on merits, the appellant filed a review petition before the High Court on 20.11.2001. When the said review petition was pending before the High Court, in a connected matter, this Court in Civil Appeal No.1500 of 2004 by judgment dated 08.11.2005 titled **Pattammal & Others. v. Union of India and Another, reported in (2005) 13 SCC 63**, allowed the appeal and

restored the award passed by the Reference Court. The appellant contended before the High Court that in view of the subsequent judgment by this Court and in view of the fact that the review petition was already pending before the High Court, the appellant should get the benefit of the judgment dated 08.11.2005 of this Court. It was not in dispute that the acquisition in both the cases was pursuant to the same notification and for the same purpose and the acquired lands were similar. However, the High Court declined to review the judgment. Thus, aggrieved, the appellant is before this Court.

4. As rightly submitted by Shri Venkatramani, learned senior counsel appearing for the Union of India, unless the order passed by this Court in the special leave petition, which rendered in dismissal on 28.09.2001, is reviewed and unless there is also a challenge thereafter to the original order passed by the High Court dated 23.02.2001, the appellant cannot succeed.

5. We may not have any quarrel with the legal position. However, having regard to the factual position that in a land acquisition case the claimants have received different amounts by way of compensation and that too in respect of the lands of same nature covered by the same notification and acquired for the same purpose, we are of the view that all these technicalities should give way since they are procedural and which can still be cured. We do not think that the appellant should be driven to such steps having regard to the factual position we have referred to above.

6. Therefore, we are of the view that the lis should be given a quietus. For doing complete justice, we hold that the appellant shall be entitled to the benefit of the judgment of this court dated 18.11.2005 passed in Civil Appeal No.1500 of 2004.

7. In case the appellant has already received payments, needless to say that the obligation under the security offered before the High Court will stand discharged.

8. In view of the above, the impugned order is set aside and the appeal is allowed, as above.

9. There shall be no order as to costs.

10. Pending application(s), if any, shall stand disposed of.